

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

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

Andrew T. Souza City Manager  
 James Sanchez, City Attorney  
 Becky Klisch, City Clerk  
 Cindy Bruer, Deputy City Clerk

Sr. Pastor David Rutherford of the Northside Christian Church gave the invocation and President Perea led the Pledge of Allegiance.

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**PRESENTATION OF S.P.C.A. PET OF THE MONTH – COUNCILMEMBER DUNCAN**

Presented two kittens approximately two months old.

**PROCLAMATION OF “SAM HINES DAY” – COUNCILMEMBER DAGES**

Read and presented.

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**APPROVE MINUTES OF NOVEMBER 19, 2007**

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of November 19, 2007, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

**ACTING PRESIDENT XIONG:** Questioned the status of Information Services Department’s plan to incorporate GIS with other City departments.

**COUNCILMEMBER STERLING:** (1) Thanked the Community Sanitation Division staff for their hard work last week at the homeless encampment at California and “G” Street, known as the “Hill” and requested staff provide a dumpster or a scheduled clean-up once or twice a month with City Manager Souza stating information would be provided. (2) Stated she was pleased to hear there was a joint meeting scheduled with Fresno County Board of Supervisors and questioned the status of scheduling a meeting with the Fresno Unified School District with President Perea stating two meetings had been scheduled which did not come to fruition and recommended scheduling the meeting early next year during a regular Council meeting. (3) Parks, After School, Recreation and Community Services Director Cooper reviewed the various activities that took place last Saturday at Community Day and reviewed the events for the 78<sup>th</sup> Annual Christmas Parade. Event Manager Broomfield gave an overview of the activities scheduled for “Christmas in the Park” at Eaton Plaza following the parade.

**COUNCILMEMBER WESTERLUND:** (1) Commended Fashion Fair Mall on their Christmas tree lighting ceremony. (2) stated this Wednesday was a Fresno County Transportation Authority meeting for the month of December and one of the items was to look at bonding issue and would need to be discussed by the Council at a future date.

(3) Stated there was a significant budget issue coming soon and expressed concern with the downturn of property tax revenues and sales tax revenues, adding a major concern was a resolution of reimbursement for the bonding coming forward for Police and Fire Services (4) Questioned the status of the Trump Organization Development Agreement with City Attorney Sanchez stating a document had been prepared and tentatively scheduled for the December 18, 2007, Council meeting.

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**APPROVE AGENDA:**

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

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

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**ADOPT CONSENT CALENDAR:**

Councilmember Dages registered a “no” vote on Item 1-G.

**(1-A) RESOLUTION NO. 2007-401** - OF INTENTION TO ANNEX FINAL TRACT NO. 5728, AS ANNEXATION NO. 25 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 11(**COUNCIL DISTRICT 1**) - PUBLIC WORKS DEPARTMENT

**(1-B) \* RESOLUTION NO. 2007-402** - 39TH AMENDMENT TO AAR NO. 2007-214 APPROPRIATE \$6,529,500 FOR THE RE-BUDGET AND \$291,500 FOR THE REALLOCATION OF VARIOUS OPERATING AND CAPITAL PROJECTS IN THE PUBLIC WORKS DEPARTMENT TO PROVIDE FOR THE COMPLETION OF PROJECTS THAT WERE PREVIOUSLY APPROVED BY COUNCIL (**REQUIRES 5 AFFIRMATIVE VOTES**) – PUBLIC WORKS DEPT.

**(1-C) \* AWARD A REQUIREMENTS CONTRACT TO ECONOLITE OF ANAHEIM, CA IN THE AMOUNT OF \$169,948.87 FOR TRAFFIC SIGNAL CABINETS AND ANCILLARY DEVICES – PUBLIC WORKS DEPARTMENT**

**(1-D) \* AWARD A CONTRACT IN THE AMOUNT OF \$328,650.96 TO CUMMINS WEST, INC. OF FRESNO, CA FOR RE-POWER OF THREE (3) CAT 623 SCRAPERS – GENERAL SERVICES DEPT./FLEET MANAGEMENT**

**(1-E) AFFIRM APPOINTMENTS OF CECELIA MCLOUGHLIN AND DENNIS M. JOHNSON TO THE DISTRICT SIX PLAN AND IMPLEMENTATION COMMITTEE - COUNCILMEMBER DUNCAN**

**(1-F) \* BILL NO. B-88 - ORDINANCE NO. 2007-76 – (FOR ADOPTION)** REPEALING DIVISIONS 1, 2, 3, 4, 5 AND 6 OF ARTICLE 1 OF CHAPTER 11 AND ADDING ARTICLE 1 AND 6 TO CHAPTER 11 OF THE FRESNO MUNICIPAL CODE RELATED TO ADOPTION OF CALIFORNIA BUILDING, PLUMBING, MECHANICAL, ELECTRIC AND ENERGY CODE WITH MODIFICATIONS AND TO RENUMBER THE FLOOD PLAIN ORDINANCE – PLANNING AND DEVELOPMENT DEPARTMENT

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

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

**(1-G) \* BILL NO. B-95 - ORDINANCE NO. 2007-93** – Repealing Article 10 of Chapter 5, and adding Article 10 to Chapter 5 to the Fresno Municipal Code relating to fire and life safety regulations– Fire Department

On motion of Councilmember Duncan, seconded by Acting President Xiong, duly carried, RESOLVED, the above entitled Bill No. B-95 adopted as Ordinance No. 2007-93 hereby adopted, by the following vote:

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

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

Sherry Smith, 4724 W. Swift, spoke to the issue of the relocation of Fire Station 16 and Ferrera Engine No. 16.

Bob Whalen, 1175 N. Chapel Hill, Clovis, thanked Councilmembers for their help and participation with the Clovis Salvation Army.

Barbara Dunn, 4650 N. Van Ness, owner of an apartment building on N. Wishon, spoke to the issue relative to receiving a citation for an assessment for fire extinguishers and smoke detectors for the apartment complex. Acting President Xiong recommended Ms. Dunn meet with his staff and requested the City Manager Souza follow-up with Mr. Souza stating staff would work with the Fire Department and resolve the issue administratively.

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**CITY COUNCIL:**

**(9:15 A.M. 'B') DISCUSSION AND DIRECTION TO INITIATE A STUDY TO INCLUDE AN ECONOMIC ANALYSIS OF ACTION TO LIMIT ENFORCEMENT OF DOWNTOWN PARKING METERS MONDAY THROUGH FRIDAY BETWEEN THE HOURS OF 6:00 A.M. AND 6:00 P.M. EXCLUDING HOLIDAYS AND PARKING GARAGES – COUNCILMEMBER DAGES**

Councilmember Dages requested the parking meter hours be returned to the original schedule of 6:00 a.m. to 6:-00 p.m. Monday through Fridays, with Saturdays, Sundays and holidays free including events or any activities occurring downtown, noting the reason was it was very confusing as to know when an event was taking place. Councilmember Dages stated there were approximately 72 games that occur at Chukchansi stadium per year and people should have the right to park on the street by a meter after 6:00 p.m., adding the garages would still be charging. Councilmember Dages stressed over a billion dollars had been spent to improve downtown and to encourage people to come downtown, adding people should not receive a parking ticket when they attend an event downtown.

A motion was made to direct staff to return to the Council with enabling documents limiting enforcement of downtown parking meters and was acted upon after brief discussion.

**(2-0)** Councilmember Duncan expressed concern with an economic analysis not being conducted as to what the fiscal impact would be on the City of Fresno and the parking budget, adding it was a misconception that the parking meter money was used to finance the stadium, noting the meters were installed to ensure customers would have temporary parking for downtown business purposes and recommended an analysis be performed prior to the City facing a possible \$18 million deficit in the upcoming budget.

Councilmember Calhoun and Acting President Xiong concurred with Councilmember Duncan, adding the need to review the facts before voting on the above motion. Councilmember Dages stated the last time this was done the analysis showed the City would save approximately \$47,000 on an annual basis.

An amendment was made to include an economic analysis be performed and was action upon after additional discussion.

Councilmember Dages stated if the change did cost a small amount of money, it was a small investment to get people to come downtown, adding schools discontinued having graduation ceremonies at the Convention Center because people would receive parking tickets. Councilmember Dages stated the motion was to bring back an analysis and the resolution to make the change at the same time. Councilmember Westerlund stated when the first change was administered, an analysis was provided to Council first and then the resolution making the change. Public Works Director Wiemiller recommended a workshop be conducted in early January that would include the requested analysis and the resolutions requested.

Councilmember Sterling stated the installation of parking meters in Chinatown did not work due to lack of housing and businesses and were removed and at the present time, housing was currently being constructed and more venues are being established, adding the amendment would make a better flow until the housing and establishment of businesses have been completed. City Manager Souza stated the study needed to be done to include the entire downtown area, adding there could be a

significant diversion of traffic from parking garages to meters, losing the current rates from the meters, adding his concern with the statement that every time somebody came downtown they would leave with an \$18.00 ticket, stressing staff did not randomly drive around and issue tickets to prevent people from coming downtown.

President Perea emphasized the importance of reaching an agreement which would solve the parking issues, adding the rules had kept changing resulting in people not understanding what the parking rules were. Councilmember Duncan requested businesses along Fulton Mall be contacted for their input when the analysis was done along with feedback from the two private parking structures.

President Perea recognized and welcomed student visiting from Powers Elementary School.

A motion by Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, staff directed to return in 30 days with a workshop, economic analysis and enabling documents to change parking enforcement of downtown parking meters Monday through Friday between the hours of 6:00 a.m. and 6:00 p.m. excluding holidays and parking garages, by the following vote:

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

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**(9:15 A.M. 'A') BILL NO. B-97--(FOR INTRODUCTION) - AMENDING SECTIONS 3-540, 3-541, 3-542, 3-566 AND 3-568 TO THE FRESNO MUNICIPAL CODE, RELATING TO AN EARLY RETIREMENT OPTION OR ENTRY INTO THE DROP PROGRAM UNDER THE EMPLOYEES RETIREMENT SYSTEM PROGRAM - COUNCILMEMBER CALHOUN**

Councilmember Calhoun gave a brief review of the report, stating the benefits would reflect an early retirement, reviewed other organizations who had provided the same benefits, adding for the record, after performing due diligence on the matter, recommended the Council consider allowing for early retirement and entry into the City's Deferred Retirement Option Program (DROP) program beginning at age 50 using a cost neutral actuarial reduction factor. Councilmember Calhoun stated the item would be introduced today and return at a later time for a final vote.

Speaking in support were: Alex Correa, Fresno City Employees' Association, Fresno, CA, expressing the importance of the employees being fully informed of the reduced benefits; Dennis Major, Business Agent for Management Employees' Association, also spoke in support, noting there were employees who would benefit from this opportunity.

Frank Balekian, 398 N. Martha Ave., stated this issue was decided upon over a year ago by the Retirement Board and had since been pending further action, adding the item was a meet and confer issue, advising Labor Relations needed to meet with unions for discussion. Mr Balekian stated the early retirement would result in the employee losing approximately 25% of their retirement benefit they had earned at that time and urged the issue be codified in the Fresno Municipal Code to fully disclose to the employee and their spouse and be witnessed by an independent third party.

Retirement Administrator McDivitt stated this was a cost neutral benefit enhancement to the system and the employee would be drawing benefits for five more years, therefore reducing the benefits, adding to enroll in the DROP Program over thirty initials are required to file off on disclosures and requested approval.

Councilmember Westerlund requested additional time to review the technical issues of the amendment with Councilmember Calhoun stating the item would be introduced today and return next week for adoption. City Attorney Sanchez stated if the Council was concerned staff would go through a meet and confer process with brief discussion ensuing.

Councilmember Duncan expressed concern with the large cities being referenced, adding the City of San Francisco currently had a \$229 million deficit, Los Angeles had a \$95 million deficit, noting he had read these cities got into their situation by providing overaggressive benefits to employees and retirees, adding it was not a good move to drop the retirement age from 55 to 50 years old. Councilmember Dages spoke in support of the amendment, stressing the importance of notifying the employee of the benefit reduction.

On motion of Councilmember Calhoun, seconded by Acting President Xiong, duly carried, RESOLVED the above entitled Bill No. B-97 introduced before the City Council and laid over to December 11, 2007, by the following vote:

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

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DIRECT THE DEPARTMENT OF PUBLIC UTILITIES TO RESEARCH, REVIEW AND EVALUATE THE POTENTIAL IMPLEMENTATION OF A CITY HOT WATER RECIRCULATION SYSTEM REBATE PROGRAM AND RETURN TO COUNCIL BY JUNE 1, 2008 WITH RECOMMENDATIONS – COUNCILMEMBER WESTERLUND

Councilmember Westerlund reviewed the report, stating the hot water recirculation system was a way to save water, noting it was important to figure a way to provide an incentive for residents to install some type of water recirculation system, adding there were products on the market at an affordable price which would save on energy and water. Councilmember Westerlund stated the City of San Antonio, Texas currently gave up to \$150.00 rebate, the City of Scottsdale, Arizona gave a \$200 rebate and Albuquerque gave a \$100.00 rebate, and requested input from staff to look into a system, analyze from a fiscal perspective, noting if the results were positive, it would be profitable to start a Citywide rebate program, adding look at older homes as well as the new homes being built.

Professional Don Larson, reviewed how the re-circulating pump worked to provide instant hot water, noting significant amounts of water was being saved. Mr. Larson stated the system cost approximately \$400.00, adding it would be to the homeowners advantage when water meters were installed.

Assistant Public Utilities Director Martin stated it was the next step due to residents being charged for water when the meters were installed in the future, adding there would be some financial implications for the Water Division, noting as part of the analysis and program, staff would return with a plan to show an estimate of the amount of water saved by the system.

A motion to approve the above entitled item was made and acted upon after brief discussion.

Councilmember Calhoun spoke in support. Councilmember Sterling stressed the importance of looking into providing consideration to low income and fixed income residents and expressed concern with the system not being adaptable to older homes with Mr. Martin responding. Councilmember Sterling advised she would inform the 10 X 10 Committee and requested Water Conservation Specialist Laikam be in attendance to provide further update.

Councilmember Dages requested the maximum potential of participants be included in the analysis and questioned where the funding would come from with Mr. Martin stating the funds would come from the Enterprise Public Utilities, specifically the Water Division. Discussion ensued regarding looking into new construction and possibly requiring larger homes over a certain square footage to require the circulation system. At the hour of 10:29 a.m. Acting President Xiong left the meeting briefly. President Perea also spoke in support and recommended making this a standard as part of the housing rehabilitation program.

On motion of Councilmember Westerlund, seconded by Councilmember Calhoun, duly carried, RESOLVED staff directed to research, review and evaluate the potential implementation of a City hot water recirculation system rebate program and return to Council by June 1, 2008, with recommendations, by the following vote:

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

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**(9:15 A.M. ‘D’) REQUEST UPDATE ON STATUS OF BUILDING PLANS FOR THE PROPERTY AT THE NORTHEAST CORNER VAN NESS AND INYO - COUNCILMEMBER CALHOUN AND COUNCILMEMBER STERLING**

Acting President Xiong returned to the meeting at 10:33 a.m. Planning and Development Director Yovino reviewed the status report and introduced Mr. Tutelian. Mr. Tutelian reviewed the update of the progress of the building, adding a new fence had been placed around the building, the structural drawings had been completed, advised of the timelines, noting the construction was scheduled to begin in June, 2008. At the hour of 10:34 a.m. Councilmember Dages left the meeting briefly. Mr. Tutelian stated the building plans were on schedule with the agreements with Code Enforcement and Planning, Development Department and the City Attorney’s Office and advised the demolition would commence this week and briefly reviewed the new plans for the building. Councilmember Calhoun thanked the Tutelian family for getting involved in downtown, adding progress was occurring in the downtown area. At the hour of 10:39 a.m. Councilmember Dages returned to the meeting.

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**(9:30 A.M.) APPROVE DOCUMENTS RELATING TO MOBILE VENDORS:**

**A. BILL – (ALTERNATE #1) (FOR INTRODUCTION) - AMENDING SUBSECTION (G) OF SECTION 9-1107 OF THE FRESNO MUNICIPAL CODE, RELATING TO MOBILE VENDORS WITHIN 150 FEET OF PROPERTY LINE OF PUBLIC OR PRIVATE SCHOOLS – CITY ATTORNEY’S OFFICE**

**B. BILL - (ALTERNATE #2) (FOR INTRODUCTION) - AMENDING SUBSECTION (G) OF SECTION 9-1107 OF THE FRESNO MUNICIPAL CODE, RELATING TO MOBILE VENDORS WITHIN 750 FEET OF PROPERTY LINE OF PUBLIC OR PRIVATE SCHOOLS – CITY ATTORNEY’S OFFICE**

City Attorney Sanchez reviewed Alternative #11 relating to Council’s last direction and Alternative #2 which came about after discussions with Fresno Unified School District and Councilmember Duncan. Councilmember Duncan reviewed the report, adding he had conversations with various school districts who had expressed concerns. He advised after discussions with Fresno Unified School District a modification was requested to Alternative #2 which prohibited mobile vendors from being within 750 feet of a school, public or private, between the hours of 7:00 a.m. and 6:00 p.m., adding a modification to the hours to reflect 7:00 a.m. and 7:00 p.m. which had the support of Fresno Unified School District, Central Unified School District and Clovis Unified School District as well as Mr Gill, who represented the ice cream vendors.

A motion was made to introduce a modified bill to prohibit mobile vendors from being within 750 feet from public or private schools between the hours of 7:00 a.m. and 7:00 p.m. on school days was acted upon after extensive discussion.

Speaking to the issue were: Letitia Boone-Robertson, 1727 N. Channing Avenue, stated she lived behind a school and had witnessed inappropriate situations with ice cream vendors and children and requested the 1,000 feet barrier be maintained; Pastor Bill Knezovich, President of Faith and Community, 4723 N. Warren, provided a petition of signatures from all zip codes throughout Fresno who requested the 1,000 feet distance be retained, on file in the City Clerk’s Office, stating ice cream trucks were dangerous, noting it was inappropriate for ice cream vendor to sell plastic guns and urged Council to maintain the 1,000 feet distance; Mr Gill spoke in support of the 750 feet distance and the modification of time; Darryl Hefke, 851 Van Ness Avenue stated some ice cream truck were not maintained and expressed concern about some of the practices he had witnessed, and Danny Agreewald (spelling?) stated he was an ice cream vendor and did not sale any illegal items.

Councilmember Sterling expressed concern with the testimony of the parent who witnessing inappropriate situations between an ice cream vendor and her child, adding there should be better restrictions on how the vendors were monitored, noting she did not want to stop anyone from making a living, stressing the important issue was to make the areas around the schools as safe as possible. **(4-0)** Councilmember Sterling recommended making it a priority of inspecting and ensuring the vendors were staying within the designated area, adding the distance should remain at 1,000 feet, Code Enforcement should inspect the trucks and any item relating to a gun or some type of paraphernalia that would initiate violence be dealt with, adding the one parent’s testimony made a difference in her decision.

A friendly amendment was made to include that at the end of the school year a report be provided to Council by the school districts and the Police Department relating to how the changes worked, was acted upon after extensive discussion.

Councilmember Westerlund stated Wolters Elementary School had contacted him stating vendors would park outside the kindergarten gate and sell to the children after school, adding if a vendor was given a citation they must not have been operating properly and questioned the various costs for citations with Housing Program Supervisor Schuber responding. Councilmember Westerlund stated he would support Alternative #2 if it was amended to 1,000 feet with a definition beginning at the school’s property line.

Councilmember Duncan stated the importance of the modification was to make sure there was a reasonable opportunity to allow the vendors to make a living to support their families, adding there were a few vendors selling toy guns and it was brought before the Council and rectified, stressing the Council had an obligation to made the rules reasonable and Alternative #2 with the modification, would not change the issuance of citations in the event a vendor violated the rules.

Extensive discussion ensued by Acting President Xiong with Mr. Schuber responding to questions pertaining to citations and permits obtained by mobile vendors. Acting President Xiong stated the importance of providing an opportunity for everyone to make a living and spoke in support of a report returning to Council at the end of the school year and requested all the stakeholders be notified to be able to provide input. Councilmember Dages expressed concern with mobile vendors requesting the changes, adding some vendors did not abide by the current rules, advising some vendors could not be contacted because they did not have a permit, noting the mobile vendors needed to police themselves prior to requesting rule changes. Councilmember Dages stated he had discussed the matter with several constituents in District 5 and they did not support the amendments.

Councilmember Duncan clarified the amendment to include the primary change in the ordinance other than the 250 feet was the selling times, adding the current ordinance allowed vendors to sell 7 days a week, 24 hours per day and the proposal was the sale time of 7:00 a.m. to 7:00 p.m. while school was in session. President Perea added he had discussed the matter with several principals in District 7 and also attended a block party and the majority did not want the rules to change and recommended the distance remain at 1,000 feet.

A motion by Councilmember Duncan, seconded by Councilmember Calhoun, to approve Alternative #2 amending Subsection (G) of Section 9-1107 of the Fresno Municipal Code, relating to mobile vendors within 750 feet of property line of public or private schools between the hours of 7:00 a.m. and 7:00 p.m.; to notify all stakeholders involved, and return to Council at the end of the school year with a status report failed, by the following vote:

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

A motion was made to amend Alternative #2 from 750 feet to 1,000 feet with the property line definition; hours of operation from 7:00 a.m. to 7:00 p.m. with a report to Council at the close of the current school year regarding an update was acted upon after brief discussion.

Acting President Xiong requested staff be directed to return to Council with an aggressive enforcement tool for mobile vendors with Councilmember Westerlund recommending returning during budget session for further discussion. Councilmember Calhoun emphasized the importance of staff providing a report to Council with the constituents' input on how the amendments were working.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, Alternative #2 amending Subsection (G) of Section 9-1107 of the Fresno Municipal Code, relating to mobile vendors to include 1,000 feet of the property line of any public or private school intended to education individuals eighteen years of age or younger between the hours of 7:00 a.m. and 7:00 p.m. on days when schools were in session, hereby introduced as Bill No. B-98 and laid over, by the following vote:

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

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**(11:00 A.M.) URGENCY BILL NO. B-99 – ORDINANCE NO. 2007-94 – (FOR INTRODUCTION AND ADOPTION) –**  
ADDING SECTION 9-235 OF THE FRESNO MUNICIPAL CODE RELATING TO IMPLEMENTATION OF THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006 FOR STATE FRANCHISE HOLDERS PROVIDING VIDEO SERVICE THROUGH THE CITY TO PRESERVE ALL OF ITS RIGHTS IN REGARD TO THE COLLECTION OF FRANCHISE FEES AND OTHER RELATED REGULATIONS IF AND WHEN THE EXISTING FRANCHISE AGREEMENT WITH COMCAST EXPIRES ON JANUARY 2, 2008 – CITY MANAGER'S OFFICE

Assistant City Manager Rudd briefly reviewed the staff report and recommended approval.

Speaking to the issue were: Randy Reed, Chair of the Community Media Access Collaborative, 1130 W. Fremont, stated the ordinance provided a level playing field for all of the video providers wishing to provide service in Fresno, and Stan Santos, 4353 Kenmore Drive, So., Vice President for Communications Workers of America #9408, spoke in support.

A motion was made to approve and was acted upon after brief discussion.

Brief discussion ensued regarding providing the legal infrastructure for Public, Educational and Governmental (PEG) with City Attorney Sanchez stating this action would allow for both the franchise fees and the PEG access fees under a permit that would be issued through the State of California and would be consistent with the City's ordinance. President Perea spoke in support of the PEG.

**(5-0)** On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, Bill No. B-99 introduced and adopted as Ordinance No. 2007-94, by the following vote:

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

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(2A) CONSIDER PHASE 4 OF THE CODE STREAMLINING PROJECT TO REPEAL AND RE-ADOPT CHAPTERS 4, 5 AND 8 OF THE FRESNO MUNICIPAL CODE AND TO ADOPT UNCODIFIED ORDINANCE RELATED TO ASSESSMENT PROCEDURES – CITY ATTORNEY’S OFFICE  
1. **BILL NO. B-100 – (FOR INTRODUCTION)** - TO REPEAL CHAPTERS 4 AND 5 AND ADD CHAPTERS 4 AND 5 OF THE FRESNO MUNICIPAL CODE  
2. **BILL NO. B-101 - (FOR INTRODUCTION)** - TO REPEAL CHAPTER 8 AND ADD CHAPTER 8 OF THE FRESNO MUNICIPAL CODE  
3. **BILL NO. B-102– (FOR INTRODUCTION)** - TO ADOPT UNCODIFIED ORDINANCE FOR CERTAIN ASSESSMENT PROCEDURES

City Attorney Sanchez gave a brief overview of the report.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, Bill Nos. B-100, B-101 and B-102 introduced and laid over, by the following vote:

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

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(2B) \* AUTHORIZATION TO NEGOTIATE AND ENTER INTO CONTRACT WITH DIAMOND TECHNOLOGIES, INC. FOR MICROSOFT TRAINING FOR AND AMOUNT NOT TO EXCEED \$269,050 - INFORMATION SERVICES DEPARTMENT

Chief Information Officer Hogg gave a brief overview of the staff report and recommended approval.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the Chief Information Officer is hereby directed to negotiate and enter into a contract with Diamond Technologies, Inc. of Bakersfield, California, for Microsoft Technical Training for an amount not to exceed \$269,050, by the following vote:

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

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(2C) \* **BILL NO. B-79 – (INTRO. 10/16/2007) (FOR ADOPTION)** - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO ALTERNATIVE BUILDING STANDARDS ADDING IN ITS ENTIRETY DIVISION 5 TO CHAPTER 11, ARTICLE 1, AND AMENDING THE TABLE OF CONTENTS OF CHAPTER 11 RELATING TO JOINT LIVING AND WORK QUARTERS AND ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT – ALTERNATIVE BUILDING STANDARDS

Councilmember Calhoun requested this item be continued to 3:30 p.m. with City Manager Souza concurring.

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**RECESS – 11:55 A.M. – 3:30 P.M.**

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(10:45 A.M.) DISCUSSION AND ACCEPTANCE REGARDING THE FIRE DEPARTMENT FIVE-YEAR STRATEGIC PLAN AND STANDARDS OF COVER – FIRE DEPARTMENT

(6-0) Fire Chief Bruegman stated the Fire Department had recently received an ISO upgrade of 2 and reviewed the Commission of Fire Accreditation International Accreditation Project which was a self assessment process that focused on ten specific categories, adding within the categories were 244 performance indicators along with 77 core competencies which were pass/ fail issues; advising a site visit may occur in the fall of 2008. Mr. Bruegman reviewed the 1710 standard; (**RECORDER MALFUNCTIONED AT THIS POINT – MEETING NOT RECORDED.**) Mr. Bruegman reviewed the Community Risk Assessment Model; Probability and Consequence Matrix, Department service level goals; 911 dispatch processing time – turnout time and travel time; discussed becoming a Recognized Model of Excellence in Fire/EMS Service Delivery; and reviewed the significant service enhancements for Fiscal Year 2008-2009; (**RECORDING RESUMES**) and reviewed the Fire Department’s Strategic Plan.

Chief Bruegman responded to questions by Councilmember Westerlund relating to the 5-year objectives with Mr. Bruegman stating a records management system had been added. Councilmember Duncan questioned the cost of fully funding and implementing the Strategic Plan of 2012 – 2013 with Fire Chief Bruegman responding.

Councilmember Calhoun expressed concern with not enough women as firefighters in the Fire Department with Fire Chief Bruegman stating a recruitment team had been formed with approximately 15 people, adding there would be a significant job outreach not only to women, but all people to come to the table and compete. President Perea commended and thanked the Fire Department for the informational workshop.

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**(9:45 A.M.) WORKSHOP REGARDING THE DOWNTOWN TRANSPORTATION INFRASTRUCTURE STUDY – TRANSPORTATION, PUBLIC WORKS DEPARTMENT AND PLANNING AND DEVELOPMENT DEPARTMENT**

Transportation Director Hamm showed a video of projects occurring downtown. Mr. Hamm introduced Peter Martin, Engineer for Wilson Smith Associates, and was experienced in transportation planning. Mr. Martin the following: the study and its purpose; the planning context to include Central Area Community Plan; railroads including rail consolidation implementation, quiet zones, high speed rail implementation, downtown station and grade separation; traffic to include fixing fragmented street network, no more street closure, CEQA development impact to level of service “E”, short two phase cycles, minimal use of left turn signal phases, simplify Tulare SR 41 interchange and upgrade “H” Street; public transit to include development of a stronger downtown circulator; upgrade passenger stop facilities; parking; pedestrian safety issues; bicycle to work on bicycle network to include safe access to downtown; Fulton Mall and wayfinding to improve signage.

Transit Planning Manager Downs reviewed the next steps, adding staff would return in 60 – 90 days with policy changes and proposals to express what the policy implication could be along with a proposed implementation schedule for the longer ranged programs, noting funding strategies would also be reviewed.

Speaking in support was Suzanne Bertz-Rosa, 320 E. Simpson, Member of the Board for Creative Fresno, echoed all the recommendations made in the workshop.

Councilmember Calhoun stated the reason he had requested the Fulton Mall item be postponed was due to the Fulton Mall being tied into this study, adding this study did not have a bearing on the Fulton Mall and questioned the Mall being off limits to the circulation pattern with Assistant City Manager Rudd stating as a transportation facility the mall was not a significant component as far as the overall movement of people through the downtown area, noting the mall’s future was predicated on land decisions in and around the mall area.

Councilmember Duncan stated the basis of the transportation study had become an economic issue and was disappointed in not addressing the downtown issue, adding the results did not show any commitment or direction, noting the workshop provided excellent information, but did not address the Fulton Mall, particularly the northern portion. No action taken.

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**(10:30 A.M.) \* RESOLUTION NO. 2007-403 – 463<sup>RD</sup> AMENDMENT TO MFS RESOLUTION NO. 80-420 ADDING THE MAJOR STREET IMPACT FEE APPEAL BOARD FEE – PUBLIC WORKS DEPT. /TRAFFIC ENGINEERING**

Public Works Director Wiemiller gave a brief overview of the staff report and recommended approval of the proposed fees.

On motion of Councilmember Dages, seconded by President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2007-403 hereby adopted, by the following vote:

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

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**(3:30 P.M.) WORKSHOP TO REPORT THE RESULTS OF THE 2006 FULTON MALL STUDY AND PRESENT PROPOSED SECTION 108 PROJECTS – CITY MANAGER’S OFFICE**

**A. APPROVE LIST OF ELIGIBLE PROJECTS UNDER VARIOUS STATE GRANT PROGRAMS**

Economic Development Coordinator Riddle reviewed the highlights of the results of the year 2006 study to include: mall background; study background; working group process; the positive and negative aspects of the Fulton Mall today; the community themes; **(8-0)** Mall study recommendations, noting some have been completed while other have been implemented; Section 109 proposed allocations; timelines; and concluded by pointed out the façade program boundaries and the infrastructure project boundaries.

Speaking to the issues were Ray McKnight, 10607 N Sea Shell Cove, Fresno, representing the Downtown Coalition, spoke in support of the proposal, adding it would be beneficial to the Fulton Mall which was an asset to the community, stressing the importance of providing more residential units in the area; Elliott Balch, 4857 N. Harrison Avenue, spoke in support, stating the focus needed to be on the infrastructure needs of the mall; Susanne Bertz-Rosa, 320 E. Simpson, Member of the Board for Creative Fresno, stated action needed to be taken and a more comprehensive study to include a specific Site Plan needed to be included.

Councilmember Calhoun expressed concern with a study performed in the year 2002, stating that study was an expensive study that dealt with issues that were being proposed today, adding the Fulton Mall had outlived its usefulness as a closed mall, stressing progress could have been made in 2002.

Ms. Riddle, Parks, After School, Recreation and Community Services Director Cooper and City Attorney Sanchez responded to questions by Councilmember Duncan on the definition of the Fulton Mall, how the Mall would be maintained in the future, the Forest City Development Area, and establishment of a PBID in the downtown area. Councilmember Duncan emphasized the importance of getting a PBID established by the property owners prior to spending \$10 million. Ms. Riddle stated staff would proceed with administrative issues such as working with the community to develop an assessment district and also create the application for Council approval at a later date. Councilmember Duncan expressed concern with the list of projects being premature, adding he would not support the whole approach due to there not being a plan for maintenance of the area and did not agree with the use of CDBG money to do facade improvements anywhere downtown.

President Perea stated it was an excellent idea to begin the wiring of the entire mall for Wi-Fi, and recommended hiring a sustainable landscape architect for the area who would keep the sustainability of the environment in mind. President Perea expressed concern with dealing with all the property owners in the area, and recommended staff involve the community in the project. No action taken.

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**(3:30 P.M. 'A')** APPROVE LIST OF ELIGIBLE PROJECTS UNDER VARIOUS STATE GRANT PROGRAMS

Assistant City Manager Rudd stated with all the City projects scheduled there was not enough funding at the local level, adding staff would look into funding opportunities under Proposition 1B, 1C and Proposition 84. Mr. Rudd stated staff was requesting Council approve the list of projects in order to deliver a lobbying package to Sacramento. Councilmember Westerlund stated Attachment "A" was not included in the report and requested a copy. Brief discussion ensued regarding various projects. No action taken.

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**(4:00 P.M. 'A') \* RESOLUTION NO. 2007-404 - 57TH AMENDMENT TO THE AAR NO. 2007-214 APPROPRIATING \$2,000,000 IN PARK IMPACT FEE BOND PROCEEDS FOR CAPITAL IMPROVEMENT PROJECTS IN COOPERATION WITH FRESNO UNIFIED SCHOOL DISTRICT (REQUIRES 5 AFFIRMATIVE VOTES) - PARCS**

City Manager Souza reviewed the staff report, stating an additional \$2,000,000 had been earmarked to be funded through the bond proceeds from the Parks Impact Fees for joint use projects for facilities in cooperation with Fresno Unified School District.

Speaking to the issue were: Lisa LeBlanc, Fresno Unified School District, spoke in support; Gloria Ponce-Rodriguez, 174 N. Pollasky #204, Clovis, representing the West Fresno Coalition for Economic Development, also spoke in support; George Finley, 252 E. Hawes Avenue, spoke in support, adding with some exceptions, and requested all involved to consider improving Edison High School's gym and the need for a swimming pool at the school; Mike Prandini, Building Industry Association (BIA), expressed his concern with using bond money, adding the Park Fee was to be used for new construction and not rehabilitation; **(9-0)** Michael Hanson, Fresno Unified School District, spoke in support; John Hutson, 3688 N., Delno, expressed concern with not having a middle school in West Fresno; Mary Curry, 312 N. Valencia Ave., stressed the importance of working together as a whole and to consider rehabilitating Edison High School; and Joe Herzog, 822 S. Claremont, spoke in support.

City Attorney Sanchez responded to Mr. Prandini's statements, stating Council was being requested to approve an appropriation resolution that would set aside the funding that could be expended, and the funding would be filtered through the legal steps, adding Council had full authority to proceed. Councilmember Calhoun stated this was a good partnership, adding Fresno Unified School District would decide appropriate use of the funding, noting this would allow more access for residents to use school facilities.

A motion was made to approve and was acted upon after extensive discussion.

Councilmember Sterling spoke of the importance of rehabilitating Edison High School and the need for a middle school in West Fresno and spoke in support. Councilmember Sterling recommended a joint meeting be scheduled with Fresno Unified School District to develop a plan to involve the public, and requested the definition of "joint use" and what would be the priorities for gyms, tracks, lighting and ball fields. Councilmember Dages spoke in support with Acting President Xiong concurring and, who thanked everyone involved.

Councilmember Westerlund questioned what the joint agreement would involve with Parks, After School, Recreation and Community Services Director Cooper and Mr. Sanchez responding, Mr. Hanson responded to questions by Councilmember Westerlund pertaining to how much money was needed to bring Fresno Unified School District up to a new standard. Councilmember Westerlund questioned approaching the County for funding and expressed concern with Central Unified School District and possibly Clovis Unified School District making the same request from the City, adding BIA needed to be involved in the process.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2007-404 hereby adopted, by the following vote:

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

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**(4:00 P.M. ' B' ) RESOLUTION - 54TH AMENDMENT TO THE AAR NO. 2007-214 REBUDGETING CAPITAL FUNDS FOR MULTIPLE PARK IMPACT FEE PROJECTS AND ESTABLISHING TWO NEW PROJECTS IN THE PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES CAPITAL IMPROVEMENT PLAN (REQUIRES 5 AFFIRMATIVE VOTES) - PARCS**

With Council concurrence the above entitled item was continued to December 18, 2007.

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**(2C) \* BILL NO. B-79 (INTRO. 10/16/2007) (FOR ADOPTION) - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO ALTERNATIVE BUILDING STANDARDS ADDING IN ITS ENTIRETY DIVISION 5 TO CHAPTER 11, ARTICLE 1, AND AMENDING THE TABLE OF CONTENTS OF CHAPTER 11 RELATING TO JOINT LIVING AND WORK QUARTERS AND ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT – ALTERNATIVE BUILDING STANDARDS**

With Council concurrence the above entitled item was continued to December 18, 2007.

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**(#3) CLOSED SESSION**

**A. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (a)**

**(A) CASE NAME: CITY OF FRESNO V. FRESNO CERTIFIED DEVELOPMENT CORPORATION**

The City Council met in closed session in Room 2125 at the hour of 6:06 p.m. to consider the above matter and adjourned thereafter.

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**ADJOURNMENT**

There being no further business to bring before the City Council, the hour of 6:14 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

*Approved* on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Henry T. Perea, Council President

ATTEST: \_\_\_\_\_  
Cindy Bruer, Deputy City Clerk