

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:	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Blong Xiong	Acting Council
	Henry Perea	Council President

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

Pastor Jim Franklin of Cornerstone Church gave the invocation, and President Perea led the Pledge of Allegiance.

WELCOME TO THE ROMANIAN ORPHAN CHOIR - COUNCILMEMBER DUNCAN

The choir was welcomed and members performed two songs for Council.

APPROVE MINUTES OF SEPTEMBER 18, 2007:

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of September 18, 2007, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

COUNCILMEMBER DAGES: Encouragement to all to attend the Big Fresno Fair October 3 - 14, and announcement of October 3rd as Senior Day/seniors admitted free, October 4th kids 12 and under admitted free, and City employees admitted free at special gate on the Chance Avenue side to attend the fair only during the hours of 11 a.m. to 2 p.m. for lunch Monday thru Friday upon surrender of City I.D. and retrieval by 2 p.m.

ACTING PRESIDENT XIONG: (1) Need to leave for Ontario, CA at 3:00 p.m. this date for RDA training; and (2) thank you to Chief Bruegman and staff and Central Unified for accommodating residents for neighborhood meeting on Fire Station 16.

COUNCILMEMBER DUNCAN: Commendation to P&R staff for going above and beyond the call of duty in caring for and feeding residents who were displaced by a fire at their apartment complex last week, many of which were members of the Hmong community including elderly with special diet restrictions.

COUNCILMEMBER CALHOUN: Report made on status of the Adaptive Reuse Ordinance anticipated to be before Council on October 16th.

CITY MANAGER SOUZA: Intent to send tray memo to Council in the next couple of days on \$2.1 million of carry-over funds from last year along with short-term needs for consideration, and request for Council sub-committee to work with staff to determine the best use of those funds.

APPROVE AGENDA:

(9:30 A.M. 'C') APPROVE FIRST AMENDMENT TO THE AGREEMENT/MOU BETWEEN SMG AND THE FRESNO CONVENTION AND VISITORS BUREAU (FCVB) MAKING CHANGES TO THE ORGANIZATIONAL STRUCTURE AND IMPROVEMENT IN SERVICE

Removed from the agenda by staff.

(1-J) APPROVE A SIDE LETTER OF AGREEMENT WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, NON-MANAGEMENT FIRE, LOCAL 753 (FIRE BASIC), TO MODIFY SICK LEAVE CASH OUT, MODIFY THE DEFERRED RETIREMENT OPTION PROGRAM (DROP), AND INCLUDE THE UNIT IN THE HEALTH REIMBURSEMENT ARRANGEMENT (HRA)

Laid over one week at the direction of City Manager Souza.

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

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

ADOPT CONSENT CALENDAR:

Councilmember Calhoun pulled Items **1-L** and **1-P** from the consent calendar for separate discussion/action.

(1-A) ACTIONS RELATED TO THE FINAL PAYMENT TO CALCOT, LTD., UNDER THE 1997 DEVELOPMENT AGREEMENT

1. ACCEPT THE FINAL ANNUAL REPORT FOR OCCUPANCY CERTIFICATES OBTAINED IN CALENDAR YEAR 2007, AS REQUIRED UNDER THE 1997 DEVELOPMENT AGREEMENT
2. CONCUR WITH REIMBURSEMENT IN THE AMOUNT OF \$735,322.50 FROM BOND PROCEEDS SOLD IN APRIL 2004
3. **RESOLUTION NO. 2007-310** - 29TH AMENDMENT TO THE AAR APPROPRIATING \$735,400 FOR FINAL PAYMENT TO CALCOT, LTD.

(1-B) **RESOLUTION NO. 2007-311** - INTENT TO ANNEX FINAL TRACT NO. 5511 AS ANNEXATION NO. 22 TO CFD NO. 11 AND AUTHORIZE LEVY OF SPECIAL TAXES, AND SETTING THE PUBLIC HEARING FOR OCTOBER 16, 2007

(1-C) AWARD A CONTRACT TO AMERICAN PAVING COMPANY IN THE AMOUNT OF \$121,196 FOR THE FYI AIRPORT TAXIWAY CONNECTOR 7 PROJECT

(1-D) AWARD A CONSTRUCTION CONTRACT TO CRUCO CONSTRUCTION GROUP IN THE AMOUNT OF \$135,470 FOR THE FYI AIRPORT RUNWAY THRESHOLD REMARKING AND RUBBER REMOVAL PROJECT

(1-E) APPROVE THE LEASE OF OFFICE/SHOP SPACE IN THE AIR FRESNO BUSINESS AND INDUSTRIAL PARK LOCATED NEAR FYI, EFFECTIVE DECEMBER 1, 2007, WITH RUSSELL G. SMITH, INC., FOR TWO YEARS WITH AN OPTION TO EXTEND FOR A THIRD YEAR, AT A COST OF \$33,420

(1-F) AWARD A CONTRACT TO FRYER ROOFING CO., INC., IN THE TOTAL AMOUNT OF \$961,523 TO RE-ROOF THE SELLAND ARENA BUILDING

(1-G) ADOPT THE PROPOSED SPENDING PLAN FOR FY 2007-08 STATE OF CALIFORNIA SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUNDS (SLESF)

1. **RESOLUTION NO. 2007-312** - 20TH AMENDMENT TO AAR APPROPRIATING \$925,000 FROM SLESF TO THE POLICE DEPARTMENT BUDGET FOR EQUIPMENT AND OPERATIONAL NEEDS

(1-H) RESOLUTION NO. 2007-313 - APPROVING THE FINAL MAP OF TRACT NO. 5606 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, E. ALLUVIAL BETWEEN N. CHESTNUT AND N. WILLOW AVENUES
1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT

(1-I) REMOVED FROM THE AGENDA)

(1-K) AWARD A REQUIREMENTS CONTRACT FOR BMW POLICE MOTORCYCLES , WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS, TO BMW OF FRESNO IN THE AMOUNT OF \$925,101.88

(1-M) RESOLUTION NO. 2007-314 - COMPLETING THE CERTIFICATION AND CLAIM PROCESS TO ALLOW THE CITY OF FRESNO TO RECEIVE ITS SHARE OF MEASURE C EXTENSION FUNDS
1. AUTHORIZE THE CITY MANAGER TO EXECUTE THE LOCAL TRANSPORTATION PROGRAM CERTIFICATIONS AND CLAIM FORMS

(1-N) RESOLUTION NO. 2007-315 - 26TH AMENDMENT TO THE AAR APPROPRIATING \$270,000 FOR FINAL SETTLEMENT COSTS RELATED TO THE LANDFILL CLOSURE AGREEMENT WITH JOE SOUZA FARMS, L.P., AND SANDRA TAVARES

(1-O) AWARD A CONTRACT TO BRENNTAG PACIFIC IN THE AMOUNT OF \$125,358.98 FOR A REQUIREMENTS CONTRACT FOR ORTHO POLY PHOSPHATE BLEND

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

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

RECESS - 8:54 A.M. - 9:00 A.M.

(9:00 A.M.) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION

APPEARANCE BY PAULA SAVINO REGARDING THE NEED FOR PERMANENT HOUSING AND SERVICES FOR THE HOMELESS

Appearance made, with Councilmember Sterling responding.

RECESS - 9:05 A.M. - 9:16 A.M.

(9:15 A.M.) CITY COUNCIL:

(‘A’) REQUEST FOR STATUS REPORT ON RUNNING HORSE - COUNCILMEMBER STERLING

City Manager Souza gave an oral status report on Running Horse including street improvements, and the Veterans Home as requested by Councilmember Sterling, and responded to questions and comments of Councilmembers Sterling and Calhoun relative to the alternate site for the Veterans Home, if relocation will keep the project on schedule, if the Home will stay at the current site if an alternate site is not found, illegal dumping occurring in the Running Horse area, need for the City to keep the area clean while going through the process, if any of the property was in the county for shared clean-up responsibility, request to keep Council informed regularly and for a written report next week, if Veterans officials were actively looking for another site, and the City paying well above the appraised value for the current site for the Home hope that that will not happen again. There was no further discussion.

(‘B’) DIRECT STAFF TO ESTABLISH METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS (MRSA) INFECTIONS AS A PRESUMPTIVE WORK-RELATED INJURY FOR PUBLIC SAFETY PERSONNEL IN THE CITY’S WORKERS COMPENSATION INSURANCE - COUNCILMEMBER DUNCAN

Councilmember Duncan reviewed the issue, all as contained in his in-depth report and back-up information submitted to Council, stressed this was a very serious issue and with the information he submitted stated a case could be made that MRSA was a work-related injury, and urged Council’s support adding public safety personnel risk their lives every day and needed this.

Speaking in support and further to the issue were Jacky Parks, FPOA President, who submitted written material, a copy of which is on file in the City Clerk’s office; Jerry Smith, Vice President, Fresno Fire Fighters Association (**2 - 0**); Michael Kalina, firefighter, who spoke to his MRSA infection; Lionel McPeters, firefighter; and Richard Esparza, firefighter, who spoke to his experience with two infections.

Councilmember Duncan referenced a City statement that some claims “were denied as being work-related due to lack of evidence that the infections arose out of, and occurred in the course of the claimant’s employment as firefighters” and stated the facts were there were outbreaks at two fire stations, scientific evaluation of the stations found the bacteria, and the conclusion was the infections came from the firefighters; stated he did not know how much more evidence the City needed to say this was work-related; stressed this was the right thing to do and it was important that treatment not be delayed; and made a motion as outlined above. Councilmember Sterling seconded the motion, thanked Councilmember Duncan and public safety staff for bringing this matter forth, and encouraged Council’s support stating this should not be delayed. Councilmember Dages stated his support and presented questions relative to why this infection was not being established for *all* city employees/why it was being limited to public safety, if any other employees have been infected, and desire to cover all employees due to information stating the infection is contagious in the homeless community.

City Manager Souza noted he discussed this matter with the Mayor and shared his concern, acknowledged this was a very serious matter adding his son had MRSA twice and he was aware it can recur, clarified he was concerned with anything that was “presumptive” as that meant without evidence, and stated there were ways to improve the process, i.e., aggressive treatment and he would work with personnel and workers comp staff on the issue, and upon his question City Attorney Sanchez confirmed if this motion passes staff would have to return with a resolution to implement the policy direction and which would also include the findings.

Councilmember Calhoun stated Council was being asked to make a sweeping policy decision on something that was beyond their knowledge base, stated until just recently he knew nothing about this and bits and pieces of information have been coming from various sources, concurred with the concern that this focused on a small segment of employees when many city employees have contacts and go into unhealthy places/situations and added the County Health Department had even more employees doing the same, stated input was needed from Dr. Moreno of the Health Department adding the city of Fresno was not alone in this, and stated he was not prepared to vote on something he did not know enough about and wanted to hear all the facts from Fresno County and made a motion to table the matter until a report is received from Dr. Moreno of the County Health Department. Upon call, the motion died for lack of a second.

Mr. Souza, Mr. Sanchez and Mr. Smith responded to questions of Acting President Xiong and/or clarified issues relative to meaning of presumptive injury, if the resolution would include a pro-active provision, and what other jurisdictions have done to address this issue. Acting President Xiong stated his support and thanked Councilmember Duncan for bringing this forth. Chief Bruegman and Mr. Souza responded to questions/comments of Councilmember Westerlund relative to whether staff has faced MRSA in their capacity with other jurisdictions, if staff has discussed this with the County Health Department, if appropriate protocols are in place to guard against MRSA, concern with the legal definition and how it is handled, what needed to be done to get an aggressive diagnosis in place, what policy is needed to change workers comp, and the key being early detection and establishing a policy to culture everything immediately. President Perea thanked public safety for bringing this matter forth and stated he felt government was being pro-active here, there was an obligation to care of those who take care of us, and it was important to eradicate the problem now.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, staff directed to establish policy making Methicillin-Resistant-Staphylococcus Aureus (MRSA) infections as a presumptive work-related injury

for public safety personnel in the City's Workers' Compensation Insurance and return with a policy resolution for implementation, by the following vote:

Ayes : Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : Calhoun
Absent : None

(9:30 A.M.) GENERAL ADMINISTRATION:

(‘A’) RESOLUTION NO. 2007-316 - APPROVING THE CITY OF FRESNO INVESTMENT POLICY FOR FISCAL YEAR 2007-08

Assistant Controller Bradley reviewed the issue, all as contained in the staff report as submitted. Councilmember Westerlund stated this was consistent with Council direction and thanked staff for their work, elaborated further on the changes and upon his request Ms. Bradley explained the requirement for safeguarding/insuring funds, and made a motion to adopt the resolution, which motion was seconded by Councilmember Duncan. Ms. Bradley responded briefly to questions of Acting President Xiong relative to the large banking institutions who have invested locally and if consideration was given to them **(3 - 0)**.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2007-316 hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

(‘B’) RESOLUTION NO. 2007-317 - AUTHORIZING SUBMISSION OF APPLICATIONS AND ACCEPTANCE OF THE COUNCIL OF FRESNO COUNTY GOVERNMENTS 2008 “ONE VOICE” CALL FOR PROJECTS, AND AUTHORIZING EXECUTION OF DOCUMENTS, *with the ANG F-15 fighter jets added to the List of Projects*

Assistant Public Works Director Mozier clarified this was a joint effort of the Public Works, Airports and Transportation Departments working closely with the City Manager's Office, and reviewed the issue and the five projects, all as contained in the staff report as submitted.

Councilmember Westerlund noted the F-15 Eagles were included last year but not this year and stated they could not be neglected and explained, and questioned why the F-15s were not included and also the Shaw/41 interchange, with Mr. Mozier and Assistant City Manager Rudd responding and clarifying issues. A motion and second was made to adopt the resolution and to include the F-15 Eagles to the Project List, which motion was seconded by Councilmember Duncan. Mr. Mozier responded additionally to questions of Councilmembers Sterling and Calhoun relative to why the Monterey Street bridge was not considered, if staff felt Veterans Boulevard would move faster than the Monterey bridge, if COG was in agreement with these projects or if these were solely City proposals, and the process and what the next steps were.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2007-317 hereby adopted, and the F-15 Eagles for the Air National Guard added to the Proposed List of Projects, by the following vote:

ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

(‘D’) REJECT ALL PROPOSALS FOR THE PROVISIONS OF DEMAND RESPONSIVE PARATRANSIT SERVICES (HANDY RIDE) AND PROCEED WITH A NEW RFP

Transportation Director Hamm reviewed the issue and staff's recommendation, all as contained in the staff report as submitted.

Speaking in opposition to staff's recommendation, further to the issue, and/or in support of a contract with MV Transportation were: Randy Ghan, Secretary-Treasurer of the Fresno-Madera-Tulare-Kings Central Labor Council; Adam Raimer, Secretary-Treasurer of ATU Local 1027, who gave a PowerPoint presentation which consisted of ATU and who they represent, the lingering issue of the contract and re-bid, reasons for re-negotiation of the existing contract, confusion over bidders being requested to bid on the current pay raise, and what changed; Rick Steitz, President/Business Agent of ATU; Charles Cook, International Vice President with ATU; Susan Smith, on behalf of MV Transportation; Carol Jean Casey, ADA Committee member; Olivia Ostergaard, ADA/FAX Committee member; Ed Eames; Paula Astorga, Handy Ride employee; Lee Jenkins, MV employee; Bernice Barren, Handy Ride employee; Faitha Jenkins; John Sanchez, MV employee; Harlan Brewer, MV employee (4 - 0); Butch Helton, ATU 1027 Vice President/ADA Committee member; Mary Earheart, ATU Executive Board member; Jena Liberty, Handy Ride employee; and Irene Soto.

Councilmember Dages noted when MV first acquired the contract a lot of things were not done appropriately but after time and meetings stated MV was doing very well and congratulated them; stated at issue and his main concerns were how taxpayer money is spent and if MV is providing the service; stated MV had proven itself very well and presented questions relative whether staff felt there was a severe problem with MV, the contract including City expectations and performance numbers, and number of monthly rides (with Mr. Hamm responding); stated he agreed with an earlier statement that the agreement between ATU and MV was not the City's concern as he felt MV was performing under the contract with a certain amount of money and added how MV spends the money on their employees was not the City's business; and made a motion to award the contract to MV in the amount of \$27,736, 038.00, which motion was seconded by Councilmember Sterling. Upon question of Councilmember Westerlund, City Attorney Sanchez advised of the proper motion whereupon Councilmember Dages changed his motion to direct staff to post the award to MV Transportation and return to Council for award of the contract once the posting process is concluded, which motion was seconded by Councilmember Sterling.

Councilmember Westerlund stated this matter went under the category of "no good deed goes unpunished"; expressed his concern and spoke to past Handy Ride problems, to the numerous customer complaints that came forth every few months for over a year and a half on the terrible job MV was doing, and to MV secretly going out and negotiating a new contract with ATU; presented questions relative to whether the City can say it will not pay more than the agreed to amount, what the Committee's recommendation was, and what the average raise increase amount was and effective date (with Mr. Hamm responding); and stressed the new labor contract was just plain wrong, that was why MV should never get the contract, and that was why he would never support MV and further elaborated.

Councilmember Sterling thanked all in attendance and those who provided input and information, and presented questions/comments at length relative to why it took so long for this matter to come to Council, the July proposal for an additional \$1.5 million on top of the amount budgeted including where those funds would come from and why they could not be used for award to MV, if reserve funds were used to purchase vehicles and make improvements to make service more efficient, if any money was left over from the TDA funds set aside last year, and why staff wanted to award a contract in July to one of the five bidders and why they now wanted to reject all bids, with Mr. Hamm responding. Councilmember Sterling elaborated further on the background/history of the issue with MV and her dealings with them and how they improved, and stated it was important to re-establish that history and lay out what MV went through before re-bidding as it was in the best interest to stay with MV.

At this point proceedings were interrupted for the lunch recess and the matter was continued to 2:00 p.m.

LUNCH RECESS - 11:58 A.M. - 2:00 P.M.

Councilmember Sterling continued and presented questions/comments/concerns at length relative to whether MV had a plan in their RFP to contain the cost of taxi usage (5 - 0), if MV was purchasing new vehicles, number of taxi rides currently, which matters would be re-negotiated in order to address concerns, if staff had re-looked at MV's past performance concerns, perception that things have moved forward, concern with the process and how it was handled by everyone, why the process should start over when MV's proposal was lower than two others, and the positive testimony by speakers and need to move forward, with MV officials Alex Lotti and Regional Manager Dwight Breshear, and Mr. Hamm responding throughout. Councilmember Sterling stated this was a difficult time and she felt both the City and MV were responsible for problems, and stated everyone needed to move forward, learn from past mistakes, and not make the same mistakes again.

Councilmember Calhoun stated there was a process for raises and Council, staff and the unions were all part of it, the huge raise increase was not fair, he did not want the City to be in the same position as Fresno County due to their poor budgeting, he was not satisfied with MV's performance/almost empty vans/huge cost for no-shows, this paratransit service continued to annoy him, and costs for this service needed to go down, and stated he was supportive of staff's recommendation as it was fair.

Upon question of Councilmember Dages, Mr. Rudd confirmed MV employees were not City employees whereupon Councilmember Dages presented questions/comments relative to what difference it made to the City what MV employees made and if MV's proposal included the new labor agreement, with Mr. Rudd responding. Councilmember Dages noted there was only a difference of \$151,000 between MV and the next lowest bidder, stated he felt MV fixed itself, stated if staff's recommendation were to be approved MV would still be here for 30 days, noted Mr. Rudd indicated he felt confident MV was willing to re-negotiate, and stated he did not want to start over again with the same fiasco and withdrew his earlier direction motion to staff and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Sterling. Upon question of Councilmember Dages, Mr. Lotti stated he felt things could be worked out and that MV was committed to the city of Fresno. President Perea noted staff's recommendation included the rejection of all bids whereupon Councilmember Dages stated he wanted a 30-day negotiation period but did not want to reject bids this date because if negotiations do not work out things would go back to square one. Discussion ensued on the process, options, and proposed motions, and clarifications were made and questions were answered by Mr. Sanchez, Mr. Hamm and Mr. Rudd. Councilmember Dages withdrew the motion and went back to his original motion to direct staff enter the process of posting the award to MV, which was again seconded by Councilmember Sterling.

Mr. Rudd and Mr. Hamm responded to questions/comments of Councilmember Duncan relative to consequences if the motion on the floor passes, if the annual increase to the operating budget would grow year after year, if the City would have to come up with \$1 million a year from some source, and the employee pay raise. Councilmember Duncan clarified he had no problem with MV and emphasized this was an issue of economics and not service; stated this was not a win-win as someone stated but would be a loss as the increased cost would have to come from someplace and that place would suffer substantially; reiterated he supported MV but was not supportive of the motion as it was wrong, the City could not afford it, and he would not be part of something so financially irresponsible; and stated although he barely supported staff's recommendation he would support it as it was probably the best avenue out of "this mess".

Mr. Hamm and Mr. Rudd responded to questions of Acting President Xiong relative to what staff estimated the bid amounts would be if the contract were to be rebid, if staff had conducted any analysis on wages/market rates/track histories, and if the funding source for the additional funds that were going to be requested was TDA funds. Acting President Xiong stated he would hate to see employees affected after working so hard to get their raise and added the City and MV should negotiate and both bear the gap difference, and advised of his proposed motion, with Mr. Sanchez responding and assisting with the motion. Councilmember Dages withdrew his motion on the floor and Acting President Xiong made a motion to approve staff's recommendation with additional direction to staff and MV to focus their negotiations on the excess labor agreement and jointly fill the gap, with staff to return to Council with a proposal addressing that difference. The motion was seconded by Councilmember Dages. President Perea requested that whatever is negotiated not be on the backs of employees as these were people that struggle day to day to make ends meet and added there was an opportunity here to provide for pension and health care benefits for the employees who work very hard on a daily basis, and further requested staff not come back with something unreasonable.

On motion of Acting President Xiong, seconded by Councilmember Dages, duly carried, RESOLVED, all proposals for the provision of Demand Responsive Paratransit Services (Handy Ride) for the City of Fresno hereby rejected, staff directed to meet with representatives from MV Transportation Services to determine whether an amendment to the existing contract can be negotiated that encapsulates all of the safeguards and requirements contained in the new RFP at a lower cost, and staff and MV further directed to focus their negotiations on both filling the labor agreement cost differential and return with a proposal, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

Acting President Xiong left the meeting at 3:03 p.m. for out of town training as noted earlier and was absent for the remainder of the meeting.

(10:00 A.M.) HEARING TO CONSIDER FORMATION OF UNDERGROUND UTILITY DISTRICT (UUD) NO. FRE-84 - BLACKSTONE AVENUE BETWEEN SHIELDS AND BELMONT AVENUES

1. RESOLUTION NO. 2007-318 - ESTABLISHING UUD NO. FRE-84

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Supervising Engineering Technician Polsgrove advised the staff report as submitted was complete and there was no new information to add.

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

On motion of Councilmember Sterling, seconded by President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2007-318 hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Perea
Noes : None
Absent : Xiong

(10:15 A.M.) HEARING TO CONSIDER CFD NO. 11, ANNEXATION NO. 19 - FINAL TRACT NO. 5512

1. RESOLUTION NO. 2007-319 - ANNEXING TERRITORY TO CFD 11/ANNEXATION 19, AND AUTHORIZING THE LEVY OF TAXES

2. RESOLUTION NO. 2007-320 - CALLING A SPECIAL MAILED-BALLOT ELECTION

3. RESOLUTION NO. 2007-321 - DECLARING ELECTION RESULTS

4. BILL NO. B-77 - ORDINANCE NO. 2007-74 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2007-08 AND FUTURE TAX YEARS

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Assistant Public Works Director Mozier advised the staff report as submitted was complete and there was no new information to add.

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

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution Nos. 2007-319, 2007-320 and 2007-321 hereby adopted, and the above entitled Bill No. B-77 adopted as Ordinance No. 2007-74, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Perea
Noes : None
Absent : Xiong

(10:20 A.M.) APPROVE A RIGHT OF ENTRY AGREEMENT WITH THE FRESNO NUCLEAR ENERGY GROUP (FNEG) TO CONDUCT FEASIBILITY STUDIES AT THE WASTEWATER TREATMENT FACILITY (WWTF) TO DETERMINE SUITABILITY FOR VARIOUS INDUSTRIAL USES RELATIVE TO NUCLEAR POWER GENERATION

City Manager Souza and FNEG member John Hutson gave an overview of the issue, all as contained in the staff report as submitted, with Mr. Hutson further clarifying issues relative to the testing and that they would bear all costs.

Speaking further to the issue and in support were: Attorney Ken Price with Baker Manock & Jensen, representing the FNEG; Al Smith; and Loran Harding.

Councilmember Duncan spoke briefly in support stating this was a reasonable request and stated no matter what one’s position was on nuclear power the studies should be allowed, and made a motion to approve the agreement. Councilmember Dages seconded the motion stating the testing will provide information to make an intelligent decision and thanked everyone who has been working on this. Councilmember Sterling spoke briefly to the current moratorium banning construction of new nuclear power plants and stated she wished this could have waited until that ban is lifted, and added because her district constituents were not supportive she would also not support this. Upon questions of Councilmember Westerlund, Mr. Souza clarified any holes drilled for testing would be appropriately back-filled and Mr. Price stated the FNEG was aware of the city’s proposed municipal water district and it taking over the wastewater treatment plant. President Perea stated although this was not the place to debate nuclear energy there was a state moratorium and he would have preferred to act on this request after the ban is lifted, with Councilmember Duncan responding.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Right of Entry Agreement between the FNEG and the City of Fresno hereby approved, by the following vote:

Ayes : Calhoun, Dages, Duncan, Westerlund
Noes : Sterling, Perea
Absent : Xiong

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

(1-L) APPROVE APPOINTMENT OF ADRIAN JONES TO THE HOUSING AUTHORITY BOARD OF COMMISSIONERS - MAYOR AUTRY

Councilmember Calhoun noted no background information on the appointee was included in the packet but since pulling the item he was able to review Mr. Jones’ qualifications and made a motion to approve the appointment. Councilmember Westerlund left the meeting briefly at 3:21 p.m. during Councilmember Calhoun’s comments.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the appointment of Adrian Jones to the Housing Authority hereby approved, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Perea
Noes : None
Absent : Westerlund, Xiong

(1-P) BILL NO. B-75 - ORDINANCE NO. 2007-75 - ADOPTING TEXT AMENDMENT APPLICATION NO. TA-07-01 AMENDING THE TEXT OF THE FRESNO MUNICIPAL CODE ZONING ORDINANCE RELATED TO RESIDENTIAL DENSITY BONUS PURSUANT TO STATE LAW, as amended, with minor language modifications made on Page 18

Councilmember Calhoun stated his issue raised last week dealt with the possibility of taking away handicapped parking based on bonus density and he was troubled by that. Councilmember Westerlund returned to the meeting at 3:24 p.m. To address that concern, Planner Stiglich stated non-substantive, minor language changes would be made to the last sentence of Section C-3-(a)-1 on Page 18, which would add the following underscored italicized wording: “Not withstanding the above, the vehicular parking spaces shall include handicapped and guest parking spaces and shall be located on-site. The City shall not violate State and Federal standards regarding handicapped parking spaces.” Councilmember Duncan left the meeting briefly at 3:26 p.m. A motion and second was made to adopt the ordinance as amended by staff, with City Attorney Sanchez clarifying that was permissible as the change was not a material change.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-75 adopted as Ordinance No. 2007-75, with the by the following vote:

Ayes : Calhoun, Dages, Sterling, Westerlund, Perea
Noes : None
Absent : Duncan, Xiong

The City Council recessed at 3:27 p.m. and convened in session as the Redevelopment Agency.

(2:30 P.M.) MEETING OF THE REDEVELOPMENT AGENCY

APPROVE AGENCY MINUTES OF SEPTEMBER 18, 2007

On motion of Member Westerlund, seconded by Member Perea, duly carried, RESOLVED, the Agency minutes of September 18, 2007, approved as submitted.

(‘A’) APPROVE THE FIRST AMENDMENT TO THE EXCLUSIVE NEGOTIATION AGREEMENT (ENA) WITH FRESNO HISTORIC CHINATOWN, LLC, FOR THE HISTORIC CHINATOWN PROJECT AREA LOCATED WITHIN THE CHINATOWN EXPANDED REDEVELOPMENT AREA (AGENCY ACTION)

Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted. Member Duncan returned to the meeting at 3:31 p.m.

Developer Richards requested support and stated he was available for questions.

Chair Sterling thanked the developer and spoke briefly in support of the project.

On motion of Chair Sterling, seconded by Vice Chair Dages, duly carried, RESOLVED, the First Amendment to the ENA with Fresno Historic Chinatown, LLC hereby approved, subject to minor modifications approved by the Executive Director, and approval as to form by the City Attorney’s office, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Westerlund, Sterling
Noes : None
Absent : Xiong

(‘B’) AWARD A CONTRACT TO LEE CRIPPEN EXCAVATION FOR DEMOLITION AND CLEARANCE OF ELEVEN (11) HOMES AT VARIOUS LOCATIONS ON ATCHISON, LORENA AND GEARY AVENUES FOR THE HOPE VI PROJECT (AGENCY ACTION)

Executive Director Murphey gave a brief overview of the issue, all as contained in the staff report as submitted.

On motion of Member Perea, seconded by Vice Chair Dages, duly carried, RESOLVED, the above entitled contract in the amount of \$186,320 hereby awarded to Lee Crippen Excavation as recommended, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Westerlund, Sterling
Noes : None
Absent : Xiong

The Redevelopment Agency adjourned their meeting at 3:33 p.m. and the City Council meeting reconvened.

RECESS - 3:33 P.M. - 3:40 P.M.

(2:00 P.M.) CLOSED SESSION:

(‘A’) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: COF V. PASQUALE DeSANTIS, ET AL.

(‘B’) CONFERENCE WITH REAL PROPERTY NEGOTIATOR - COUNCILMEMBER STERLING PROPERTIES:

1. STATE OF CALIFORNIA, 2855 W. WHITESBRIDGE
2. COMP. ALCOHOL PROGRAM, 2445 W. WHITESBRIDGE
3. FRESNO IRRIGATION DISTRICT
4. HAIG ATAMIAN, 2343 W. KEARNEY
5. ANTHONY MELLO, 2820 W. CALIFORNIA
6. RAY SCOTT, 2105 W. CALIFORNIA
7. HENH HO, 2394 S. HUGHES
8. SHIGEO HAYASHI, 1348 S. MARKS

The City Council met in closed session in Room 2125 at the hour of 3:35 p.m. to consider the above matters and reconvened in regular open session at 3:56 p.m.

CLOSED SESSION ANNOUNCEMENT:

City Attorney Sanchez announced in the matter of Item ‘A’, Council approved settlement of the case on a vote of 6-0 with Acting President Xiong absent.

(3:00 P.M.) WORKSHOP ON CONTRACT COMPLIANCE PROGRAM

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled workshop on contract compliance continued one week, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Perea
Noes	:	None
Absent	:	Xiong

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:57 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

Approved on the ____ 2nd _____ day of ____ October _____, 2007.

_____/s/_____
Henry T. Perea, Council President

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