

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
	Paul Caprioglio	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Councilmember
	Cynthia Sterling	Acting Council President
	Blong Xiong	Council President

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

Pastor Darrell Regensberg of Lifeway Baptist gave the invocation, and President Xiong led the Pledge of Allegiance.

PRESENTATION OF THE 2008 ORCHID AWARD WINNERS - COUNCILMEMBER CALHOUN

Presentation made.

PROCLAMATION OF "UNDERAGE DRINKING PREVENTION DAY" - COUNCILMEMBERS PEREA AND DAGES

Read and presented.

"MAKE A PROMOTION A COMMOTION" CEREMONY

The ceremony was held and a reception for the employees followed.

RECESS - 9:11 A.M. - 9:21 A.M.

APPROVE MINUTES OF OCTOBER 21, 2008:

On motion of President Xiong, seconded by Acting President Sterling, duly carried, RESOLVED, the minutes of October 21, 2008, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Calhoun (1) questioned if problems were occurring with engines in the new FAX CNG buses, if this would impact future purposes, if a lesson was learned, and if there was a financial hit, with City Manager Souza, ACM Rudd and Transportation Director Hamm responding; (2) questioned the status of the September 16th direction to staff to bring back a parks policy statement, with Mr. Rudd stating it would be brought forth in the next couple of weeks; (3) expressed concern with the three large non-complying signs near Friant and Audubon advertising cage fighting events, with Mr. Souza responding; and (4) advised he would not be present for the afternoon session this date, as he previously informed President Xiong, due to a prior commitment.

Councilmember Dages advised a problem was occurring on E. Pitt Avenue with a motor home and code enforcement was not fining them, and submitted a letter to the city manager for follow-up.

President Xiong (1) apologized for a mailer sent out to the Ashlan Cornelia corridor which contained typos and advised the corrected information would be sent out in the next couple of days; **(2 - 0)** (2) commended Cathy Caples and Hands On and all the volunteers on the Earth Day event; (3) commended Bill Kuebler and the marking committee on the successful Tower District parade; and (4) congratulated Ray Arthur, the film commission, and all participants on the event highlighting city and Tower District activities.

APPROVE AGENDA:

(10:00 A.M.) CONTINUED HEARING ON PLAN AMENDMENT APPLICATION NO. A-08-08 AND ENVIRONMENTAL FINDINGS FILED BY JEFFREY T. ROBERTS ON BEHALF OF GRANVILLE HOMES, NORTHEAST CORNER OF W. BULLARD AND N. GRANTLAND AVENUES **(Application withdrawn)**

Application withdrawn as noted.

(1-D) APPROVE A REIMBURSEMENT AGREEMENT WITH THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT IN THE AMOUNT OF \$94,895 FOR CONSTRUCTION OF STREET IMPROVEMENTS IN FLORENCE AVENUE FROM CEDAR TO JACKSON AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

Removed from the agenda by staff.

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

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

ADOPT CONSENT CALENDAR:

Barbra Hunt spoke in general to all of the consent items.

(1-A) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE AN AGREEMENT AND ALL RELATED DOCUMENTS WITH THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, TO ACCEPT FY 2008 GRANT FUNDS
1. RESOLUTION NO. 2008-299 - 33RD AMENDMENT TO AAR 2008-162 APPROPRIATING \$122,200 OF GRANT FUNDS INTO THE FY 2009 BUDGET FOR THE POLICE DEPARTMENT'S 'CLICK IT OR TICKET' PROJECT

(1-B) AWARD A CONTRACT TO TRON CONSTRUCTION, INC., IN THE AMOUNT OF \$989,000 FOR THE ACOUSTICAL TREATMENT OF 49 HOMES UNDER THE FYI SOUND MITIGATION ACOUSTICAL REMEDY TREATMENT (SMART) PROGRAM

(1-C) ADOPT RESOLUTION OF INTENTION NO. 1066-D FOR THE VACATION OF THE SARAH-MARY ALLEY BETWEEN E. CALIFORNIA AND E. WOODWARD AVENUES, AND SETTING THE REQUIRED PUBLIC HEARING FOR DECEMBER 2, 2008

(1-E) APPROVE AN AMENDMENT TO THE AGREEMENT WITH TAYLOR TETER PARTNERSHIP FOR A TOTAL FEE OF \$28,745 FOR ADDITIONAL ARCHITECTURAL SERVICES FOR MECHANICAL AND H.V.C. SYSTEMS FOR CLIMATE CONTROL IN THE MAIN PORTION OF THE PROPERTY AND EVIDENCE WAREHOUSE STORAGE BUILDING AT 2481 FOUNDRY PARK AVENUE

(1-F) AWARD A ONE-YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO MEASUREMENT CONTROL SYSTEMS IN THE AMOUNT OF \$161,762.30 TO PROVIDE 4", 6", 8", 10", 12", 14" AND 16" MAGNETIC FLOW METERS

(1-G) RESOLUTION NO. 2008-300 - AUTHORIZING (1) SUBMITTAL OF A GRANT APPLICATION TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD, TIRE-DERIVED PRODUCT GRANT PROGRAM, FOR PLAYGROUND SURFACING AT THE UNIVERSAL ACCESSIBLE PARK AND OTHER PARK PLAYGROUNDS, AND (2) THE PARCS DIRECTOR OR DESIGNEE TO EXECUTE AND SUBMIT ALL NECESSARY DOCUMENTS

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

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

(9:00 A.M.) UNSCHEDULED ORAL COMMUNICATIONS:

Barbara Hunt, 2475 S. Walnut, spoke to her service as an elected board member of the West Fresno Elementary School District and to the district's success; expressed her support for Councilmember Perea for mayor; and commended city officials for their work.

Donald Jadoon expressed concern with the city not maintaining the Sugar Pine Trail and displayed a tall weed from the area to illustrate, spoke to the illegal activities occurring there, and requested a meeting of area property owners and city officials be held.

Paul Hurlbut, 4701 W. Swift, spoke to, and displayed a picture of, property at 5410 E. Home that could be used for the southeast police substation which he stated would solve the current substation situation, and presented written information into the record, on file in the office of the city clerk.

Paula Savino spoke to, and expressed concern with, animal torture and experiments.

Kathy Omachi, 759 "F" Street, Reedley, representing Chinatown, expressed concern with the loss of dollars for security IN Chinatown, spoke to the need to install video cameras in the area, and advised of her interest in looking into Chinatown underground and working with property owners to restore the tunnels and the area.

Arthur Perez, Jr., owner of The Dungeon Mixed Martial Arts, his Chinatown business, spoke to the need for cameras in Chinatown citing problems and threats he encounters daily by not allowing certain conduct in front of his business, advised he has made about 30 police calls for service and requested a video camera be installed at "F" and Tulare Streets, and spoke to how the illegal activities hurt his business/investment, with Acting President Sterling responding.

Sherry Smith, 4724 W. Swift, spoke to the need to respect the will of the people and to the city's lack of communication to its citizens.

Richard Smith, 4724 W. Swift, requested clarification on the mailer mentioned earlier by President Xiong, wherein President Xiong stated over 1,200 mailers went sent out and not 200.

(9:15 A.M. "A") AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ENTER INTO AN AGREEMENT WITH HARRIS CONSTRUCTION COMPANY, INC., TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES FOR THE POLICE DEPARTMENT REGIONAL LAW ENFORCEMENT TRAINING FACILITY

1. RESOLUTION - 37TH AMENDMENT TO AAR 2008-162 APPROPRIATING \$14,9070,000 FOR CONSTRUCTION OF THE REGIONAL LAW ENFORCEMENT TRAINING FACILITY (*Requires 5 affirmative votes*) - **NOT ADOPTED**

Chief Dyer introduced the item, advised of a correction to Page 1/Paragraph 1 of the staff report and corrected the amount of \$549,576 to \$452,288, and spoke to the background of the issue and to the project, all as contained in the staff report as submitted, displaying renderings to illustrate. City Attorney Sanchez advised this item and the following item were subject to the financing approval coming before Council with the Joint Powers Financing Authority at 2:00 p.m.

Barbara Hunt spoke in support.

Councilmember Duncan stated the country, state and city were going through significant financial issues right now and there were a tremendous amount of unknowns related to the future of the city's general fund and ability to provide services, stated there was no argument the training center was going to be great but he felt now was not the time to move forth with a \$45 million bond to move these projects forward, and recommended this action be held off until next year to see what resources the city has.

Assistant Public Works Director Banuelos, an unidentified staff member, Interim Finance Director/Controller Bradley and Chief Dyer responded to questions and comments of Councilmembers Perea and Dages, and/or clarified issues relative to the selection process and why there was no information on other bidders, if Harris Construction was the lowest bidder, why Harris was the most qualified, experience of the other firms, if the project could be handled internally, what the square footage was of the buildings, if Harris was aware of the city's green building ordinance, need to retain the most qualified and get the lowest cost, if Harris was aware of the apprenticeship ordinance, what the annual debt service will be on the \$15 million, if the firing range will be open to the public, and bond approval.

Councilmember Calhoun stated this was a great project, the facility would put the city in a leadership role which would help offset costs, bonding was not the only source as impact fees were also involved, he supported staff's recommendation as they would not lead Council down the wrong road, and Harris Construction was a highly qualified firm with outstanding projects and made a motion to approve staff's recommendation, which as seconded by Acting President Sterling.

(3 - 0) City Manager Souza clarified at 2:00 p.m. staff would be seeking approval of \$45 million to fund six projects which have already been approved in concept by Council with many having approved reimbursement resolutions; stated the debt service of this component was roughly \$1 million and after the third year all the general fund portion of the debt service would be covered due to revenue generated; expanded further on issues relative to the entire debt service; and stated needs have already been identified and this was a solid, stable transaction.

On motion of Councilmember Calhoun, seconded by Acting President Sterling, duly carried, RESOLVED, (1) the Public Works Director authorized to enter into an agreement with Harris Construction Company, Inc., as outlined above, and (2) the above entitled Resolution appropriating funds for construction of the Regional Law Enforcement Training facility failed adoption, due to the need for five affirmative votes, by the following vote:

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

Mr. Souza clarified the contract was approved but not the appropriation, and upon question of President Xiong City Attorney Sanchez recommended staff not proceed with the contract until appropriations are found. Mr. Souza noted additional actions were coming up at 2:00 p.m. and the mayor had authority to request reconsideration of the appropriation and staff would take all that into consideration in deliberations with the mayor.

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(9:15 A.M. "B") AUTHORIZE THE CHIEF OF POLICE TO EXERCISE THE LEASE PURCHASE OPTION AND EXECUTE RELATED DOCUMENTS FOR THE NORTHEAST DISTRICT POLICING STATION FROM ROGER PETERSEN INVESTMENTS IN AN AMOUNT NTE \$2,184,150

1. RESOLUTION - 38TH AMENDMENT TO AAR 2008-162 APPROPRIATING \$2,185,000 TO EXERCISE THE LEASE

PURCHASE
OPTION FOR THE NORTHEAST SUBSTATION

Chief Dyer stated he was a little taken back with Council's prior action and reviewed the subject issue, all as contained in the staff report as submitted.

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Barbara Hunt spoke in support.

Councilmember Duncan stated he had a concern with this item as the city had a beautiful facility that had 10 years left on a 15 year lease purchase, stated Council was being asked to take a parcel that currently pays property tax off the tax roll and borrow money to pay the facility off and have a 30 year debt instead of 10, and stated this made no economic sense long-term and encouraged Council to stick with the current plan and pay off the substation in 10 years and not force more debt on future councils.

Councilmember Calhoun made a motion to approve, which was seconded by Acting President Sterling.

Councilmember Perea stated what Councilmember Duncan just said made a lot of sense and presented questions and comments relative to what staff's response was to Councilmember Duncan's statements, if property taxes are paid if a facility is leased to a government agency, and agreement that bonding makes short term but not long term sense, with Interim Finance Director/Controller Bradley and an unidentified staff member responding. Councilmember Dages stated he agreed with Councilmember Duncan, he disagreed with staff's statement that the payment could be reduced by two thirds, and he was concerned with City Hall's bonding passion and would not be supporting this. City Manager Souza, Ms. Bradley and Chief Dyer responded to questions of President Xiong relative to whether this piece was part of the 2:00 p.m package, if this part could be isolated from the other bonding, what isolating this part would do to the numbers, and if overall police services will be impacted.

A motion of Councilmember Calhoun, seconded by Acting President Sterling, to authorize the Chief of Police to (1) exercise the lease purchase option and (2) adopt the Resolution as outlined above failed, by the following vote:

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

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(9:15 A.M. "C") APPROVE SIDE LETTER OF AGREEMENT WITH THE FRESNO POLICE OFFICERS ASSOCIATION (NON-MANAGEMENT POLICE, UNIT 4; POLICE MANAGEMENT, UNIT 9), PROVIDING BENEFITS RESULTING FROM AN MOU RE-OPENER

1. APPROVE AMENDMENTS TO THE CITY OF FRESNO RETIREE HEALTH REIMBURSEMENT ARRANGEMENT TO INCLUDE A REVISION TO APPENDIX FOR POLICE NON-MANAGEMENT AND MANAGEMENT UNITS

Personnel Services Director Bond gave a brief overview of the issue and recommended approval.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, support; Sandra Brock, member of the Employees Retirement System (ERS), who requested Council consider reviewing a study on the ERS inconsistency in the future; and Paul Hurlbut, 4701 W. Swift, who expressed concern with the financial impact on the city.

Acting President Sterling stating she was willing to look at the ERS issue, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Dages.

Relative to Ms. Brock's comments City Manager Souza advised the 2%/1% provision has been in existence since the 1950s and almost all employees were aware of it when they signed up, added the change being requested would result in a roughly \$10 million past service cost plus a \$900,000 a year direct cost which he added was valid for public debate, and clarified what was before Council this date was through the process of negotiated employment benefits and explained.

Councilmember Duncan stated he would oppose this again as there was no identified funding source, the funds would

come out of the department's budget, and existing services would be cut and elaborated, and relative to pension issues stated people have talked to him on how to go about placing an item on the ballot calling for votes on any retirement enhancements and added this was the type of thing that would spur that debate/discussion. Mr. Souza clarified any changes or benefit enhancements to the city's retirement systems are done by Council publicly as staff did not have that authority.

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On motion of Acting President Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Side Letters of Agreement and the Amendments to the City of Fresno Retiree Health Reimbursement Arrangement hereby approved, by the following vote:

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

(9:15 A.M. "E") RESOLUTION NO. 2008-301 - APPROVING AN INTERIM ENFORCEMENT POLICY RELATING TO CITY ISSUED RESTAURANT/BAR CONDITIONAL USE PERMITS (CUPs) LIMITING THE CONSUMPTION OF FOOD AND/OR BEVERAGES TO MIDNIGHT

City Attorney Sanchez gave a brief overview of the issue, all as contained in the staff report as submitted.

Barbara Hunt spoke in opposition to a time limit.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2008-301 hereby adopted, by the following vote:

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

(9:15 A.M. "D") BILL NO. B-67 - AMEND THE FRESNO MUNICIPAL CODE REGARDING FREE PARKING FOR CERTAIN LOW EMISSION VEHICLES AT VARIOUS CITY-OWNED PARKING FACILITIES AND METERS, as amended

Parking Manager Estabrooke reviewed the issue, all as contained in the staff report as submitted.

Barbara Hunt spoke in support and added parking should be free for everyone.

Councilmember Dages stated he would not be supporting this and he could not see people buying a \$30,000 car to park free downtown, and stated he appreciated the great work of parking staff but until downtown parking is changed to free on evenings, Saturdays, Sundays and holidays things will not be stimulated. Mr. Estabrooke responded to questions of Acting President Sterling on outreach/how the public will be informed of this, if this program will eliminate all other vehicles besides ZEVs, and request staff provide information on what type of outreach staff will conduct. Councilmember Calhoun stated he did not support this originally as he felt it was discriminatory adding to not charge someone because of the vehicle they drive was patently unfair, stated the program did not work and has been proven unfair based on what was before Council this date, stated the only people who should have free parking are handicapped individuals, stated he did not like the ZEV approach as many of these will be employees that work downtown and they would be guaranteed a free parking spot because of their vehicle, and made a motion to approve the ordinance, as amended, eliminating the ZEV program. The motion was seconded by Councilmember Dages.

Councilmember Perea stated he was supportive of the ordinance originally as it was the right thing to do, stated this ordinance would provide another incentive and show the city is proactive in supporting consumer choices/right choices, added this ordinance would make the program even stricter and encouraged a "no" vote on the motion, and stated if the motion fails he would make one in support and if

passed requested enforcement be phased-in. Councilmember Duncan stated there weren't too many low emission/fuel efficient vehicles when the program started but things were different and there were more low emission vehicles now, stated the intent was not to keep the program going forever and dealing with ZEVs was something the city could address later, stated he was also concerned about the parking budget and the need for revenue and would support the motion on the floor, and stated as a supporter of the program he felt the program did its job and ran its course and encouraged a "yes" vote.

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AMC Rudd stated the issue was not whether a car was hybrid and added there was a significant number of cars that now met the same emission threshold and were qualified as super ultra low emission vehicles, and stated the thought behind ZEVs was conversations with developers, downtown speed limits, and the opportunity to market a downtown electric vehicle as part of the new housing projects, elaborating throughout.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Bill No. B-67 introduced before the City Council and laid over, as amended, deleting the Zero Emission Vehicle (ZEV) Program, by the following vote:

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

City Attorney Sanchez clarified Council introduced a modified ordinance and staff would return with the ordinance for final approval.

(9:15 A.M. "F") APPROVE AMENDMENT NO. 1 TO THE CONTINGENCY DEBT PURCHASE AGREEMENT WITH BANK OF THE WEST REGARDING THE GRANITE PARK SPORTS FIELD LOAN, AND AUTHORIZE EXECUTION OF RELATED DOCUMENTS

Interim Finance Director/Controller Bradley reviewed the issue, all as contained in the staff report as submitted **(4 - 0)**.

Barbara Hunt spoke to the need to assist Granite Park and provide recreational facilities for youth.

Councilmember Calhoun spoke to the background of the issue and stated the city back-stopping a private development was a good decision as the area desperately needed some help, added that action was a hope and a prayer and stated this was an unusual situation that was not working out and explained, stated staff's recommendation was the best deal and added the developer was not going walk away free as the city was taking a strong hammer approach, and stated if the city takes over the property he hoped something greater, better and safer would come out of it and made a motion to approve staff's recommendation. Upon call, the motion died for lack of a second.

Councilmember Dages stated he was the only member to vote against this and it was still his position that when a bank will not loan a private, for-profit entity money there is always a problem, stated the city should have never guaranteed the loan and was now the "stuckee", added the bottom line now was foreclosure and stated the city had no choice but to go forth with staff's recommendation, seconded Councilmember Calhoun's motion stating this was a sad situation but the city had to take over the property, and stated he hoped some taxpayer money could be recovered. President Xiong clarified there was no motion on the floor as the motion died for lack of second, whereupon Councilmember Dages made a motion to approve staff recommendation, which was seconded by Councilmember Calhoun.

City Attorney Sanchez clarified as a result of the pending default and potential foreclosure, the city would be pursuing all remedies and not only the non-profit, but also the for-profit and the principals associated with them, and added it was his position that the city had a strong basis under the agreements to pursue them.

Councilmember Duncan stated he would not support the motion, he did not believe this was over, he strongly believed in the value of investing in challenged parts of the city, and the city took an action to address the tale of two cities head-on; reminded all that the city

made significant cash payments to the developer of a business park on Palm Avenue and stated if there was ever a scenario where the city did not need to subsidize a project it was in that expensive north business park area; stated the city should not be afraid to invest in the inner city, spoke to the project, and stated Granite Park's problems happened because of the city's decision to build a soccer park in west Fresno and compete with Granite Park and undercut their costs; pointed out the developer was trying real hard to try and turn the property into a productive use and stated now was the time for patience, the time to thank those willing to invest, and the time to stand

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by this project as it was a \$100 million private investment in a part of town that has not had that in generations; stated it was his concern the city, because of this process, will end up with an area massively filled with blight for another generation; added if the city were to invest \$5 million in a \$100 million project anywhere else in Fresno everyone would be very proud; and stated what was being done now was wrong and the city was going to regret in the future doing something that caused this operation to quit functioning.

Upon question of President Xiong, Mr. Souza confirmed staff worked patiently and very diligently with the developer to try to mitigate issues and it was in the city's best interest for the project to succeed, and relative to council comments stated the city had an opportunity to obtain additional green space in an area that was in significant need of it with a guarantee rather than a cash outlet, and acknowledged in hindsight things could have been done differently but stated the city was where it was, and clarified this action would not bind a foreclosure but would move the city in a direction to continue to work with the developer and also protect the city's asset and resources and come out as strong as possible.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Amendment No. 1 to the Contingent Debt Purchase Agreement with Bank of the West hereby approved, subject to approval as to form by the City Attorney's Office, and staff authorized to execute related documents, by the following vote:

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

(9:15 A.M. "G") BILL - AMENDING AND ADDING TO THE FRESNO MUNICIPAL RELATING TO BLIGHTED BUILDINGS - AND -

(9:15 A.M. "H") BILL - ADDING TO THE FRESNO MUNICIPAL CODE RELATING TO REGISTRATION OF VACANT FORECLOSED PROPERTIES

Interim Planning & Development Director Bergthold and Assistant Director Bishop gave an in-depth introduction and overview of the two items and proposed changes, all as contained in the staff reports as submitted.

Speaking to the issue were: Don Scordino, President of the Fresno Association of Realtors, who stated many issues were resolved in discussions with staff, they were interested in accountability, and their one concern was the fee being increased from \$175 to \$1,300 for one year; Jan Minami, Downtown Association of Fresno, who expressed concern with fines being passed on to purchasers, suggested receivership be considered prior to demolition, spoke in opposition to demolition, and encouraged adaptive reuse; Barbara Hunt, 2475 S. Walnut, who expressed various concerns; Big Sue, 'G' Street Sheds, support for staff's recommendation; and Ken Neufeld, board member of the Fresno Association of Realtors, who spoke to the impact on "mom and pop" landlords with bad tenants and expressed concern with the \$500 fee for the initial plan and requested it be reduced.

Councilmember Calhoun commented on the background of the issue and to how the city bent over backwards to work with owners who had problems, stated he hoped Council would support Item "G" and send the message that enough is enough and the city was not going to tolerate people who sit on their buildings, stated the ordinance was long overdue and added it provided for flexibility on fines, and made a motion to introduce Item "G" as submitted, which motion was seconded by Acting President Sterling.

Mr. Bishop responded to numerous questions/comments/concerns of Councilmember Duncan relative to the implementation of fines, what would have to occur before a building is subject to the \$500 plan fee, who makes the determination on which building will require action, if an owner will be subject to a new fine when the 180-day plan time limit expires, impact on "mom and pop" investors, if

any programs were included to help with economics, intentional neglect being one thing but the majority of owners not wanting a foreclosed home or blighted building, and concern with item "G" and need to refer it back to staff for additional work and include stakeholders to address their issues/concerns.

(5 - 0) Noting it was nearing the noon hour with additional members still wishing to speak, Councilmember Perea recommended the item be continued to 2:00 p.m. Upon question, President Xiong confirmed Councilmember Calhoun would not be present for the afternoon session and continued items "G" and "H" to 2:00 p.m.

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Brief discussion ensued on the 2:00 p.m. joint meeting with the JPFA. In light of Council's earlier actions on Items 9:15 "A" and "B", City Manager Souza requested Council take action before recessing for lunch to continue the 2:00 p.m. joint meeting to November 18th so staff could return with amended documents reflecting those actions. A motion and second to continue was made and acted upon after further discussion on items "G" and "H".

Councilmember Calhoun stated Items "G" and "H" were important issues and should be laid over to November 18th and added there was no reason why Council should do a discourtesy to him when he informed President Xiong weeks ago that he would not be present this afternoon, and stated he brought these items forward on many occasions and wanted to be part of the discussion and action, and upon his question, upon the advice of the city attorney, and upon the request of Councilmember Duncan Councilmember Calhoun amended his motion on the floor.

On motion of Councilmember Calhoun, seconded by Acting President Sterling, duly carried, RESOLVED, the above entitled Items 9:15 a.m. "G" and "H" continued to November 18, 2008, and staff requested to continue to work with the stakeholders in the interim, by the following vote:

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

(2:00 P.M.) JOINT MEETING WITH THE FRESNO JOINT POWERS FINANCING AUTHORITY (JPFA)

(‘A’) JPFA RESOLUTION - AUTHORIZING (1) THE ISSUANCE AND SALE OF LEASE REVENUE BONDS (POLICE AND FIRE MASTER LEASE PROJECTS), SERIES 2008A (TAX EXEMPT), IN A PRINCIPAL AMOUNT NTE AN AGGREGATE \$45 MILLION; (2) EXECUTION AND DELIVERY OF A TRUST AGREEMENT, A MASTER FACILITIES LEASE, A MASTER FACILITIES SUBLEASE, BOND PURCHASE CONTRACT, AND AN OFFICIAL STATEMENT; AND (3) THE TAKING OF ALL NECESSARY ACTIONS RELATING TO THE ISSUANCE OF THE BONDS

(‘B’) COUNCIL RESOLUTION - APPROVING THE ISSUANCE BY THE JPFA OF LEASE REVENUE BONDS IN A PRINCIPAL AMOUNT NTE AN AGGREGATE \$45 MILLION; (2) AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST AGREEMENT, A MASTER FACILITIES LEASE, A MASTER FACILITIES SUBLEASE, BOND PURCHASE CONTRACT, AND AN OFFICIAL STATEMENT; AND (3) AUTHORIZING THE TAKING OF ALL NECESSARY ACTIONS RELATING TO THE ISSUANCE OF THE BONDS

(‘C’) JPFA RESOLUTION - AUTHORIZING CERTAIN FINANCE OFFICERS OF THE CITY TO SIGN VARIOUS INVESTMENT AND COMMERCIAL BANKING DOCUMENTS AND TO PROVIDE VERBAL INSTRUCTION REQUIRED FOR THE PRUDENT FINANCIAL ADMINISTRATION AND SAFEKEEPING OF JPFA FUNDS

Action was taken at this point on the motion made earlier pursuant to the city manager's request.

On motion of Councilmember Perea, seconded by Acting President Sterling, duly carried, RESOLVED, the joint meeting with the Joint Powers Financing Authority continued to November 18, 2008, by the following vote:

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

(3:15 P.M.) PRESENTATION OF “THE CALIFORNIA HIGH SPEED RAIL PROPOSAL: A DUE DILIGENCE REPORT” BY ADRIAN T. MOORE, Ph.D., VICE PRESIDENT OF RESEARCH, REASON FOUNDATION - COUNCILMEMBER DUNCAN

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Councilmember Duncan advised Dr. Moore became ill and had to cancel.

Brief discussion ensued on the remainder of the agenda items and times.

LUNCH RECESS - 12:03 P.M. - 3:00 P.M. Councilmember Calhoun was absent for the remainder of the meeting due to a prior scheduled commitment.

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

(‘A’) CITY COUNCIL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: LANCE KASHIAN, INCLUDING CERTAIN KASHIAN ENTITIES V. COF

(‘B’) JOINT SESSION WITH THE REDEVELOPMENT AGENCY - EXISTING LITIGATION: HERITAGE FRESNO V. THE RDA, ET AL. (HERITAGE II) (ARMENIAN TOWN)

The City Council convened in regular and joint closed session in Room 2125 at the hour of 3:00 p.m. to consider the above matters and reconvened in open session at 3:30 p.m.

(11:00 A.M.) WORKSHOP ON THE CDBG NEIGHBORHOOD STABILIZATION PROGRAM - ACTING PRESIDENT STERLING

Budget M.A. Smith stated the purpose of the workshop was to update Council on the status of the Housing and Economic Recovery Act of 2008, specifically the section referred to as the Neighborhood Stabilization Program (NSP), and along with Dawn Golik of the HUD Fresno Office and HCD Manager Casares, gave in-depth PowerPoint presentations on: “The Neighborhood Stabilization Program (NSP)” which contained an Overview of the NSP, Urgency and Expediency, and NSP Timeline; “The U.S. Department of Housing and Urban Development Response to the Housing Market Disaster” which covered Allocations, Criteria for Local Distribution, Linking other HUD, State, and Private Resources, Thinking Strategically About the NSP, and Help from HUD; and additional components of the NSP which consisted of Targeting Area, Targeting Activities, Targeting Beneficiaries, Targeting Timeline, Considerations, Activity Constraints, Concept Paper, and Rehabilitation Activity.

Acting President Sterling thanked staff and Ms. Golik for their presentation. City Manager Souza confirmed the Concept Papers had been received and staff was reviewing them, and advised there was a December 1st deadline for the application therefor staff would bring forth the Action Plan for approval on November 18th as there was no meeting Thanksgiving week. There was no further discussion.

(4:00 P.M.) RECONSIDERATION OF DECISION TO LOCATE THE POLICE SUBSTATION AT BELMONT AND DEWITT AVENUES (HMONG GARDEN LOCATION) - COUNCILMEMBER DAGES

Councilmember Dages stated he would try again to move the substation back to Fancher Creek (FC) and the four relevant issues

were the substation location, the Hmong garden, notification to the public, and park space; gave an in-depth overview on the history of the substation, made clarifications on the garden water bill, advised of his discussions with FC developer Ed Kashian and the plan for a substation at FC, and spoke to how the garden was to be temporary; and upon his question City Attorney Sanchez stated having an independent study on the two locations to determine whether or not moving the station from FC to Belmont & DeWitt (B/DW) was a public safety issue was within the discretion of a Council majority if they felt that it was a critical part of the decision. **(6 - 0)** Councilmember Dages stated another issue of concern was the transfer of money from one department to another, acknowledged that was legal according to the city attorney but he still had a real problem with it and felt it was unnecessary and inappropriate to use impact fees for infrastructure and elaborated, stated this substation would enhance a shopping center that would rival River Park once completed along with a technology center that would rival Palm Bluffs and a planned housing community that would rival The Dominion, stated moving the garden to another location -- which would take away park land -- and moving people that had no representation was just

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wrong; added the rumor that he wanted the substation moved so it would be in his council district was false; stated moving the station to FC would give the taxpayer a bigger bang for their buck, there would be no bonding, there would be no annual payments of \$550,000, and there would be no interest paid on bonding as bonding would not exist; confirmed it would take longer to build the station at FC than at B/DW but the cost savings would be worth it; and stated it was just a prudent economic factor to build the substation at FC, the FC project needed to be pushed forth as quickly as possible and explained, and made a motion to (1) reconsider the decision to locate the police substation at B/DW and move it to Fancher Creek, and (2) direct staff to move forth on an independent study to determine if moving the substation from FC to B/DW was a public safety issue, which motion was seconded by Councilmember Perea.

City Manager Souza stated some inaccuracies were made and addressed and/or elaborated on issues relative to the Argyle parcel, the offer made during budget that the station would be constructed for \$1.5 million, the lack of discussion on other development fees being used other than impact fees, the transfer of money, and the concept of taking away park land; stated he was very troubled with the motion -- especially the second part -- stating it challenged the integrity of the Police Chief; and clarified upon being asked Chief Dyer provided a written report to Council on why he felt B/DW was a better location and stated Council could either agree or disagree with that but to now ask for an independent study was inappropriate as the Chief shared his professional recommendation.

ACM Rudd gave an in-depth PowerPoint presentation on the B/DW community garden which consisted of the History (1995-2000), Recent History (including meetings and noticing), Current Status/Garden Activities, the Al Radka Park Location (a Good Solution), and Recommendations.

Chief Dyer stated he did not appreciate he, or his department, being painted as a villain against the Hmong people stating he had a long relationship with the Hmong community and explained; elaborated on the background of the issue, location specifics (non-preferred and preferred), and how the B/DW site came about; spoke to why FC was not feasible and to the Kashian offer and clarified if Mr. Kashian was willing to put an offer in writing to build a suitable turnkey substation for \$1.5 million in a timely fashion with a paved roadway leading out to Tulare for immediate access he would be willing to move from B/DW to Tulare/Argyle but he had not seen anything in writing; further clarified he did not choose, nor was he aware of, the B/DW site stating it came up during budget discussions; and stated although he agreed it would be nice to have a police presence at Tulare/Argyle due to the high concentration of multi-family housing he did not know if that was possible unless the city were to receive a project in writing indicating how that can occur. Councilmember Dages stated he was surprised to hear that he was trying to paint Chief Dyer as a villain stating he has never done that, had not done that, and would never do that and apologized if that was the understanding and added that was not his intention in any way, with Chief Dyer thanking Councilmember Dages and responding.

Speaking to the issue were: Barbara Hunt, support for the Hmong people and garden; Sharon Rutherford, opposed to relocating the garden; Big Sue (Sharen Bobbitt), opposed to relocation; Bill Simon, 4902 N. 9th Street, support for the gardeners **(7 - 0)**; Camille Russell, opposed to relocation; Bonnie Kisor, on behalf of Melody Park, concern with the lack of communication to area residents; Alegria DeLaCruz, Fresno Office of California Rural Legal Assistance, who spoke to their work with the Hmong garden and submitted written material into the record; Daljit Dhami, support for the gardeners; Joshua Cranston, concern with the lack of communication/need for the city to work with the community; Chukou Thao, Executive Director for the National Hmong-American Community, who corrected information included in Mr. Rudd's presentation and spoke to meetings held; Dr. Loxing Kiatoukkaysi, Director of Hmong-American Community, Inc., concern with the city's abuse of power with the land and exploitation of the Hmong; LaVeta Fuller, support for the police substation at Belmont/DeWitt; Alfonso Williams, opposed to relocation; Bobby Vang, concern with the negative situation/concern with the Hmong being portrayed as uneducated freeloaders/need for all to respect land use policies; Charles McNally, need to allow the garden to remain until

another location is identified/concern with substation process; Jean Hays Gunn, support for the gardeners; Michael Becker, opposed to relocation/submitted a petition containing signatures supporting the garden; Jason Gonzales, concern with city official's actions; Diane Corbin, support for the gardeners; and Dallas Blanchard, 933 "F" Street, support for the gardeners/need for timely notification.

Continued speakers were: Benny Martinez, B/DW area resident, support for the substation at B/DW; Ashley Fairburn, opposed to garden relocation (**8 - 0**); Rebecca Asami, opposed to relocation; Summer Vue, civil rights activist and advocate for those with no voice, concerns with actions of officials, council staff, and other related issues; Hue Vang, opposed to relocation; Richard Yanes, Fresno Metro Ministries, who spoke to the failed process; Solomon Lo (through translator), opposed to relocation; Yeng Mua, (through translator) opposed to relocation; John Thao, opposed to relocation; Mai Lor, opposed to relocation; Stephen Gamboa, support for the gardeners; Kau Vue, support for the gardeners; Chu Xiong, opposed to relocation/child died at Melody Park; Jessica Herman, 816 E. Pine, support for the gardeners; Jenny Saklar, 1801 Broadway, support for the gardeners; Oswald Hernandez, Licensed Clinical Social

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Worker, support for the gardeners (**9 - 0**); Sara Thao, opposed to relocation; Laura Wass, American Indian Movement, support for the gardeners; Erika Antonio, support for the gardeners; Houa Vue (through translator), request for just and equal treatment; Joua Lue La, gardener (through translator), opposed to relocation; and Yee Chang (through translator), opposed to relocation/allow time to harvest/provide better location choices.

Councilmember Caprioglio thanked everyone for their presence and input and also thanked those who served our country; noted the issues of confusion were noticing and gardener representatives and elaborated on noticing, meetings held, and his work and outreach with the gardeners, the community, and affected neighborhoods and businesses; stated this was not a black and white issue as some would like to have it portrayed; stated to change his decision he would have to disregard many people, officials, and businesses and added it was his duty to represent all citizens and the interests of minority citizens as well; and stated he felt the hard work by all parties involved and the compromise reached would satisfy the needs --not wants -- of everyone concerned and requested Council oppose the motion on the floor.

Councilmember Dages clarified the three main parts of his motion were no loss of park land, a better location, and protection of the garden; added there would also be less of a cost to the taxpayer, no bonding, no half million dollar annual payments, and there would be taxable land; and stated the substation at FC was needed and would enhance the area and urged Council to reconsider and move the substation to FC. Councilmember Perea concurred with Councilmember Dages and stated tonight Council had an opportunity to (1) save a lot of money for taxpayers by not bonding, (2) preserve more park space with the garden, and (3) send a strong message that city government was changing by looking at the holistic prospective of urban growth issues as the city goes down the path of both infill and southeast development, and elaborated further and urged Council to support Councilmember Dages.

Councilmember Duncan stated he would be consistent and would support the motion because he felt the transfer of money from impact fees to the general fund was unethical, added he also had a concern with the independent review part of the motion as he felt that was not necessary, and upon his question Councilmember Dages amended his motion to remove the independent review.

Acting President Sterling spoke to the Frank H. Ball playground situation and to the importance and need for the city to communicate properly with the public, (**10 - 0**) addressed comments made by Al Williams and stated she never approved of the tuff sheds without utilities, and presented at length numerous questions and comments which included notification to Melody Park area residents, hard costs for the substation at B/DW and at FC, the FC project and if a substation was included in the plan, where the Kashian proposal was, if the city manager ever made an official request for a written proposal, construction time lines for both locations, garden crops, amount of time needed by gardeners if the garden is relocated so no crops are lost, why staff has not sat down with the appropriate leaders and the community to review all options and address concerns, insurance and liability issues, if staff would consider the FC proposal if it is submitted in writing, if the March deadline could be extended if all issues are not settled by that time, if staff could start setting up meetings with the leaders and the community, need to discontinue doing business as usual, apology extended to Ms. Vue if she was disrespected, and request to be kept informed and involved in the process and the transition, with Mr. Rudd, Councilmember Dages, Mr. Souza and Chukou Thao responding to questions and/or clarifying issues throughout.

Councilmember Dages stated he would try to get at least a letter of intent by next Tuesday from either Mr. Kashian or Tom Richards, whereupon Mr. Souza requested it be more than just a letter and be a very specific proposal with timelines, costs, and specificity,

especially as it relates to access to Tulare, and added a letter of intention would just amount to four months of negotiating and discussions, with Councilmember Dages stating he would try.

Mr. Thao and Mr. Yanes responded at length to numerous questions/comments/concerns of President Xiong relative to how long Mr. Thao's organization has been involved with the garden, who pays for the water/how much is paid, amount farmers contribute to the water bill, the 300 people served by the garden and where that number came from, if Mr. Thao worked for the gardeners, if the gardeners knew Mr. Thao, the B/DW discussions and if community leaders were aware of meeting dates and the November time line, when Fresno Metro Ministries became involved in the process, Ms. Vue's involvement, if Mr. Thao and Ms. Vue were still representatives, the importance and responsibility of the spokesperson(s) to inform the gardeners, and concern with the confusion and lack of notification from leaders to the gardeners. President Xiong stressed it was important that the community be made aware that the city of Fresno did its part on noticing and elaborated (**11 - 0**), spoke to the number of times this matter has been brought forth and to the decisions that were made, and added for some people to say the city failed was very disappointing to him as the city worked very hard on this issue and did their job.

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A motion of Councilmember Dages, seconded by Councilmember Perea, to reconsider the location of the southeast police substation from Belmont and DeWitt Avenues to Fancher Creek failed, due to the following tie vote:

Ayes : Dages, Duncan, Perea
Nose : Calhoun, Caprioglio, Sterling
Absent : Calhoun

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 8:22 p.m. having arrived and hearing no objection, President Xiong declared the meeting adjourned.

Approved on the ___4th___ day of ___November___, 2008.

_____/s/_____
ATTEST _____/s/_____

Blong Xiong, Council President

Yolanda Salazar, Assistant City Clerk

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