

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
	Mike Dages	Councilmember
	Henry Perea	Councilmember
	Larry Westerlund	Acting Council President
	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

Father Bill Paiz of St. Lucy’s Catholic Church gave the invocation and President Sterling led the Pledge of Allegiance.

RECOGNITION OF THE HILLBLOM FOUNDATION FOR THEIR SIGNIFICANT CONTRIBUTION TO CAMP FRESNO - PRESIDENT STERLING

Recognized and commended.

CERTIFICATE OF RECOGNITION TO POLICE CAPTAIN ANDREW HALL, TRAFFIC BUREAU - COUNCILMEMBER XIONG

Read and presented.

CERTIFICATES OF RECOGNITION TO “MAKE A DIFFERENCE DAY” SPONSORS - COUNCILMEMBER XIONG

Read and presented.

ADD-ON: WELCOME EXTENDED TO THE NATION’S FIRST AFGHAN PUBLIC SAFETY TRAINING TEAM

The team was welcomed and Certificates of Commendation were presented.

PRESENTATION OF “PRIME TIME FOR BUSINESS: VALLEY DECORATING” - PRESIDENT STERLING AND D&CR DEPARTMENT

President Sterling introduced the item and read and presented a Certificate of Commendation to James Offen, President of Valley Decorating, for being a Prime Time for Business honoree. Mr. Offen gave a PowerPoint presentation on his company which consisted of the History, Current Markets, Customer Base, Employees, and What Can the City Do? President Sterling again commended Valley Decorating for their contributions and the D&CR department for their work.

APPROVE MINUTES OF OCTOBER 22, 2009:

On motion of Councilmember Brand, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of October 22, 2009, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Brand (1) noted the House of Hope home drawing was held last week at Copper River and commended Mayor Swearingin for participating and announcing the winner; and (2) advised in two weeks the Two Cities Marathon would be held which would involve some street closures along Shepherd Avenue and Friant Road and stated those interested could contact his office to obtain a complete list of street closure times and alternate routes.

Councilmember Perea reported pursuant to AB 1234 that he was in Sacramento last Monday with the Latino Water Coalition and several other elected officials from throughout the valley and advised of the possibility of a vote next week on a water package.

Acting President Westerlund (1) stated discussions needed to start on the importance of sending in forms for the upcoming 2010 census and to encourage people to do so as the count would set the baseline for city and county funding for the next ten years; and (2) (2 - 0) spoke to an article in the Sacramento Bee about the state general services department purchasing \$5.5 million worth of vehicles that have been sitting for a long period of time, with City Manager Souza stating that was not the case here but added in large organizations there is always a small amount of unused vehicles that could sit in reserve from time to time.

Councilmember Xiong thanked Councilmember Brand for his assistance in the Make a Difference Day event.

President Sterling (1) congratulated Police Sgt. Brenda Trobaugh for being selected as one of the Marjorie Mason 2009 Top Ten Professional Women and receiving an award; and (2) advised she attended the Susan B. Komen Race for the Cure stating it was a very wonderful and successful event.

APPROVE AGENDA:

(10:45 A.M. #1) CONTINUED HEARING ON APPEAL FILED BY GARY McDONALD AND FORMER COUNCILMEMBER DUNCAN ON THE PLANNING COMMISSION'S DENIAL OF VESTING TENTATIVE TRACT MAP NO. 5933 AND CUP NO. C-08-59 (Continue to November 19, 2009, at 10:00 a.m.)

Continued as noted.

(10:45 A.M. #2 - 'C') REDEVELOPMENT AGENCY: APPROVE A DEVELOPMENT AGREEMENT BETWEEN THE AGENCY, THE CITY OF FRESNO, AND PARC GROVE COMMONS PHASE II, TO PROVIDE \$500,000 IN LOW- AND MODERATE-INCOME FUNDS FOR DEVELOPMENT OF A 215-UNIT MULTI-FAMILY HOUSING PROJECT LOCATED NEAR THE SOUTHEAST CORNER OF CLINTON AVENUE AND FIRST STREET

Removed from the agenda by staff. Prior to the vote to approve the agenda Councilmember Perea questioned why this was being removed, with City Attorney Sanchez stated he understood a resolution identifying findings was needed and Acting President Westerlund added he spoke with Executive Director Murphey and confirmed there was an issue with the resolution. Later during the actual Redevelopment Agency meeting further comments and clarifications were made.

(9:40 A.M. "B") WORKSHOP ON THE MAYOR/COUNCIL FORM OF GOVERNMENT

City Attorney Sanchez stated he had planned to schedule this workshop for the first of year as an informational workshop which was his preference but if it was the will of Council he could conduct the workshop this date. Acting President Westerlund stated agendas could be pretty full after the holidays and it appeared there could be some time available this date to have the presentation, and by Council consensus the matter laid over to the first of the year.

(11:00 A.M.) **CLOSED SESSION:**

(B) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS (LOCAL 39)
2. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100 (IBEW)
3. FRESNO POLICE OFFICERS ASSOCIATION (FPOA MANAGEMENT UNIT)

4. FRESNO POLICE OFFICERS ASSOCIATION (FPOA NON-SUPERVISORY UNIT)
5. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753 (IAFF MANAGEMENT UNIT)

6. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753 (IAFF NON-MANAGEMENT UNIT)
7. AMALGAMATED TRANSIT UNION LOCAL 1027 (ATU)
8. FRESNO CITY EMPLOYEES ASSOCIATION (FCEA)
9. CITY OF FRESNO PROFESSIONAL EMPLOYEES ASSOCIATION (CFPEA)
10. CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION (CFMEA)
11. FRESNO AIRPORT PUBLIC SAFETY SUPERVISORS (FAPSS)

City Attorney Sanchez stated he had just been advised there would be no information available on the items and later in the meeting it was confirmed the entire item was removed from the agenda.

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

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

ADOPT CONSENT CALENDAR:

Councilmember Perea removed Item **1-I**, Councilmember Borgeas removed Items **1-E** and **1-K**, and Acting President Westerlund removed item **1-C** from the Consent Calendar for separate discussion/action.

(1-A) ADOPT FINDING OF A CLASS 1 CATEGORICAL EXEMPTION PURSUANT TO CEQA (EXISTING FACILITIES), AND APPROVE AMENDMENT NO. 1 TO THE LEASE WITH JOHN TOMAINO d.b.a. AMERICAN HELICOPTER, TO ADD OFFICE SPACE IN THE OLD PASSENGER TERMINAL AT CHANDLER AIRPORT AT AN ADDITIONAL RENT OF \$1,200 PER ANNUM, PAYABLE MONTHLY IN ADVANCE AND SUBJECT TO ANNUAL ADJUSTMENT BASED ON AN ESCALATION FORMULA

(1-B) ADOPT FINDING OF A CLASS 1 CATEGORICAL EXEMPTION PURSUANT TO CEQA, APPROVE THE ACQUISITION OF THREE (3) STREET EASEMENTS NECESSARY FOR THE PROTECTED LEFT TURN PHASING SIGNALIZATION AND WIDENING OF THE CEDAR AND NORTH AVENUES INTERSECTION FROM PROPERTY OWNERS HOWARD REALTY COMPANY, FRESNO IRRIGATION DISTRICT AND PETER & HILDA TAPIA, FOR THE APPRAISED VALUE OF \$30,525, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

(1-D) AWARD A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$197,450 TO AMERICAN PAVING CO. FOR CONSTRUCTION OF THE AL RADKA PARK TOT LOT, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR ASSIGNEE TO SIGN THE CONTRACT ON BEHALF OF THE CITY
1. RESOLUTION NO. 2009-218 - 16TH AMENDMENT TO AAR 2009-149 RE-APPROPRIATING \$27,900 OF REMAINING FUNDS FROM A FEDERAL LAND AND WATER CONSERVATION FUND GRANT THAT IS PARTIALLY FUNDING THIS PROJECT

(1-F) APPROVE A FIVE YEAR CONCESSION AGREEMENT WITH D&K BEARD ENTERPRISE, INC. (DENNIS AND KIMBERLY BEARD) FOR THE OPERATION AND MAINTENANCE OF CAMP FRESNO AND CAMP FRESNO JR. AT DINKEY CREEK
1. RESOLUTION NO. 2009-219 - 485TH AMENDMENT TO MFS RES. 80-420 CREATING A \$150.00 PER DAY RESERVATION FEE FOR THE CAMP FRESNO RECREATION HALL

(1-G) AWARD A SERVICES AGREEMENT WITH FIELD MOUSE PRODUCTIONS FOR THE OPERATION OF SKATEBOARD AND BICYCLE INSTRUCTION IN CITY PARK FACILITIES
1. RESOLUTION NO. 2009-220 - 486TH AMENDMENT TO MFS RES. 80-420 REVISING SKATEBOARD AND BICYCLE INSTRUCTION FEES IN THE PARCS DEPARTMENT

DEPARTMENT FOR CONTRACTED SKATEBOARD AND BICYCLE INSTRUCTION SESSIONS IN THE RECREATION SPORTS PROGRAM FUND

(1-H) RESOLUTION NO. 2009-222 - 24TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$58,500 OF ARRA GRANT FUNDS FROM THE FRESNO-MADERA AREA AGENCY ON AGING TO THE PARCS DEPARTMENT SENIOR HOT MEALS PROGRAM

(1-J) APPROVE A RENEWAL OF THE STATE CENTER COMMUNITY COLLEGE DISTRICT OFF-CAMPUS FEDERAL WORK STUDY AGREEMENT WITH THE PARCS DEPARTMENT AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-L) APPROVE APPOINTMENT OF FLORIDIA CHEUNG TO THE TOWER DESIGN REVIEW COMMITTEE - COUNCILMEMBER XIONG

(1-M) APPROVE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY GRANT ASSISTANCE AMENDMENT FOR THE FRIANT-KERN CANAL PIPELINE PROJECT TO EXTEND THE PROJECT AND BUDGET PERIOD END DATES, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES, OR DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE CITY

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

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

(9:00 A.M.) PUBLIC COMMENT PERIOD:

(‘A’) SCHEDULED COMMUNICATION: APPEARANCE BY KENNETH FICK TO DISCUSS VARIOUS ISSUES

Appearance made.

(‘B’) UNSCHEDULED COMMUNICATIONS:

Reyes Garza spoke on behalf of the homeless and mentally ill including how they will be forgotten in the 2010 census count.

RECESS - 9:37 A.M. - 9:44 A.M.

(9:40 A.M. ‘A’) RESOLUTION NO 2009-223 - SUPPORTING THE COLLABORATIVE EFFORTS OF THE PLANNING AND DEVELOPMENT DEPARTMENT AND THE COUNTY OF FRESNO IN THEIR EFFORTS TO INCORPORATE PUBLIC HEALTH STRATEGIES INTO LOCAL LAND USE, TRANSPORTATION AND COMMUNITY DESIGN PLANNING

Planner Salinas gave an overview of the issue, all as contained in the staff report as submitted, and clarified the Resolution did not include any specific policies and when specific policies are proposed staff will ensure all stakeholders are involved in the process.

Speaking to the issue were: Dr. Edward Moreno, County Health Officer, who stated his support for the issue but added it did not point out the nexus between local land use, community design, built environment policy decision-making, and risk for chronic disease and obesity and explained; Mike Prandini, Building Industry Association, who spoke to the importance of stakeholder involvement in this complex issue and requested Council ensure stakeholders are involved; and Rose Marie Amaral, Fresno County Department of Public Health, who spoke to her department’s work with staff over the last one and a half years and in support of the resolution.

Ms. Salinas responded to questions of Councilmember Perea and clarified issues relative to whether there will be a group that will provide specific strategies for Council to consider for future land use decisions, if specific policies will be outcome of this and if all stakeholders will be involved, the upcoming toolkit and how broad and specific it will be, at what point during the process will staff engage the stakeholders, and if stakeholders will be able to comment on the toolkit during the process or after it comes out. Councilmember Perea requested when the toolkit comes out it be circulated among the stakeholders and submitted to Council, and continued stating his greater concern, and where he felt the focus should be, was current development and the lack of neighborhood parks and infrastructure that should be there for healthy neighborhoods but is not and elaborated. Councilmember Borgeas also spoke to the need and importance of involving the stakeholders at the opportune time and upon his question Mr. Prandini stated they wished to be involved early on to pick up on things that might not be feasible, that should not be there, that might have some unintended consequences, and/or that could put an extreme burden on any one sector of the economy. Upon further question Ms. Salinas stated staff would invite the various stakeholders to the priority planning meetings which happen quarterly and wherein the toolkit will be discussed. City Manager Souza added the second "therefore, be it resolved" paragraph includes language that county and city staff will work together with "appropriate agencies and organizations", which he stated obviously includes the BIA, "to incorporate public health strategies".

On motion of Councilmember Xiong, seconded by President Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2009-223 hereby adopted, by the following vote:

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

(9:40 A.M. "C") RESOLUTION NO. 2009-224 - RE-ESTABLISHING THE UTILITY ADVISORY COMMITTEE
1. APPROVE AN AMENDMENT TO THE AGREEMENT WITH CALIFORNIA STATE UNIVERSITY, SACRAMENTO CENTER FOR COLLABORATIVE POLICY (CCP), IN THE AMOUNT OF AN ADDITIONAL \$23,010 PER YEAR, TO EXPAND THEIR ROLE IN CONDUCTING FACILITATION SERVICES FOR THE UTILITY ADVISORY COMMITTEE

Assistant Public Utilities Director Andersen reviewed the issue as contained in the staff report and a motion and second was made to approve staff's recommendations. Upon questions of Councilmember Brand Mr. Andersen stated although there was no committee for many years he felt there was a definite need to continue with it and explained, and stated the \$23,000 cost was for one year.

On motion of Councilmember Dages, seconded by Acting President Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2009-224 hereby adopted, and the subject amendment to the agreement with California State University, Sacramento Center for Collaborative Policy hereby approved, by the following vote:

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

RECESS - 10:09 A.M. - 10:17 A.M.

(10:15 A.M.) HEARING ON DESIGNATION OF PROPERTIES TO THE LOCAL REGISTER OF HISTORIC RESOURCES
1. RESOLUTION NO. 2009-225 - DESIGNATING THE DEACON-EILERT HOME LOCATED AT 641 E. CARMEN AVENUE
2. RESOLUTION NO. 2009-226 - DESIGNATING THE JOHN B. MARSHALL HOMES LOCATED AT 164 N. ECHO AVENUE
3. RESOLUTION NO 2009-227 - DESIGNATING THE WILSON ISLAND HISTORIC DISTRICT

President Sterling announced the time had arrived to consider the issue and opened the hearing.

A PowerPoint presentation was given by Historic Preservation Project Manager Hattersley-Drayton which consisted of Historic Preservation in Fresno, Criteria for Listing on the Local Register, Local Register of Historic Resources, The Deacon-Eilert Home, the John B. Marshall Homes including Style versus Type and 164 N. Echo Rehabilitation, the Proposed Wilson Island Historic Tract, Procedures for Designation of a Historic District, Boundary Map of the Wilson Island District, Significance of Wilson Island, Wilson Island Architecture **(3 - 0)**, and Recommendations of the Historic Preservation Commission.

Speaking in support of and further to the issue/homes were: Jeannine Raymond, E. Carmen Avenue; Michael Dana, E. Pine Avenue; Robert Boro, E. Home Avenue; Gay Amend, E. Home Avenue; and Joe Moore, N. Maple Avenue.

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

Councilmember Brand recused himself from the proceedings stating he had rental property within 500' of the area and left the meeting at 10:34 a.m.

Councilmember Xiong thanked Ms. Amend and all involved for their work and grass-roots effort, spoke briefly to the unique Tower District neighborhood, diversity, and the importance of supporting the vision, and made a motion to approve staff's recommendations, which was seconded by Councilmember Borgeas. President Sterling stated this was a great project and commended all involved. Ms. Hattersley-Drayton responded to questions and comments of Acting President Westerlund relative to the Wilson tract and where the "Island" term comes from, what the procedure will be for someone who may now want to make changes, i.e., window change outs, the committee review process, if there was any provision to dictate the color of homes, and the balancing issue of property owner rights.

On motion of Councilmember Xiong, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution Nos. 2009-225, 2009-226 and 2009-227 hereby adopted, by the following vote:

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

Councilmember Brand returned to the meeting at 10:44 a.m.

(10:30 A.M.) CONTESTED CONSENT CALENDAR:

(1-C) ADOPT FINDING OF A CATEGORICAL EXEMPTION PURSUANT TO CEQA AND AWARD A CONTRACT IN THE AMOUNT OF \$510,816, INCLUDING THE BASE BID PLUS ADD ALTERNATE 1, TO BEDARD CONTROLS, INC., TO INSTALL A NEW HVAC CONTROL SYSTEM FOR THE FRESNO CONVENTION AND ENTERTAINMENT CENTER

Acting President Westerlund stated he did not deny the need for this but his concern and question was the bonding change, the city's current economic situation, the ability to make the strokes on the bond payments, and if this should be held off, and spoke to the money that was spent on upgrading the Selland Arena, stated he wanted to see how all this fits together, and he did not want to spend more bond money if the city was going to have an issue making the payments. City Manager Souza stated the funding was included in the previous bond issue, and explained the issue/challenge here was a brand new chiller was put into an old system, this was critical to the core function of the building, and if this was purely an amenity he would share the same concern. Acting President Westerlund presented additional questions and comments relative to the bonds, payment funding source, amount of bonds that have not been utilized, and if using available bond money to make the strokes on the bond payments needed to be considered, with Mr. Souza responding and expanding further on the chiller issue. Acting President Westerlund stated he needed to know what the monthly strokes were on the bond payments and also the amount of cushion bonds that have not been paid and until he had that information he could not support this. Upon question of Councilmember Brand ACM Rudd confirmed this was identified in the capital improvement plan and was part of the bond issuance. Councilmember Brand stated he also shared Acting President Westerlund's concern but stated projects identified in the capital plan have to be done in the course of doing business and he agreed with Mr. Souza that this was needed as it could potentially adversely affect other revenues.

Upon question of Acting President Westerlund Public Works Director Weimiller stated there was no critical deadline for the coming week and staff could support a one week continuance if it is attended to next week. Mr. Souza stated the fact pattern would not change, a payment of \$40,000 a year plus or minus was at issue, these were critical repairs and staff would not have brought this to council's attention if it was felt they were not, and stated if this money was going to be used to just pay off the bonds as opposed to doing the needed infrastructure then (1) it should have never been included in the bond structure and (2) that was not something staff would ever recommend because of the severity of this request, and added he was not opposed to having more information but this was a critical issue here.

A motion and second was made to continue the matter one week. Councilmember Xiong clarified he was supportive of staff's recommendation due to the need but he would support the one week continuance only so Acting President Westerlund could get his questions answered. Councilmember Borgeas concurred and clarified his support of a continuance was not undermining or questioning the merits of the project. Councilmember Perea stated although he understood concerns as he had similar ones he was comfortable with moving forward this date as he spoke with staff before the meeting, pointed out council meetings were moved to Thursdays to allow more time for council members to meet/talk with staff to get their questions answered, and added all members had to reshuffle their schedules for the Thursday change so that these kinds of delays would not occur and urged council to move forward if they were comfortable so staff could finish this project. President Sterling concurred with Councilmember Perea stating she also spoke with staff and added by approving this staff could still provide requested information. Councilmember Brand added focus needed to be on the big picture -- the \$28 million shortfall -- and although he agreed council needed to examine things and reevaluate the budget these kinds of things do happen and the business of the city should not get bogged-down.

A motion of Acting President Westerlund, seconded by Councilmember Borgeas, to continue the matter one week to receive additional information failed, by the following vote:

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

On motion of Councilmember Brand, seconded by Councilmember Xiong, duly carried, RESOLVED, the finding a categorical exemption hereby adopted and the subject contract awarded to Bedard Controls, Inc., as recommended, by the following vote:

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

(1-E) RESOLUTION NO. 2009-228 - APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE CITY OF FRESNO'S (SELLER) PROPOSITION 1A RECEIVABLE FROM THE STATE, AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

1. APPROVE REQUEST FOR CONFLICT OF INTEREST WAIVER OF JOHN KNOX WITH ORRICK, HERRINGTON & SUTCLIFFE RELATIVE TO THEIR INVOLVEMENT WITH REPRESENTING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (CSCDA)

Upon Councilmember Borgeas' request City Attorney Sanchez (1) confirmed he was comfortable with staff's recommendation to approve the waiver request and (2) explained "ethical wall" was a methodology to ensure confidential information remains confidential and the firm would hold to that. A motion and second was made to approve staff's recommendations.

Acting President Westerlund stated this was a significant resolution about how the City was going to deal with the state take under Proposition 1A, and noted the state a legal obligation to repay on June 30, 2013, and presented questions relative what the impact or recourse would be if the state tries to get out of repaying/if suit is filed/if they challenge the sale of the bonds, and what the city's "Plan B" was if the bonds that have gone to issue with the state do not sell, with the Interim City Controller Bradley, Mr. Sanchez and City Manager Souza responding throughout.

On motion of Councilmember Borgeas, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2009-228 hereby adopted, and the request for conflict of interest waiver of John Knox with Orrick, Herrington & Sutcliffe hereby approved, by the following vote:

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

(1-I) APPROVE RENEWAL OF ADDENDUM NO. 8 TO THE AMENDED AND RESTATED AGREEMENT WITH THE CALIFORNIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS (CCSPCA) IN THE AMOUNT OF \$2,165,800 FOR FY 2010 CITY ANIMAL CONTROL SERVICES, REIMBURSEMENT FOR EMERGENCY SERVICES, AND UNRECOVERED VETERINARY BILLS

Councilmember Perea stated he was a big supporter of the SPCA but he pulled this to explain he would be voting “No” due to the SPCA’s budget being reduced and specifically the reduction in patrol time and follow-up on leash law calls stating that will have a big impact on his district and further elaborated. Upon question of Councilmember Xiong SPCA Director Minson confirmed the adjustments presented were worked out by the SPCA, and relative to Councilmember Perea’s comments clarified the SPCA has not cut any patrol time to date, they did not expect to and that would be the last step, **(4 - 0)** and to his knowledge day or night field operations would not be affected. Councilmember Xiong stated with those clarifications he was comfortable with this and made a motion to approve, which was seconded by Councilmember Brand. Councilmember Dages stated his problem was this was one organization being cut and asked what about the others, stated he would support this when everyone is involved but not just one organization as that was not fair, and added the SPCA runs extremely lean currently and explained and stated to take another \$129,000 was wrong. City Manager Souza clarified this matter was simply ratifying action Council took back in June as part of the budget and stated if Council desired staff could bring back a report that lists all the other agencies that took cuts during the course of the budget adding there was a significant number of them. President Sterling acknowledged this was validating prior Council action and thanked Mr. Souza for making that clarification, and stated SPCA does a tremendous job, it was unfortunate the city was in the situation it was in, and she was glad to hear patrol time and safety were not being compromised.

On motion of Councilmember Xiong, seconded by Councilmember Brand, duly carried, RESOLVED, renewal of Addendum No. 8 to the amended and restated agreement with the CCSPCA hereby approved, by the following vote:

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

(1-K) ADOPT A CEQA NOTICE OF EXEMPTION AND AWARD A CONTRACT IN THE AMOUNT OF \$321,806 TO KELLY C. BROYLES CONSTRUCTION, INC., FOR INSTALLATION OF WATER MAINS IN HERNDON TOWN

Councilmember Borgeas stated he was very excited about this project and presented questions relative to how this “piece of the puzzle fit into the entire puzzle” of Herndon Town, the grants received for sewer in addition to water, if it was possible to do both sewer and water projects simultaneously to save money, and who the agency was that determined the two projects could not be done simultaneously, with Assistant Public Utilities Director Andersen. Public Utilities Director Ramirez acknowledged Grant Writer Pomare along with Mr. Andersen for their tenacious work efforts in retaining these grants adding Fresno was fortunate to receive them and explained. Councilmember Borgeas concurred and commended the entire department for their work, and presented additional comments/questions relative to meetings with the Redevelopment Agency on connecting water mains to residences, if there was a way for the City to recoup connection costs from future development if funding is ever secured, required nexus requirements, if future development tapping into the water line was not nexus enough, and the city investing in infrastructure as the water was a public safety issue and desire to protect the city’s interest as much as possible, with Mr. Anderson and City Attorney Sanchez responding. A motion and second was made to approve staff’s recommendation.

City Manager Souza stated he agreed synchronizing the sewer and water lines would have been optimal but stressed there was a real health and safety issue here for the residents and the current system had to change and upon his request Mr. Ramirez spoke to and explained the water boil notice the health department considered issuing last Friday due to potential bacterial contamination in the water well and to the great job staff did in rectifying the situation.

Acting President Westerlund also thanked staff for their work on the grants and presented questions/comments relative to whether Herndon Town was part of the original No Neighborhood Left Behind, staff’s attempt to try and get the state to synchronize the sewer and water projects to prevent tearing up streets multiple times, the Agency’s street resurfacing work, concern with shifting water hook-up costs to new development as they were not part of past construction/development, and suggestion to consider PTOs/CFDs/assessment districts to front the money for construction and property owners paying the costs back over a period of time, with Mr. Andersen and Mr. Souza responding throughout.

was a tough situation and staff did an outstanding job.

On motion of Councilmember Borgeas, seconded by Councilmember Xiong, duly carried, RESOLVED, the CEQA notice of exemption hereby awarded and the subject contract awarded as recommended to Kelley C. Broyles Construction, Inc., by the following vote:

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

(10:45 A.M. #2) REGULAR MEETING OF THE REDEVELOPMENT AGENCY

The City Council recessed at 11:36 a.m. and convened in regular session as the Redevelopment Agency.

APPROVE AGENCY MINUTES OF OCTOBER 22, 2009

On motion of Member Sterling, seconded by Chair Xiong, duly carried, RESOLVED, the Agency minutes of October 22, 2009, approved as submitted.

(‘A’) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH CALIFORNIA ASSOCIATES, INC., FOR PREPARATION OF CONSTRUCTION AND DESIGN DOCUMENTS FOR THE RELOCATION OF HISTORIC STRUCTURES TO 450 “M” STREET AND EXTERIOR RESTORATION OF STRUCTURES, AND AUTHORIZE THE EXECUTE DIRECTOR TO EXECUTE THE AGREEMENT

Project Manager Cox gave an in-depth review the issue, all as contained in the staff report as submitted. Upon question of Chair Xiong Executive Director Murphey explained the status of Armenian Town development. A motion and second was made to approve staff’s recommendation. Member Westerlund stated this had been a long, arduous path with the litigation and although he would support this contract he felt this was the wrong site, and added this was a mistake forced upon the Agency and the City, at the end of the day the proponents would also see that this was a mistake, and there was an opportunity to do something really great south of Freeway 41 in a historical neighborhood that was truly old Armenian Town.

On motion of Member Sterling, seconded by Vice Chair Brand, duly carried, RESOLVED, the above entitled Professional Services Agreement with California Associates, Inc., hereby approved as recommended, and the Executive Director authorized to execute the agreement, by the following vote:

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

(‘B’) APPROVE THE FIRST AMENDMENT TO THE EXCLUSIVE NEGOTIATION AGREEMENT (ENA) BETWEEN THE AGENCY AND EAH HOUSING, INC., TO PROVIDE FOR THE CREATION AND ENVIRONMENTAL ANALYSIS OF A “SEQUOIA VILLAGE EXPANDED FOOTPRINT” INCLUDING AN ADDITIONAL SIX MONTHS ON THE INITIAL TERM, AS WELL AS PROVIDE FOR THE ACQUISITION OF A SINGLE FAMILY RESIDENTIAL PROPERTY BY THE DEVELOPER ADJACENT TO THE AGENCY-OWNED PROPERTY

Assistant Director Raymond reviewed the issue, all as contained in the staff report as submitted. Member Westerlund commended staff for their work on this stating it was going to be a terrific project, added he was glad to hear EAH had the property in escrow as that piece was needed to make this work, and made a motion to approve, which was seconded by Member Sterling.

Member Dages stated he had a problem loaning money, he did not want the Agency to become a lending institution and has fought that for years, and questioned why he should support this, what the cost was for the property, and what the property was worth,

with Mr. Raymond responding. Member Dages stated the Agency was paying too much and he could not support this. Vice Chair Brand clarified the last two or three transactions involved loans and the inherent nature of redevelopment was to team with developers;

questioned if an appraisal was conducted (with Mr. Raymond responding); stated historically if you look at purchases by the RDA you will find similar transactions and he could support this one; and stated Member Dages made a good point and stated closer looks needed to be taken in the future with market value paid. Chair Xiong concurred that closer looks needed to be taken, this was the nature of the RDA, and this had been done before.

City Attorney Sanchez advised of a discrepancy with the agreement identifying an amount NTE \$205,000 and the staff report indicating \$200,000 plus closing, and clarified the closing amount was limited to \$5,000.

On motion of Member Westerlund, seconded by Member Sterling, duly carried, RESOLVED, the above entitled First Amendment to the ENA between the Redevelopment Agency and EAH Housing, Inc., hereby approved as recommended, by the following vote:

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

(‘C’) APPROVE A DEVELOPMENT AGREEMENT BETWEEN THE AGENCY, THE CITY OF FRESNO, AND PARC GROVE COMMONS PHASE II, TO PROVIDE \$500,000 IN LOW- AND MODERATE-INCOME FUNDS FOR DEVELOPMENT OF A MULTI-FAMILY HOUSING PROJECT NEAR THE SOUTHEAST CORNER OF CLINTON AVENUE AND FIRST STREET

The item was removed from the agenda earlier in the meeting during “Approve Agenda”. Chair Xiong requested in the future staff advise members whenever any last minute changes or removals are made on items within their districts. Director Murphey further clarified this matter was scheduled before the HCDC yesterday but there was no quorum and for that reason it had to be rescheduled, and added Parc Grove was not within a redevelopment area and the issue arose as to whether special findings needed to be made to spend money for housing outside of redevelopment areas.

Member Westerlund advised he attended the State of the County luncheon yesterday and stated one prominent feature of a video shown on the progress of the County was the One Stop on the west side which was a redevelopment agency project the County would be leasing, with Ms. Murphey speaking further to the issue and advising ribbon cutting would occur at the beginning of the year.

The Redevelopment Agency adjourned its meeting at 11:57 a.m. and the City Council reconvened in regular session.

(11:00 A.M.) CLOSED SESSION:

(‘A’) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: SYPHER LEE, ET AL., V. CRAIG JAMES HOWARD, ET AL., FRESNO COUNTY SUPERIOR COURT CASE

The City Council met in closed session in Room 2125 at the hour of 11:59 a.m. to consider the above matter and the meeting was adjourned thereafter.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 12:13 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the ____5th____day of November, 2009.

_____/s/_____/s/_____
ATTEST

Cynthia Sterling, Council President

Yolanda Salazar, Assistant City Clerk