

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Andreas Borgeas	Councilmember
	Lee Brand	Councilmember
	Paul Caprioglio	Acting Council President
	Mike Dages	Councilmember
	Henry Perea	Councilmember
	Blong Xiong	Councilmember
	Cynthia Sterling	Council President

Andy Souza, City Manager
 Bruce Rudd, Assistant City Manager
 Jim Sanchez, City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Pastor Steve Carter of Westminster Presbyterian Church gave the invocation, and President Sterling led the Pledge of Allegiance.

PROCLAMATION OF "MULTIPLE SCLEROSIS AWARENESS WEEK" - COUNCILMEMBER BRAND

PROCLAMATION OF "CONSUMER PROTECTION WEEK" - COUNCILMEMBER XIONG

ADD-ON: PROCLAMATION FOR THE EDISON HIGH SCHOOL ACADEMIC DECATHLON TEAM - PRESIDENT STERLING

The above proclamations were read and presented.

APPROVE REGULAR MEETING MINUTES OF FEBRUARY 24, 2009:

On motion of Councilmember Brand, seconded by Acting President Caprioglio, duly carried, RESOLVED, the minutes of the regular City Council meeting of February 24, 2009, approved as submitted.

APPROVE SPECIAL IPA MEETING MINUTES OF FEBRUARY 24, 2009:

On motion of Councilmember Xiong, seconded by Acting President Caprioglio, duly carried, RESOLVED, the Special IPA meeting minutes of February 24, 2009, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) advised he participated in the Asian Youth Leadership Conference at Clovis East High School on 2/26/09; (2) congratulated Assemblyman Arambula on his 31st Assembly District 2009 African-American Heritage Award and all the other recipients; (3) advised he and Mayor Swearengin participated in the World Thinking Day opening session hosted by the Girl Scouts on 2/28/09; (4) thanked the Fresno Teacher's Association Executive Board for inviting him to the Read Across America event celebrating Dr. Seuss' birthday; (5) thanked Eugene Wong of the Central California Chinese Cultural Association for inviting him to a Chinese New Year celebration event at Clovis North; and (6) thanked Congressman Schiff for taking time to meet with the City Council on valley issues and concerns.

Councilmember Perea (1) reported he attended a meeting last Thursday in Pasadena as a task force member for the purpose of revising the bylaws of the League of California Cities; and (2) referenced an article on water issues and upon his questions City Manager Souza stated the city would be asking business-owners as well as homeowners to use less water, the city would be re-looking at its water management plan to see where it can start conserving, and Council would be able to review the plan.

Councilmember Dages (1) announced there was a 23% reduction in property crime in his district and commended the southeast police officers and Chief Dyer for all their work, public outreach and leadership; (2) requested an update on the Chaffee Zoo; (3) requested the burned-out lights in the Ventura/Kings Canyon median island be replaced; (4) requested dead trees on Agency-owned property on Kings Canyon across from Wal-Mart (old Elks Lodge) be addressed and a fence secured adding the city did not need that liability; (5) requested the Redevelopment Agency create a facade program on Kings Canyon between Cedar and Maple; and (6) advised he was still waiting for a list of properties available in southeast Fresno that are either owned or negotiated by the Redevelopment Agency.

Acting President Caprioglio advised he attended the Wall of Honor event last Thursday at the African American Museum stating it was a great event and read the names of the inductees for 2009.

President Sterling (1) thanked staff for the tray memo on the state water crisis and requested the public be kept updated on how this will be handled; (2) requested an update on Granite Park and how it will affect the PARCS department and the services currently being provided; (3) read a memo into the record she sent to PARCS Director Cooper requesting specific information on District 3 parks projects; (4) requested a status/update report on the Veterans Home project including funding issues; (5) requested staff keep Council informed on the T.J. Cox project with the Metropolitan Museum; (6) thanked Council members and staff who attended last Tuesday's special meeting on the Independent Police Auditor (IPA) and Sunday's meeting with Congressman Schiff; (7) advised she also attended the Dr. Seuss reading event at Fashion Fair last Saturday; (8) advised she attended the Hope Now for Youth banquet and requested the city be responsive to the organization as they do a lot for young people that are re-entering the city; and (9) recognized the 21 inductees into the African American Museum last week and advised her Mother was one of the inductees and she was very proud of that.

Councilmember Perea requested an update on the Chestnut/180 park to include the same information President Sterling just requested for her district's parks projects.

APPROVE AGENDA:

COUNCIL MEETING SCHEDULE - MARCH 10 AND 17, 2009, COUNCIL MEETINGS

City Manager Souza requested the meeting of March 10th be cancelled and rescheduled for March 17th stating March 17th was dark, a group of council members would be in Sacramento on March 8, 9 & 10 for the COG One Voice trip, there was no concern moving the one item currently scheduled for 3/10, and the change would give staff the opportunity to bring back a full report on 3/17 on the status of the economic stimulus package coming out of Washington DC. Councilmember Perea advised he would be out of town on March 17th whereupon Mr. Souza stated staff would not schedule anything that day that would require full council participation.

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the meeting of March 10, 2009, cancelled and rescheduled for March 17, 2009, by the following vote:

Ayes : Borgeas, Brand, Caprioglio, Dages, Perea, Xiong, Sterling
Noes : None
Absent : None

- (10:00 A.M.) HEARING ON COMMUNITY FACILITY DISTRICT (CFD) NO. 11, ANNEXATION NO. 37, TRACT NO. 5498**
1. RESOLUTION - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
 2. RESOLUTION - CALLING A SPECIAL MAILED-BALLOT ELECTION
 3. RESOLUTION - DECLARING ELECTION RESULTS
 4. BILL - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2008-09 AND FUTURE TAX YEARS

Removed from the agenda by staff -- to be rescheduled.

(9:00 A.M. #1-A) SCHEDULED COMMUNICATION: APPEARANCE BY WALT FERRARI TO DISCUSS THE CITY'S SOLID WASTE SERVICE

Rescheduled for April 7, 2009, at the request of Mr. Ferrari.

On motion of Acting President Caprioglio, seconded by Councilmember Brand, duly carried, RESOLVED, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes : Borgeas, Brand, Caprioglio, Dages, Perea, Xiong, Sterling
Noes : None
Absent : None

ADOPT CONSENT CALENDAR:

(1-A) RESOLUTION NO. 2009-52 - APPROVE AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE AN EASEMENT AGREEMENT RELATED TO ACQUIRING PUBLIC PEDESTRIAN EASEMENTS AT THE PG&E FRESNO SERVICE CENTER ON BEHALF OF THE CITY

(1-B) APPROVE APPOINTMENTS OF PHILIP DECKER, DAVID MOLL, JOSEPH GUAGLIARDO AND CATHERIN WOLZMUTH TO THE CITY OF FRESNO BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE

(1-C) APPROVE A ONE-YEAR LEASE AGREEMENT WITH MATT HOBE (TENANT) FOR THE USE OF THE FORMER DENSMORE PROPERTY LOCATED AT 665 FULTON STREET FOR A HAUNTED HOUSE

(1-D) APPROVE A CONTRACT WITH THE FRESNO UNIFIED SCHOOL DISTRICT TO PROVIDE UP TO \$5,000 FOR THE PARCS DEPARTMENT TO CONDUCT THE ACADEMIC GAME PLAN PROGRAM AT AHWAHNEE MIDDLE SCHOOL RUNNING THROUGH JUNE 30, 2009, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-E) APPROVE A CONTRACT WITH THE FRESNO UNIFIED SCHOOL DISTRICT TO PROVIDE \$5,000 FOR THE PARCS DEPARTMENT TO CONDUCT THE FRESNO BEST PROGRAM AT FRESNO HIGH SCHOOL RUNNING THROUGH JUNE 30, 2009, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-F) APPROVE A CONTRACT WITH THE FRESNO COUNTY OFFICE OF EDUCATION TO PROVIDE \$11,340 FOR THE PARCS DEPARTMENT TO CONDUCT LIFE AND ENVIRONMENTAL SCIENCE PRESENTATIONS AT LOWELL ELEMENTARY SCHOOL THROUGH JUNE 30, 2009, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-G) APPROVE A CONTRACT WITH THE FRESNO COUNTY OFFICE OF EDUCATION TO PROVIDE UP TO \$5,000 FOR THE PARCS DEPARTMENT TO CONDUCT THE ACADEMIC GAME PLAN PROGRAM AT YOSEMITE MIDDLE SCHOOL RUNNING THROUGH JUNE 30, 2009

1. RESOLUTION NO. 2009-53 - 70TH AMENDMENT TO AAR 2008-162 APPROPRIATING \$26,300 IN THE PARCS DEPARTMENT TO CONDUCT COLLABORATIVE AFTER-SCHOOL PROGRAMS AT FOUR (4) FRESNO UNIFIED SCHOOL DISTRICT SITES THROUGH JUNE 30, 2009

(1-H) APPROVE A CONSULTING AGREEMENT WITH THE HLA GROUP TO PROVIDE PROFESSIONAL LANDSCAPE ARCHITECT DESIGN FOR THE WATER DIVISION IN AN AMOUNT NTE \$69,405, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-I) APPROVE THE REAPPOINTMENTS OF ADRIAN JONES, RODNEY ASHLEY AND JOHN PAUL YOEUL TO THE FRESNO HOUSING AUTHORITY - MAYOR SWEARENGIN

Ayes : Borgeas, Brand, Caprioglio, Dages, Perea, Xiong, Sterling
Noes : None
Absent : None

**(8:45 A.M.) HEARING ON THE 2009 WEED ABATEMENT PROGRAM AND INTRODUCTION OF ORDINANCE
1. BILL NO. B-10 - APPROVING THE 2009 WEED ABATEMENT PROGRAM**

President Sterling announced the time had arrived to consider the issue and opened the hearing. Code Enforcement Manager Lopez gave a brief overview of the issue, all as contained in the staff report as submitted.

Upon call, no one wished to be heard and President Sterling closed the public hearing.

Mr. Lopez and City Attorney Sanchez responded briefly to questions of Acting President Caprioglio relative to noticing, posting and publishing, process for non-compliance, and courtesy noticing before issuing citations.

On motion of Councilmember Xiong, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Bill No. B-10 introduced before the City Council and laid over, by the following vote:

Ayes : Borgeas, Brand, Caprioglio, Dages, Perea, Xiong, Sterling
Noes : None
Absent : None

(9:00 A.M. #1-B) PUBLIC COMMENT - UNSCHEDULED COMMUNICATION:

Kevin Kerkezian, 3077 W. Robinwood Lane, advised he has suffered the last nine years with barking dogs in his neighborhood, stated his suffering has left him with physical and mental ailments, and stated he has exhausted all legal remedies other than a lawsuit and has received no help with his complaints, elaborating throughout. City Manager Souza stated staff would contact the city attorney and police departments to obtain details/background information and provide a response to Mr. Kerkezian and Council.

Brunette Harris, HEAT for Southwest Fresno, stated she detected some confusion on comments she made last week pertaining to her district's lack of representation and a conflict of interest with President Sterling and projects and explained. *At the conclusion of 'Unscheduled Communication' President Sterling responded.

Paula Savino spoke to the mutilation of cows and the need for the dairy industry to step up to the plate.

Paul Hurlbut, 4701 W. Swift, **(2 - 0)** spoke to the issue of integrity and need for the city stand for integrity in all their actions.

Sherry Smith, 4724 W. Swift, spoke to the city of Milwaukee's Board of Fire and Police Commission and how well it works and stated Fresno needed to look at that.

*Relative to Ms. Harris' comments President Sterling informed the city manager and Council that she has maintained a close relationship with the city attorney over the past few years relative to issues raised about her responsibility to her district and stated if any of her colleagues had any concerns the city attorney's office had all documented information available for review if desired.

(9:00 A.M. #2) APPROVE THE 3rd AMENDMENT TO THE ROTARY AMPHITHEATER AGREEMENT WITH THE ROTARY CLUB OF FRESNO

1. RESOLUTION NO. 2009-54 - 477TH AMENDMENT TO MFS RES. 80-420 REVISING RESERVATION FEES FOR THE

WOODWARD PARK ROTARY AMPHITHEATER

PARCS Director Cooper stated he was very proud to be before Council again as the city was starting to get the amenities and entertainment its' citizens deserved and explained, and reviewed the issue, all as contained in the staff report as submitted.

Upon call no one wished to be heard. Mr. Cooper responded to questions and/or comments of Councilmember Brand and Acting President Caprioglio relative to whether the proposed rates were based on market surveys, the current economy and if staff felt the rates would still be viable, capital fund expectations, encouragement to staff to continue their creative efforts and find revenue streams to pay for needed improvements at a quicker rate, and commendation to Mr. Cooper and staff on their on-going progress and efforts to keep the city ahead of the curve. Mr. Cooper advised the department received just last Friday the state award for staff's fitness program for youth and he would be leaving this date to Santa Clara to receive the State Award for Excellence. President Sterling commented briefly and thanked Mr. Cooper for continuing to be conscious of the non-profits, with Mr. Cooper responding.

On motion of Acting President Caprioglio, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2009-54 hereby adopted, by the following vote:

Ayes : Borgeas, Brand, Caprioglio, Dages, Perea, Xiong, Sterling
Noes : None
Absent : None

(9:30 A.M. "A") PROGRESS UPDATE ON THE DOWNTOWN PROPERTY BASED IMPROVEMENT DISTRICT (PBID)/ ASSESSMENT DISTRICT

1. APPROVE THE 1ST AMENDMENT TO THE DOWNTOWN PBID GRANT FUNDING AGREEMENT TO INCREASE CITY FUNDING ASSISTANCE BY \$56,264 TO A TOTAL OF \$96,264, OF WHICH THE CURRENTLY UNEXPENDED AMOUNT OF \$84,309 SHALL BE A NO-INTEREST, NO-MATCH LOAN REPAYABLE FROM PBID ASSESSMENTS, TO FINANCE CONSULTING SERVICES AND OTHER COSTS INCURRED IN THE FORMATION OF THE DOWNTOWN PBID

City Attorney Sanchez recused himself from the proceedings due to a conflict stating some of the history here involved One by One Leadership and he sat on the board. Chief Assistant City Attorney Hale was in attendance.

Downtown & Community Revitalization Director Scharton introduced and reviewed the issue, all as contained in the staff report as submitted, and stated there was nothing new here, this was a standard process that has been going on for many years in California, and staff was simply following the successful model. Jan Minami, Executive Director of the Downtown Association, representing Dan Doyle who heads the PBID group and who was out of town, thanked Council for considering putting up the seed money and advised a consulting firm had been hired and introduced Brad Segal, consultant for the formation process. Brad Segal with Progressive Urban Management Associates, Inc. (PUMA), gave a PowerPoint presentation on the issue which consisted of PUMA's Experience, What is a PBID?, Common PBID Services, Downtown PBIDs in California, Why Form a PBID? PBID Formation Process (Feasibility, Plan Development, Petition), and Role of the City.

Steve Soloman, Visalia City Manager, spoke in support of and to Visalia's PBID.

**A visiting class from Mt. View Elementary School was recognized and welcomed.

Continued speakers in support were: Tom Richards, 855 M Street; Joe Moore, President of the Downtown Association; Sally Caglia, 5246 E. Hamilton, who contributed a \$2,500 check along with her support; Brian Glover, 855 M Street; Al Smith, Chamber of Commerce, 2331 Fresno Street; Mike Zachry; Sandra King, 1060 Fulton Mall; and Morgan (last name inaudible), representing the Fresno Discount Mall, family member of the Central Fish Company, and Chinatown Revitalization representative.

(3 - 0) Councilmember Dages expressed his strong support for a PBID stating this was the right road to success, spoke briefly to downtown issues including the number of great restaurants that are extremely safe with no waiting and the need to have free parking after 6pm every day all year long and encouraged the PBID group to consider that to get people downtown, and stated he was looking forward to this being successful and keeping the consumer in mind and thanked Ms. Caglia for her financial contribution.

Extensive discussion ensued. Councilmembers Brand, Borgeas, Perea and Xiong presented questions and/or comments at length relative to the three sub-districts and budget, neglectful property owners, impact to a PBID if a property owner does not pay, if boundaries can be changed if an owner does not want to participate or receive the benefits, benefits/improvements to be realized with the amount of funds, funding process, calls received from major stakeholders requesting a delay due to planning concerns, a desire to get involved, and to have questions answered, importance of major stakeholders buying-in, benchmarks and if dollar amounts can be attached per phase, support for a PBID and PBIDs being proven successes in other cities, need for everyone to work on the same page, if there has ever been an effort to fund a PBID in Fresno, if it is better to enlarge the scope of the district to make it easier to refine it later if necessary, if a business in the center of the boundary area can opt out if it does not want to participate, this being an exciting proposal, if a business has no choice but to participate once the lines are drawn and the community votes it in, if there was opposition from the Cultural Arts District, the process, if funds were tied to “making the pitch”, make up of the Cultural Arts District Association, if churches/non-profits will be exempt from paying this assessment as they are for property taxes, original agreement in terms of match funding, money expended to this point, work done to date, original funding/this request for additional funding/concern with businesses not being involved, the feasibility study, how property owners are being contacted, who decides the benchmarks, if criteria/conditions can be placed on the money and if that was part of this request, the original support being for business commitment and concern with going in a different mode, the Tower District operating in a PBID capacity for some time and why that group was not targeted initially, the city taking on the financial burden in this case, and support for more time to define benchmarks and work out details. Mr. Scharton and Chief Assistant City Attorney Hale responded and/or clarified issues throughout.

Councilmember Brand made a motion to continue the matter to March 24th to bring in stakeholders and answer/resolve questions/concerns of all, which was seconded by Acting President Caprioglio, with the date subsequently changed to March 17th.

City Manager Souza clarified issues posed by Councilmember Xiong relative to the original match fund requirement and stated staff looked forward to Council continuing discussion on the policy issue of providing additional funds to make the PBID work.

Councilmember Dages stated he would not support the motion and was ready to make a decision this date as that was what Council was here to do, stated it seemed like some members were worried about the problem people out there that do not want to participate in a PBID, and stated it was time to set some precedents, take a hard stand, and do what is right for downtown and elaborated further on the success of PBIDs.

Upon question of Councilmember Borgeas and city attorney response, Councilmember Borgeas offered an amendment to the motion that a new staff report be brought back incorporating specifics of the benchmarks and a money amount attached to the individual phases, to be contemplated and voted upon by Council, which amendment was accepted by the motion-makers.

President Sterling thanked Mr. Scharton and staff for answering all her questions which she noted came from a number of members of the community, thanked the speakers stating they were a broad-based showing of those that will be involved, and thanked the D&CR department for using some of the old projects and explained **(4 - 0)**, and suggested Mr. Scharton and staff meet with council members and explain the financing mechanism as staff’s explanation to her was very clear and added the city has been working for years with the Downtown Association and now had something to move the city forward and bring downtown back but was again being delayed due to misunderstandings.

Mr. Souza requested the motion be amended again to bring this matter back on March 17th stating he did not feel there were a lot of issues left to resolve and two weeks was enough time for staff to meet with individuals and resolve and bring back details, which amendment was accepted by the motion-makers.

On motion of Councilmember Brand, seconded by Acting President Caprioglio, duly carried, RESOLVED, Item **9:30 a.m.** “A” continued to March 17, 2009, to allow time for staff to meet with stakeholders and address concerns of all, and, BE IT FURTHER RESOLVED, staff directed to prepare a new staff report incorporating specifics of the benchmarks and a money amount attached to the individual phases for Council discussion and action on March 17th, by the following vote:

153-65

3/3/09

Ayes : Borgeas, Brand, Caprioglio, Perea, Xiong
Noes : Dages, Sterling
Absent : None

The City Council recessed at 10:55 a.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF FEBRUARY 10, 2009

On motion of Acting President Caprioglio, seconded by Councilmember Brand, duly carried, RESOLVED, the Agency minutes of February 10, 2009, approved as submitted.

- (“A”)** ACTIONS PERTAINING TO CITY COUNCIL AND REDEVELOPMENT AGENCY MEETING DAY CHANGE
- 1. BILL NO. B-7 - AMENDING SECTION 2-303 OF THE FRESNO MUNICIPAL CODE RELATING TO DEADLINES FOR DELIVERY OF AGENDA MATERIALS**
 - 2. AGENCY RESOLUTION - RESCINDING PRESENT REDEVELOPMENT AGENCY BYLAWS AND ADOPTING NEW BYLAWS TO CHANGE THE AGENCY REGULAR MEETING DAY FROM TUESDAY TO THURSDAY TO COINCIDE WITH THE CHANGE IN CITY COUNCIL MEETING DAYS**

City Attorney Sanchez gave a brief overview of the issue and Acting President Caprioglio made a motion to adopt the Bill and Agency Resolution. Upon question of Councilmember Perea Mr. Sanchez clarified Council adopted their resolution to change the meeting day last week. Councilmember Perea noted he sits on the POST Commission to which he has been appointed three times by the Governor and stated changing the meeting day would conflict with POST and he would have to miss four Council meetings this year, added the League of California Cities also meets on Thursdays, stated it was typical for city councils to meet on Tuesdays, and stated although he believed in the concept of more review time he could not support the motion and requested the change, if approved, start next year to allow those members appointed to outside commissions to finish their obligations this year.

President Sterling stated outside appointments needed to be considered and upon her and Chair Xiong’s questions Mr. Sanchez stated if it was Council’s will this item could be moved this date with clarification made in the motion that the day change would be deferred to a time specific and added some amended documents would also come back. Councilmember Dages stated to change the day was inappropriate and was upsetting everyone’s calendars and elaborated further, stated Council was going to end up with the exact same thing they experience with Tuesday meetings and if members think they will get material earlier they are misguided, and stated he has never had a problem in his six years accessing information and reiterated this change was unnecessary. Councilmember Perea advised Fresno might be getting a seat again on the Air Board next year and their meetings are on Thursdays and added COG also met on Thursdays, and requested Council consider those matters and reiterated he could support the change if it is implemented next year. Councilmember Brand suggested Council consider a July 1st compromise. Councilmember Borgeas thanked Councilmember Perea for the information on potential conflicts but stated conflicts were going to be inevitable, urged Council to not forget the underlying rationale as to why this was done and the negotiations that went into trying to make this happen, stated all options were contemplated and advised he would be open to changing the effective date but not to next year, and stated the change needed to made as quickly as possible.

President Sterling stated she also did not take into consideration the Air Board issue and advised one of their criteria was the member had to be an elected person, stated although she was originally a proponent of the change these obstacles were not before her at that time, and stated these issues were too important for Council to overlook and made a motion to continue the matter to April 7th to allow time to arrive at some possible solutions, which motion was seconded by Councilmember Perea.

On motion of President Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, Item **10:05 a.m. “A”** continued to April 7, 2009, to allow time to look into obstacles/conflicts and arrive at some solutions, by the following vote:

153-66

3/3/09

Ayes : Brand, Perea, Dages, Sterling
Noes : Borgeas, Caprioglio, Xiong
Absent : None

