

The City Council met in special session at the hour of 2:05 p.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

President Sterling led the Pledge of Allegiance.

- (2:00 P.M.) PROPOSED FY 2009-2010 GENERAL FUND REVISION - REDUCTION PLAN ("PLAN")**
(‘A’) RESOLUTION - 1ST AMENDMENT TO PAR NO. 2009-150 WHICH ESTABLISHES THE NUMBER OF POSITIONS AUTHORIZED IN THE VARIOUS DEPARTMENTS AND OFFICES OF THE CITY FOR FY 2010 (DE-FUNDING THE GRAFFITI CITY ATTORNEY AND THE FILM COMMISSIONER POSITIONS)
(‘B’) RESOLUTION - SUSPENDING EXPENDITURES ON NEW APPLICATIONS UNDER THE MUNICIPAL RESTORATION ZONE PROGRAM UNTIL JULY 1, 2012
(‘C’) RESOLUTION - AUTHORIZING A 40-HOUR FURLOUGH FOR THE CITY ATTORNEY, CITY CLERK AND COUNCIL ASSISTANTS FOR FY 2010
(‘D’) RESOLUTION - AUTHORIZING THE CITY MANAGER OR DESIGNEE TO NEGOTIATE AN AMENDMENT TO THE FY 2010 CONTRACT WITH THE CENTRAL CALIFORNIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS (SPCA) THAT RESULTS IN A MID-YEAR REDUCTION OF \$100,000 FOR ANIMAL CONTROL SERVICES

City Manager Souza noted a lot of information was presented on November 19th and since that short time everyone has been working on a lot more information to provide to Council, requested Council keep in mind that the total reduction being proposed to the General Fund was less than 5% (4.6%) and while each position/individual was important the total reduction being proposed in the city’s workforce of approximately 3,700 employees was 3.3%, and advised of and addressed ten issues he stated have been raised continuously since the reduction plan was presented. Mayor Swearengin added this was an extremely difficult time for everyone and the city was in this for the long haul as two more significant reductions were coming, and stressed \$10 million in cuts had to be made this date, a delay would make things worse, and the responsibility of the city was to provide the core services of public safety, green open space, and land use issues.

City Attorney Sanchez noted his office provided Council with a memorandum specifying the process involved with consideration of the budget reduction plan and reviewed the main points of consideration.

Councilmember Borgeas stated this was a watershed moment as the city organization has never before dealt with reductions of this magnitude, and presented questions and comments relative to the work that was done in an accelerated time line, the COBRA issue, layoffs being inevitable, the issue of materiality, the proposed fire station closures and constituent concerns with the closure of fire station 18 in his district, how fire response times will be affected, insurance ratings and impacts, motivation for constructing fire station 18, what constitutes an “open station”, what services are deemed essential and non-essential in the police department **(2 - 0)**, police department layoffs, if sworn officers will undertake administrative duties due to layoffs/lack of support staff, if a burden will be placed on existing staff, if overtime pay will be a result of layoffs, and if there was a risk of not reaching intended savings/goals, with Mr. Souza, Chief Bruegman and Chief Dyer responding throughout.

Councilmember Perea stated the three departments he wanted to discuss -- police, fire and PARCS -- were not on the agenda and the four resolutions listed had nothing to do with what a majority of those present were here for, stated he looked forward to later having a thorough vetting of the three departments as they were the "real meat" of the reduction plan and he would be making some motions, clarified there was no argument that cuts have to be made but stressed the question was *where* they have to be made adding if he has to choose between a PIO or M.A. III versus a CSO or firefighter furlough he would choose the CSO/firefighter and further elaborated, and stated he had a list of what he felt were essential and non-essential positions that he wanted comparisons on and he hoped the three departments would be placed on an upcoming agenda to have that frank discussion. President Sterling questioned if there would be another opportunity for council members to address the plan whereupon Mr. Souza clarified the four resolutions on the agenda required council action as they were deemed "material" and outside of his Charter authority to implement, the reduction plan presented on November 19th was deemed "non-material" and the administration had the authority to act administratively on it, and the 30-day layoff notices were going out this date for all positions proposed in the plan except those specifically on the agenda requiring council action. Mr. Sanchez added in addition to the four items on the agenda the purpose of this meeting was to get a complete hearing with regards to the proposed plan and clarified if there were items in the plan council deemed to be items they want to adopt a legislative policy on motions would be considered and acted upon this date as well. Councilmember Perea stated agendas were the city council's agenda and he did not feel this should be the last time he could pose questions, stated he would vote on the four issues on the agenda as did not have any questions on them, and reiterated he wanted to get into the meat of the cuts and hoped a separate hearing on the three departments would be held later wherein he would be making motions.

Councilmember Brand stated the alarm on the retirement issue should have been sounding one or two years ago as the trend was clear, and presented questions relative to whether the retirement issue should have been addressed earlier, when the retirement office received actuarial reports showing the trend was clearly going in the wrong direction, public safety consolidation, prisoner processing and if there could be significant savings if Fresno County were to cooperate, if there would be savings by policing county islands, cadet layoffs/video policing/how monitoring of crimes will be impacted, if the police department is reimbursed with grant funds for overtime, overtime costs, request for information/projections on layoffs and potential added overtime, and layoff notices sent out and what will happen if some layoffs do not occur, with Mr. Souza, Retirement Administrator McDivitt and Chief Dyer responding throughout. Upon question of Councilmember Xiong President Sterling clarified council members could speak to/question any issue on the four items on the agenda, the reduction plan, and the issue of materiality whereupon Councilmember Xiong stated he would reserve his comments for later. President Sterling presented questions and comments relative to whether measures/changes were included in this plan to preclude the city from being in this predicament again, if the retirement issue/system will be looked at/revamped, if the freezing of salaries has been considered, if labor groups will participate once contracts expire, the tough upcoming budgets, what the process will be if it is decided to not close a fire station or neighborhood park, request that freezing of salaries and revamping of the retirement systems be looked at and considered, **(3 - 0)** concern with receiving the plan late and possibly prohibiting members from providing alternatives, and how COBRA will be addressed if employee layoff changes are made, with Mayor Swearingin and Mr. Souza responding throughout.

Speaking to the issue were: Norm Minson, , SPCA, who stated the resolution to negotiate a contract amendment was clear; Barbara Hunt, need to retain employees; Dorothy Tristan, E. Alta Avenue, P.D. employee, concern with employee layoffs/changes and resulting cost impacts; Shedrick Mills, S. Rachel Ave., concern with FAX furloughs; Rick Steitz, ATU President and Business Agent, concern with FAX furloughs and inadequate noticing of today's meeting and scope of issues for consideration/action; Mike Prandini, BIA, concerns with the closure of fire station 18/sprinkler requirements/employee layoffs/impact on service; Jeff Roberts on behalf of Granville Homes, concern with closure of fire station 18 and impact on housing development; Dee Barnes, Kenmore Dr. N., concern with police employee layoffs and material impacts; Darlene Mack, police employee, concern with employee layoffs; Judy Carvalho, police employee, concern with employee layoffs, Jacky Parks, FPOA, who spoke to suggestions FPOA submitted to protect employees and to material impacts; Luciano Beltran, labor law firm representative from Sacramento retained by FCEA, concern that early retirement and voluntary separation programs were not looked at; Abbie Hyde, E. Pico, city employee, concern with layoffs and impacts **(4 - 0)**; Annie Rinni, Vice President of FCEA, concern with employee layoffs (CSOs); Elizabeth Hamilton, police employee, concern with layoffs/changes; Pat (last name inaudible), police employee, concern with layoffs; John Conley, 994 N. Van Ness, who stated the state furloughs were not working and were costing the state more money and asked council to consider that; Lydia Valdez, N. Valentine, emergency dispatcher, concern with layoffs; Cindy Slaton, CSO, concern with layoffs; and Sandra Purvis, Bundy Avenue, Clovis, who suggested the top echelon of city employees give up some of their salary and place it towards the impact.

Councilmember Xiong stated council needed to make a determination of materiality on the citywide furlough and the PARCS, fire and police reduction plans noting those were the four issues speakers spoke to and he felt they were material, and made a motion that council determine if the four issues are material, which motion was seconded by Councilmember Perea and subsequently amended.

Councilmember Borgeas stated he appreciated the concern over materiality and that was why he drafted a minute resolution, noted the city had a “strong mayor” form of government with jurisdictions reserved for the mayor/city manager and also for the city council and he wanted to have a discussion on what it means to have a division of jurisdiction, added this has become a bit of a constitutional challenge and he felt there was no better time than now to make decisions on how council can move forward as a body and what procedures will be adopted, read his minute resolution into the record which he submitted to council, and elaborated further on this procedural issue and made a motion to accept the minute resolution, which motion was seconded by Councilmember Brand. Councilmember Perea stated he supported Councilmember Xiong’s motion and hoped council would also as it would give council the opportunity to weigh in on the proposed cuts, and stated he was not entirely clear on what the minute resolution would give council that they do not already have adding the city attorney already weighed-in with what he believes is/is not/might be material. Mr. Sanchez responded to questions of Mr. Souza relative to the minute resolution and materiality, what appeal rights or opportunities the administration would have if a council majority decides something is material and the administration disagrees with that on a factual case-by-case basis, and if one or two motions were currently on the floor. Upon question and the recommendation of Mr. Sanchez, Councilmember Borgeas withdrew his motion for the time being. Mr. Souza presented additional questions relative to whether the motion now on the floor was subject to the mayor’s veto, the process if a veto is not overridden, what the process will be once the four issues are voted upon and determined to be material, and if actions taken on the four issues would be rescinded if the materiality veto is not overridden, with Mr. Sanchez responding throughout **(5 - 0)**. At this point Mr. Souza stated there was some miscommunication and requested a recess to caucus.

RECESS - 5:00 P.M. - 5:21 P.M.

Mr. Sanchez stated he and the city manager had the opportunity to have a sidebar and clarified determinations would be made on Councilmember Xiong’s procedural motion and the next step would be substance consideration, and recommended any motions made in the substance consideration should be in the form of council legislative policy in which they would be standalone motions irrespective of materiality.

President Sterling advised Councilmember Dages would be leaving around 6:30 p.m. due to a death in his family and would begin council deliberation. Councilmember Dages spoke to the fire station closures stating his concern was the existing ordinance requiring fire sprinklers in homes three miles from stations, stated that would defeat the purpose of saving taxpayer money as it would put the burden back on the cost of a home, stated he would support a 40-hour furlough for fire employees like other employees but not 84 hours as that was not fair, stated if Mr. Steitz was correct about FAX and overtime he felt that needed to be looked prior to making a decision, and presented questions and additional comments relative to whether decisions *had* to be this date or this week, what the sense of urgency was, if police officers will be taken off the street to be retrained and do paperwork, and why there were no upper management layoffs, with Mr. Souza responding throughout. Councilmember Dages stated he had a couple of questions/tweaks on Councilmember Borgeas’ minute resolution.

Councilmember Brand spoke the materiality issue, to this being the first real challenge to the strong mayor form of government, to his concern with some members wishing to debate subjects because they mean a lot to them, and to the city attorney providing a clear outline of a process to go item by item which was not being followed, and upon his request Councilmembers Xiong and Perea agreed to amend the motion to make a determination of materiality on each of the four issues *separately*, with both members speaking briefly to the issue/request. Councilmember Brand continued stating to move an issue forward just to discuss it did not address the issue of materiality, stated council members needed to look at each item in the proposal whether they support it or not and determine if it meets the threshold, and relative to Councilmember Borgeas’ minute resolution stated he felt council needed to establish a foundation for how things are addressed/discussed in the future.

Acting President Westerlund stated things were being made way more complicated and explained, and upon his questions Mr. Sanchez stated (1) council had two paths to take: determine materiality and then proceed from there, or the quicker process of going straight to the substance and make determinations as a matter of council policy that a given direction is not appropriate, and (2) council would not have to wait for mayoral vetoes on material vetoes and could address substantive issues this date and deem them to be independent council policy decisions. Acting President Westerlund stated based on that reason he would not support the materiality motion as council would get into legal morass by going down that path.

Extensive discussion continued. President Sterling presented questions, comments and concerns relative to the BIA’s concerns, what will happen to homes/lots with infrastructure in place if fire station 18 closes, who would be liable if a fire were to occur in a home without fire sprinklers, the ATU furlough including how bus service will be impacted and if employees will not be granted overtime, reason for the 84 hour firefighter furlough, police department layoffs, if sworn officers will be doing white collar work, if other

options were looked at to retain police employees, crime and concern with citizens/businesses not getting police protection, the city's dire financial picture being foreseen and concern with lack of action/delayed action/lack of council involvement, and how the city got to this point and why staff waited so long, with Mr. Souza, Mr. Sanchez, ACM Rudd, Chief Bruegman and Chief Dyer responding throughout and/or clarifying issues. Acting President Westerlund concurred with Mr. Souza that staff fought this problem for two years and stated they acted prudently and elaborated further.

(6 - 0) Upon question of President Sterling, Mr. Sanchez advised council to take action first on the motion to determine materiality of the citywide furlough and the PARCS, fire and police department plans.

ACTIONS DETERMINING MATERIALITY ON THE PARCS, FIRE AND POLICE DEPARTMENT BUDGET REDUCTION PLANS AND THE CITYWIDE FURLOUGH

On motion of Councilmember Xiong, seconded by Councilmember Perea, duly carried, RESOLVED, the proposed PARCS department reduction plan hereby determined to be material, by the following vote:

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

On motion of Councilmember Xiong, seconded by Councilmember Perea, duly carried, RESOLVED, the proposed police department reduction plan hereby determined to be material, by the following vote:

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

On motion of Councilmember Xiong, seconded by Councilmember Perea, duly carried, RESOLVED, the proposed fire department reduction plan hereby determined to be material, by the following vote:

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

A motion of Councilmember Xiong, seconded by Councilmember Perea, to deem the citywide furlough material failed, by the following vote:

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

Mr. Sanchez clarified the PARCS, fire and police plans were determined to be material and the citywide furlough was not, stated the furlough was administrative and the city manager would now be able to move forward and implement that, and stated the other three items would now be subject to a determination in terms of substance and reiterated the determinations should be made on a legislative policy basis as to whether the items are or are not in the public interest. Upon the request of Mr. Souza to define policy for the terms of deliberation Mr. Sanchez clarified council legislative policy would be a determination that any of the proposed reductions, such as the closure of a fire station, was not in the public interest at this time and should not be implemented.

Councilmember Dages questioned whether council was really ready to address the three items at this time or if just the four items on the agenda should be acted upon. Councilmember Perea noted Councilmember Dages would be leaving shortly, these were important votes, and he was supportive of acting on the four items on the agenda and delaying action on the three items until the next council meeting. Upon question of President Sterling Mr. Sanchez stated recessing at this time and returning tomorrow morning for final deliberation was a council option, and added the COBRA concern was the driving time line at this point and final action would have to be taken

by tomorrow. Councilmember Dages advised he would have to leave tomorrow before 11 a.m. for a funeral but could come in early. Acting President Westerlund stated he was sorry Councilmember Dages had a death in the family but he felt council needed to get through this as the COBRA deadline was being pushed and employees might not have a choice in the matter if there is a delay. Upon questions of Councilmember Xiong Mr. Sanchez reiterated the layoff notices were in the pipeline and could be rescinded if changes are made, and Mr. Souza added if council changes the action it would mean either someone else in the organization would be laid off or the budget would be unbalanced resulting in significantly deeper cuts next June, and also clarified if someone else were to be laid off negotiations would have occur with the bargaining unit on a less than 30 day window to get them eligible for COBRA and further explained. Councilmember Xiong stated these were important issues and he was willing to stay as long as it takes to delve into discussion and hear options. President Sterling stated the COBRA issue was too important and made a motion to continue the meeting.

On motion of President Sterling, seconded by Councilmember Borgeas, duly carried, RESOLVED, continuation of the meeting hereby approved, by the following vote:

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

POLICE DEPARTMENT BUDGET REDUCTION PLAN - SUBSTANCE CONSIDERATION AND ACTION

Councilmember Perea stated he felt the police layoffs were not in the public interest and he wanted to make a motion, and with the assistance of the city attorney made a motion that as a matter of legislative policy the police department layoffs should not be implemented for this budget cycle, which motion was seconded by Councilmember Xiong for discussion.

Acting President Westerlund questioned if Councilmember Perea had a plan or identified how the \$4.8 million loss would be made up, stated before he could support the motion he would need to see a realistic avenue to recoup that loss, and stated Chief Dyer had a better understanding of his department's vital services, he would not support the motion, and although this was a tough situation the reductions had to be made in these unprecedented times. Councilmember Perea responded throughout stating he had quite a few thoughts and several cuts to propose that he would present to all if the motion is approved. Councilmember Borgeas spoke to the need to understand the division of labor between essential and non-essential and stated although he respected and advocated that it was council's duty to make determinations of materiality he would give deference to the city attorney who has reviewed the facts and concluded this to be more administrative in nature. Councilmember Brand addressed and elaborated on President Sterling's question on how the city got to this point and Ms. Barnes' question on why layoff cuts were disproportionate, and stressed there was no way to get around this, he could not see any alternatives, and he would support the plan. As noted earlier Councilmember Dages left at 6:31 p.m. during Councilmember Brand's comments and was absent for the remainder of the meeting.

Mr. Souza stated the motion to not implement the layoffs sounded more administrative whereupon Mr. Sanchez clarified the motion was that the layoffs being proposed within the police department at this time were not in the public interest.

Councilmember Xiong stated he felt there were alternative solutions but he did not have any alternatives, other information, and/or ideas in front of him to agree or disagree with to make his decisions, added he was not comfortable agreeing with something just because it was provided to him and further elaborated, and stated although he did not disagree with the reduction plan he felt he did not have enough information to make decisions on the three areas. Mr. Souza stated staff was here and welcomed the discussion, and along with Mr. Parks, Chief Dyer and Mayor Swearengin responded to Councilmember Xiong's questions/comments and/or clarified issues relative to why a retirement incentive program would not work at this time, besides jobs what and where the greatest impacts will be in the police department, what staff's position was on FPOA's proposal/numbers, if "superstar/three-star" managers would be brought in to fill positions held by "superstar/three-star" managers, the direction that was given to the city manager on the retirement incentive program (**7 - 0**), if a voluntary separation program would also be included for future consideration, if staff felt furloughs worked, if funding for non-essential activities (such as elections) were considered as needed funding sources, police layoffs/back-filling positions/overtime cost and impacts, if laid off employees will have the first option to fill positions as they become available, if overtime funds could be used for uses other than overtime, and suggestion to look at overtime funds to pay for positions. Councilmember Xiong reiterated he did not necessarily disagree with the layoffs and was leaning against the plan as there were still a lot of questions and a lack of information and vetting of issues.

Relative to the motion on the floor President Sterling stated it would be helpful to have a possible solution to aid in decision-making, whereupon Councilmember Perea stated the cuts proposed in PARCS, fire and police will have a material impact on neighborhoods he represents, he felt top-heavy managers supervising one person needed to be looked at and added there were a lot of areas to look at, and stated if the administration wanted him to put together a comprehensive plan he would need access in a timely manner to all the information the city manager has.

Relative to the motion and vote Mr. Sanchez clarified this was a policy prohibiting layoffs in the police department and a “yes” vote would adopt that policy, and upon questions of President Sterling clarified what the next steps would be in terms of the COBRA matter and how the budget and potential reductions would have to be re-looked at, if the motion were to pass.

A motion of Councilmember Perea, seconded by Councilmember Xiong, to establish a legislative policy prohibiting police department layoffs for the current budget cycle failed, by the following tie vote:

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

Upon question Mr. Sanchez clarified there was no formal policy due to the tie vote, assuming the materiality motion stands there would have to be council approval of any layoffs and at this time there was no approval, and the materiality action was subject to the mayor’s veto. Acting President Westerlund stated that did not make sense to him and explained, whereupon Mr. Sanchez clarified council deemed the layoffs to be material which was an impairment of the budget and required final council approval, and added any future layoffs would be dealt with on a case-by-case basis.

(‘A’) RESOLUTION - 1ST AMENDMENT TO PAR NO. 2009-150 WHICH ESTABLISHES THE NUMBER OF POSITIONS AUTHORIZED IN THE VARIOUS DEPARTMENTS AND OFFICES OF THE CITY FOR FY 2010 (DE-FUNDING THE GRAFFITI CITY ATTORNEY POSITION AND THE FILM COMMISSIONER) *(Failed - considered again later in the meeting)*

Acting President Westerlund made a motion to adopt the resolution. Upon a request for clarification by Councilmember Borgeas Mr. Sanchez stated it was council’s discretion to act on the remaining six items (the four resolutions listed on the agenda and the fire and PARCS departments) in any order, and Acting President Westerlund added he made this motion as he felt council could get through the four resolutions pretty quickly.

Councilmember Borgeas spoke to council’s failed decision on the prior police issue and upon his question Mr. Sanchez clarified in the absence of council action the city manager/mayor would be the default authority to proceed with the plan. Upon further question Mr. Sanchez reiterated once council deems something material it is deemed to be an amendment to the budget and the city council was the only body with final authority with regards to budget amendments.

Councilmember Brand seconded the motion on the floor. Councilmember Perea stated he would be a “no” vote as he was opposed to de-funding the attorney for graffiti prosecution and added graffiti prosecution and holding taggers responsible was a huge issue in his district and the de-funding was a step in the wrong direction in the city’s graffiti enforcement efforts.

A motion of Acting President Westerlund, seconded by Councilmember Brand, to adopt the above entitled Resolution failed, by the following vote:

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

FIRE DEPARTMENT BUDGET REDUCTION PLAN - SUBSTANCE CONSIDERATION AND ACTION

Councilmember Perea made a motion as a matter of legislative policy to oppose the fire department budget reduction plan, which motion was seconded by Councilmember Xiong. Councilmember Borgeas noted there were two parts to the plan -- the furlough and the closure of the two stations -- and upon his question Councilmember Perea stated his motion included both actions. Upon further question Mr. Souza clarified these were two separate and distinct issues and could be bifurcated and further explained.

Acting President Westerlund stated council was again being asked to not make the savings and questioned if Councilmember Perea had a plan. Councilmember Perea stated the assumption was being made that the cuts *had* to come from fire, police, etc., and questioned why other general fund departments with less of an impact on direct services could not be looked at, stated he accepted the premise that cuts had to be made but did not accept that the large cuts had to come from the fire department by way of closing fire stations, and stated although cutting other areas may not get the full \$10million in savings it may get \$3 or \$4 million, and emphasized the need to look at other options out there adding even though they may not fill the entire gap it will lessen the impact to constituents. Acting President Westerlund stated council members had to be good stewards of taxpayer dollars, stated Councilmember Perea opposed the police and graffiti attorney cuts and now the fire department and pointed out 70-75% of the general fund was the fire and police departments, and stressed the next round of cuts will be way bigger and the buck had to stop here and urged council to start making the cuts that needed to be made.

Councilmember Borgeas stated while the furlough and station closures were connected they needed to be bifurcated, expressed concern with the proposed closure of fire station 18 stating that would have too much of an impact on those west of Freeway 99 and added fire station 14 in his district already lost a truck in the last budget cycle, and advised Chief Bruegman had another option and upon his request Chief Bruegman stated option 3 would keep all the fire stations open and the geography covered and explained the proposal.

Councilmember Borgeas made a motion to bifurcate the station closures and furlough stating they were separate issues, which was seconded by Councilmember Brand. Brief discussion ensued on the original motion, the proposed amended motion, and the process (**8 - 0**). Councilmember Brand spoke in opposition to the original motion stating the plan before council had no layoffs for sworn personnel and elaborated stating this was the best plan and although there was no good news out there there was no place else to go. Councilmember Xiong stated he would have preferred to vote on the original motion before the bifurcation and explained, with Councilmember Borgeas responding.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, the issues of fire station closures and the fire furlough hereby bifurcated for separate action, by the following vote:

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

Mr. Sanchez clarified there were now two motions and recommended action be taken on the furlough followed by the station closures. Acting President Westerlund and Mr. Sanchez clarified the motion was that as a matter of public interest and legislative policy implementation of the fire department furlough will be prohibited. Upon question of President Sterling Mr. Sanchez stated it was not his understanding that the fire bargaining units would have to accept the furlough recommendation.

A motion of Councilmember Perea, seconded by Councilmember Xiong, to prohibit/not implement the fire department furlough as a matter of legislative policy failed, by the following vote:

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

On motion of Councilmember Perea, seconded by Councilmember Xiong, duly carried, RESOLVED, as a matter of legislative policy the closure of two fire stations hereby prohibited, by the following vote:

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

PARCS DEPARTMENT BUDGET REDUCTION PLAN - SUBSTANCE CONSIDERATION AND ACTION

Councilmember Brand made a motion to accept the PARCS budget reduction plan, which motion was seconded by Councilmember Borgeas. Acting President Westerlund stated it was going to be very difficult for him to support the closures of El Dorado and Melody parks in his district but he was convinced that needed to be done. PARCS Director Cooper clarified the parks themselves would remain

open but the community centers would close, and responded to questions of Acting President Westerlund relative to the number of children that use El Dorado and Melody parks, how those numbers compare with other community centers, and if staff would work with any churches or non-profits that want to work at the centers to keep them open. Clarification was made on making this a policy motion.

A motion of Councilmember Brand, seconded by Councilmember Borgeas, to accept/support the PARCS Department budget reduction plan as a matter of legislative policy failed, by the following tie vote:

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

Mr. Sanchez clarified since a policy was not adopted either way the issue now goes back to the materiality vote and if that is vetoed by the mayor and not overridden by council the administration would be free to move forward and implement the plan.

(‘B’) RESOLUTION NO. 2009-243 - SUSPENDING EXPENDITURES ON NEW APPLICATIONS UNDER THE MUNICIPAL RESTORATION ZONE PROGRAM UNTIL JULY 1, 2012

On motion of Councilmember Brand, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2009-243 hereby adopted, by the following vote:

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

(‘C’) RESOLUTION NO. 2009-244 - AUTHORIZING A 40-HOUR FURLOUGH FOR THE CITY ATTORNEY, CITY CLERK AND COUNCIL ASSISTANTS FOR FY 2010

On motion of Councilmember Brand, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2009-244 hereby adopted, by the following vote:

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

(‘D’) RESOLUTION NO. 2009-245 - AUTHORIZING THE CITY MANAGER OR DESIGNEE TO NEGOTIATE AN AMENDMENT TO THE FY 2010 CONTRACT WITH THE CENTRAL CALIFORNIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS (SPCA) THAT RESULTS IN A MID-YEAR REDUCTION OF \$100,000 FOR ANIMAL CONTROL SERVICES

On motion of Councilmember Brand, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2009-245 hereby adopted, by the following vote:

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

(‘A’) RESOLUTION - 1ST AMENDMENT TO PAR NO. 2009-150 WHICH ESTABLISHES THE NUMBER OF POSITIONS AUTHORIZED IN THE VARIOUS DEPARTMENTS AND OFFICES OF THE CITY FOR FY 2010 BY DE-FUNDING GRAFFITI CITY ATTORNEY POSITION AND THE FILM COMMISSIONER

Brief discussion ensued on the issue and reconsideration and a procedural motion was made to reconsider the resolution. Upon question of Councilmember Xiong Mr. Sanchez recommended council first vote on the reconsideration and then break out the graffiti attorney and film commissioner positions.

On motion of Councilmember Borgeas, seconded by Acting President Westerlund, duly carried, RESOLVED, reconsideration of the above entitled Resolution 'A' hereby approved, by the following vote:

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

Mr. Sanchez clarified council now had before them the resolution in its entirety and the graffiti attorney and film commissioner could be bifurcated or the resolution could be voted up or down as one.

Chief Dyer responded to questions and comments of Acting President Westerlund relative to reason for the recommendation to eliminate the graffiti attorney position, support for the graffiti program and the proposed elimination not being taken lightly, and if there was sufficient coverage for any cases wishing to be targeted. Mr. Sanchez added his recommendation was to eliminate graffiti prosecution altogether and explained, stated although this was a unique service and it had some benefits over the years there were now modifications in the system, and stated the final determination was this was a "nice to have" but not a "need to have". Acting President Westerlund encouraged going after the taggers as best as possible. Upon question of Councilmember Brand Mr. Sanchez stated this was an additional tool in the toolbox of graffiti and although there would be some impact the graffiti clean up efforts would continue, and added as noted by Chief Dyer there were alternatives/efforts out there. Councilmember Brand stated the graffiti program was a core service and vital to the community and made a motion to not defund the position.

ACTION TO NOT DEFUND THE GRAFFITI ATTORNEY POSITION

On motion of Councilmember Brand, seconded by Councilmember Perea, duly carried, RESOLVED, the graffiti attorney position *not* to be defunded, by the following vote:

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

(‘A’) RESOLUTION NO. 2009-246 - 1ST AMENDMENT TO PAR NO. 2009-150 WHICH ESTABLISHES THE NUMBER OF POSITIONS AUTHORIZED IN THE VARIOUS DEPARTMENTS AND OFFICES OF THE CITY FOR FY 2010 (DE-FUNDING GRAFFITI CITY ATTORNEY POSITION AND FILM COMMISSIONER), AS AMENDED, DE-FUNDING ONLY THE FILM COMMISSIONER POSITION

On motion of Councilmember Brand, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution No. 2009-246 hereby adopted, as amended, defunding only the film commissioner position, by the following vote:

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

MINUTE RESOLUTION RELATING TO COUNCIL PROCEDURE ON DETERMINATIONS OF MATERIALITY OF SERVICE REDUCTIONS - COUNCILMEMBER BORGEAS (Continued from earlier in the meeting)

Councilmember Borgeas stated he wanted to discuss the minute resolution be brought forth earlier, stated after discussing this with the city attorney he was amending the minute resolution by adding, in addition to Charter Section 1205, Sections 1206, 500 and 706, and made a motion to accept the minute resolution, which was seconded by Councilmember Brand.

Acting President Westerlund suggested this matter be brought back at a future meeting and explained, Councilmember Perea concurred, and upon question of Councilmember Xiong Mr. Sanchez stated this was an attempt to codify/place in writing the existing procedure and further explained. Councilmember Borgeas spoke further to and in support of the issue, brief discussion ensued, and Councilmember Borgeas withdrew his motion and stated he would bring the matter back later.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 8:30 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the ___10th _____ day of December, 2009.

_____/s/_____
Cynthia Sterling, Council President

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