

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
	Larry Westerlund	Acting Council President
	Blong Xiong	Councilmember
	Cynthia Sterling	Council President
Absent:	Henry Perea	Councilmember

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

Councilmember Dages gave the invocation and President Sterling led the Pledge of Allegiance.

CERTIFICATE OF RECOGNITION TO GRANITE CONSTRUCTION FOR BACKPACK DONATIONS TO STUDENTS IN THE WEST FRESNO SCHOOL DISTRICT - PRESIDENT STERLING

Presented.

RESOLUTION OF COMMENDATION TO NICK PALOMARES - ACTING PRESIDENT WESTERLUND

Presented.

PROCLAMATION OF "ADULT EDUCATION TASK FORCE DAY"

Read and presented.

RECOGNITION OF SUMMER YOUTH INTERNS - COUNCILMEMBER XIONG

Recognized.

PRESENTATION OF CERTIFICATES OF COMPLETION AND OFFICIAL CERTIFICATIONS TO FAX EMPLOYEES FOR APTREX INSTITUTE EFFECTIVE SUPERVISORY MANAGEMENT - TRANSPORTATION DEPARTMENT AND PRESIDENT STERLING

Presented.

SURPRISE ADD-ON: PROCLAMATION FOR CITY ATTORNEY JIM SANCHEZ ON HIS 50TH BIRTHDAY

Read and presented.

APPROVE MINUTES OF AUGUST 20, 2009:

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the minutes of August 20, 2009, approved as amended, on Page 154-35, under Acting President Westerlund's 'Reports & Comments', deleting the words "phone-in" and changing #2 to read: "(2) thanked Mayor Swearengin for coming into District 4 for her town hall meeting".

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) spoke to his attendance at the White House Initiative on Education Excellence for Hispanic Americans event and the educational stimulus funds and opportunities for school districts; (2) thanked code enforcement, housing, and police staff for their participation and assistance at his recent neighborhood meeting; (3) thanked Mayor's office staff and the Census Complete Count Committee and spoke to the importance of partnerships for the count; and (4) thanked public works for the infrastructure and neighborhood work being done west of Freeway 99.

Councilmember Dages (1) requested a status report on the fenced-off Tutelian property across from Joe's Steakhouse stating it was an eyesore, with ACM Rudd responding; (2) questioned what the hold up was on the Dave Christian traffic signal project at Balch and Chestnut stating it was to be have been completed by the start of school but has not even started (2 - 0), with Mr. Rudd stating staff would look into the issue; (3) advised he was having a problem getting the police department to respond to a constituent call on a redistricting issue and would provide an email to the city manager; and (4) requested staff look into and correct the situation that occurred last year with bus service wherein seniors were dropped off for the fair at Maple and Butler stating that was not appropriate and also requested staff make sure bus service is provided for 'Senior Day' as that was an important day for seniors.

Councilmember Borgeas stated the Greek Food Festival would be held this weekend, advised of specifics, and encouraged all to attend stating it was a great event.

Councilmember Brand (1) thanked public works and the city manager's office for their problem solving relative to the opening of Willow & Shepherd Avenues; (2) spoke to the need to move forward on the very important Neighborhood Stabilization Program that was approved back in June stating nothing has been done to date; and (3) thanked the city manager for responding to his email relative to use of the downtown stadium and user tax, spoke to issues of concern, response from the city manager, SMG staffing issues, current negotiations, a possible conflict of interest with SMG promoting the Selland Arena and Save Mart Center, and opening the stadium up to national promoters, and stated he may bring forth an RFP in September regarding stadium use. ACM Rudd and City Manager Souza responded and spoke to issues relative to the last stadium concert, state regulations, and other issues and challenges, and stated staff was looking at options and knew the venue needed to get out in the market.

Acting President Westerlund (1) advised Councilmember Brand would sit on the Audit Committee and the committee would be brought back up to speed; (2) thanked staff for their assistance and participation in his many neighborhood meetings; (3) stated the farmers market on Broadway located near the city's newly acquired Met property looked terrible, he called the owner who has done nothing so far, and added the hanging tarps were dangerous and a safety issue if they were to ever catch fire; (4) requested an update on the status of acquisition of the Met property; (5) noted he misspoke last week on the Warped Tour street closure and clarified it was Chestnut Avenue and not Maple; (6) referenced a recent newspaper article on graffiti prosecution, stated Councilmember Perea "jumped the gun" as other memos had been received on the issue, advised the city was continuing to prosecute and explained, recommended a workshop be held to remove the misinformation, and stated Council was the body who makes decisions on funding priorities and he hated to see misinformation get out there whether it was for political or personal purposes, with City Manager Souza responding and clarifying issues; and (7) also spoke to the Neighborhood Stabilization Program and delays.

President Sterling (1) thanked public works staff for addressing the flickering traffic signal at Clinton & Blythe; (2) advised she attended the Kids Day Back to School Carnival hosted by Central Church of Christ and attended the True Vine Church block party at MLK Elementary School, (3) thanked Mayor Swearengin and planning & development staff for participating in the Darling community meeting, (4) spoke to the need to look at the 2010 census application on the internet, and (5) thanked her colleagues for recognizing issues in her district and gave an update on the Tutelian property and the Broadway farmers market.

APPROVE AGENDA:

(10:15 A.M. "B") REQUEST FOR UPDATE AND CLARIFICATION REGARDING THE FOLLOWING AGENDA ITEM APPROVED ON JUNE 10, 2008: APPROVE CONTRACT WITH THE FRESNO UNIFIED SCHOOL DISTRICT PROVIDING FOR JOINT USE OF DISTRICT HIGH SCHOOL ATHLETIC FACILITIES RUNNING THROUGH DECEMBER 31, 2025 - COUNCILMEMBER PEREA

Rescheduled for September 17, 2009.

(1:30 P.M. #2 "B") RESOLUTION - CONSIDER INITIATION OF A GENERAL PLAN AMENDMENT AND REZONE APPLICATION RELATING TO PROPERTY LOCATED ON THE SOUTHEAST CORNER OF W. WHITESBRIDGE AND S. HUGHES AVENUES

Rescheduled for September 17, 2009.

(1-F) APPROVE A NEW 10-YEAR LEASE AND MANAGEMENT AGREEMENT WITH EBITgolf INC. (CourseCo) FOR A THIRD TENURE TERM TO OPERATE THE RIVERSIDE MUNICIPAL GOLF COURSE

Removed from the agenda.

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

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

ADOPT CONSENT CALENDAR:

Acting President Westerlund pulled Items **1-G**, **1-I** and **1-K** from the Consent Calendar for separate discussion/action.

(1-A) AUTHORIZE RENEWAL OF THE AGREEMENT BETWEEN THE HOUSING AUTHORITY AND THE POLICE DEPARTMENT FOR THE HUD CAPITAL FUNDING GRANT PROGRAM AND ADDITIONAL SECURITY AND PROTECTION SERVICES FOR PUBLIC HOUSING GRANT, AND AUTHORIZE THE CHIEF OF POLICE TO EXECUTE THE AGREEMENT AND REQUIRED PROGRAM DOCUMENTS

1. RESOLUTION NO. 2009-186 - 12TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$130K FOR THE HUD CAPITAL FUNDING GRANT PROGRAM

(1-B) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AN AGREEMENT WITH THE FRESNO UNIFIED SCHOOL DISTRICT TO ACCEPT \$150K TO PROVIDE TWO POLICE OFFICERS TRAINED TO TEACH THE LIFE SKILLS CURRICULUM IN THE MIDDLE SCHOOLS

(1-C) RESOLUTION NO. 2009-187 - APPROVING PARTICIPATION IN THE FEDERAL EQUITABLE SHARING AGREEMENT PROGRAM FOR THE DISPOSITION OF FUNDS FORFEITED IN CONNECTION WITH A CRIME, AND AUTHORIZING THE CITY MANAGER AND CHIEF OF POLICE TO ENTER INTO THE AGREEMENT, SUBJECT TO APPROVAL AS TO FORM BY THE CITY ATTORNEY

(1-D) AWARD A CONTRACT FOR CONSTRUCTION OF NEW TAXIWAY H AT THE CHANDLER EXECUTIVE AIRPORT TO TEICHERT CONSTRUCTION IN THE AMOUNT OF \$1,677,331

(1-E) AUTHORIZE THE DIRECTOR OF AVIATION TO EXECUTE A CONSULTING SERVICES AGREEMENT WITH URS CORPORATION IN THE AMOUNT OF \$146,393 TO CONTINUE WORKING UNTIL COMPLETION ON ENVIRONMENTAL DOCUMENTS AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT AS REQUIRED BY THE FAA

(1-H) ADOPT A FINDING OF CONFORMITY TO MEIR NO. 10130 FOR THE WIDENING AND INSTALLATION OF PROTECTED LEFT-TURN PHASING SIGNALIZATION FOR N. POLK AVENUE TRAFFIC AT W. SHAW AVENUE
1. APPROVE THE ACQUISITION OF THREE PUBLIC STREET EASEMENTS NECESSARY FOR THE WIDENING OF W. SHAW FROM PROPERTY OWNERS KULDIP SINGH AND HARDIP KAUR, AND ALD MANAGEMENT CORPORATION AND GLEN R. BLUE & HELENE M. BLUE, PROPERTY LOCATED ALONG W. SHAW AVENUE AT AND NEAR THE INTERSECTION OF N. POLK, FOR THE APPRAISED VALUE OF \$15,700
2. AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

(1-J) RESOLUTION NO. 2009-188 - APPROVING THE MATERIAL TERMS OF AN AGREEMENT WITH THE FRESNO UNIFIED SCHOOL DISTRICT FOR THE USE OF CHUKCHANSI PARK FOR FIVE HIGH SCHOOL FOOTBALL GAMES IN 2009; AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH FRESNO BASEBALL CLUB, LLC, FOR OPERATION OF THE STADIUM FOR THE FOOTBALL GAMES; AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH OVATIONS FOOD SERVICES, L.P., FOR CONCESSION SERVICES AT THE FOOTBALL GAMES; AND TAKING ALL NECESSARY ACTIONS RELATED TO THE TRANSACTION

(1-L) APPROVE SIDE LETTER OF AGREEMENT WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF), LOCAL 753 (FIRE MANAGEMENT, UNIT 10), DEFERRING A WAGE INCREASE SCHEDULED FOR JULY 1, 2009, OTHER ECONOMIC CONCESSIONS, AND EXTENDING THE MOU TO JUNE 30, 2012

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

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

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

(“A”) SCHEDULED ORAL COMMUNICATION:

APPEARANCE BY BOB BREWER, PRESIDENT OF CENTRAL VALLEY RV OUTLET, LLC, TO DISCUSS THE MARKS AVENUE EXTENSION SALE AND ITS TERMS AND CONDITION OF SALE

Mr. Brewer elaborated on the issue and his concerns and requested the city dedicate property to him and waive the costs, with Public Works Weimiller, City Engineer Mozier, City Attorney Sanchez and Acting President Westerlund clarifying issues relative to the agreement entered into, options, and responsibilities.

(“B”) UNSCHEDULED COMMUNICATIONS:

Bill Finn, N. Orchard Avenue, spoke to the history of the Riverside Golf Course and improvements that have been made and on behalf of all users thanked the city for all it has done.

(3 - 0) Hester Hensley expressed concerns relative to the Monterey Street bridge including the amount of time it is taking to repair it and the area being a safe haven for the homeless.

Paul Hurlbut, 4701 W. Swift, spoke to the use of paid call firefighters.

(9:30 A.M.) HEARING TO CONSIDER THE VACATION OF BLYTHE AVENUE BETWEEN HERNDON AND SPAATZ AVENUE AND A PORTION OF SPAATZ EAST OF BLYTHE

1. RESOLUTION NO. 2009-189 - ORDERING THE VACATION OF THE ABOVE

President Sterling announced the time had arrived to consider the matter and opened the hearing. Senior Engineering Technician Polsgrove gave a brief overview of the issue and recommended approval, all as contained in the staff report as submitted.

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

Mr. Polsgrove and City Engineer Mozier responded to questions and comments of Acting President Westerlund relative to whether the public street being vacated would become private, what the plans were for the private street, and request that staff include in the staff report in the future a smaller scale of the surrounding area.

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution No. 2009-189 hereby adopted, by the following vote:

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

(10:00 A.M.) HEARING ON REZONE APPLICATION NO. R-09-09 AND ENVIRONMENTAL FINDINGS FILED BY THE CITY OF FRESNO, PROPERTY LOCATED ON THE EAST AND WEST SIDES OF N. POLK AVENUE BETWEEN W. ASHLAN AND W. DAKOTA AVENUES

1. CONSIDER AND ADOPT THE ENVIRONMENTAL FINDING FOR E.A. NO. R-09-09 THAT THE PROJECT PROPOSAL CONFORMS TO THE PROVISIONS OF THE GENERAL PLAN MEIR

2. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM RR (COUNTY) TO R-1/UGM/ANX AND R-A/UGM/ANX

(*Discussed again at the end of the meeting)

President Sterling announced the time had arrived to consider the matter and opened the hearing. Councilmember Brand recused himself from the proceedings due to a conflict of interest and left the meeting at 10:23 a.m.

Planner Braun gave a PowerPoint presentation on the issue which consisted of an annexation boundary map, plan designations, aerial view of the area, the Rezone Application, the "ANX" District, project history, N. Polk Avenue improvements, and the recommendation for approval, all as contained in the staff report as submitted.

Speaking to the issue were: Gary Giannetta, project engineer for Tract 5538 which is part of the annexation, who spoke to the requirement and need for the pre-zoning; Richard Smith, 4724 W. Swift, who presented questions/comments relative to ingress and egress; and Cesar Rodriguez, 1236 W. Shaw, who spoke to traffic issues along with suggestions.

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

Councilmember Xiong noted a letter was received earlier from an area resident with some concerns and presented questions and comments relative to whether the constituent was technically a resident of the area yet, issues/concerns being brought to his attention just recently, how long this process has been going on, the LAFCO process and steps taken, if concerns relative to impact on county lifestyle had been addressed, what public hearings were held, if concerns in the letter were clarified and addressed at the planning commission and LAFCO hearings, if issues/concerns were discussed back in 2006, if action being requested this date would be the final step to move forward, if this matter was time sensitive, if the developer worked/met with area residents, growth of the area west of Freeway 99 and current congestion, and request that the developer be conscious of impacts and resident's concerns about traffic and infrastructure needs. City Attorney Sanchez, Mr. Braun and developer Paul Laughton responded throughout. Councilmember Xiong made a motion to approve staff's recommendation, which motion was seconded by President Sterling.

Acting President Westerlund spoke to rural lifestyles, past mistakes made with county islands, the ANX district, city-initiated annexations, resident concern with the cost to connect to city services, some developers taking care of connection costs to move their project forward, and there being that avenue available to shift some of the burden from residents. Councilmember Xiong thanked Acting President Westerlund for the suggestion and concurred there were creative ways to assist residents.

Councilmember Dages noted the letter was simply asking for a convenient time outside of peoples' work schedules to appear before Council and he did not see why that could not be done, stated he has heard a lot of excuses that the people have already been heard but clarified they had not been heard by Council, and stated people had a right to come before Council and be heard, oftentimes one person does make a difference and he wanted to hear their viewpoints, and he would not support the motion. Councilmember Xiong stated if Councilmember Dages was willing to make that amendment he would second it to see if there was support, whereupon Councilmember Dages made a motion to continue the hearing to the next meeting at 5:00 p.m., which was seconded by Councilmember Xiong and the time subsequently changed to 5:30 p.m. Mr. Laughton stated with all due respect he understood what Council was trying to do but clarified this annexation had been a 3½ year process, the neighbors had the opportunity to be heard and protest twice back in 2006 and some did, they also had the opportunity at the planning commission meeting this month and some did, noted one person was the push behind this and he felt he had been patient throughout this process, stated he wanted to push forward and get this done, people had ample time to show their concerns, outreach/education was attempted many times, agreed all had a right to be heard but emphasized the rights/opportunities had been there, and urged Council to approve this as it has been going on and on. Upon question of Councilmember Xiong Mr. Braun stated the public hearings on the annexation process took place at LAFCO and the only thing Council did was initiate the annexation. Upon question of President Sterling Mr. Laughton stated he did not receive a copy of the letter whereupon President Sterling advised ten people signed it, and spoke in support of the continuance stating when a project gets to the point where the community does not have their say more conflict is caused.

On motion of Councilmember Dages, seconded by Councilmember Xiong, duly carried, RESOLVED, the subject hearing on Rezone Application No. R-09-09 hereby continued to September 17, 2009, at 5:00 p.m., which was officially changed at the end of the meeting to 5:30 p.m., by the following vote:

Ayes : Dages, Xiong, Sterling
 Noes : Borgeas, Westerlund
 Absent : Perea
 Recused : Brand

(10:15 A.M. "A") POLICY RECOMMENDATIONS FOR WATER CONSERVATION, PLANNING, AND TECHNOLOGY - COUNCILMEMBER BORGEAS IN COORDINATION WITH THE WATER TASK FORCE

- 1. DIRECT STAFF TO IMPLEMENT A CENTRAL AREA ("DOWNTOWN") WATER FIXTURE CONSERVATION PROGRAM**
- 2. INCORPORATE AND IMPLEMENT A HIGH EFFICIENCY COMMERCIAL WATER FIXTURE REBATE PROGRAM INTO THE EXISTING RESIDENTIAL REBATE PROGRAM**
- 3. DIRECT STAFF TO RETURN TO COUNCIL WITH A PLAN TO IMPLEMENT NEW GRAYWATER REUSE STANDARDS IN ACCORDANCE WITH REVISED STATE CODES AS DIRECTED BY SENATE BILL 1258**

Councilmember Brand returned to the meeting at 10:54 a.m. Councilmember Borgeas introduced the item **(4 - 0)**, stated the policies went out to the public and advised of endorsements, thanked his staff for all the research and work conducted, reviewed the three policies and recommendations, all as contained in his reports to Council as submitted, and made a motion to approve the recommendations/directions to staff, which motion was seconded by Councilmember Brand. Assistant Public Utilities Director Martin spoke to staff's position and implementation methods. Councilmember Borgeas requested staff work in tandem and keep in close contact with the Building Industry Association (BIA) and interested developers.

Mike Prandini, representing the BIA, spoke in support of the three policies with a condition on #1 and #3 that the BIA be offered the opportunity to participate in the planning and implementation processes.

Councilmember Borgeas, Mr. Martin and D&CR Director Scharton responded to questions and comments of Acting President Westerlund relative to there being a lot of information to digest and many questions, desire to vote on each item separately, waterless toilets, absorption of bio-solids, if sewer staff has been involved, if bio-concentration has been addressed, if staff will look at the upside and downside of #1, dual flush legislation and mandates, cost prohibitive/cost effective equipment, if #2 will be applied city-wide, the \$22,000 budget and need to apply real dollars to make this effective, savings on the industrial side, if the rebate program was already mandated, and the graywater plan including concerns/the system/organics/difficulties with downtown and high densities. Acting President Westerlund stated he could support some of this but would have to figure out what to do if all are consolidated.

Councilmember Dages commended Councilmember Borgeas for bringing this forward and taking it in the right direction and staff for all the work they put into it. Councilmember Brand also commended Councilmember Borgeas and his staff, stated it was good the focus was being shifted from agricultural to urban use, and spoke to the issue of unavailable water downtown, it being at the point of threatening revitalization, and there being a crucial need to focus on that issue and resolve it. President Sterling also commended Councilmember Borgeas and all involved staff, spoke to water being a precious commodity and to the committee's efforts and position on graywater, and advised she had a friend who previously worked for the city that offered himself as a resource and tool to assist.

Relative to Acting President Westerlund's comments Councilmember Borgeas clarified this would be a work in progress, strong communication between the various departments, industry and the community would continue, and everyone would work together to find the best way to implement a Fresno-specific graywater plan. President Sterling thanked the BIA for their input stating it was important.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, staff directed to (1) implement a Cental Area ("Downtown") Water Fixture Conservation Program within 90 days, (2) incorporate and implement a High Efficiency Commercial Water Fixture Rebate Program into the existing Residential Rebate Program within 90 days; and (3) return to Council within three months with the framework and analysis of new graywater reuse standards and implement the proposed standards within six months, by the following vote:

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

(10:15 A.M. "C") APPOINT A COUNCIL MEMBER TO SERVE AS ALTERNATE TO THE SPECIAL CITY SELECTION COMMITTEE FOR THE SAN JOAQUIN VALLEY AIR POLLUTION DISTRICT - PRESIDENT STERLING

President Sterling noted she was the city's representative on the Committee (to make appointments to the SJVAPCD District Governing Board), and advised a meeting was coming up August 31st, she had not heard back on whether Acting President Westerlund would be able to act as an alternate, and an alternate needed to be designated to attend the meeting so the city could continue to have a vote. Council Executive Analyst Jones added documentation needed to be submitted in order for the alternate to attend Monday's meeting at 6 p.m.

Acting President Westerlund stated he would be happy to sit on the committee but noted he requested some information which he had not yet received relative to how often the committee meets and whether he would just be covering the August 31st meeting. President Sterling stated this was a special meeting that was called in which she had a conflict and she did not anticipate anything further in the future. Mr. Jones clarified the committee met in January and March, would meet on August 31st, and there could possibly be one or two more meetings by the end of the year, which he added had not been confirmed at this time, and apologized for not getting the requested information back. Acting President Westerlund stated he did not need specific dates and he was just trying to understand what the commitment was so he could plan accordingly. President Sterling added Fresno did not have a seat on the Air Board and an alternate was needed for Fresno to have a role in case additional meetings are scheduled, and stated any additional information received would be forwarded to Acting President Westerlund.

On motion of Councilmember Xiong, seconded by Councilmember Dages, duly carried, RESOLVED, Acting President Westerlund designated alternate to the SJVAPCD Special City Selection Committee, by the following vote:

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

(11:00 A.M.) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAME: EMPLOYEE: RONALD BRIDGES, DECEASED - WORKERS' COMPENSATION CASE NO. 01138539

The City Council met in closed session in Room 2125 at the hour of 11:45 a.m. to consider the above matter and recessed for lunch thereafter.

LUNCH BREAK - 11:47 A.M. - 1:30 P.M.

**** SPECIAL NOTICE:** President Sterling noted Councilmember Perea would be present via teleconference (Location: State Capitol, Conference Room 125, Sacramento).

(1:30 P.M. #2 “A”) APPROVE A JOINT POWERS AUTHORITY (JPA) AGREEMENT, THAT MAY INCLUDE OTHER INCORPORATED CITIES IN THE COUNTY OF FRESNO, TO CREATE AN AGENCY TO ADOPT, IMPOSE AND ADMINISTER THE REGIONAL TRANSPORTATION MITIGATION FEE (RTMF) IN ALL AREAS OF THE COUNTY OF FRESNO CONSISTENT WITH MEASURE “C”

City Engineer Mozier reviewed the issue and recommended approval, all as contained in the staff report as submitted **(5 - 0)**.

Councilmember Xiong stated it took awhile to get to this point and thanked staff and made a motion to approve staff’s recommendation, which motion was seconded by Councilmember Borgeas.

COG Finance Director Les Beshears and Mr. Mozier responded to questions and comments of Acting President Westerlund relative to how the JPA will function, if this was a 20 year program, agency structure, who the fee would be paid to, the dispute on the Caltrans interchange fee, if the Caltrans letter identifying impacts and cost will continue to be seen, if the fee will be the same county-wide, when the JPA will meet, if the JPA will be able to raise the fee on its own without approval of the cities, and city councils weighing in on any proposed increases.

On motion of Councilmember Xiong, seconded by Councilmember Borgeas, duly carried, **RESOLVED**, the Joint Powers Authority agreement for the RTMF as outlined above hereby approved, and the City Manager or designee authorized to execute the agreement on behalf of the City, subject to approval as to form by the City Attorney’s Office, by the following vote:

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

(1:30 P.M. #1) CONTESTED CONSENT CALENDAR:

(1-G) ADOPT FINDING PURSUANT TO CEQA THAT THE ADDENDUM PREPARED TO EIR NO. 10133 IS APPROPRIATE AND CONSTRUCTION OF A WATER MAIN AS A CONDITION OF VESTING TENTATIVE TRACT MAP NO. T-5232 HAS NO NEW OR ADDITIONAL SIGNIFICANT IMPACTS FROM THOSE IDENTIFIED IN THE EIR AND NO NEW ENVIRONMENTAL DOCUMENT IS REQUIRED

1. APPROVE AN AGREEMENT TO REIMBURSE CENTEX HOMES AN AMOUNT NOT TO EXCEED \$1,055,704 FOR THE DESIGN AND CONSTRUCTION OF A TRANSMISSION GRID WATER MAIN IN CLOVIS AVENUE

City Engineer Mozier, Assistant Public Utilities Director Martin, Assistant Public Works Director Banuelos and Public Works Director Weimiller responded to questions of Acting President Westerlund relative to impacts, whether this project has been coordinated with Fancher Creek and other area projects, completion time line, if the overlay will be done during the winter, project time frame and if the city is in any jeopardy of losing stimulus dollars, if the work will be done on the outside lanes of Clovis Avenue, and the importance of coordination and concern that what happened on Marks Avenue not be repeated.

On motion of Acting President Westerlund, seconded by Councilmember Dages, duly carried, **RESOLVED**, the subject finding pursuant to CEQA hereby adopted, and the agreement to reimburse Centex Homes an amount not to exceed \$1,055,704 hereby approved, by the following vote:

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

(1-I) ADOPT FINDING OF CATEGORICAL EXEMPTION, THE PROJECT HAS NO POTENTIAL TO ADVERSELY IMPACT AIR QUALITY OR ANY OTHER ENVIRONMENTAL AREA, AND IS EXEMPT FROM CEQA

- 1. AWARD A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$278,283 TO WITBRO, INC., FOR THE FRUIT AVENUE BIKE LANE PROJECT FROM MCKINLEY TO ASHLAN AVENUES**
- 2. AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CONTRACT ON BEHALF OF THE CITY**

Project Manager Johnson responded to questions and comments of Acting President Westerlund relative to the project location, if the four lanes would be decreasing to two, the service level study and findings, and the rarity of going from four lanes down to two.

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the subject Categorical Exemption finding hereby adopted, the above entitled construction contract awarded to Witbro, Inc., as recommended, and the Public Works Director or designee authorized to sign the contract on behalf of City, by the following vote:

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

(1-K) RESOLUTION NO. 2009-190 - ADOPTING THE FRESNO COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN AND CITY OF FRESNO LOCAL HAZARD MITIGATION PLAN ANNEX

Councilmember Borgeas left the meeting briefly at 1:59 p.m. Acting President Westerlund stated he had not seen Annex C and he would have a difficult time approving something he had not seen, with Emergency Preparedness Officer Eberhard stating it would be provided.

On motion of Councilmember Brand, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2009-190 hereby adopted, by the following vote:

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

Councilmember Borgeas returned to the meeting at 2:01 p.m.

(1:30 P.M. #2 "C") RESOLUTION NO. 2009-191 - APPROVING THE UPPER KINGS BASIN INTEGRATED REGIONAL WATER MANAGEMENT JOINT POWERS AGREEMENT (JPA) AND AUTHORIZING THE DIRECTOR OF PUBLIC UTILITIES TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

- 1. APPOINT A COUNCIL MEMBER TO THE JPA BOARD OF DIRECTORS**

Technical Services Engineer Buche reviewed the issue and recommended Council approve the agreement and appoint a member to sit on the Board of Directors, all as contained in the staff report as submitted, and responded to questions of Councilmember Brand relative to what prompted the formation of a JPA, participants of the joint powers authority, and the requirement for each agency to appoint a member. After brief discussion on the necessary actions Councilmember Brand made a motion to adopt the Resolution and appoint Councilmember Borgeas to the JPA Board and designate the DPU director as the alternate, which motion was seconded by President Sterling. Councilmember Borgeas thanked Council for the nomination and upon his question City Manager Souza confirmed the DUP director would serve as the alternate.

Mr. Buche and staff responded to comments and questions of Councilmembers Xiong and Westerlund and/or clarified issues relative to the boards and commissions process council recently went through, JPA policies/procedures, need for Council to be engaged in the process from the beginning if they are going to be asked to participate in activities, formation of the JPA, rules and procedures/need to include a requirement for council participation/responsibility for being informed and involved in the process, appointment term, what would be contemplated as a revenue source if the JPA were to issue bonds, and JPA powers and why the Alta Irrigation District was singled out.

On motion of Councilmember Brand, seconded by President Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2009-191 hereby adopted, and Councilmember Borgeas appointed to the JPA Board and the DPU Director designated the alternate, by the following vote:

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

(1:30 P.M. #2 “D”) RESOLUTION NO. 2009-192 - AUTHORIZING A LOCALLY PREFERRED ALTERNATIVE FOR BUS RAPID TRANSIT (BRT), AS AMENDED, APPROVING FOWLER AVENUE TO DOWNTOWN FRESNO ON KINGS CANYON/VENTURA AND THEN FROM DOWNTOWN FRESNO OUT TO RIVER PARK ON BLACKSTONE AVENUE

Transportation Director Hamm gave an overview of the issue, advised staff recently found out the department can fund a study of the entire Kings Canyon/Ventura (KC/V) corridor and the entire Blackstone corridor, recommended the resolution be amended to approve Fowler Avenue to downtown on KC/V and downtown out to River Park on Blackstone as the Locally Preferred Alternative, and responded to questions and comments of Councilmember Dages relative to whether this would change the designated lane, if there will be no center islands, and opposition to center islands. A motion and second was made to approve staff’s amended recommendation.

Mr. Hamm responded to questions of Councilmembers Xiong and Brand relative to coordination/if all projects were being pulled together, if staff was in consultation with outside agencies on their projects, the matching grant requirement, anticipated start date, if changes/upgrades would occur with bus stops along the path, signal prioritization and synchronization, and if BRT was planned to be operational by 2012 **(6 - 0)**. Acting President Westerlund stated this was exciting and something to celebrate and thanked staff, stated this was the first step towards light rail or a rapid people moving system, and spoke to his preference to make this BRT medium or BRT heavy and do what needs to be done to move people rapidly and further elaborated.

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2009-192 hereby adopted, *as amended*, approving the Ventura/Kings Canyon from Fowler Avenue to Downtown Fresno and then from Downtown Fresno out to River Park on Blackstone Avenue as the Locally Preferred Alternative for a FTA Very Small Smarts Grant Application to develop a Bus Rapid Transit corridor, by the following vote:

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

(1:30 P.M. #2 “E”) APPROVE ACCEPTANCE OF \$825,000 OF AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) FUNDING FOR THE HERNDON TOWN WATER SYSTEM PROJECT
1. RESOLUTION NO. 2009-193 - AUTHORIZING THE DIRECTOR OF PUBLIC UTILITIES OR DESIGNEE TO (1) SIGN THE FUNDING AGREEMENT AND AMENDMENTS FOR FUNDING UNDER THE CALIFORNIA SAFE DRINKING WATER STATE REVOLVING FUND AND ARRA FOR THE HERNDON TOWN WATER SYSTEM PROJECT, (2) SIGN THE CERTIFICATIONS AND REPORTS REQUIRED FOR SUCH FUNDING, (3) EXECUTE THE BUDGET AND EXPENDITURE SUMMARY, AND (4) SIGN THE CONTRACTOR’S RELEASE FORM AND THE CERTIFICATION OF PROJECT COMPLETION
2. RESOLUTION NO. 2009-194 - 14TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$825K TO THE DEPARTMENT OF PUBLIC UTILITIES FOR THE HERNDON TOWN WATER SYSTEM PROJECT

Assistant Public Utilities Director Andersen acknowledged Grant Writer Pamare for her work on the grant and gave an overview of the issue, all as contained in the staff report as submitted.

Councilmember Borgeas thanked staff and the administration for all their work and support, upon his request Mr. Andersen gave an update on the sewage component, and Councilmember Borgeas spoke briefly to the level of responsibility the city took on so the neighborhood could have the necessary water infrastructure and commended staff. Mr. Andersen responded briefly to questions of Acting President Westerlund relative to whether the city will take over the Herndon Town water system, if the owners of the existing system will seek compensation, and if this was a straight grant.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, acceptance of \$825,000 of ARRA funding for the Herndon Town Water System Project from the California Department of Public Health hereby approved and the above entitled Resolution Nos. 2009-193 and 2009-194 hereby adopted, by the following vote:

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

(1:30 P.M. #2 “F”) DESIGNATING MAYOR ASHLEY SWEARENGIN AS A VOTING DELEGATE AND CITY MANAGER ANDREW T. SOUZA AS A VOTING ALTERNATE FOR THE LEAGUE OF CALIFORNIA CITIES ANNUAL BUSINESS MEETING ON SEPTEMBER 18, 2009

City Manager Souza gave a brief overview of the issue, all as contained in the staff report as submitted, and advised the LCC allowed each city to designate two alternates and Council could do so if there was any interest. Councilmember Borgeas offered to be the second alternate stating he would be attending the conference on Wednesday whereupon Mr. Souza clarified the alternates were needed for Friday’s session.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, Mayor Ashley Swearengin designated voting delegate and City Manager Andrew T. Souza designated voting alternate for the LCC Annual Business meeting on September 18, 2009, by the following vote:

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

(1:30 P.M. #2 “G”) APPROVE A CONSULTANT SERVICES AGREEMENT WITH AARON REED & ASSOCIATES IN PARTNERSHIP WITH ROSE & KINDEL TO PROVIDE STATE LOBBYING AND ADVOCACY SERVICES IN SACRAMENTO

ACM Rudd gave a brief overview of the issue and recommended a three year agreement with the option for two one-year extensions be approved, all as contained in the staff report as submitted. A motion and second was made to approve staff’s recommendation.

Mr. Rudd, Kathleen Van Osten of Rose & Kindel (R&K), and City Attorney Sanchez responded to comments and questions of Acting President Westerlund and/or clarified issues relative to the scope of services, Council not being involved in the past in developing goals/objectives/priorities, need for Council involvement as the City Council sets policy, if a workshop could be held in the future to allow for Council input, number of finalists, the firm’s ranking and how it compared to the other firms, if an evaluation was conducted on the firm’s contacts in Washington, federal dollars that go through the state and importance of Washington contacts to get the attention of Sacramento, the strength of R&K and Aaron Reed & Associates and their work over the years with different clients, number of big 10 cities R&K currently represents, if R&K has ever represented a major 10 city, if Fresno will be the firm’s largest city and if Ms. Van Osten will be the city’s personal representative, interest in looking at R&K’s involvement/suggestions/ideas with the city’s legislative affairs office in establishing a platform, and the city’s ‘no contact’ ordinance and need to amend the ordinance so the legislative affairs director can interact with the firm over the next few years.

Councilmembers Xiong and Borgeas presented questions and comments relative to the number of ‘strong mayor’ municipalities the firm has worked with, importance of the firm being able to communicate effectively with the different councils, council presidents and administration so everyone receives information, Townsend & Associates’ service and why a change was being made, if Townsend submitted a proposal, if the issuance of the RFP had nothing to do with dissatisfaction with Townsend, if there has ever been a practice wherein a platform was created and a workshop conducted to allow Council to weigh in on priorities and balance all interests to create a lobbying strategy, non-interest in micro-managing, and if a presentation to Council of a priority framework -- without getting into the “nitty-gritty” -- would be helpful to Council so they can be aware of the direction the city is headed, with Ms. Van Osten, Mr. Rudd and Mr. Sanchez responding throughout.

City Manager Souza stated this was good discussion but clarified the council-adopted budget establishes city priorities, current and past mayor's have never sent staff off on something that was inconsistent with Council direction, the administration was open to discussing what is anticipated to come down the pike in Sacramento and other things that need to be talked about, R&K would work with government affairs on day-to-day issues and keep all apprised of what is happening as that was the natural function of government, and most of the day-in/day-out things in Sacramento were pretty routine but the lobbyists are expected to contact the city immediately if something should pop up. Councilmember Borgeas reiterated he was not suggesting Council get into the day-to-day dealings or encumber staff's ability to be quick on their feet but noted cities have seen unprecedented levels of money flowing from the federal government (**7 - 0**) and requested Council be kept abreast, and stated at least for him a general priority list might be helpful. Relative to communication and direction Councilmember Brand stated he could not see a lobbyist chasing down seven members but he could see formalized presentations to Council by government affairs, and added a sub-committee was not a solution and any formal communication should be made through the council president or at regularly scheduled council meetings. Acting President Westerlund agreed a framework needed to be developed -- in conjunction with the mayor -- along with a list of the top 10 - 15 priorities to focus on given the number of issues, and added occasionally a council member may want to lobby individually, as he did with the 144th, and there may be a desire to set up some sort of framework for that and further elaborated. Councilmember Xiong commented briefly stating the issue might not necessarily be just about what is happening at the state and federal level but the larger one of visions, impacts and discussions with Council involvement so all can determine how to proceed forward. Mr. Souza concurred with Acting President Westerlund that there may be singular issues a member may want to lobby, clarified the 144th had a formal council resolution, cautioned Council about piecemealing issues that may be inconsistent with a majority council direction, and stated process issues after a contract is completed could be fine-tuned and worked out in the context of the strong mayor form of government. A motion and second was made to approve staff's recommendation. President Sterling stated the staff report was submitted late, this was an important item with much to digest, there was a page out of order showing it was hastily put together, and there was no listing of the five finalists to get an understanding of staff's recommendation, and stated even though this firm was highly qualified and she would support staff's recommendation she had a concern with the way the report was put together and also with the fact that the firm does not seem to have a strong mayor background and has not represented a top ten city.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, the City Manager authorized to execute a three year agreement with the option to extend the agreement for two one-year extensions, approved as to form by the City Attorney, with Aaron Reed & Associates in partnership with Rose & Kindel to provide State lobbying and advocacy services in Sacramento, by the following vote:

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

(10:00 A.M.) HEARING ON REZONE APPLICATION NO. R-09-09 AND ENVIRONMENTAL FINDINGS FILED BY THE CITY OF FRESNO, PROPERTY LOCATED ON THE EAST AND WEST SIDES OF N. POLK AVENUE BETWEEN W. ASHLAN AND W. DAKOTA AVENUES (Continued from earlier in the meeting*)**

City Clerk Klisch noted the hearing was continued this morning to September 17th at 5:00 p.m. and she had since been advised that some involved residents were requesting a later time so as not to interfere with work schedules. Brief discussion ensued.

On motion of Councilmember Dages, seconded by Councilmember Xiong, duly carried, RESOLVED, the hearing on R-09-09 hereby continued to September 17, 2009, at 5:30 p.m., by the following vote:

Ayes : Borgeas, Dages, Xiong, Sterling
 Noes : Westerlund
 Absent : Perea
 Recused : Brand

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:24 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the __17th____ day of _____September_____, 2009.

_____/s/_____
Cynthia Sterling, Council President

ATTEST _____/s/_____
Yolanda Salazar, Assistant City Clerk