

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

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

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

Terry Townsend of Peoples’ Church gave the invocation, and President Sterling led the Pledge of Allegiance.

City Manager Souza announced the passing of public works employee Terry Riley last Friday and called for, and a Moment of Silence was observed, in memory of Mr. Riley.

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RECOGNITION CERTIFICATES TO STUDENTS IN DISTRICT 7 - COUNCILMEMBER PEREA

Councilmember Perea presented Certificates of Commendation to Jacob Plowman and Celine Snedden, Baird Middle School; Sarah Van Bindsbergen and Ruby Mota, Bullard TALENT School; Aldo Rios-Gutierrez and Keyanna Garrett, Burroughs Elementary School; Raymond Taylor and Carmilita Contreras, Del Mar Elementary School; Jose Torres and Adina Im, Kings Canyon Middle School; Ricardo Quintero and Joseph Rocha, Leavenworth Elementary School; Daniella Stoltz, Anne Deffebach, Omar Ceja and Kollin Grunberg, Manchester Gate Elementary School; Yohana Rodriguez and Steven Garcia, Mayfair Elementary School; Cassandra Bautista and Xavier Torres, Pyle Elementary School; Jennifer Garcia and Salvador Vasquez, Rowell Elementary School; Janelle Nunez and Carolina Castaneda, Sacred Heart Catholic School; Matthew Giannetta and Isabella LaRocca, Saint Anthony’s School; Maya Pitta and Sophia Fuentes, Saint Helen’s Catholic School; Joaquin Parra and Luis Sanchez, Webster Elementary School; and Noknark Vang and Gerardo Morales-Garcia, Yosemite Middle School. Councilmember Perea again congratulated the students for all their hard work and their parents for keeping their children on track and a separate reception was held for the students and their families. President Sterling also congratulated the students and thanked Councilmember Perea for continuing the recognition tradition his father started.

COMMENDATION TO PUBLIC WORKS EMPLOYEE KEVIN EAKER FOR LIFESAVING EFFORTS OF COLLEAGUE TERRY RILEY - CITY MANAGER’S OFFICE

Commendation made.

RECOGNITION OF THE 2<sup>ND</sup> GRADUATING CLASS OF THE FRESNO CITIZENS’ ACADEMY - MAYOR’S OFFICE

Recognized.

PRESENTATION OF “PRIME TIME FOR BUSINESS: OHANYAN’S BASTIRMA & SOUJOUK CO.” - PRESIDENT STERLING AND D&CR DEPARTMENT

President Sterling read and presented a Certificate of Commendation to Ohanyan Meat Co. representative Bruce Christianson, and Mr. Christianson gave a PowerPoint presentation on the company which included the company's History, Market Niche and Customer Base, What's Next for Ohanyan's, and What Can the City Do?. Councilmember Xiong thanked Ohanyan's for their commitment stating small businesses were the backbone of the city's economy, with President Sterling concurring and also commending the D&CR Department for their efforts. Local Business Initiatives Manager Huerta thanked Council for their support of the department's efforts in these recognitions.

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**APPROVE MINUTES OF NOVEMBER 30, 2009, AND DECEMBER 3, 2009:**

On motion of Councilmember Xiong, seconded by Councilmember Brand, duly carried, RESOLVED, the minutes of November 30 and December 3, 2009, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

Councilmember Borgeas (1) expressed his excitement with the Bullard High football team being 12-0 and in their division playoffs (2 - 0) and advised the team would be playing Centennial Friday night at McLane Stadium and he would be presenting a Certificate of Accomplishment to them Monday night at their awards banquet; (2) requested the city manager and city clerk, if possible, enhance the existing matrix of council comments/oral requests for material, or create a separate matrix, for on-line requests and council resolutions directing staff to conduct research to keep track of all those requests; and (3) acknowledged constituents of the Pinedale community in attendance to discuss the closure of the Pinedale Community Center due to the difficult financial times the city is going through and advised he would be meeting with involved/interested parties and staff to try and come up with creative alternatives to keep the center open at least part-time.

Councilmember Xiong (1) thanked the Central Labor Council, the BIA, the Central California Asian Pacific Women's group, the Chamber of Commerce and the Host Lion's Club for all the hard community work they and for working with the city to improve the community, and (2) spoke to the press conference at Al Radka Park and commended ACM Rudd, PARCS Director Cooper and Fresno Metro Ministry and thanked Wells Fargo Bank for their monetary contribution for the community garden and for continuing to step up.

Councilmember Dages questioned if staff could look into the city of Visalia's ordinance prohibiting sign twirlers, with City Attorney Sanchez advising his office has conducted some research on the matter and could provide information in about a week.

Acting President Westerlund (1) spoke to the April 1<sup>st</sup> census date and the importance of all sending in their census forms and being counted as population numbers determine how much federal and state funding cities will receive; (2) relative to Councilmember Dages' request on sign twirlers advised he has been working with the city attorney and mayor's offices on a median island safety ordinance which was a little different tactic and he expected to present it to council in January; and (3) and spoke to the 2010 gubernatorial race and advised the city would be sponsoring a statewide gubernatorial debate to be held in Fresno on April and further elaborated.

\*\* President Sterling acknowledged and welcomed a visiting American Government/Marketing class from Fresno High School and Councilmember Xiong spoke briefly to the importance of students being engaged and thanked them for coming to City Hall.

President Sterling (1) spoke to the Southwest Fresno "Bringing Neighborhoods Back to Life" event held last evening at Santa's Village in the southwest policing district; (2) advised she attended the Fresno Hispanic Chamber's Annual Christmas party last evening at the Rainbow Ballroom and stated it was a wonderful event; and (3) advised the Edison High football team was also the champion of their division and congratulated all football teams for providing great family entertainment.

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**APPROVE AGENDA:**

(1-L) RESOLUTION - 35<sup>TH</sup> AMENDMENT TO AAR 2009-149 APPROPRIATING \$11,000 OF DONATIONS IN THE PARCS DEPARTMENT FOR THE 3<sup>RD</sup> ANNUAL "CHRISTMAS IN THE PARK" EVENT AT EATON PLAZA ON 12/11 & 12/12/09

Removed from the agenda by staff and upon question City Clerk Klisch advised the item was being removed as the event was cancelled. During consideration of the Consent Calendar and upon question of President Sterling PARCS Director Cooper stated the decision was made to cancel the event and forego the expense due to weather forecast/concerns and added Saturday's Christmas parade would still be held.

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

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

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**ADOPT CONSENT CALENDAR:**

Acting President Westerlund pulled **Items 1-D** and **1-M** from the Consent Calendar for separate discussion/action, and relative to **Item 1-I** stated this was a worthy cause and he would support it this year but felt staff needed to look for matching funds next year other than the general fund.

Councilmember Borgeas recused himself from **Item 1-C** stating his wife was employed at the Workforce Investment Board.

Councilmember Perea stated he had the same concern as Acting President Westerlund and registered a "no" vote on **Item 1-I**.

**(1-A) RESOLUTION NO. 2009-251 - CONSENTING TO AND AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND ("LAIF") IN THE CUSTODY OF THE STATE TREASURER FOR PURPOSES OF INVESTMENT, AND AUTHORIZING CERTAIN FINANCE OFFICERS IN CONNECTION THEREWITH**

**(1-B) APPROVE AN AGRICULTURAL LEASE WITH QUIST DAIRY AT THE LEASE RATE OF \$148,152 PER YEAR FOR 445.2 ACRES OF CITY-OWNED LAND AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES OR DESIGNEE TO EXECUTE THE LEASE AGREEMENT AND SUBSEQUENT EXTENSIONS ON BEHALF OF THE CITY**

**(1-E) ADOPT RESOLUTION OF INTENTION NO. 1078-D SETTING A PUBLIC HEARING FOR JANUARY 14, 2010, FOR THE VACATION OF N. HARRISON AVENUE NORTH OF W. BEDFORD AVENUE**

**(1-F) ADOPT RESOLUTION OF INTENTION NO. 1081-D SETTING A PUBLIC HEARING FOR JANUARY 14, 2010, FOR THE VACATION OF A PORTION OF THE EASTERLY 28 FEET OF AMADOR STREET BETWEEN FULTON STREET AND THE FULTON - BROADWAY ALLEY**

**(1-G) AUTHORIZE STAFF TO REQUEST A COOPERATIVE WORK AGREEMENT FROM CALTRANS TO EXTEND THE ENCUMBERED GRANT FUNDS AND ALLOW ALL ELIGIBLE PROJECT COSTS TO BE REIMBURSED FOR THE WILLOW AND SHEPHERD CONNECTION TRAIL PROJECT, THE BLACKSTONE AND BULLARD INTERSECTION IMPROVEMENT PROJECT, AND THE CENTER MEDIAN LANDSCAPING PROJECT ON CLOVIS AVENUE BETWEEN KINGS CANYON AND MCKINLEY AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE REQUEST ON BEHALF OF THE CITY**

**(1-H) APPROVE A MEASURE "C" DRAFT COOPERATIVE AGREEMENT FOR THE WILLOW AVENUE IMPROVEMENT PROJECT BETWEEN BARSTOW AND ESCALON AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY SUBJECT TO CITY ATTORNEY APPROVAL AS TO FORM**

**(1-J) APPROVE ACTIVE MEMBER APPOINTMENT CONFIRMATIONS OF NICHOLAS WEBBER (APPOINTED BY COUNCILMEMBER BORGEAS), GLADYS DENIZ (APPOINTED BY PRESIDENT STERLING), LAURA WHITEHOUSE (APPOINTED BY COUNCILMEMBER BRAND), AND SHARON SCHILLING (APPOINTED BY COUNCILMEMBER DAGES), TO THE UTILITY ADVISORY COMMITTEE**

**(1-K) APPROVE AN AGREEMENT BETWEEN THE POP LAVAL FOUNDATION, VALLEY PUBLIC TELEVISION, INC., AND THE CITY OF FRESNO TO CREATE A TELEVISION DOCUMENTARY COVERING THE HISTORY OF THE FRESNO FIRE DEPARTMENT**

**(1-N) AWARD A ONE YEAR REQUIREMENTS CONTRACT FOR CARB ULTRA LOW SULFUR DIESEL FUEL, WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS, TO SILVAS OIL COMPANY IN THE AMOUNT OF \$4,081,762.60**

**(1-O) APPROVE THE CITY COUNCIL MEETING SCHEDULE FOR CALENDAR YEAR 2010**

**(1-P) BILL NO. B-40 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO REDETERMINATIONS AND APPEALS OF TAX LIABILITY**

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

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

**(1-C) APPROVE APPOINTMENT OF MEE CHA TO THE FRESNO REGIONAL WORKFORCE INVESTMENT BOARD - MAYOR SWEARENGIN**

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, Mee Cha appointed to the Fresno Regional Workforce Investment Board, by the following vote:

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

**(1-I) APPROVE AN AGREEMENT WITH NATIONAL CINEMEDIA (NCM) IN THE AMOUNT OF \$219,000 TO SHOW FIRE AND LIFE-SAFETY PUBLIC SERVICE ANNOUNCEMENTS PRODUCED BY THE FIRE DEPARTMENT IN LOCAL THEATERS BEFORE MOVIE PRESENTATIONS**

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the subject agreement with National Cinemedia (NCM) hereby approved, by the following vote:

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

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**CONTESTED CONSENT CALENDAR ITEMS:**

**(1-D) APPROVE THE SECOND AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERS, P.C. IN THE AMOUNT OF \$175,000 FOR PROFESSIONAL ENGINEERING SERVICES RELATED TO THE ORGANIC UPGRADE PROJECT AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY, AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE THE AMENDMENT**

**1. RESOLUTION NO. 2009-252 - 36<sup>TH</sup> AMENDMENT TO AAR 2009-149 APPROPRIATING \$175,000 FOR THE PROFESSIONAL ENGINEERING SERVICES FOR THE RWRF ORGANIC UPGRADE PROJECT**

Acting President Westerlund noted the red-tagged item indicated an amount of \$175,000 and the agenda indicated \$350,000 and questioned the reason for the different amounts, the status of the project, if staff will keep council posted if there are any delays, and if the project was within the reserve, with Assistant Public Utilities Director Hogg responding. City Manager Souza added staff felt it was appropriate to red-tag the item because the amount was less than what was originally noted on the agenda.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the subject Second Amendment to the Agreement with Carollo Engineers, P.C., as outlined above hereby approved, and the above entitled Resolution No. 2009-252 hereby adopted, by the following vote:

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

**(1-M) RESOLUTION NO. 2009-253 - CONSENTING TO ACTIONS REGARDING PARC GROVE COMMONS IN THE CITY OF FRESNO BY THE HOUSING AUTHORITY OF FRESNO COUNTY TO FACILITATE THE PRIVATE FINANCING CONTRACT FOR DEVELOPMENT OF THE AFFORDABLE HOUSING PROJECT**

Acting President Westerlund stated his issues were (1) the resolution stating “*consenting to actions by the Housing Authority...*” and not indicating what those actions are, and (2) the city authorizing the Housing Authority to work within the city’s boundaries pursuant to California Code and presented questions/comments relative to what actions were being requested, if the Housing Authority has not had authorization to work within the city limits prior to this, if consent was project-specific, if authorization is to be given on a project-by-project basis if financing is involved, and request that future staff reports be more clear in terms of what actions council is being asked to take and what is being authorized, with City Attorney Sanchez and HCD Manager Casares responding throughout and clarifying issues. Councilmember Xiong left the meeting briefly at 9:52 a.m. and returned during public comment. A motion and second was made to approve staff’s recommendation. Upon question of Councilmember Brand Ms. Casares confirmed the City was not guaranteeing the loan.

On motion of Acting President Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2009-253 hereby adopted, by the following vote:

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

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**(9:00 A.M.) PUBLIC COMMENT - UNSCHEDULED COMMUNICATIONS:**

Reyes Garza, 412 “F” Street, spoke to the mentally ill and the homeless.

Linda Amparano, N. San Pablo Avenue, Paula Guzman, W. Sierra Avenue, Pinedale business owner, and Ernestine Martinez, W. Alluvial Avenue, all elaborated on their opposition to the closure of the Pinedale Community Center stating it served many underprivileged children and was needed/vital to the youth and seniors.

Nathan Magsig, Executive Director of CURE, advised CURE was celebrating its’ tenth anniversary and gave a short PowerPoint presentation showing the impact of CURE over the last ten years **(3 - 0)** and stated their work would continue. President Sterling thanked CURE for their work and revitalizing her district.

Mike Prandini of the BIA spoke to an article from the Manteca Bulletin about Manteca officials meeting with the building industry to look at current market conditions and current tentative maps sitting idle to try and find ways to adjust those maps to move them forward and stated the idea was worth pursuing and the BIA would be approaching staff to see if meetings could be set up to start discussions.

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**(9:15 A.M. ‘A’) ACTIONS RELATING TO FINANCING AND FUNDING THE ACQUISITION AND CONSTRUCTION OF CAPITAL IMPROVEMENTS TO THE CITY’S MUNICIPAL WATER SYSTEM**  
**1. ADOPT FINDING OF EXEMPTION PURSUANT TO CEQA**

**2. RESOLUTION NO. 2009-254 - AUTHORIZING THE ISSUANCE OF CITY OF FRESNO WATER SYSTEM REVENUE BONDS 2010 SERIES A; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, A FIRST SUPPLEMENTAL INDENTURE, AN ESCROW AGREEMENT, A CONTINUING DISCLOSURE CERTIFICATE, A BOND PURCHASE CONTRACT, AN OFFICIAL STATEMENT, AND AN AMENDMENT TO THE 1993 INDENTURE; AND AUTHORIZING OTHER MATTERS RELATING THERETO**

Finance Director Gray and Assistant Public Utilities Director Martin reviewed the issue, all as contained in the staff report as submitted. Upon the request of Acting President Westerlund Mr. Martin elaborated further on the details of the bond offering and general fund dollars not being involved, and along with Mr. Gray, Councilmember Brand and City Attorney Sanchez responded to questions and comments of Acting President Westerlund relative to whether water meter funding was included here, Sacramento's receipt of a \$10 million grant for water meters, where the city stood in the second round of grant funding, how the bond offering would be affected if the city is awarded grant funds, if staff was continuing to pursue funding, DPU meetings and when bond ratings will be known, bond insurance requirements, if this matter went through the bond policy, and if this would require a super-majority vote under the bond policy.

Mr. Martin responded to questions of Councilmember Brand relative to how these costs compared to the Engineer's original estimates and if the downtown storage tank and freeway 99 water main projects were included. Relative to Acting President Westerlund's earlier question Councilmember Brand stated 110% debt coverage was required, the refunding policy applied, and he was confident this issue would follow the guidelines.

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the subject CEQA finding of exemption hereby approved and the above entitled Resolution No. 2009-254 hereby adopted, by the following vote:

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

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**(9:15 A.M. 'C') AUTHORIZE THE GENERAL SERVICES DIRECTOR OR DESIGNEE TO EXECUTE AN AGREEMENT WITH THE HOUSING AUTHORITY OF THE CITY AND COUNTY OF FRESNO TO MANAGE THE MAINTENANCE AND REPAIR OF HOUSING AUTHORITY VEHICLES**

General Services Director Nerland introduced the item, Fleet Manager Schaad explained the details and benefits of the service, and Housing Authority Executive Director Preston Prince advised how the idea came about and how this would be cost effective service. Mr. Prince and Mr. Schaad responded to comments and questions of Acting President Westerlund relative to maintenance/repairs currently being done by private outside vendors, competition and unintended consequences, how many other agencies the city will be providing this service for and if there will be concerns within the private about the city taking away business, which vehicles the fire department is going to maintain, if this service will be done by existing staff, and if overtime costs are expected.

On motion of Councilmember Xiong, seconded by President Sterling, duly carried, RESOLVED, the General Services Director, or designee, authorized to execute the subject Agreement with the Housing Authorities of the City and County of Fresno for vehicle maintenance and repair, by the following vote:

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

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**(9:15 A.M. 'B') RESOLUTION NO. 2009-255 - SUPPORTING THE DEPLOYMENT AND ADOPTION OF BROADBAND BY JOINING THE CALIFORNIA EMERGING TECHNOLOGY FUND'S "GET CONNECTED!" PUBLIC AWARENESS PROGRAM DEDICATED TO CLOSING THE DIGITAL DIVIDE**

Government Affairs Manager Stevens reviewed the issue, all as contained in the staff report as submitted.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2009-255 hereby adopted, by the following vote:

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

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**(9:15 A.M. 'D')** APPROVE AN AGRICULTURAL LEASE AGREEMENT WITH BIG DE FARMS IN THE AMOUNT OF \$220,000 FOR LEASE OF 158 ACRES OF CITY-OWNED LAND AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

Assistant Public Utilities Director Hogg reviewed the issue, all as contained in the staff report as submitted. Councilmember Brand briefly left the meeting at 10:49 a.m. President Sterling spoke in support stating this was a great opportunity to work with the public in these difficult financial times and thanked staff and Big De Farms.

On motion of President Sterling, seconded by Acting President Westerlund, duly carried, RESOLVED, the subject Lease Agreement with Big De Farms hereby approved, by the following vote:

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

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**(9:30 A.M. 'A')** PRESENTATION BY THE HIGH SPEED RAIL COMMITTEE - PRESIDENT STERLING

Carrie Bowen with the California High Speed Rail Authority gave a video and PowerPoint presentation entitled "Building for the Future" which included Advantages of High Speed Trains, Energy Use, Environmental Benefits, EIR/Public Input, 2012 Construction, Oversight (**4 - 0**), Funding/Stimulus Funding Requirements, Schedule/Time Frame, and the Heavy Maintenance Facility.

Council discussion ensued with members thanking Ms. Bowen for the presentation and her efforts. Councilmember Perea stated he was very supportive and advised he has been working with the retirement administrator on the possibility of involving pension funds to buy the bonds and added he would be bringing an item forth to council to look at that if it makes financial sense for the retirement system. Acting President Westerlund also expressed his support and upon his question City Manager Souza stated the heavy maintenance facility would be on the agenda next week and he was pretty sure council already adopted a resolution in support of high speed rail, whereupon Acting President Westerlund stated working together with Fresno County and presenting a unified voice will be key to Fresno being a player in getting the heavy maintenance facility. Councilmember Xiong stated the heavy maintenance facility was where the bulk of the work was and upon his questions Ms. Bowen stated the COG and the city and county were very organized and methodical in pursuing the facility and all working together was a positive step forward in the fight for the facility, there would be one heavy maintenance facility in the state and that would be in the central valley, and besides Merced she was not aware of the locations for the other light maintenance facilities. Councilmember Brand reminded all about the UC campus issue stating hopefully the city learned from that process that if it is not done right Fresno will end up not getting the facility here. President Sterling thanked Ms. Bowen for the presentation and asked that she not hesitate to connect with council if needed.

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**(9:30 A.M. 'B')** CONSIDER COUNCIL OVERRIDE VOTE OF THE FOLLOWING ITEMS VETOED BY MAYOR SWEARENGIN ON DECEMBER 3, 2009 - COUNCILMEMBER BRAND

- #1. LEGISLATIVE ACTION ENTITLED: DETERMINE THAT THE CLOSURE OF FOUR (4) NEIGHBORHOOD CENTERS AND REDUCTION IN HOURS OF SEVEN CENTERS IS A MATERIAL DECISION
- #2. LEGISLATIVE ACTION ENTITLED: DETERMINE THE DE-FUNDING OF 145 CIVILIAN POSITIONS IN THE POLICE DEPARTMENT, WITH FORTY-ONE (41) OF THOSE POSITIONS CURRENTLY VACANT, IS A MATERIAL DECISION

### #3. LEGISLATIVE ACTION ENTITLED: DETERMINE THAT DESIGNATING 84 HOURS ANNUAL FURLOUGH FOR SWORN FIRE DEPARTMENT PERSONNEL AND CLOSURE OF TWO (2) STATIONS IS A MATERIAL DECISION

Councilmember Brand introduced all three items, clarified although he was going to make motions to override the vetoes he would be voting “no” as he supported the mayor’s decision on all three. City Attorney Sanchez stated each item should be considered independently, a five-vote majority was needed to override a veto, and if the materiality decisions are upheld the items would be budget amendments and ultimately come back to council for final approval. Councilmember Brand added although he did not necessarily agree with all the decisions no one had offered any viable alternatives, stressed difficult decisions had to be made and the cost for a delay in this process would be approximately \$1.5 million per month which would exasperate the problem, stated one of his biggest concerns was overtime and requested staff return in April with an evaluation on whether the plan worked that well, requested early retirement be looked at for next year along with other items such as the city’s vehicle policy, and made a motion to override the mayoral veto on Item #1, the PARCS plan, which motion was seconded by Acting President Westerlund.

Councilmember Borgeas stated he agreed with a lot of what Councilmember Brand stated and elaborated on the difficult financial times, this being the first of possibly three rounds of layoffs, and how tough decisions will have to be made, and presented questions and comments relative to why the Pinedale community center was put on the list for reductions, the center having to be considered closed even though senior activities will remain open, the need to be creative with social services and his looking into options to keep the center open part-time, if volunteers could serve as supervisors on the premises, and his agreement with the city attorney’s legal opinion that this was a reduction in service and an administrative matter, with PARCS Director Cooper and City Manager Souza responding throughout.

Speaking to the issue were: Carolyn Romersa, W. Fir Ave., Pinedale; Ernestine Martinez, Pinedale resident, Faith & Community Organization; and Reyes Garza, 412 “F” Street, who all spoke in opposition to closing the Pinedale community center.

Upon question of Councilmember Dages Councilmember Brand clarified he brought these items forth for an override vote because there was a 30-day window of time and he wanted to get the matters resolved as soon as possible to start working on the plans. Councilmember Dages stated this was a procedural action and relative to emails he received on the Pinedale community center stated people were deceived as they think the center will remain open if the veto is overridden which was not the case. Acting President Westerlund stated he agreed with Councilmember Borgeas on where the city was and why these decisions had to be made, stated it was easy for people to say “do some housecleaning” but stressed studies and audits have shown the city already runs lean and works very hard to make sure taxpayer dollars are used effectively and efficiently, and stated unfortunately cuts were not over as the state would be coming back to take more money from cities. Upon question of Councilmember Xiong City Attorney Sanchez clarified if the veto is not overridden then the matter is deemed to be administrative and the city manager could proceed with implementation without further council approval. Councilmember Xiong stated even though this was a procedural issue council still needed to thoroughly discuss it this date as they would lose the opportunity of discussion if the veto is not overridden, and presented numerous questions/comments relative to how the city attorney determined this matter was administrative, limited senior services in District 1, **(5 - 0)** services at Quigley and Lion’s parks, number of kids who use the centers, service reductions, costs, cost per contact, perception of an unwillingness to make a small investment in kids, the well known impact of unsupervised kids, which geographical areas will be affected the most, affect on low income areas being material, the overall impact of closures having a great value, and the ability of council to bring back policies in the future to amend the budget, with Mr. Sanchez, Mr. Cooper and Mr. Souza responding throughout. Councilmember Xiong emphasized the PARCS plan was material and urged council to override the veto. Councilmember Perea also urged the veto be overridden emphasizing 2,200 kids being affected was material, stated the devastation will be huge if the centers close and stressed prevention and intervention were key, and spoke to the lack of parks in his neighborhood and requested council members visit his neighborhood to see.

Acting President Westerlund stated a policy discussion was held and could be held every week if members wanted that, and stressed materiality was the legal issue here, the city had limited dollars, and public safety was the #1 issue and urged a “no” vote. Councilmember Xiong stated he did not believe what was in front of him “was it” and he just wanted other options looked into. Acting President Westerlund added he met with all departments and went through the numbers and was comfortable staff went through a thorough process. Upon questions of President Sterling Mr. Cooper stated equipment at the centers would be moved and stored in a safe manner, at open sites computer capabilities would be bumped up to become computer centers, and volunteers would be sought for senior extra-curricular activities.

A motion of Councilmember Brand, seconded by Acting President Westerlund, to override the mayoral veto of legislative action #1 relating to the PARCS Department budget reduction plan failed, due to the need for five (5) affirmative votes, by the following vote:

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

At this point proceedings were interrupted for the lunch recess.

**LUNCH RECESS - 12:17 P.M. - 1:34 P.M.**

Proceedings continued.

**#3. LEGISLATIVE ACTION ENTITLED: DETERMINE THAT DESIGNATING 84 HOURS ANNUAL FURLOUGH FOR SWORN FIRE DEPARTMENT PERSONNEL AND CLOSURE OF TWO (2) STATIONS IS A MATERIAL DECISION**

Councilmember Brand made a motion to override the mayoral veto and clarified again he would be voting “no” as he agreed with the mayor’s decision. The motion was seconded by Acting President Westerlund.

Councilmember Perea stated he felt the furlough and station closures were connected with one causing another but council decided that was not so and presented questions relative to what the plan was now, how the furlough would now get spread across the city, what stations ended up losing as a result of keeping the two stations open, volume of calls at stations 1 and 4 compared to stations 10 and 18 that were proposed to be shut down, if the options presented at the last discussion were still options, how many fewer firefighters will be on staff daily, the 2-in/2-out rule and how that will affect response times, what areas of the city will be affected the most, and amount of city resources used at the large northwest fire, with Chief Bruegman responding throughout. Councilmember Perea stated this was a material change, agreed there were no good options but stated reducing companies was a bad option, and stated the inner city took a hard hit with the parks system and would now take a hit with fire protection and urged a “yes” vote on the override. Upon question of Councilmember Xiong Chief Bruegman stated council would be presented with an assessment on the impact of this change in six months. Councilmember Xiong stated he wanted to see all the impacts early on and added he agreed with Councilmember Perea that this was material and he would support the motion. City Manager Souza and Chief Bruegman responded to questions/comments of President Sterling and/or clarified issues relative to why the closure of the two stations was still included in the above title, rural fire station 18 still being in service but having slower response times with one company in service, reason for the 84 hour furlough versus 56 or 60 hours, if the hours will be increased next year, if the furlough was part of the negotiations, and the concessions and furloughs other bargaining units gave. Acting President Westerlund **(6 - 0)** thanked Chief Bruegman for meeting with him and going over the numbers and clarified issues relative to the deployment structure and the 84 hour furlough.

A motion of Councilmember Brand, seconded by Acting President Westerlund, to override the mayoral veto of legislative action #3 relating to the Fire Department budget reduction plan failed, due to the need for five (5) affirmative votes, by the following vote:

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

**#2. LEGISLATIVE ACTION ENTITLED: DETERMINE THE DE-FUNDING OF 145 CIVILIAN POSITIONS IN THE POLICE DEPARTMENT, WITH FORTY-ONE (41) OF THOSE POSITIONS CURRENTLY VACANT, IS A MATERIAL DECISION**

Councilmember Brand made a motion to override the mayoral veto and again clarified he would be voting “no”, and reiterated he wanted the city manager to come back on April 1<sup>st</sup> with an evaluation of the specific overtime costs related to the layoffs of the civilian employees to see whether that was an effective move.

Councilmember Xiong requested staff also evaluate and report back on the impact on service, and presented questions relative to the functions of CSOs, PAL CSOs and impacts, and what the cost was for two CSO positions, with City Manager Souza and Chief Dyer responding. Councilmember Perea stated he wanted to try to assess what the impact on the street would be with the

layoffs, stated he agreed with the chief that public safety was an investment and not a cost, and questioned what retreating on that investment will mean to people on the street, prison reform talk and how the department can move forward with policing with decreasing resources and ever-increasing gang and crime problems, priority one calls, if crime was seasonal/predictable, crime statistics, inmate releases, at what time period the city did not have CSOs, and CSOs being a good idea and needing to be kept by overriding the veto, with Chief Dyer responding throughout.

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Acting President Westerlund spoke to the high number of auto thefts in the 1990s and how that number decreased due to the department's efforts, acknowledged one crime was one too many but emphasized pro-active policing will not be touched and things needed to be put in perspective and further elaborated, and upon his question Chief Dyer stated this budget reduction plan had the least impact on citizens. Councilmember Brand agreed things needed to be put in context and emphasized the city was in unprecedented economic times, other cities were laying off sworn officers, and he agreed with concerns on prison releases but given all the facts council had to trust in Chief Dyer's judgement as there was no alternative.

A motion of Councilmember Brand, seconded by Councilmember Borgeas, to override the mayoral veto of legislative action #2 relating to the Police Department budget reduction plan failed, due to the need for five (5) affirmative votes, by the following vote:

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

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**(10:00 A.M. #1) MEETING OF THE JOINT POWERS FINANCING AUTHORITY**

The City Council recessed at 2:24 p.m. and convened in regular session as the Joint Powers Financing Authority (JPFA).

**(‘A’) JPFA RESOLUTION NO. 31 - AUTHORIZING CERTAIN FINANCE OFFICERS OF THE CITY OF FRESNO TO SIGN VARIOUS INVESTMENT AND COMMERCIAL BANKING DOCUMENTS AND PROVIDE VERBAL INSTRUCTION REQUIRED FOR THE PRUDENT FINANCIAL ADMINISTRATION AND SAFEKEEPING OF JPFA FUNDS**

Treasury Officer Wiles advised this matter, along with following 10:00 a.m. #2 item, were housekeeping matters due to the addition of new City Controller Gray and recommended approval. Councilmember Dages left at 2:26 p.m. and was absent for the remainder of the meeting.

On motion of Vice Chair Swearingin, seconded by Chair Sterling, duly carried, RESOLVED, the above entitled JPFA Resolution No. 31 hereby adopted, by the following vote:

Ayes : Swearingin, Xiong, Sterling  
Noes : None  
Absent : None

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The JPFA adjourned their meeting at 2:27 p.m. and the City Council reconvened in regular session.

**(10:00 A.M. #2) RESOLUTION NO. 2009-256 - AUTHORIZING CERTAIN FINANCE OFFICERS OF THE CITY OF FRESNO TO SIGN CITY CHECKS AND VARIOUS INVESTMENT AND COMMERCIAL BANKING DOCUMENTS AND PROVIDE VERBAL INSTRUCTION REQUIRED FOR THE PRUDENT FINANCIAL ADMINISTRATION AND SAFEKEEPING OF CITY FUNDS**

On motion of Acting President Westerlund, seconded by President Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2009-256 hereby adopted, by the following vote:

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

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**(10:00 A.M. #3) PRESENTATION BY THE PUBLIC UTILITIES DEPARTMENT AND FINANCE DEPARTMENT ON WATER METERS IN PLANNED UNIT DEVELOPMENTS (PUDs)**

**154-167**

**12/10/09**

Assistant Public Utilities Director Martin introduced and gave a brief overview of the item, and Water Division Assistant Public Utilities Director Querin and City Controller Gray gave a PowerPoint presentation which consisted of Background of Planned Unit Developments (PUDs), Individual PUD Unit Meters, Master Meter Background **(7 - 0)**, Types and Number of PUDs, Stand Alone PUD Customers as Percentage of Total SFR Water Customers, Monthly Water Bill Comparison, and Home Owners Association (HOA) Billing Considerations and Options.

Kerri Gans, Mansionette Village II PUD, E. Fallbrook Avenue, stated she and others met with PUD staff on the issue and the matter would be discussed at their HOA meeting on December 14<sup>th</sup>, stated she understood the city's belief that they were following the code and mandate for master meters but stated depending on what side of the table you were on it could be interpreted at least two ways, and advised they were currently conducting research on information provided on the building code and other related matters and although they were working with the public utilities department towards a resolution she did not know that they had found one yet.

Acting President Westerlund spoke to the issue, to his understanding of master meters, and to why people buy into PUDs, including his mother, stated given the five-year rate plan and other factors it would be hard-pressed and he would not be supportive of the city trying to go in to install individual meters, stated he understood concerns but people were aware of this when they purchased their units and he felt the matter needed to be turned over the HOAs to decide, and stated this matter did need further discussions for future PUD developments. Mr. Gray, City Attorney Sanchez, Mr. Martin and City Manager Souza responded at length to questions and/or comments of Councilmembers Brand, Xiong and Borgeas relative to master meter rates, if people will pay less with master meters versus individual, the cost of individual meters being the issue, need to change the building code for future developments to give people a choice, if the city would pay the cost of the meters themselves if HOAs/residents create the utility easement and do all the necessary work, if there was a code requirement to inform new buyers about master meters, if a policy/code amendment was needed to make that a requirement, what the rough cost would be for the city to pay for the transition to individual meters, why the city's responsibility in private developments stops at the gate, inequities with infrastructure requirements, and if the city has ever gone into private developments and put in infrastructure in the roads only.

Upon the invitation of Acting President Westerlund Ms. Gans came forward and addressed some comments stating at her PUD the city already had utility easements in place within the CC&Rs and questioned how building code Section 12-1417 applied when the city started individually billing each homeowner for utilities around 1999. Acting President Westerlund clarified rate-payers were paying for the meters which was planned for, if \$10 million was the cost for individual meters the rate-payers and PUD residents would have to pay for that, and reiterated Ms. Gans and PUD residents made their choice as they saw the beauty of going into a PUD and the equity that goes with the advantages of being in a PUD versus a single-family dwelling. There was no further discussion.

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**(8 - 0)** President Sterling noted next week was the last meeting before Christmas and due to a request from a couple of council members advised council would be taking a three hour lunch break up until 2:00 p.m. or so due to luncheon commitments, with City Manager Souza speaking to the agenda schedule and stating there would be that flexibility.

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**(10:30 A.M.) CLOSED SESSION:**

**(‘A’) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:**

- 1. CITY OF FRESNO V. UNITED STATES ARMY CORPS OF ENGINEERS, NATIONAL GUARD BUREAU, AND THE BOEING COMPANY - OLD HAMMER FIELD/FRESNO AIR TERMINAL ENVIRONMENTAL SITE**
- 2. MICHELE MAHER V. CITY OF FRESNO, ET AL., U.S. DISTRICT COURT CASE**

The City Council met in closed session in Room 2125 at the hour of 3:14 p.m. to consider the above matters and the meeting was adjourned thereafter.

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**ADJOURNMENT**

There being no further business to bring before the City Council, the hour of 4:17 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

*Approved* on the \_\_\_\_17th\_\_\_\_ day of December, 2009.

\_\_\_\_\_/s/\_\_\_\_\_  
ynthia Sterling, Council President

ATTEST \_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk

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**154-169**

**12/10/09**