

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.

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| Present: | Andreas Borgeas | Councilmember |
| | Lee Brand | Councilmember |
| | Mike Dages | Councilmember |
| | Blong Xiong | Councilmember |
| | Cynthia Sterling | Council President |
| Absent: | Henry Perea | Councilmember |
| | Larry Westerlund | Acting Council President (Out of the country) |

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

Senior Pastor Dr. Scott Hansen of the Bridge Evangelical Free Church gave the invocation, and President Sterling led the Pledge of Allegiance.

ADD-ON: PROCLAMATION OF "PAUL SCHRAMM DAY" IN RECOGNITION OF HIS CITY SERVICE AND RETIREMENT

ADD ON: PROCLAMATION OF "JACOB HAMBALEK DAY", JEOPARDY! KIDS WEEK CONTESTANT

The above proclamations were read and presented.

APPROVE MINUTES OF JULY 7, 14, & 16, 2009:

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the minutes of July 7 and 16, 2009, approved as submitted, and the minutes of July 14, 2009, approved as amended, on Page 154-3, showing Councilmembers Borgeas and Xiong as "Absent", not voting "No".

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) thanked Tate Hill of the Black Chamber of Commerce and Lois, Citibank Branch Manager, for holding a business mixer in District 1; (2) thanked Amy from economic development for efforts to form the Asian Business Affinity Group; (3) congratulated all involved in completing the Fresno High School all-weather track; and (4) questioned if the state budget/gas tax issue had been approved yet, with City Manager Souza stating the actual legislation had not yet been presented and a lot of rumors were going around. President Sterling requested staff keep Council informed.

President Sterling reported she attended the Post 5845 Ladies Auxiliary barbeque in Biola, attended the Central Valley Coyotes game at Selland Area and tossed the coin, and made a recording for Math on Call which provides information to youth on a weekly basis.

(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 30, 2009, at 10:00 a.m.)

Continued as noted.

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

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

ADOPT CONSENT CALENDAR:

(1-A) ADOPT RESOLUTION OF INTENTION NO. 1076-D FOR THE VACATION OF BLYTHE AVENUE BETWEEN HERNDON AND SPAATZ AVENUES, AND A PORTION OF SPAATZ AVENUE EAST OF BLYTHE, AND SETTING THE REQUIRED PUBLIC HEARING FOR AUGUST 27, 2009

(1-B) RESOLUTION NO. 2009-161 - AUTHORIZING THE SUBMISSION OF APPLICATIONS FOR AND ACCEPTANCE OF GRANT FUNDS TO THE U.S. DEPARTMENT OF TRANSPORTATION TIGER DISCRETIONARY GRANT PROGRAM, AND AUTHORIZING THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE THE DOCUMENTS

(1-C) RESOLUTION NO. 2009-162 - DEDICATING CERTAIN CITY-OWNED PROPERTY AT THE SOUTHWEST CORNER OF N. WILLOW AND E. SHEPHERD AVENUES FOR PUBLIC UTILITY PURPOSES

(1-D) APPROVE THE SECOND AMENDMENT TO THE AGREEMENT WITH URS CORPORATION AMERICAS FOR A TOTAL AMOUNT OF \$327,675 TO COMPLETE CONSTRUCTION PLANS AND SPECIFICATIONS FOR PEACH AVENUE FROM BELMONT AND BUTLER AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO AMEND THE ORIGINAL SCOPE OF WORK AND SIGN AN AGREEMENT WITH URS

(1-E) APPROVE THE FIRST AMENDMENT TO A UTILITY AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) COVERING ADDITIONAL CONSTRUCTION COSTS RELATING TO THE RELOCATION OF THE CITY'S WATER FACILITIES WITHIN THE FREEWAY 180 WEST RIGHT OF WAY, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

(1-F) RATIFY AND APPROVE AN AGREEMENT WITH THE FRESNO UNIFIED SCHOOL DISTRICT IN THE AMOUNT OF \$4,172.65 FOR THE PARCS DEPARTMENT TO CONDUCT LIFE AND ENVIRONMENTAL SCIENCE PRESENTATIONS THROUGH JULY 31, 2009

(1-G) APPROVE A MEMORANDUM OF UNDERSTANDING WITH THE DOWNTOWN ASSOCIATION REGARDING ANNUAL CLEANING AND MAINTENANCE/RESTORATION OF FULTON MALL ARTWORK

(1-H) AWARD A ONE-YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO GENERAL CHEMICAL PERFORMANCE PRODUCTS, LLC, IN THE AMOUNT OF \$281,591.40 TO PROVIDE FOR BULK ALUMINUM SULFATE PRODUCTS

(1-I) RESOLUTION NO. 2009-163 - 482ND AMENDMENT TO MFS RES. 80-420 TO INCREASE PARKING VIOLATION PENALTIES IN ACCORDANCE WITH CALIFORNIA SENATE BILL 1407

(1-J) APPROVE MODIFICATION TO THE CITY OF FRESNO DEFERRED COMPENSATION PLAN DOCUMENT TO ADD NON-SPOUSE BENEFICIARY ROLLOVER TO AN INHERITED IRA FROM THE DEFERRED COMPENSATION PLAN

(1-K) APPROVE APPOINTMENT OF JUDY HARDINGE TO THE COMMISSION ON THE STATUS OF WOMEN - COUNCILMEMBER BORGEAS

(1-L) APPROVE THE EXTENSION OF THE CITY'S AGREEMENT WITH TOWNSEND PUBLIC AFFAIRS, INC., FOR STATE LOBBYING SERVICES THROUGH AUGUST 31, 2009

(1-M) BILL NO. B-27 - ORDINANCE NO. 2009-29 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE HISTORIC PRESERVATION COMMISSION TO ALLOW TWO OF THE SEVEN MEMBERS TO RESIDE OUTSIDE THE CITY LIMITS

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

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

As he noted last week Councilmember Xiong stated he would be absent from about 9:30 to 10:30 a.m.

RECESS - 8:55 A.M. - 9:00 A.M.

(9:00 A.M.) UNSCHEDULED ORAL COMMUNICATIONS:

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

Paula Savino spoke to need to spay/neuter animals.

Paul Hurlbut, 4701 W. Swift, spoke to his concerns with the proposed Ashlan Cornelia area park and the inadequate/lack of infrastructure, public safety services, and library in the area, and submitted a map to Council provided to him by the PARCS department.

Tate Hill, San Joaquin Valley Black Chamber of Commerce, thanked Mayor Swearengin and city officials and staff for all their support and efforts with the Juneteenth celebration at Eaton Park.

(9:15 A.M.) PRESENTATION BY TONY BOREN, EXECUTIVE DIRECTOR OF COG (COUNCIL OF FRESNO COUNTY GOVERNMENTS), OF THE MEASURE C REGIONAL TRANSPORTATION MITIGATION FEE JOINT POWERS AGENCY AGREEMENT

Mr. Boren gave a PowerPoint presentation which consisted of Measure "C" Extension, Regional Transportation Program, Tier 1 Projects - Urban, Tier 1 Projects - Rural, Funding Sources, Regional Transportation Mitigation Fee (RTMF) Study, RTMF Structure, Original Plan for Implementation, Revised Plan for Implementation, Advantages of the Joint Powers Agreement, and a Summary.

Mike Prandini, Building Industry Association, spoke in support of the JPA stating it provided two big advantages for the industry and explained.

Upon question of President Sterling, City Attorney Sanchez and ACM Rudd stated staff would return in August with the final supporting documents for action. Mr. Rudd, Mr. Sanchez and Mr. Boren responded to questions of Councilmember Xiong relative to

whether staff will be briefing council members prior to the final documents coming back **(2 - 0)**, implementation responsibility, if legal mechanisms have been address, and if the Transportation Authority was involved in this issue. President Sterling stated this was good government and also showed the need for the county and cities to collaborate and work together. Mr. Boren was thanked for the

presentation and requested to keep Council informed.

President Sterling acknowledged and welcomed former council member Jerry Duncan.

(9:30 A.M.) CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATOR:

PROPERTY: CHUKCHANSI PARK MULTIPURPOSE STADIUM

NEGOTIATING PARTIES: CITY MANAGER SOUZA, CHRIS CUMMINGS, FRESNO BASEBALL CLUB

UNDER NEGOTIATION: PROPOSED AMENDMENT TO THE LEASE AGREEMENT WITH FRESNO BASEBALL CLUB, LLC AND FRESNO BASEBALL CLUB, LLP

The City Council met in closed session in Room 2125 at the hour of 9:30 a.m. to consider the above matter. Acting President Westerlund was present via teleconference for the item, and his location was Restaurante Del Pacifico, Avenue Del Mar, 1910 Col: Palos Prietos, Mexico 82010.

Council reconvened in regular open session at 10:54 a.m. No announcements were made.

(9:45 A.M. "A") RESOLUTION NO. 2009-164 - ADOPTING THE CITY OF FRESNO INVESTMENT POLICY FOR FY 2009-10

Treasury Officer Wiles reviewed the issue, the three changes from last year's policy, and the policy's five objectives, all as contained in the staff report as submitted.

On motion of Councilmember Brand, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2009-164 hereby adopted, by the following vote:

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

**(9:45 A.M. "B") AUTHORIZE THE PUBLIC UTILITIES AND PLANNING & DEVELOPMENT DEPARTMENT DIRECTORS TO ENTER INTO AND EXECUTE AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ED&W, INC., IN THE AMOUNT OF \$888,701 FOR WATER SUPPLY AND WASTEWATER ENGINEERING SERVICES, THE TRAFFIC ANALYSIS COMPONENT, AND PLAN MODIFICATION EVALUATION SERVICES TO SUPPORT PREPARATION OF THE SOUTHEAST GROWTH AREA (SEGA) EIR AND COMMUNITY/SPECIFIC PLAN
1. RESOLUTION NO. 2009-165 - 2ND AMENDMENT TO AAR 2009-149 APPROPRIATING \$787,800 FOR THE SEGA EIR AND PLAN SUPPORT SERVICES**

Interim Planning & Development Director Bergthold reviewed the issue, all as contained in the staff report as submitted, and responded to questions/comments of Councilmember Xiong relative to the public transportation infrastructure study (PTIS), if study findings have been provided to Council, who was conducting the study, if COG would be reporting to Council on the study, ongoing complimentary planning activities, adopted budget/commitment to downtown investment/if SEGA will compete with downtown, and PTIS flexibility/how adjustments can be made.

Councilmember Dages thanked Mr. Bergthold for capturing and taking SEGA forward, stated this was a model for other communities and was positive publicity, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Brand.

Mr. Bergthold responded to questions and comments of Councilmember Brand relative to the time frame for the EIR and PTIS, if SEGA was a pre-condition for implementing planning for the west area, and developers interested in taking the lead in designing enhanced features. President Sterling thanked staff for all the information provided, stated the city was on track to get this blueprint done and implement SEGA and added this was also a starting point for work on the west area, and also thanked PUD Director Ramirez and staff for the great teamwork.

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLED, the Public Utilities and Planning & Development Directors authorized to execute Amendment No. 1 to the subject agreement with EDAW, Inc., and the above entitled Resolution No. 2009-165 hereby adopted, by the following vote:

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

(10:15 A.M.) HEARING ON REZONE APPLICATION NO. R-09-01 AND ENVIRONMENTAL FINDINGS FILED BY PROPERTY OWNERS MINH THE TRAN AND NUONG H. VU, WEST SIDE OF S. CEDAR BETWEEN E. BUTLER AND E. HAMILTON AVENUES

- 1. CONSIDER AND ADOPT A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR PREPARED FOR E.A. NO. R-009-01/C-07-152./T-5912**
- 2. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-3 TO R-2**

President Sterling announced the time had arrived to consider the issue and opened the hearing. Planner Tackett stated the staff report as submitted was complete and recommended approval.

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

Councilmember Dages stated he was very concerned with this project as this property was the area where the Fresno Unified School District was going to build an elementary school, stated he was dumbfounded why construction of 14 units was being allowed when the district would come in and tear them down and added they already took soil samples, noted he communicated his concerns previously to staff, and advised he spoke with a district official this morning and the response was this was still their preferred site and they were bringing options to purchase the land. Upon Councilmember Dages' question Mr. Tackett stated development of the apartment complex was approved through a 2005 entitlement, the property owner had authorization for development of that complex, this rezone was to facilitate a potential subdivision of that property should the applicant go forward, and added staff had a memo dated July 14th from FUSD Executive Director LeBlanc indicating their interest but also indicating they were neither in support nor opposed to the project at this time. Councilmember Dages continued stating he did not know how he could support this, he understood the property owner's rights but added why they wanted to move forward was beyond him, upon his question Mr. Tackett stated he did not have the district's May 21st letter, and Councilmember Dages reiterated he was unable to support this unless a good reason is brought forth.

Upon questions of Councilmember Borgeas City Attorney Sanchez stated other than the interest shown there had been no formal/legal rights/steps taken by the school district, the property owner was legally entitled to go forward and proceed with development proposals, and ultimately this was a legislative decision and Council could factor that in as a basis for their decision. Upon further question Councilmember Dages stated there was no missing step here, on May 21st the district decided to look at this as the preferred site, did soil testing, and the property owner was aware of that, stated his concern was the cost to taxpayers if the district has to tear down a new project, and added he also never met/talked with the property owner and he had a rule to meet with anyone developing in his district. Councilmember Borgeas suggested delaying the matter one week so Councilmember Dages could meet with the applicant and a motion and second was made to that effect. Councilmember Xiong stated he would support the motion but added if the district does not have a more concrete letter by next week he would support the applicant and staff. President Sterling noted this originated in 2005 and requested Councilmember Dages find out in his review whether Fresno Unified has started financial negotiations to purchase the property and whether the person making the request actually owned the property.

On motion of Councilmember Dages, seconded by Councilmember Borgeas, duly carried, RESOLVED, the subject Hearing on R-09-01 continued to July 30, 2009, at 10:10 a.m., by the following vote:

154-19

7/23/09

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

(10:20 A.M.) HEARING ON REZONE APPLICATION NO. R-08-031 AND ENVIRONMENTAL FINDINGS FILED BY SUKHMINDER S. AND MANSUKHJIT MALHI, PROPERTY LOCATED ON THE WEST SIDE OF N. BLYTHE BETWEEN W. ASHLAN AND W. DAKOTA AVENUES

1. CONSIDER AND ADOPT A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR PREPARED FOR E.A. NO. R-08-031/TPM-2008-230

2. BILL NO. B-30 - ORDINANCE NO. 2009-30 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/UGM

President Sterling announced the time had arrived to consider the issue and opened the hearing. Planner Tackett stated the staff report as submitted was complete and recommended approval.

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

(3 - 0) On motion of Councilmember Xiong, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, and the above entitled Bill No. B-30 adopted as Ordinance No. 2009-30, by the following vote:

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

(9:45 A.M. "C") WORKSHOP ON PAVEMENT MANAGEMENT

Public Works Director Weimiller introduced and gave an overview of the issue, and Assistant Director Krauter gave an in-depth PowerPoint presentation which consisted of What is Pavement Management?, Street Network Inventory, Pavement Conditions, Pavement Condition Categories, Establishment of PCI for all City Streets, Pavement Inventory & Condition Analysis, Pavement Condition Analysis, GIS System, and Pavement Management Goals & Strategies.

With staff's presentation concluded, proceedings were continued to 1:30 p.m.

LUNCH RECESS - 12:01 P.M. - 1:32 P.M.

Workshop proceedings continued with Mr. Weimiller, Mr. Krauter and ACM Rudd responding to comments and questions of Councilmember Dages and President Sterling relative to commendation to staff on the Kings Canyon (Cedar to Chestnut) project, how badly the state's anticipated action with the gas tax will affect the program, paving cycle, how often major streets are paved, request to keep him informed on negotiations with Caltrans on 180 to Temperance, why the city does not use concrete like the state does, if projects included in the adopted budget will be completed or have to be re-looked at if gas taxes are taken, thank you to staff for work on W. McKinley Avenue at Addams Elementary, and when work will start on California Avenue in front of Hope VI and the importance of that project for Hope VI and the area. Staff was thanked for the report and President Sterling stated this subject would make a good term paper for students.

(9:45 A.M. "D") WORKSHOP ON PROPOSITION 218 HEARING PROCESS TO ENACT A WATER METER FEE AND FLAT RATE DROUGHT SURCHARGE

Public Utilities Director Ramirez introduced the item, entitled "Metered Water Rates & Drought Surcharge Workshop", and along with Assistant Directors Andersen and Martin gave an in-depth PowerPoint presentation which consisted of the Purpose and Objective, "Metered Water Rates", Why Water Meters?, Current Industry Trends on Water Rates, City's Current Water Rate Structure **(4 - 0)**, Water Rate Study, Rate Design Considerations, Option 1: Uniform Structure (One Tier), Uniform Rate Bill

Comparison, Option 2: Three Tiered Rate Structure, Three Tiered Rate Bill Comparison, Pros and Cons of Uniform and Three Tiered Rate Structures, Residential Water Rate Type and Billing Frequency-Selected Cities, Transition from Uniform to Tiered Rates, "Drought Surcharges", Purpose of Drought Surcharges, Overview of Drought Surcharges, Drought State Triggers, Depth of Groundwater, California Water Agencies with Drought Surcharges, and Summary/Overview/Conclusion.

President Sterling thanked staff for the presentation and spoke briefly to the importance of public outreach, with Mr. Ramirez concurring and expanding further. Upon question of Councilmember Borgeas Mr. Ramirez stated all people who have meters installed by January 1, 2010, have to be charged a water meter rate as that was the law. There was no further discussion.

(9:45 A.M. "E") WORKSHOP ON THE UPPER KINGS BASIN INTEGRATED REGIONAL WATER MANAGEMENT JOINT POWERS AGREEMENT

Water Division Supervising Engineer Buche gave an in-depth PowerPoint presentation entitled "Upper Kings Basin Water Forum" which consisted of What is Integrated Regional Water Management?, Kings River Water Supply is Finite, Depth to Groundwater (FID 1922-2004) Graph, Regional Water Issues and Concerns, What Can We Manage?, Local Water Leaders Come Together, Diverse Forum Membership, Integrated Regional Water Management Plan Developed, Current Solutions on the Table, Projects in the Works, Current Activities of the Forum, JPA Memberships, JPA Governing & Voting Structures, JPA Cost Share Structure, Benefits of JPA Membership, Forum Vision, and How to Support the Forum's Efforts.

Assistant Public Utilities Director Martin acknowledged Mr. Buche's hard work and effort in working the city of Fresno into this operation, and stated it was critical that the city be a part of the Integrated Water Management Plan or it could not apply for grants. Upon question of President Sterling Assistant Public Utilities Director Andersen explained the process of installing water meters and meter boxes. President Sterling thanked staff for the presentation and again stated this would make a great term paper project for students. There was no further discussion.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 2:43 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the ____30th____ day of _____July_____, 2009.

_____/s/_____
Cynthia Sterling, Council President

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