

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

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

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

James Bergen of the North Fresno Mennonite Brethren Church gave the invocation, and President Sterling led the Pledge of Allegiance.

PRESENTATION OF THE SPCA PET OF THE MONTH - COUNCILMEMBER XIONG

The pet of the month available for adoption, a 2-month old female Queensland puppy, was presented.

PROCLAMATION OF "CENTRAL VALLEY VETERANS' STAND DOWN 2009 DAYS" - PRESIDENT STERLING

Presented.

PRESENTATION OF "PRIME TIME FOR BUSINESS": JANZ DRY CLEANING - PRESIDENT STERLING AND D&CR DEPARTMENT

D&CR Local Business Initiatives Manager Huerta introduced the item, and Debra Tampesta of Janz Dry Cleaning gave a PowerPoint presentation on her company which consisted of the History, Market Niche, Customers, Employees, and What Can The City Do? President Sterling thanked Janz Dry Cleaning for their commitment and the D&CR department for the presentation.

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

Certificates of Commendation were presented to Shirley Tsutsui of the Airports Department; Rosa Vasquez of the Mayor/Council/Manager/Call Center/City Clerk Offices; Rachael McFarland of the City Attorney's Office; Dorothy Belcher and Lynn Rivas of the Finance Department; Bonnie Christian, Matthew Sullivan and Timothy Taylor of the Fire Department; Joe Vargas and Linda McCloud of Fresno Area Express (FAX); Mary Vera of the General Services Department; Laura Yanovsky of the Information Services Department; Gilbert Perez and Rich Rodriguez of the PARCS Department; Jackie Larkin of the Personnel Services Department; Benjamin Rash and Steven Taylor of the Planning & Development Department; Steven Casto, (2 - 0) Helen Rodriguez, Antonio Cuyler and Anthony Brown of the Police Department; Dan Cravins, Allen Carter, Rick Mendizabal, Gloria Rivera and Vincent Sweet of the Public Utilities Department; and Fabiola Lopez, Waymon Pendergrass and Steve Weber of the Public Works Department. A reception for the employees was held immediately following.

RECESS - 9:31 A.M. - 9:48 A.M.

APPROVE MINUTES OF JUNE 23, AND JUNE 25, 2009:

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the minutes of June 23 and 25, 2009, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) advised he attended the Care Fresno luncheon at Northwest Church and thanked all the faith-based organizations that have come together to work with the police department on neighborhood issues; (2) thanked Harvest Elementary for inviting him to their summer reading program; (3) thanked Senator Costa, Supervisor Case the task force for their work to bring the UC Medical School to the valley and spoke to the importance of being involved/engaged in the issue; (4) thanked public works and Teichert Construction for infrastructure improvements in his district; (5) thanked Mayor Swearingin for attending the API Leadership quarterly meeting; and (6) spoke to the census Complete Count Committee meeting and developing a strategy for the count.

Councilmember Brand (1) reported on the grand opening last week of the new state-of-the art park at Copper River adding it was a joint venture between Granville Homes and the city of Fresno; (2) spoke to the “Meet the Mayors” fund raising event for the Pop Laval Gallery held last evening stating it was a great event; and (3) reiterated a prior request to staff for an update on the Amgen Tour.

Acting President Westerlund (1) thanked Councilmember Brand for his leadership on the “Meet the Mayors”/Pop Laval fund raiser; (2) referenced articles in the Fresno Bee on the gas turbine engines at the wastewater treatment plant and upon his question Wastewater Manager Hogg stated the engines were now operational and operating very well; (3) advised he would be absent from next week’s Council meeting as he had an out of town family commitment; and (4) advised he read that the city of Sacramento was looking at two propositions to open up their “K” Street mall to traffic as the mall was not working and had not worked.

Councilmember Dages (1) requested staff address a dead tree and the dead landscaping/ground cover at the Mosqueda Center and the inoperable palm tree lights along Ventura/Kings Canyon; (2) requested an update on the community garden at the Peach/Butler park stating he was not being included in meetings/discussions and added he also was not included in the work between the City and Fresno Pacific University; (3) questioned when the Zoo EIR would be ready, with City Manager Souza stating the notice of preparation went out and staff would provide Council with a time line for the EIR; and (4) spoke briefly to the Mosqueda BMX bike park opening last week.

President Sterling (1) requested an update on the three Allegiant Airlines engine failures stating that was a public safety issue as Allegiant was based in Fresno; (2) advised she received a complaint from the Fulton discount mall concerning parking fee increases for merchants and requested an update; (3) congratulated the PARCS department on the Fresno Fiesta carnival at the Regional Sports Complex and requested staff look into providing a bus route out to the complex due to the outlying location and the number of events that are being held there; (4) thanked PARCS and public works staff for their work at the Jane Addams neighborhood and the tire clean up at Running Horse; and (5) reported she attended the Miss California reception, the meeting with U.S. Secretary Salazar, participated in the Emerald Debutante Ball, attended the state convention for the Church of the Living God at the downtown Radisson, participated in the water rally, attended the opening of the 180 East widening project in Mendota, helped with the Youth Nutrition Assistance Program kickoff, attended the Fresno Chaffee Zoo event and met with the new Zoo Director Scott Barton, attended the opening of Cotta-Coles and Associates in Madera, participated in the opening of the juvenile delinquency court, gave a welcome to the San Joaquin Valley Chicano/Latino Youth Leadership Institute in the Council Chambers, attended the 20th Site anniversary celebration for the Westside Seventh Day Adventist Church, participated in the Buddhist Temple Obon festival, advised she was now a new honorary Rotary member with the Downtown Club, hosted a community meeting on July 14th and thanked the SPCA and all city departments who participated, attended the Redevelopment Agency Community Outreach Plan meeting at the Hope VI Community Center, and attended the Mayor’s reception hosted by the Pop Laval Foundation along with other council members.

APPROVE AGENDA:

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(9:45 A.M. “D”) AUTHORIZE THE PUBLIC UTILITIES AND PLANNING & DEVELOPMENT DIRECTORS TO ENTER INTO AMENDMENT NO. 1 TOTALING \$888,701 FOR THE AGREEMENT WITH EDWA, INC., FOR WATER SUPPLY AND WASTEWATER ENGINEERING SERVICES, THE TRAFFIC ANALYSIS COMPONENT, AND PLAN MODIFICATION EVALUATION SERVICES TO SUPPORT THE PREPARATION OF THE EIR AND COMMUNITY SPECIFIC PLAN OF THE SOUTHEAST GROWTH AREA (SEGA)

1. RESOLUTION - 2ND AMENDMENT TO AAR 2009-149 APPROPRIATING \$649,000 FOR WATER DEMAND AND SUPPLY

ANALYSIS TO SUPPORT PREPARATION OF THE EIR AND COMMUNITY SPECIFIC PLAN OF THE SEGA

Removed from the agenda by staff.

(10:00 A.M.) CONTINUED HEARING ON APPEAL FILED BY GARY McDONALD AND FORMER COUNCILMEMBER JERRY DUNCAN ON THE TRACT MAP AND CONDITIONAL USE PERMIT APPLICATION, APPEALING THE PLANNING COMMISSION'S DENIAL OF VESTING T.T. MAP NO. 5933, CUP NO. C-08-59 (Continue to July 23, 2009, at 10:00 a.m.)

Continued to July 30, 2009, at 10:00 a.m. (not July 23rd as noted).

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

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

ADOPT CONSENT CALENDAR:

Donald Truesdale, President of FORCE (retired city employees), spoke in support of Item **1-Q** and urged support.

(1-A) APPROVE APPOINTMENT OF SANDY BROWN TO THE COUNCIL DISTRICT 6 PLAN IMPLEMENTATION COMMITTEE - COUNCILMEMBER BRAND; AND APPOINTMENT OF LISA CASAREZ TO THE COMMISSION ON THE STATUS OF WOMEN - PRESIDENT STERLING

(1-B) AUTHORIZE THE DIRECTOR OF AVIATION TO EXECUTE AMENDMENT NO. 1 TO THE AGREEMENT WITH JACOBS ENGINEERING GROUP, INC., FOR CONSTRUCTION ADMINISTRATION SERVICES RELATED TO TAXIWAYS B10/C10 AND THE DEMOLITION OF TAXIWAY B9 AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT IN AN AMOUNT NTE \$40,000 (ARRA PROJECT)

(1-C) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AN AGREEMENT WITH THE FRESNO COUNTY OFFICE OF EDUCATION (FCOE) TO ACCEPT FUNDING FOR A SCHOOL RESOURCE OFFICER AT THE FCOE TEILMAN CAMPUS

(1-D) APPROVE SIDE LETTER OF AGREEMENT WITH THE FRESNO CITY EMPLOYEES ASSOCIATION (FCEA), UNIT 3, REGARDING THE TRANSITION OF RECREATION LEADERS INTO OTHER CITY POSITIONS

(1-E) ADOPT A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF FRESNO PROFESSIONAL EMPLOYEES ASSOCIATION (NON-CONFIDENTIAL MANAGEMENT AND CONFIDENTIAL NON-MANAGEMENT, UNIT 13)
1. ADOPT A SIDE LETTER OF AGREEMENT WITH THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100 (NON-SUPERVISORY GROUPS AND CRAFTS, UNIT 7), DELAYING A SCHEDULED WAGE INCREASE AND OTHER CONSIDERATIONS

(1-F) REJECT ALL BIDS RECEIVED FOR THE SWITCHGEAR REPLACEMENT AND NEW BUILDING CONSTRUCTION AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

(1-G) RESOLUTION NO. 2009-156 - AUTHORIZING THE DEPARTMENT OF PUBLIC UTILITIES TO APPLY FOR \$700,000 SAFE DRINKING WATER STATE REVOLVING FUND ARRA FUNDING FROM THE CA DEPARTMENT OF PUBLIC HEALTH FOR THE CONSTRUCTION OF THE HERNDON TOWN WATER PROJECT, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES OR DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE CITY

(1-I) APPROVE CONTRACT CHANGE ORDER NO. 4 WITH ZIM INDUSTRIES, INC., TO PROVIDE A CONTRACT TIME EXTENSION OF 257 WORKING DAYS FOR THE PHASE II GROUNDWATER REMEDIATION AT THE FRESNO SANITARY LANDFILL, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CHANGE

ORDER ON BEHALF OF THE CITY

(1-J) ADOPT RESOLUTION OF INTENTION NO. 1068-D FOR THE VACATION OF THE SOUTH HALF OF W. BROWNING AVENUE BETWEEN N. MILBURN AND N. SALINAS AVENUES AND SETTING THE REQUIRED PUBLIC HEARING FOR AUGUST 20, 2009

(1-K) **RESOLUTION NO. 2009-157** - DEDICATING CERTAIN CITY-OWNED PROPERTY AT THE SOUTHWEST CORNER OF S. WILLOW AND E. BYRD AVENUES FOR PUBLIC STREET PURPOSES

(1-L) ACTIONS PERTAINING TO FRESNO IRRIGATION DISTRICT (FID) PEDESTRIAN BRIDGES

1. ADOPT CEQA NOTICE OF EXEMPTION PURSUANT TO CEQA GUIDELINES FOR THE NINTH STREET PEDESTRIAN BRIDGE
2. ADOPT CEQA NOTICE OF EXEMPTION PURSUANT TO CEQA GUIDELINES FOR THE DEL MAR PEDESTRIAN BRIDGE
3. APPROVE ENCROACHMENT AGREEMENTS WITH THE FRESNO IRRIGATION DISTRICT TO CONSTRUCT TWO BRIDGES ACROSS FID CANALS

(1-M) APPROVE CONTRACT CHANGE ORDER NO. 10 WITH DAVE CHRISTIAN CONSTRUCTION, INC., TO PROVIDE A CONTRACT TIME EXTENSION OF 95 WORKING DAYS FOR THE CONSTRUCTION OF IMPROVEMENTS TO CLOVIS AVENUE FROM KINGS CANYON ROAD TO MCKINLEY AVENUE, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CHANGE ORDER ON BEHALF OF THE CITY

(1-N) APPROVE AN AGREEMENT WITH THE FRESNO UNIFIED SCHOOL DISTRICT IN THE AMOUNT OF \$28,192 TO PROVIDE FUNDS FOR THE PARCS DEPARTMENT TO CONDUCT A COLLABORATIVE INFORMATIONAL SCIENCE PROGRAM RUNNING THROUGH JUNE 30, 2010, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-O) APPROVE AN AGREEMENT WITH THE FRESNO UNIFIED SCHOOL DISTRICT IN THE AMOUNT OF \$56,000 TO PROVIDE FUNDS FOR THE PARCS DEPARTMENT TO CONDUCT THE FRESNO BEST PROGRAM RUNNING THOUGH JUNE 30, 2010, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-P) APPROVE THE MODIFICATION AND EXTENSION OF HEARING OFFICER CONTRACT FOR ALAN YENGOYAN

(1-Q) ADOPT ORDINANCES AMENDING THE FMC RELATING TO CALCULATION OF COST OF LIVING ADJUSTMENTS (COLAs) UNDER THE CITY'S RETIREMENT SYSTEMS - PRESIDENT STERLING

1. **BILL NO. B-24 - ORDINANCE NO. 2009-25** - AMENDING THE FMC RELATING TO CALCULATION OF COLAs UNDER THE SECOND TIER OF THE FIRE AND POLICE RETIREMENT SYSTEM
2. **BILL NO. B-25 - ORDINANCE NO. 2009-26** - AMENDING THE FMC RELATING TO CALCULATION OF COLAs UNDER THE EMPLOYEES RETIREMENT SYSTEM

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

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

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CONTESTED CONSENT CALENDAR:

(1-H) APPROVE A MEMORANDUM OF UNDERSTANDING WITH SMG TO PROVIDE MANAGEMENT SERVICES AT GRIZZLY STADIUM (CHUKCHANSI PARK) FOR A CONCERT ON AUGUST 14, 2009, FEATURING ENTERTAINERS BOB DYLAN, JOHN MELLANCAMP AND WILLIE NELSON

Acting President Westerlund stated his issue was with the MOU and the numerous inner lineations, deletions and insertions as it was not clear which ones did and did not apply, and also presented questions relative to the \$20K per event and ticket prices, with City Manager Souza and City Attorney Sanchez responding and clarifying issues.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Memorandum of Understanding with SMG hereby approved, by the following vote:

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

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

(‘A’) SCHEDULED COMMUNICATION:

2. APPEARANCE BY JOHN WORONA TO DISCUSS THE HANDICAPPED, VEHICLES SPEEDING ON RESIDENTIAL STREETS, AND RESPONSIBILITIES OF COUNCIL MEMBERS

Appearance made/concerns expressed, with Councilmember Dages advising Mr. Worona his staff would contact him.

1. APPEARANCE BY NORMAN PIMENTEL TO DISCUSS AN INCIDENT THAT OCCURRED WITH FRESNO AREA EXPRESS

Not present when called.

(‘B’) UNSCHEDULED COMMUNICATIONS:

Reyes Garza, 412 F Street, spoke to the need to help the homeless and mentally ill.

Brunette Harris, HEAT of Southwest Fresno, POB 12571, spoke in opposition to using CDBG funds and expressed concern with the lack of communication/notification to southwest residents on district issues/projects (**3 - 0**) and submitted her card into the record.

Paul Hurlbut, spoke to fire department policies (station design and squad trucks) and changes, submitting renderings of Fire Stations 16 and 18 into the record, and to the need for a specific plan to address the needs of the northwest community.

Sherry Smith, 4724 W. Swift, spoke to the city of Los Angeles’ Adopt-a-Station Program and requested the city consider such a program to help improve neighborhood fire stations.

(9:15 A.M.) AUTHORIZE SUBMITTAL OF A NEIGHBORHOOD STABILIZATION PROGRAM 2 (NSP2) GRANT APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR \$10 MILLION IN PROGRAM FUNDS

Deputy City Manager Arechiga introduced the issue and recommended approval.

Preston Prince, Executive Director of the Housing Authority, 1331 Fulton Mall, spoke further to the issue and in support. President Sterling thanked Mr. Prince for the work the Housing Authority is doing with neighborhood stabilization funds.

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Brunette Harris spoke in opposition to the Housing Authority receiving any program funds and expressed concern with the lack of information.

Housing Manager Cazares advised there was one change to the staff report and submitted a revised target area map to Council that added a couple of areas, and upon request identified all the target areas.

Cesar Rodriguez, 1236 W. Shaw, spoke in support of the funding, to the need to construct projects in a more efficient way, and to the need to inform the public on the availability of these funds.

Ms. Casarez responded at length to questions and/or comments of Acting President Westerlund and Councilmembers Brand and Xiong relative to how the tracts/target areas were determined, concern that foreclosures/turn-overs like this have not been done before, concern with amount of funds that can be “forced” down the system, vendors and process, if the process could be opened up to other developers to receive funding if the \$10 million is received, amount of funds in this application process, when the city will know of the award, the process, if competitiveness will be lost if the NSP1 process is redone, concern with “cramming” too much money down a limited pipe, if a redistribution to more developers could be done if the entire \$10 million is not absorbed, concern with implementation and ability to spend funds in an effective and efficient fashion, the homeless housing initiative and need for a Housing Authority and Redevelopment Agency project, how the original NSP1 was going, commendation on the city and authority partnership, the vendor selection process, need to concentrate on several homes in a neighborhood for the program to succeed, the tight market/inventory, public outreach, process to inform interested groups, and how implementation, the lack of guidelines, and the push to go after funds will be balanced. President Sterling requested staff communicate with the HEAT organization on this program and advised she had a list of organizations to inform of the various meetings and would add HEAT to that list, thanked staff and all program participants, and asked for patience with this pilot program that will assist the needy.

On motion of Councilmember Brand, seconded by Councilmember Dages, duly carried, RESOLVED, the submittal of a NSP2 grant application to HUD for \$10 million in program funds hereby authorized, and the City Manager authorized to sign all necessary documents for participation in NSP2, subject to approval as to form by the City Attorney, by the following vote:

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

(10:30 A.M.) PRESENTATION BY THE UTILITY ADVISORY COMMITTEE (UAC)
1. ACCEPT THE UAC REPORT FOR 2009 AND RECOMMENDATIONS OF THE COMMITTEE

Assistant Public Utilities Director Andersen introduced the item and Utility Advisory Commission (UAC) Chair Sharon Schilling, and recommended the report and recommendations be approved after the committee’s presentation.

Chair Schilling introduced UAC members in attendance, spoke to the committee make-up, and along with committee members Laura Whitehouse and Sarah Velasquez gave a PowerPoint presentation which included the current UAC Members, Background Information, UAC Guiding Principles, Key Issues (Residential Metered Water Rates, Drought Water Rates, Rate Indexing), Public Outreach, Reserve Policy **(4 - 0)**, and Impact Fees. Members Velasquez and Whitehouse spoke further to the work of the committee, to the recommendations and need to trust staff and provide them with necessary tools for implementation, and to the pilot water conservation program. President Sterling thanked the committee for all their hard work.

Speaking to the issue were: Loran Harding, 3411 W. Browning, who expressed concerns relative to the lack of information/public outreach on committee meetings and various issues in the report; Diane Bennett Smith, 1540 La Sierra Drive, HEAT of Southwest Fresno, who questioned why building continues if there is a drought; Brunette Harris, HEAT of Southwest Fresno, who expressed concern with meters and their effect on the elderly and those on fixed incomes; and Cesar Rodriguez, 1236 W. Shaw, who spoke to the precious commodity of water, the need to focus on conservation, and how future generations will be impacted.

Councilmember Dages commended Chair Schilling and the committee and presented questions and comments relative to whether the recommendation was to go forward with the September rate increase, commendation on the thoroughness of the report, if reserves were on tract to get the city to where it needs to be, and commendation to the committee for the remarkable amount of work they did and for sticking with the 5-year rate increases, with Chair Schilling, Member Whitehouse and Mr. Andersen responding throughout.

Acting President Westerlund commended the committee for all their work and commitment to the people, and upon his question City Attorney Sanchez confirmed acceptance of the report would keep the process moving forward and recommendations/rate increases would require future Council action, whereupon Acting President Westerlund made a motion to

accept the report, excluding the actual implementation of any of the recommendations, which motion was seconded by Councilmember Brand. Acting President Westerlund continued, and along with Councilmembers Brand and Xiong presented comments and/or questions relative to reserving the right to make a determination on each recommendation individually, how the tiered volume rate method promotes conservation, the volume metric rate method, the UAC's vote against deferring the September rate increase and if an analysis was done on splitting/equalizing the increase, concern with the current economy and the next increase, daily water usage numbers, needed rate increases being ignored in years past resulting in adverse affects, if the operating reserve fund will be difficult to achieve, the capital reserve and projects, nexus for water use/building activity and a future policy, water meters being a federal mandate and the perception that they were the city's idea, and the lack of increases over the years, past serious consideration given to the impact on the elderly and low-income, and the importance of having pro-active plans, with Mr. Andersen and Public Utilities Director Ramirez responding throughout. President Sterling thanked the UAC for their report and work, spoke to the history of the issue, formation of the committee, public meetings, consideration of seniors and low-income residents, and the failed request to implement a lifeline factor, **(5 - 0)** and stated she would support the motion as it was the right thing to do, advised she has continuously asked for an interested constituent to serve on the committee, clarified every new building that is built has to be environmentally friendly and efficient, stated many meetings were held with media coverage, and reiterated the city had no choice on water meters as this was state law.

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the UAC report and recommendations hereby accepted, by the following vote:

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

LUNCH RECESS - 12:06 P.M. - 1:30 P.M.

(9:30 A.M.) CLOSED SESSION:

(‘A’) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

- 1. CITY OF FRESNO MANAGEMENT EMPLOYEES’ ASSOCIATION (CONFIDENTIAL MANAGEMENT, UNIT 14) (CFMEA)**
- 2. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS, LOCAL 39 9NON-SUPERVISORY BLUE COLLAR, UNIT 1)**
- 3. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (IBEW)**
- 4. CITY OF FRESNO PROFESSIONAL EMPLOYEES’ ASSOCIATION (CFPEA)**

(‘B’) CONFERENCE WITH LEGAL COUNSEL/DECIDING WHETHER TO INITIATE LITIGATION - CASE NAME: POTENTIAL LITIGATION AGAINST THE FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO) REGARDING BELMONT-SUNNYSIDE NO. 3 ISLAND ANNEXATION

The City Council met in closed session in Room 2125 at the hour of 1:30 p.m. to consider the above matters and reconvened in regular open session at 2:38 p.m.

CLOSED SESSION ANNOUNCEMENT:

City Attorney Sanchez announced in the matter of Item **“B”**, LAFCO, the City Council voted 5-0, with Councilmembers Borgeas and Perea absent, to initiate litigation against LAFCO on their annexation decision.

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(9:45 A.M. “A”) ADOPT A SIDE LETTER OF AGREEMENT WITH THE CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION (CFMEA), CONFIDENTIAL MANAGEMENT, UNIT 14, FREEZING MERIT INCREASES, CASH OUT OF ADMINISTRATIVE LEAVE, AND OTHER CONSIDERATIONS

- 1. ADOPT A SIDE LETTER OF AGREEMENT WITH THE INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS, LOCAL 39 (NON-SUPERVISORY BLUE COLLAR, UNIT 1), DELAYING A SCHEDULED WAGE INCREASE, HOLIDAY LEAVE CASH OUT, AND OTHER CONSIDERATIONS**
- 2. RESOLUTION NO. 2009-158 - 1ST AMENDMENT TO SALARY RES. 2009-152 AMENDING EXHIBIT 1, UNIT 1, NON-SUPERVISORY BLUE COLLAR (LOCAL 39)**

Labor Relations Manager Phillips reviewed the issue, all as contained in the staff report as submitted.

On motion of Councilmember Brand, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Side Letter of Agreement with the City of Fresno Management Employees Association, Side Letter of Agreement with the International Union of Operating Engineers, Stationary Engineers, Local 39, and Resolution No. 2009-158 hereby adopted, by the following vote:

Ayes : Brand, Westerlund, Xiong, Sterling
Noes : Dages
Absent : Borgeas, Perea

**(9:45 A.M. 'B') RESOLUTION NO. 2009-159 - ESTABLISHING THE TRANSIT SECURITY ADVISORY COMMITTEE
1. APPROVE APPOINTMENTS OF MITCH COLIN, ENRIQUE READE, RICK STEITZ, KEN HAMM AND GREG BARFIELD TO THE TRANSIT SECURITY ADVISORY COMMITTEE**

Transportation Director Hamm reviewed the issue, all as contained in the staff report as submitted, and acknowledged ATU President Rick Steitz and the union for all their work and assistance.

Rick Steitz, President/Business Agent of ATU, thanked Council for supporting the matter when it was presented last year and expanded further on the issue and stated ignoring the burdensome, ponderous procedure this was a step in the right direction and requested support.

Mr. Hamm responded to comments and/or questions of Councilmembers Dages and Westerlund relative to this being approved last September and why it took so long to get to this point, number of meetings that have been held, if this became law January 1st, if jurisdiction would extend to Handy Ride, and this being a test program and request staff document everything to build the case for it to continue.

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2009-159 hereby adopted, by the following vote:

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

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, Mitch Colin, Enrique Reade, Rick Steitz, Ken Hamm and Greg Barfield appointed to the Transit Security Advisory Committee, by the following vote:

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

(9:45 A.M. 'C') BILL NO. B-27 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE HISTORIC PRESERVATION COMMISSION TO ALLOW TWO OF THE SEVEN MEMBERS TO RESIDE OUTSIDE THE CITY LIMITS

Deputy Chief of Staff Furtado reviewed the issue, all as contained in the staff report as submitted. A motion and second was made to introduce the ordinance bill.

Ms. Furtado and City Manager Souza responded to questions and/or comments of Councilmembers Xiong, Westerlund and President Sterling relative to what the Historic Preservation Commission's position was on this amendment, reason for the amendment/if some difficulties have been experienced in the past finding qualified residents, balanced representation/ethnic diversity considerations, reports received that the process is arduous, request staff also look at how the process works/whether the process slows down development/if extra costs are added driving away potential redevelopment, if there was a full commission currently, number of

unqualified applications received, if county island residents could be the first consideration, if there were qualified residents ready to fill any vacancies, strong letter received about a qualified applicant who was never considered, and the commission not being diverse in the past and request to get some ethnic diversity and look at city residents first.

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Bill No. B-27 introduced before the City Council and laid over, by the following vote:

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

(9:45 A.M. 'E') APPROVE AMENDMENT II TO THE HOME INVESTMENT PARTNERSHIPS COMMUNITY HOUSING DEVELOPMENT ORGANIZATION PROGRAM AGREEMENT WITH EAH, INC., AND ARBOR COURT, INC., TO REDUCE THE NUMBER OF HOME CHDO-ASSISTED UNITS FROM 19 TO 9 FOR THE ARBOR COURT DEVELOPMENT IN ORDER TO COMPLY WITH REQUIREMENTS OF PROPOSED STATE FUNDING SOURCE AND TO REDUCE AUTHORIZED HOME CHDO FUNDING FROM \$1,400,000 TO \$1,278,199 IN ORDER TO COMPLY WITH HOME CHDO PROGRAM PER UNIT SUBSIDY LIMITS

Housing Manager Casarez advised she learned over the lunch hour that this item did not have to be before Council as the units did not have to be reduced and requested the item be withdrawn. Upon question, City Attorney Sanchez stated with Council concurrence the item could be withdrawn and it was Council's prerogative to have discussion. Ms. Casarez responded to questions/comments of Acting President Westerlund and Councilmember Dages relative to what the basis was for withdrawing the item, if the projects would go forward/if they would go forward at the higher level, if any changes would occur, prior concerns expressed about the high cost to build but support for the proposal as it falls under Councilmember Brand's Better Business Act, opposition to taking away housing for the disabled even though construction will be expensive, and the clear message sent to staff to not bring anything forth in the future like this. A motion and second was made to withdraw the item as requested by staff.

Upon question of Councilmember Brand Mr. Sanchez clarified if the motion fails the item would stand and Council would have to consider the substance of it **(6 - 0)**. Councilmember Brand thanked staff and EAH for meeting with him stating he had a better understanding of the HUD program, and expanded on the program, the proposal, these being taxpayer dollars, concern with the high cost to build, and his hope that more units can be built next time. Acting President Westerlund spoke to the item as presented and the motion, upon his question Ms. Casarez confirmed if the funding is reduced the difference could be held onto for another housing project, whereupon Acting President Westerlund stated he wholeheartedly agreed with Councilmember Brand, he did not know if he should hold his nose and support the motion, and he would wait and see where the motion goes. Councilmember Xiong stated he was the only supporter the last time this was before Council and not because he disagreed with Councilmember Brand on cost but because some important factors had been made clear and explained, stated this project went through a lot to help the city and would help the economy, and spoke to the housing need and urged Council to consider the impact of not going after the funds. President Sterling thanked EAH and staff for talking with her and providing information, concurred this may not be where Council wished it would be but stated it scared her to think people of need may get less quality housing if a lesser amount is spent, stated with the Better Business Act tools were now in place that will make it harder for developers who want to take advantage of affordable housing and rape the system and then put that burden on a reputable developer, thanked staff for their work with EAH and stated EAH has done a magnificent job, and stated people with disabilities will find this to be a beneficial place to live with the needed tools and amenities that will be provided.

154-12

7/16/09

On motion of Councilmember Dages, seconded by Councilmember Xiong, duly carried, RESOLVED, Item 9:45 a.m. "E" hereby withdrawn as requested by staff, by the following vote:

Ayes : Dages, Xiong, Sterling
Noes : Brand, Westerlund
Absent : Borgeas, Perea

(10:15 A.M.) HEARING ON THE PROPOSED ANNUAL ASSESSMENTS, 2009-2010, FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT (LLMD) NO. 1

1. RESOLUTION NO. 2009-160 - CONFIRMING THE DIAGRAM AND ASSESSMENT AND LEVYING THE ANNUAL ASSESSMENTS FOR LLMD NO. 1

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

City Engineer/Assistant P.W. Director Mozier gave a brief overview of 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 Dages, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2009-160 hereby adopted, by the following vote:

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

(10:45 A.M.) HEARING ON REZONE APPLICATION NO. R-09-005 AND ENVIRONMENTAL FINDINGS, FILED BY CRAIG SMITH OF AMCAL MULTI-HOUSING, INC., PROPERTY LOCATED ON THE NORTH SIDE OF SAN BENITO AVENUE BETWEEN "B" AND "C" STREETS, FOR DEVELOPMENT OF A 26-UNIT LOW-INCOME APARTMENT COMPLEX
1. CONSIDER AND ADOPT A FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR
2. BILL NO. B-28 - ORDINANCE NO. 2009-27 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-2 AND R-P/BA TO R-2/BA, adding a condition requiring the Planning Commission to review the Site Plan

President Sterling announced the time had arrived to consider the issue, opened the hearing, and upon her request Planner Salinas clarified issues relative to the confusion that occurred with an answer given at the planning commission meeting to a question posed by the HEAT organization on whether this was a rezone only and if the site plan and CUP would come back to Council for review; stated the planning commission made it clear that they were only reviewing the rezone request and that people could comment again at the City Council hearing; stated site plans are not normally reviewed by the planning commission but because of the confusion over what was being reviewed Council could add a condition to this zoning request to require the commission to review the site plan but clarified staff would rather try to work with community members on it; and further clarified this matter did go before the District 3 plan implementation committee and was properly noticed. President Sterling apologized for the incorrect response given to HEAT, with Brunette Harris of HEAT expanding further on the issue and their concern. Interim Planning & Development Director Bergthold stated the rezone request was at issue this date, the confusion with the response given at the planning commission dealt with what comes with/during the process, HEAT was given the proper answer technically, and there was never an effort to misrepresent or deceive the organization, and upon question Mr. Bergthold explained the next steps if this rezone is approved. President Sterling made a motion to approve staff's recommendation with an added condition that the planning commission review the site plan, which motion was seconded by Councilmember Brand.

Applicant Craig Smith, AMCAL, stated this project was consistent with all city plans and required design elements, spoke to the history of the project and how it got to this point, and requested he and staff be allowed to work with HEAT.

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

President Sterling thanked Mr. Smith for all he was doing, told Ms. Harris her organization would have a chance to meet with the developer and/or staff and again apologized for the lack of clarity on the answer they received, and Ms. Harris requested President Sterling listen to the taped proceedings and spoke further to her understanding of the answer and their concerns. Upon questions of Acting President Westerlund Mr. Smith stated the project would have an on-site property manager and his company builds and holds.

On motion of President Sterling, seconded by Councilmember Brand, duly carried, RESOLVED, a finding of conformity to the General Plan MEIR hereby adopted, and the above entitled Bill No. B-28 adopted as Ordinance No. 2009-27, adding a condition requiring the Planning Commission to review the Site Plan, by the following vote:

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

(10:50 A.M.) HEARING ON REZONE APPLICATION NO. R-09-006 AND ENVIRONMENTAL FINDINGS, FILED BY CRAIG SMITH OF AMCAL MULTI-HOUSING, INC., PROPERTY LOCATED AT THE INTERSECTION OF S. ELM, E. CALIFORNIA AND S. GENEVA AVENUES, FOR DEVELOPMENT OF A 24-UNIT LOW-INCOME APARTMENT COMPLEX

- 1. CONSIDER AND ADOPT A FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR
- 2. **BILL NO. B-29 - ORDINANCE NO. 2009-28** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R2A/BA TO R-2/BA, adding a condition requiring the Planning Commission to review the Site Plan

President Sterling announced the time had arrived to consider the issue, opened the hearing, and upon her question City Attorney Sanchez clarified this mater was independent of the previous hearing requiring Council to consider it separately. Planner Contreras stated the project was similar to the previous matter and recommended Council take similar action.

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

President Sterling requested staff be considerate of organizations asking questions and to work with them, especially projects in her district as residents were very sensitive to their community, and made a motion to approve staff's recommendation with the same condition requiring the planning commission to review the site plan, which motion was seconded by Councilmember Brand. Upon question Applicant Smith stated the previous project and this one were being treated, and would be constructed, as one project and would have an on-site manager.

On motion of President Sterling, seconded by Councilmember Brand, duly carried, RESOLVED, a finding of conformity to the General Plan MEIR hereby adopted, and the above entitled Bill No. B-29 adopted as Ordinance No. 2009-28, adding a condition requiring the Planning Commission to review the Site Plan, by the following vote:

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

Councilmember Xiong advised he would be gone for a short period of time (9:30 - 10:30 a.m.) from next week's council meeting

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:45 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the 23rd day of July, 2009.

_____/s/_____
Cynthia Sterling, Council President

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