

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

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

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

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

**PRESENTATION OF THE SPCA PET OF THE MONTH - COUNCILMEMBER BORGEAS**

The pet of the month available for adoption, a female kitten named "Charcoal", was presented.

**PRESENTATION OF AWARDS TO DIVISION ENTRY WINNERS OF THE 79<sup>TH</sup> ANNUAL CHRISTMAS PARADE - PRESIDENT STERLING**

Presented.

**PRESENTATION OF P.R.I.D.E. TEAM CERTIFICATES FOR THE WINTER QUARTER**

Employees being honored were: Luis Daniel Garcia and Jordan Sims of the Public Works Department; Raul Campos, Eugene Woods, David Taylor, Juan Del Toro and James Jackson of the Public Utilities Department; Nou Xiong, Tami Duneheew, Kou Herr, Bruce Mitchell and Yvonne Gordon-Huffenberger of the Police Department; Doug Ediger and Jaime Soto of the Planning & Development Department; Rose Miranda of the Personnel Services Department; Jim Arietta and Selena Ruelas of the PARCS Department; Dennis Jones of the Information Services Department; Al Hernandez of the General Services Department; Oscar Flowers of Fresno Area Express **(2 - 0)**; Richard Cabral, Christine Wilson and Flora Bowels of the Fire Department; Yee Vang and Crystal Smith of the Finance Department; Katherine Bradley of the City Attorney's Office; Jennifer Morelos of the Mayor/City Council/City Manager/Call Center/City Clerk Offices; and Gregory Simonov of the Airports Department. A reception for the recipients followed the ceremony.

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**RECESS - 9:27 A.M. - 9:42 A.M.**

**APPROVE MINUTES OF JANUARY 6, 2009:**

President Sterling made name spelling corrections and clarifications on Page 153-2 relative to "PRESENTATION TO PRESIDENT STERLING AND MAYOR-ELECT SWEARENGIN BY THE BLACK WOMEN ORGANIZED FOR POLITICAL ACTION (BWOPA)".

On motion of Councilmember Dages, seconded by Councilmember Borgeas, duly carried, RESOLVED, the minutes of January 6, 2009, approved as corrected by President Sterling.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

Councilmember Dages (1) stated southeast Fresno was being saturated with recycling centers and submitted written information he received to the city manager; and (2) commended Fire Chief Bruegman and Richard Cabral on their musical talents.

Councilmember Borgeas spoke to Consent Calendar Item 1-K thanking staff for explaining issues and addressing his concerns, noted he attended the opening of the Pinedale Community and stated it was beautiful and he was impressed with the community involvement and work of PARCS and GSD, and advised he was assured by staff the center's roof was serviceable for 3 to 4 years and the roof project would remain on the priority list for replacement when funds become available.

Councilmember Xiong (1) thanked Lt. Governor Garamendi for meeting with valley councils to discuss issues of importance to the valley; (2) congratulated the Riojas family for being chosen for 'Extreme Makeover: Home Edition' and commended city staff for their involvement and work; and (3) commended DPU Director Ramirez and staff on the water meter volunteer program kickoff.

President Sterling commended 'Extreme Makeover: Home Edition' for coming to Fresno, congratulated the Riojas family, and thanked Jerry and Paula DeYoung, DeYoung Properties, all the community volunteers and businesses, and the city of Fresno organization and departments for their assistance/work.

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**APPROVE AGENDA:**

**(9:30 A.M.) CONSIDER THE CREATION OF A GPS MONITOR PROGRAM FOR SEX OFFENDERS AND ADOPTION OF AN EMERGENCY ORDINANCE**

- 1. RESOLUTION - 63<sup>RD</sup> AMENDMENT TO AAR 2008-162 APPROPRIATING \$49,000 FOR A GPS MONITOR PROGRAM**
- 2. BILL - IMPLEMENTING A GPS MONITOR PROGRAM FOR SEX OFFENDERS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION**

City Manager Souza stated the item was being removed from the agenda as staff was awaiting a ruling from the Attorney General's office and the item was anticipated to be brought back on January 27<sup>th</sup>.

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

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

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**ADOPT CONSENT CALENDAR:**

Paul Hurlbut, 4701 W. Swift, expressed his support for Item 1-D but added he was opposed to the redrawing of the northwest policing district boundaries.

- (1-A) ACTIONS RELATIVE TO THE "METROPOLITAN MEDICAL RESPONSE SYSTEM" (MMRS) PROGRAM**
- 1. RESOLUTION NO. 2009-4 - AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF FY 2008 CYCLE U.S. DEPARTMENT OF HOMELAND SECURITY/OFFICE OF DOMESTIC PREPAREDNESS MMRS GRANT PROGRAM FUNDING, THROUGH THE COUNTY OF FRESNO, AND AUTHORIZING COMPLETION OF DOCUMENTS**
  - 2. RESOLUTION NO. 2009-5 - 56<sup>TH</sup> AMENDMENT TO AAR 2008-162 APPROPRIATING \$311,600 FROM THE MMRS GRANT TO THE FIRE DEPARTMENT TO PROVIDE TRAINING, EQUIPMENT, MEDICAL SUPPLIES AND CONTINUING PROGRAM OVERSIGHT**

**(1-B) RESOLUTION NO. 2009-6 - 55<sup>TH</sup>** AMENDMENT TO AAR 2008-162 APPROPRIATING \$109,300 FROM THE FY 2007 HOMELAND SECURITY GRANT TO THE FIRE DEPARTMENT BUDGET TO REIMBURSE THE DEPARTMENT FOR VARIOUS TRAINING PROGRAM EXPENDITURES

**(1-C)** APPROVE CONTRACT BETWEEN THE CITY OF FRESNO AND COUNTY OF MADERA AUTHORIZING THE CITY TO USE INMATE LABOR, SUPPLIED BY THE COUNTY, TO PERFORM WORK ON GOVERNMENT-OWNED FACILITIES AND GROUNDS

**(1-D)** AUTHORIZE THE CHIEF OF POLICE TO RENEW THE LEASE AGREEMENT WITH THOMAS-DAVIES FAMILY PARTNERSHIP FOR THE PREMISES LOCATED AT 3781, -83, -85 AND -91 N. HUGHES AVENUE AND 2211 W. DAKOTA AVENUE FOR THE POLICE DEPARTMENT'S NORTHWEST POLICING DISTRICT STATION

**(1-E)** AUTHORIZE ACCEPTANCE OF FY 2008 CYCLE STATE HOMELAND SECURITY GRANT PROGRAM FUNDS FOR A TOTAL OF \$452,103

**1. RESOLUTION NO. 2009-7 - 60<sup>TH</sup>** AMENDMENT TO AAR 2008-162 APPROPRIATING \$263,100 IN THE POLICE DEPARTMENT BUDGET FOR THE DEPARTMENT'S HOMELAND SECURITY GRANT PROGRAM

**(1-F)** AUTHORIZE THE CHIEF OF POLICE TO NEGOTIATE AND ENTER INTO A CONTRACT, SUBJECT TO CITY ATTORNEY APPROVAL AS TO FORM, WITH BEARINGPOINT, INC., IN THE AMOUNT OF \$359,703 FOR A REGIONAL PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS ASSESSMENT PLAN FOR FIRST RESPONDERS

**(1-G)** AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AN AGREEMENT WITH THE CENTRAL UNIFIED SCHOOL DISTRICT TO ACCEPT FUNDING FOR TWO SCHOOL RESOURCE OFFICERS

**(1-H) RESOLUTION NO. 2009-8 -58<sup>TH</sup>** AMENDMENT TO AAR 2008-162 APPROPRIATING \$192,000 IN DEVELOPER CONTRIBUTIONS FOR THE ACQUISITION OF RIGHT-OF-WAY ON N. BLYTHE AVENUE FOR TRACT NO. 5710

**1.** AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE A UGM STREET RIGHT OF WAY ACQUISITION AGREEMENT AND RIGHT OF WAY ACQUISITION ADDENDUM

**(1-I)** APPROVE THE ACQUISITION OF STREET EASEMENT AND USE OF A CONSTRUCTION EASEMENT AT THE CORNER OF MARKS AND WEBER AVENUES FROM PROPERTY OWNED BY DEARLD HENKEL; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO ACCEPT THE DEED OF EASEMENT AND CONSTRUCTION EASEMENT FROM THE PROPERTY OWNER AND EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND COMPLETE THE ACQUISITION THROUGH ESCROW

**(1-J)** APPROVE CONTRACT CHANGE ORDER NO. 6 WITH MARK WILSON CONSTRUCTION, INC., TO PROVIDE A TIME EXTENSION OF 81 WORKING DAYS FOR FIRE STATION NOS. 11 AND 13 RENOVATIONS/ADDITIONS, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CHANGE ORDER ON BEHALF OF THE CITY

**(1-K)** REJECT ALL BIDS TO RE-ROOF THE PINEDALE COMMUNITY CENTER

(\***NOTE** - Councilmember Borgeas spoke briefly to the item under "Council Member Reports and Comments")

**(1-L) RESOLUTION NO. 2009-9 -** AUTHORIZING SUBMITTAL OF A GRANT APPLICATION FOR UP TO \$250,000 TO THE DEPARTMENT OF THE INTERIOR (DOI), BUREAU OF RECLAMATION, TO LEVERAGE THE COST OF CONSTRUCTING A CHECK STRUCTURE IN THE FRIANT-KERN CANAL TO PROVIDE RELIABLE DELIVERY OF WATER TO THE SURFACE WATER TREATMENT FACILITY

**(1-M) RESOLUTION NO. 2009-10 -** AUTHORIZING SUBMITTAL OF A GRANT APPLICATION FOR UP TO \$300,000 TO THE DEPARTMENT OF INTERIOR (DOI), BUREAU OF RECLAMATION, FOR FUNDING TO LEVERAGE THE COST OF INSTALLING 105,050 RESIDENTIAL WATER METERS

**(1-N) RESOLUTION NO. 2009-11 -** APPROVING THE FINAL MAP OF TRACT NO. 5856, WEST SIDE OF N. MAPLE BETWEEN E. SHEPHERD AND E. PERRIN AVENUES, AND ACCEPTING THE DEDICATED PUBLIC USES THEREIN

**(1-O)** RECEIVE AND ACCEPT THE COMPREHENSIVE ANNUAL FINANCIAL REPORT ('CAFR') REGARDING THE FINANCIAL ACTIVITIES OF THE CITY OF FRESNO RETIREMENT SYSTEMS FOR THE FISCAL YEAR ENDING JUNE 30, 2008

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

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

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

**(‘A’) SCHEDULED COMMUNICATIONS:**

1. APPEARANCE BY KENNETH FICK TO DISCUSS THE NEED TO EXTEND CROSSWALK LIGHT TIMES TO PROVIDE SUFFICIENT TIME FOR PEDESTRIANS TO CROSS THE STREET

Appearance made.

2. APPEARANCE BY RORY EKERN TO DISCUSS THE CITY’S DISREGARD OF FEDERAL LAW

Not present when called.

**(‘B’) UNSCHEDULED COMMUNICATIONS:**

Richard Morse, former special medical marijuana advocate for Americans for Safe Access, spoke to a business license he obtained to operate a medicinal cannabis dispensary at 210 E. Olive, to how the city offered no objections, to how he was told by the police department that he did not have the appropriate licences/site plan reviews according to the city attorney’s office, and to his discussions and attempts to talk with Attorney White of the city attorney’s office. Upon the request of City Attorney Sanchez Mr. Morse submitted his card to attorney staff for follow-up.

Big Sue, G Street Sheds, spoke to problems the disabled face in crosswalks and to the need to address the problems.

Dana Bobbit, 2375 N. Hanover, disabled iron worker, medical marijuana patient, and co-chair of Americans for Safe Access, along with co-chair Diana Kirby, stated FMC Section 12-306-N was unconstitutional and advised he had a petition signed by 48 medical marijuana patients requesting Council hear this matter and follow the law, elaborating throughout. City Attorney Sanchez stated his office would take Mr. Bobbitt’s information and provide Council with a follow-up memo.

Paul Hurlbut spoke to the Community Safety Report of 2025 and requested it be re-opened to receive input from the west area community, and spoke to the west area’s growth and fire service issues.

Sherry Smith, 4724 W. Swift, spoke to fire response times and to the need for a new fire station at Gettysburg and Barcus Avenues.

Charles Kruegman, 1237 P Street, representing the Central Valley Chapter of the National Federation of the Blind, stated the city’s traffic signal/light system did not meet the needs of pedestrians and explained.

Alicia Hinton, 3747 N. Rowell, spoke to the GPS monitor program (that was earlier pulled from the agenda) and stated there was a possibility the program would create a greater risk of re-offending and elaborated on the issue and related research.

Claire Ann Ruth Heffelbower, 3198 E. Menlo, Director of Circles of Support and Accountability (COSA), spoke to the GPS monitor program **(3 - 0)** and stated there were better ways than monitors to keep the community safe, and spoke to COSA’s work.

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EXPIRATION OF VESTING RIGHTS FOR THE FINAL MAP AND WHEN THE BUILDING PERMIT HAS BEEN PULLED PRIOR TO 12/31/09

Councilmember Brand recused himself from the subject proceedings and the upcoming 9:15 #2-A item due to a potential conflict of interest stating he had financial interest in property that would be affected and left the meeting at 10:23 a.m.

City Engineer/APW Director Mozier and Mayor Swarengin reviewed the matter stating this had been a complex and challenging issue, a number of productive meetings occurred between the industry and city administration and staff, in the next 30 days a sub-committee would develop concrete terms of an economic stimulus package, and at issue was approximately 950 lots, \$3 million in park fees, and \$450,000 in fire fees, and advised agreement had been reached on how to proceed and a complete set of recommendations would come back in 45 days for both the residential and commercial/industrial industries.

Speaking in support of the issue and/or requesting the city do all it can to retain jobs were: Mike Prandini, Building Industry Association, 7108 N. Fresno Street, who added although an interim agreement was reached the industry would be placing on the table for negotiation the items subject to veto; Al Smith, Chamber of Commerce; Patrick Wilson, 1454 W. Paul, owner of a seamless rain gutter business; Brent Ingram, Richard's Plumbing; Jerry Rodriguez, roofer, 359 N. Dearpoint Circle; Darius Assemi, who added he was encouraged by negotiations and hoped to reach agreement in the next 30-45 days; and an unidentified construction worker.

Councilmember Borgeas stated he was pleased to see this agreement and commended all involved. Mr. Prandini, Jeff Roberts of Granville Homes, City Manager Souza, Mr. Smith and Mr. Assemi responded at length to numerous questions and/or comments of Councilmembers Perea, Xiong and Dages relative to whether a guarantee could be given for no layoffs in the next 45 days, what the industry expected in the next 45 days without the stimulus package, support for moving forward with this resolution but this not being the answer, concern with holding the industry up for 45 days, support for the original stimulus package, if residential would be dealt with in the first 30 days followed by commercial, number of businesses that have closed, what other businesses have been impacted by the economic downturn, need to make clear that along with the building industry other industries have closed and families have been adversely affected, need to balance an upcoming budget and support for the resolution, if this resolution would make the upcoming override issues moot, thank you to Mayor Swarengin for meeting with the building industry so quickly and saving a number of jobs directly and indirectly, and support for the resolution. Mr. Souza stated he took exception to the comment that this would hold the industry up and upon his questions Mr. Prandini confirmed jobs would *not* be more at risk during this one year window of time compared to before and explained. Mr. Assemi further clarified Council's action would impact fees charged and therefor impact the building industry immediately and save jobs which would then filter down onto the other important businesses/industries, and added he looked forward to being at the table with staff and the new administration to take a comprehensive look at where fees should be.

President Sterling thanked the BIA, Mayor Swarengin and the administration for coming to the table and working together to address this important community issue and also thanked Councilmember Borgeas for agreeing to serve on the committee.

On motion of Councilmember Dages, seconded by Vice President Caprioglio, duly carried, RESOLVED, the above entitled Resolution No. 2009-12 hereby adopted, by the following vote:

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

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**(9:15 a.m. #2 'A')** CONSIDER APPROVAL FOR A COUNCIL OVERRIDE OF RESOLUTION NOS. 2008-346 AND 2008-347 VETOED BY MAYOR AUTRY ON 12/29/08 - COUNCILMEMBER DAGES

- 1. RESOLUTION NO. 2008-346 - ADOPTING A POLICY TO RESTORE THE EXEMPTION FROM PAYMENT OF CERTAIN IMPACT FEES WHEN SAID FEES HAVE BEEN PAID PRIOR THE EXPIRATION OF PROTECTION FROM THE FINAL MAP
- 2. RESOLUTION NO. 2008-347 - ADOPTING A POLICY TO FREEZE ALL DEVELOPMENT IMPACT FEES AT THE LEVEL IN EFFECT ON 12/16/08

Councilmember Brand was recused as noted in the prior issue.

Councilmember Dages stated the previous item was addressing this issue and removed the item from the agenda. Brief discussion ensued on the ability to pull the item or address it as scheduled, with City Attorney Sanchez clarifying issues.

Councilmember Dages made a motion to pull the item, which was seconded by Councilmember Borgeas.

Councilmember Caprioglio stated the BIA's suggestion to address the issue was appropriate and he was supportive of resolving the matter this date. City Manager Souza stated staff would also appreciate a vote this date as pulling it would leave it in abeyance for two weeks, or, recommended tabling it to February 3<sup>rd</sup> to put some finality to the issue. Councilmember Dages withdrew his motion on the floor and made another motion to disapprove (kill) the item. Brief discussion ensued and Mr. Sanchez clarified the motion was to deny the override and requested Council vote on the two resolutions separately.

On motion of Councilmember Dages, seconded by Councilmember Xiong, duly carried, RESOLVED, the override of Resolution No. 2008-346 hereby denied, by the following vote:

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

On motion of Councilmember Dages, seconded by Councilmember Xiong, duly carried, RESOLVED, the override of Resolution No. 2008-347 hereby denied, by the following vote:

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

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Councilmember Brand returned to the meeting at 11:05 a.m.

**(9:15 a.m. #2 'B')** APPROVE APPOINTMENT TO THE SPECIAL CITY SELECTION COMMITTEE FOR THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD - COUNCILMEMBER PEREA

Councilmember Perea reviewed the issue as contained in his report to Council as submitted, clarified he had to step off the Governing Board due to a rotation system and advised the next eligible big city to replace him would come from the north valley, and made a motion to appoint President Sterling to the Selection Committee that would decide the next member city of SJVAPCD, which motion was seconded by Councilmember Dages. **(4 - 0)** Councilmember Xiong stated Councilmember Perea did an excellent job on the Board and he was disappointed he would not continue and upon his questions Councilmember Perea clarified he was leaving the board due to rotation and President Sterling's appointment would be to the Selection Committee.

On motion of Councilmember Perea, seconded by Councilmember Dages, duly carried, RESOLVED, President Sterling appointed to the Special City Selection Committee for the San Joaquin Valley Air Pollution Control District Governing Board, by the following vote:

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

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**(9:15 a.m. #2 'C')** RESOLUTION NO. 2009-13 - ADOPTING THE COUNCIL OF FRESNO COUNTY GOVERNMENTS (COG) 2009 RECOMMENDED REGIONAL PRIORITY PROJECT LIST

President Sterling stated her report was self-explanatory and this was standard procedure and made a motion to adopt the resolution, which motion was seconded by Councilmember Perea.

Councilmember Dages spoke to the Peach Avenue project stating that was the only project that affected children going to and from school while all the others dealt with traffic, and stated although he would support this he could not believe Peach

Avenue was not a priority. Councilmember Borgeas thanked staff for assisting him on the Veterans Boulevard process and stated the project had a great deal of merit, it would play into an enormous amount of positive projects in his district, and the project deserved attention, and committed to doing all he could to make Veterans Boulevard a reality. ACM Rudd and City Engineer Mozier responded to questions of Councilmembers Xiong and Perea relative to how this list aligned with the city's priorities, concurrence with Councilmember Dages on Peach Avenue, Peach Avenue being a public infrastructure project that needed to be made a priority, where Peach Avenue ranked from the administration's perspective, project funding, the FCTA's "pay as you go", and request for a report from staff detailing what the FCTA is doing and a list of the city's priority infrastructure projects including funding sources/status. President Sterling stated there were a number of projects that were of great importance to each member and asked that the information requested from staff be submitted to all members as everyone had the same concerns and wanted to work with staff to make the projects happen.

On motion of President Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2009-13 hereby adopted, by the following vote:

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

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**(9:55 A.M.)** CONTINUED HEARING ON THE VACATION OF A PORTION OF THE EAST SIDE OF N. STATE STREET NORTH OF W. FAIRMONT AVENUE

**1. RESOLUTION NO. 2009 -14 - ORDERING THE VACATION OF THE ABOVE**

President Sterling announced the time had arrived to consider the issue and opened the hearing. Senior Engineering Technician Polsgrove reviewed 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.

On motion of Councilmember Perea, seconded by Acting President Caprioglio, duly carried, RESOLVED, the above entitled Resolution No. 2009-14 hereby adopted, by the following vote:

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

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**(10:00 A.M.)** HEARING ON 2008 CYCLE III TRIMESTER PLAN AMENDMENT APPLICATIONS

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

Planning Manager Sanchez gave a brief overview of the issue and the three plan amendments, all as contained in the summary staff report as submitted.

**(10:00 a.m. 'A')** CONSIDERATION OF PLAN AMENDMENT APPLICATION NO. A-08-17, REZONE APPLICATION NO. R-08-27, AND ENVIRONMENTAL FINDINGS, FILED BY DAN JELLADIAN ON BEHALF OF SUNARA CORPORATION, SOUTHWEST CORNER OF E. SHIELDS AND N. WINERY AVENUES (4898 E. SHIELDS AVENUE)

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-08-17/R-08-27
2. **RESOLUTION NO. 2009-15 - AMENDING THE FRESNO GENERAL PLAN AND MCLANE COMMUNITY PLAN**
3. **BILL NO. B-1 - ORDINANCE NO. 2009-1 - AMENDING THE FRESNO YOSEMITE INTERNATIONAL AIRPORT AND ENVIRONS PLAN**
4. **BILL NO. B-2 - ORDINANCE NO. 2009-2 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-20 TO M-1/cz**

Staff Analyst Zuniga gave a PowerPoint presentation on the issue which included a Vicinity Map of the Project Site, Environmental Assessment, the Fresno County Airport Land Use Commission, District 2 Implementation Committee, and Planning Commission Review and Recommendations, and Staff's Recommendation for Approval.

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

Acting President Caprioglio made a motion to approve staff's recommendation, which motion was seconded by Councilmember Brand.

Councilmember Dages noted this was an older neighborhood and expressed concern with the requested zoning stating he had M-1 next to residential in his district and it does not work out and added he could not support this, with Ms. Zuniga responding. Applicant Jellaldian and Planning Manager Sanchez responded to questions and/or comments of Councilmembers Perea, Brand, Dages and President Sterling relative to the proposed use (contractor storage yard), what other uses were allowed/appropriate, if the parcel was too small to develop with residential, if the applicant met with the neighborhood, and if there was a more neighborhood-friendly use than a contractor storage yard.

On motion of Acting President Caprioglio, seconded by Councilmember Brand, duly carried, RESOLVED, the subject environmental finding hereby approved, the above entitled Resolution No. 2009-15 hereby adopted, and the above entitled Bill Nos. B-1 and B-2 adopted as Ordinance Nos. 2009-1 and 2009-2, respectively, by the following vote:

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

**(10:00 a.m. 'B')** CONSIDERATION OF PLAN AMENDMENT APPLICATION NO. A-08-18, REZONE APPLICATION NO. R-08-28, SITE PLAN REVIEW APPLICATION NO. S-08-103, AND ENVIRONMENTAL FINDINGS, FILED BY MARIETTE ASSOCIATES ON BEHALF OF THE SCHINDLER LAWRENCE, LLC, SOUTHEAST CORNER OF E. COPPER AND N. CHESTNUT AVENUES (2445 E. COPPER AVENUE)

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-08-18/R-08-28/S-08-103
2. RESOLUTION - AMENDING THE FRESNO GENERAL PLAN AND THE WOODWARD PARK COMMUNITY PLAN
3. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-1/UGM TO C-P/UGM

Upon question of President Sterling, Planner Fabino stated the staff report as submitted was complete and added a letter of objection had been received and was distributed to Council relating to the road alignment and advised the conditions of approval related to that would not encroach on the property.

Speaking to the issue were: Ken Holden, 2549 E. Copper, concern with creating a commercial island surrounded by the existing residential; Rod Hacker, 2505 E. Copper, support for residential use/lack of notification/concern with unknown impact on his property; Shirley Hacker, 2505 E. Copper, concern with the lack of notification/request for delay on vote for further review by residents and their attorney; and Case Lawrence, project developer, 2491 Alluvial, Clovis, who **(5 - 0)** stated any delay would result in substantial damage to the city and to them and explained and spoke to the project and related improvements.

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

Mr. Fabino, Mr. Lawrence and Traffic Engineering Manager Jones responded to questions of Councilmember Brand and/or clarified issues relative to noticing requirements, noticing conducted, residential not being feasible due to the small size of the parcel, zoning and water useage/traffic impact, impact of a two week delay of the process, and if financing could be impacted by a delay. President Sterling spoke to the 350' noticing radius and those beyond and stated area residents should be given some consideration as they are the ones that have to live with decisions made.

Councilmember Brand made a motion to continue the matter two weeks with all due respect to the developer, which motion was seconded by Councilmember Borgeas. Councilmember Xiong stated he had a concern with the time sensitivity and financial impact and questioned if this could be approved with the condition that the developer meet with area residents on their concerns. City Attorney

Sanchez clarified any legislative action would be final, if Council had to undo legislative action there could be liability exposure if the applicant detrimentally relied on that action, if Council was inclined to give some delay it should be done on the front end, and if a condition to meet with neighbors were to be imposed details of the expectation should be clarified on the record. Upon

further question Mr. Fabino stated staff would be happy to facilitate meetings between the two parties.

Councilmember Dages expressed frustration stating people purchase property knowing what the zoning is and questioned what the purpose was of a general plan if it was not going to be adhered to, and presented questions relative to Chestnut Avenue and development, with Mr. Fabino responding. Councilmember Dages stated it seemed like the general plan was deceiving people, he would not approve this, Council needed to stick with the general plan, and plan amendments were unfair to long-time residents, elaborating throughout. Upon question of Councilmember Xiong staff confirmed over 100 plan amendments have been presented to Council since the general plan was adopted whereupon Councilmember Xiong spoke briefly to the consistency comment and clarified many plan amendments had been approved even before he came on board and added he considered the general plan a guideline to growth.

On motion of Councilmember Brand, seconded by Councilmember Borgeas, duly carried, RESOLVED, the subject Hearing on A-08-18/R-08-28/S-08-103 continued to January 27, 2009, at 3:00 p.m., by the following vote:

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

**LUNCH RECESS - 12:21 P.M. - 2:00 P.M.**

**(10:00 a.m. 'C')** CONSIDERATION OF PLAN AMENDMENT APPLICATION NO. A-08-13, SPHERE OF INFLUENCE AMENDMENT APPLICATION NO. SOI-08-01, AND ENVIRONMENTAL FINDINGS FILED BY TOM LANG ON BEHALF OF AQUARIUS AQUARIUM INSTITUTE, PROPERTY BOUND BY W. HERNDON ON THE SOUTH, FREEWAY 99 ON THE EAST, AND THE SAN JOAQUIN RIVER ON THE NORTH

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-08-13/SOI-08-01
2. RESOLUTION - AMENDING THE FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN
3. RESOLUTION - AMENDING THE CITY OF FRESNO'S SPHERE OF INFLUENCE (SOI) BOUNDARY TO ADD THE SUBJECT PROPERTY TO THE CITY IN ORDER TO ALLOW FOR CITY SEWER AND WATER SERVICES TO BE EXTENDED TO THE PUBLIC AQUARIUM FACILITY, WHICH WAS PREVIOUSLY APPROVED ON A PORTION OF THE SUBJECT PROPERTY BY FRESNO COUNTY

Planning Manager Unruh gave an in-depth PowerPoint presentation on the issue which included an Artist Rendering of the Aquarium, Site Location, Aerial Photograph, Aquarius Aquarium Project, Need for Sphere of Influence (SOI) Expansion, Planning Commission Review and Recommendation, Plan Amendment, Surrounding Land Uses, and Staff Recommendation for Approval.

Tom Lang, Executive Director of Aquarius Aquarium Institute, thanked city staff and everyone else involved in the project for all their hard work, time and effort, and stated this project has been the work of a group of local people with grass roots support and spoke briefly in support of the issue.

Speaking to the issue and expressing concerns with the unknowns of being brought into the SOI/how their properties will be affected, and/or amount of water consumption/salt water/water quality were: Melody Gonzales, 7662 W. Herndon; Dolly Ryder, area property owner; and Dan Scarbery, 1390 E. Vartikian.

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

Councilmember Borgeas stated this was an exciting project for the entire community and thanked city staff for all their work and **(6 - 0)** the Jura family for donating the land for the aquarium, and presented questions relative to the rationale behind the extension into the 79 acres, the piping system design, the city/county tax sharing agreement, and the water concerns expressed, with Mr. Unruh, City Attorney Sanchez and Mr. Lang responding throughout. Councilmember Borgeas reiterated this was an exciting project and he wanted to educate himself more fully and talk with the county and made a motion to continue the hearing to January 27<sup>th</sup>. Councilmember Xiong left the meeting at 2:28 p.m. during discussion.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, the subject Hearing on A-08-13/SOI-08-01 continued to January 27, 2009, at 3:15 p.m., by the following vote:

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

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**(2:00 P.M.) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:**

**(‘A’)** EXISTING LITIGATION: CASE NAME: COF V. DERALD HENKEL, ET AL.

**(‘B’)** ANTICIPATED LITIGATION SIGNIFICANT EXPOSURE TO LITIGATION: COF V. FRESNO HOCKEY CLUB, LLC dba FRESNO FALCONS PROFESSIONAL HOCKEY CLUB

The City Council met in closed session in Room 2125 at the hour of 2:38 p.m. to consider the above matters and adjourned thereafter.

**(‘C’)** EXISTING LITIGATION - CASE NAME: COF V. U.S.A.; U.S. ARMY CORPS OF ENGINEERS; NATIONAL GUARD BUREAU; THE BOEING COMPANY, U.S. DISTRICT COURT CASE

Laid over two weeks.

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**ADJOURNMENT**

There being no further business to bring before the City Council, the hour of 3:15 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

**Approved** on the 27th day of January, 2009.

\_\_\_\_\_/s/\_\_\_\_\_/ ATTEST \_\_\_\_\_/s/\_\_\_\_\_

Cynthia Sterling, Council President

Yolanda Salazar, Assistant City Clerk