

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

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

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

Pastor Natalie Chamberlain of United Christian Church gave the invocation and President Sterling led the Pledge of Allegiance.

PROCLAMATION OF “BREAST CANCER AWARENESS MONTH” - PRESIDENT STERLING

Read and presented.

“MAKE A PROMOTION A COMMOTION” CEREMONY

Employees honored and their new positions were Vicente Cantu, Senior Budget Analyst; Clara Leyba, Senior Customer Services Clerk; Scott Motsenbocker, Senior Budget Analyst; Mark Johnson, Public Works Manager; Kelly Riddle, Facilities Manager; Daniel See, Heavy Equipment Mechanic I; Gary Watahira, Assistant Information Services Director; Sandra Chavez Martin, Senior Human Resources/Risk Analyst; Joseph Oldham, Housing & Neighborhood Revitalization Manager; Ralph Anderson, Water System Operator II; William Borough, Water System Operator II; Michael Cabajal, Chief Engineering Technician; Kenneth Heard, Chief of Water Operations, Martin James, Water System Operator II; Michael Murphy, Water System Operator II; and Steve Saldivar, Collection System Maintenance Operator III. A reception for the employees was held following the ceremony.

APPROVE MINUTES OF OCTOBER 15, 2009:

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, the minutes of October 15, 2009, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong advised Saturday was National Make a Difference Day; invited all to a youth soccer tournament at Chukchansi Park and thanked KMPH for helping with the promotion; thanked Anthem Blue Cross for their community health outreach at Lowell Elementary School; advised he attended Central Unified’s ground-breaking for the Koligian education complex at Ashlan and Bryan; spoke to an educational flag raising ceremony in the Tower District that he attended with Girl Scout Troop 45; spoke to the National Day of Writing at the Fresno County library; requested staff look into and provide recommendations on how to address pods that are left when people move; questioned the status of sewer funding options for homeowners in the Dakota-Polk area (with ACM Rudd stating they would be coming forth in the next couple of weeks); and requested an update on redistricting.

Councilmember Brand announced next Wednesday was the grand-opening of Macy's at River Park and encouraged all to attend and spend.

Acting President Westerlund commended public works for work being done on Shaw Avenue intersections and thanked all for their forbearance; advised the design contract for the Veterans Home was pulled due to some contract compliance issues and noted there were strict federal time lines and the city might need to push the matter if issues have not been resolved; and congratulated the Fresno Fair and all involved on its successful run.

Councilmember Borgeas thanked PARCS Director Cooper and his staff for the tour of Figarden Loop park; advised he was involved in the Farm Bureau's Fact Program and toured the many different farms in the area and added it was very educational; advised a Sister City delegation from Kochi, Japan would be coming here on October 30th and encouraged members to attend the mayor's gathering; and advised he was selected to participate in the Young Political Leaders exchange trip to Japan that will take place the first week in November and he would be gone for about two weeks.

President Sterling congratulated the Downtown Association on their art gala last Friday; and advised she attended the ground-breaking for Central Unified's \$27 million middle school which she added was desperately needed in the area.

APPROVE AGENDA:

(1:30 P.M.) BILL NO. B-37 - ADOPTING TEXT AMENDMENT NO. TA-09-03 AND ENVIRONMENTAL FINDINGS AS RECOMMENDED BY THE PLANNING COMMISSION, WITH SEVERAL MINOR MODIFICATIONS, RELATING TO RESTAURANTS WITH ALCOHOL SALES, TAVERNS AND NIGHT CLUBS (Continue to 5:00 p.m.)

Continued as noted.

(1-E) AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE A QUITCLAIM DEED IN FAVOR OF JB DEVELOPMENT, LLC, FOR A PORTION OF A GOLF CART EASEMENT AT THE FORMER PALM LAKES GOLF COURSE

Supervising Real Estate Agent Hansen corrected the title by adding the following italicized wording: "... Palm Lakes Golf Course *in exchange for a 20-foot public utility easement in Outlot B*". So noted and corrected.

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

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

(9:00 A.M.) BUDGET STATUS AND UPDATE - MAYOR'S OFFICE

Mayor Swearingin gave an update report on the city's budget and financial position, stated the current budget year was still in balance but the issue was the next budget year and advised there would be a \$27.8 million shortfall if action is not taken therefor the city needed to immediately begin the process of reducing expenses, stated the \$27.8 million hole reflected a \$18.2 million decline in revenue and a \$9.6 million increase in expenses and broke the issues down further, advised staff would bring forth a plan of action on November 19th with all options on the table and between then and early December staff would work with Council deliberating the plan and ultimately take action to implement it on January 1st, and concluded stating other cities were experiencing similar declines and being impacted the same way and the city would get through this with everyone working together and being prudent, responsible, and making smart decisions to deliver city services that residents expect. Budget Director Smith expanded further on the details of the decline in sales tax revenue and the increase in retirement contributions, all as contained in a memo to Council as submitted **(2 - 0)**.

Councilmember Brand presented questions and comments relative to the current emergency reserve, the need to delay considering dipping into the reserve until property tax numbers are known in January, request staff think out of the box and consider all options to close the gap including looking at some city assets, the retirement shortfall/stock market recovery since March/possibility of seeing a reverse in trends, and request staff provide an update on how enterprise funds will be impacted, with Ms. Smith responding throughout. Councilmember Brand reminded all that the city's obligation was to the core services and added difficult decisions will have to be made based on priorities. Upon question of Acting President Westerlund Ms. Smith confirmed the \$27.8million was solely general fund revenues, and responded to his additional questions and comments relative to time line for council to receive an update on the enterprise funds, bond debt coverage, time line to receive options/recommendations from department directors, and request that staff provide information on how other cities are being impacted.

Council discussion continued with Ms. Smith, Mayor Chief of Staff White, City Manager Souza and City Attorney Sanchez responding to questions/comments of Councilmembers Xiong, Dages, Perea and Borgeas and/or clarifying issues relative to whether there was anything at the state that will impact the city, the state's decrease in revenues in the first quarter and city contingencies, if the city's lobbyists will be staying on top of issues to protect the city, the November 19th time line for the plan and if staff could engage council a little earlier, concurrence with the need for staff to be creative and look at all options -- including subsidies, commendation to Mayor Swearingin for informing council about this early on, the decrease in property values and if assessments/taxes have been adjusted, the increased DMV taxes and if any of those revenues will be coming to the city, if business tax increases are being considered, interest rates, if there will be employee layoffs, retirement contributions including meaning of the city "being on vacation", if city contributions were anticipated and request for information on debt costs/what was saved/been paid/what has transpired since 1997, if institutional obligations (The Met, Granite Park, etc.) were calculated into the \$27.8 million, options if the state raids cities and initiating suit to stop that, if general fund dollars can be used for enterprise funds that are in the red, if the general fund has ever been used to offset enterprise funds, and if unbalanced enterprise funds were calculated into the \$27.8 million. Mayor Swearingin and staff were thanked for the report and there was no further discussion.

ADOPT CONSENT CALENDAR:

Barbara Hunt spoke in general to various consent calendar items.

Councilmember Borgeas recused himself from Item **1-G** stating his wife worked for the Workforce Investment Board.

Councilmember Dages removed Item **1-L** from the consent calendar for separate discussion/action.

Councilmember Perea registered a "No" vote on Item **1-J**.

(1-A) APPROVE AN AMENDMENT TO THE 2007-2009 NON-EXCLUSIVE TOW FRANCHISE AGREEMENT BETWEEN THE POLICE DEPARTMENT AND MULTANI'S TOWING

(1-B) APPROVE AN MOU WITH THE SALVATION ARMY FOR THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING (COPS) METHAMPHETAMINE INITIATIVE 2007 GRANT PROJECT, AND AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE THE AGREEMENT AND REQUIRED PROGRAM DOCUMENTS

(1-C) ADOPT CEQA FINDING AND AWARD A TWO YEAR LEASE, EFFECTIVE SEPTEMBER 1, 2009, OF A HANGAR AT CHANDLER AIRPORT TO ALAN BUCHNER d.b.a. BUCHNER SPECIALITIES, AT AN ANNUAL RENTAL OF \$20,400, PAYABLE MONTHLY IN ADVANCE AT THE RATE OF \$1,700, AND SUBJECT TO ESCALATION IN THE SECOND YEAR PURSUANT TO A FORMULA

(1-D - REMOVED FROM THE AGENDA)

(1-E) AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE A QUITCLAIM DEED IN FAVOR OF JB DEVELOPMENT, LLC, FOR A PORTION OF A GOLF CART EASEMENT AT THE FORMER PALM LAKES GOLF COURSE IN EXCHANGE FOR A 20-FOOT PUBLIC UTILITY EASEMENT IN OUTLOT B

(1-F) ADOPT CEQA NOTICE OF EXEMPTION AND AWARD A CONTRACT IN THE AMOUNT OF \$530,347 TO BILL

NELSON, G.E.C., INC., FOR THE VETERANS HOME SEWER AND WATER MAIN (IN CALIFORNIA, MARKS AND HUGHES AVENUES), AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CONTRACT ON BEHALF OF THE CITY

(1-H) APPROVE A CONTRACT FOR \$7,824.56 WITH THE FRESNO COUNTY OFFICE OF EDUCATION FOR THE PARCS DEPARTMENT TO CONDUCT A COLLABORATIVE INFORMAL SCIENCE PROGRAM RUNNING THROUGH JUNE 30, 2010, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-I) APPROVE A CONTRACT FOR \$22,000 WITH THE FRESNO COUNTY OFFICE OF EDUCATION FOR THE PARCS DEPARTMENT TO CONDUCT THE FRESNO BET PROGRAM AT ORANGE CENTER MIDDLE SCHOOL RUNNING THROUGH JUNE 30, 2010, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-K) AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO ENTER INTO A NEW PROFESSIONAL SERVICES AGREEMENT WITH MATRIX CONSULTANT GROUP FOR THE COMPLETION OF THE PLANNING AND DEVELOPMENT DEPARTMENT FEE STUDY AND RELATED SERVICES AND ALLOW AN ADDITIONAL \$10,000 CONTINGENCY FOR WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT'S SCOPE

(1-M) EL DORADO NEIGHBORHOOD PLAN

1. BILL NO. B-36 - ORDINANCE NO. 2009-37 - AMENDING THE HOOVER COMMUNITY PLAN BY INCORPORATING THE EL DORADO NEIGHBORHOOD PLAN AND AMENDING TABLE 4 OF THE FRESNO GENERAL PLAN

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, Perea, Westerlund, Xiong, Sterling
Noes : None
Absent : None

(1-G) AUTHORIZE THE PERSONNEL SERVICES DIRECTOR TO EXECUTE ALL DOCUMENTS, SUBJECT TO APPROVAL AS TO FORM BY THE CITY ATTORNEY'S OFFICE, RELATING TO THE UTILIZATION OF PARTICIPANTS FROM ARBOR E&T, LLC (ARBOR), AS FUNDED BY THE FRESNO COUNTY WORKFORCE INVESTMENT BOARD, AT CITY OF FRESNO WORK SITES

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Item **1-G** hereby approved, by the following vote:

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

(1-J) APPROVE AN ADDENDUM TO THE CONSULTANT AGREEMENT WITH FRESNO METRO MINISTRY AUTHORIZING THE COLLECTION OF COMMUNITY GARDEN USER FEES

1. RESOLUTION NO. 2009-215 - 484TH AMENDMENT TO MFS RES. 80-420 ESTABLISHING COMMUNITY GARDEN USER FEES

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Item **1-J** hereby approved, by the following vote:

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

(9:30 A.M.) PUBLIC COMMENT:

(A) SCHEDULED COMMUNICATION: APPEARANCE BY KENNETH FICK TO DISCUSS VARIOUS ISSUES

Appearance made.

(‘B’) UNSCHEDULED COMMUNICATION:

Paul Hurlbut spoke to a meeting he attended with Sherry Smith and City Attorney Sanchez earlier in the year relative to petition signature collection for a fire station/fire protection services in the Ashlan Cornelia corridor.

(3 - 0) Rick Morse, E. Olive, spoke to his advocacy for Americans for Safe Access and to federal medical marijuana law.

Brandon Morse, E. Olive, spoke to written material he submitted relative to medical marijuana litigation.

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

Russell Appling, homeless, spoke to various issues.

Robert Williams, Beverly Avenue, Clovis, spoke to solar system planets.

Barbara Hunt spoke to the city budget, enterprise funds, and bonds.

(9:40 A.M.) APPROVE TERMS AND CONDITIONS FROM US BANK COMMUNITY DEVELOPMENT CORPORATION AND CLEARINGHOUSE CDFI FOR NEW MARKETS TAX CREDIT EQUITY INVESTMENT FINANCING MECHANISM FOR THE FRESNO METROPOLITAN MUSEUM OF ART AND SCIENCE (THE MET)

Deputy City Manager Zieba and Jay Harrington of CDFI Clearinghouse, introduced the item and gave a brief overview of the issue as outlined in the staff report as submitted.

Barbra Hunt, 2475 S. Walnut, spoke to the issue.

City Manager Souza, Mr. Harrington, City Attorney Sanchez and Ms. Zieba responded to numerous questions/comments of Councilmembers Borgeas, Xiong, Dages, Brand and Westerlund and/or clarified issues relative to the transaction/process/requirements including assets, collateral and ineligible activities, types of businesses that take advantage of this financing, the Community Development Entity (CDE), liabilities/risks, if this financing was similar to the city’s down payment assistance program (DAP) in terms loan forgiveness if terms/conditions are met, developers interested in the Met property and outreach, thank you to staff for explaining issues, need for the Met to pay the entire \$15 million irregardless of this creative financing, fees/interest rates, probability of this application’s success, lenders, cost that will be passed onto the Met, the potential savings, the included flexibility and support for the transaction, purpose of new market tax credits, if there ws nothing at this point that would obligate the city, **(4 - 0)** required guarantees, how the tax credits would be impacted if the Met were to fail during this process, commercial/residential development options, and the 20% commercial requirement.

On motion of Councilmember Xiong, seconded by Councilmember Dages, duly carried, RESOLVED, the Terms and Conditions from US Bank Community Development Corporation (USB) and Clearinghouse CDFI, to begin the transaction processes for use of New Markets Tax Credit financing of the City’s loan of \$15.2 million on behalf of the Fresno Metropolitan Museum hereby approved, by the following vote:

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

President Sterling advised she would be leaving shortly due to a commitment.

(10:00 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 11:03 a.m. and met in joint session with the Redevelopment Agency

APPROVE AGENCY MINUTES OF OCTOBER 1, 2009

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the minutes of October 1, 2009, approved as submitted.

(‘A’) JOINT COUNCIL/AGENCY RESOLUTION NO. 2009-216/1748 - AUTHORIZING \$75,000 FOR INSTALLATION OF PUBLIC IMPROVEMENTS, INCLUDING THE PROPOSED MEDIAN ISLAND IMPROVEMENTS ON CLOVIS AVENUE BETWEEN MCKINLEY AND THE HIGHWAY 180 ENTRANCE, AND MAKING FINDINGS UNDER REDEVELOPMENT LAW THAT THE AGENCY MAY PAY FOR THE COST TO INSTALL AND CONSTRUCT PUBLICLY OWNED IMPROVEMENTS WITHIN THE AIRPORT AREA REVITALIZATION PROJECT AREA, with a minor correction

Executive Director Murphey reviewed the issue and recommended approval, all as contained in the staff report as submitted.

Barbara Hunt spoke to the purpose of redevelopment.

A motion and second was made to approve staff’s recommendation, and Ms. Murphey advised of a correction to Page 4 of the Resolution, #2, changing wording to read *the Agency* -- not Council -- consents to the tax increment expenditure.

On motion of Acting President/Member Westerlund, seconded by Councilmember/Vice Chair Brand, duly carried, RESOLVED, the above entitled Joint Resolution No. 2009-216/1748 hereby adopted, as corrected, by the following vote:

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

(‘B’) AGENCY RESOLUTION NO. 1749 - (1) APPROVE THE NEIGHBORHOOD STABILIZATION PROGRAM AGREEMENT BETWEEN THE CITY AND THE AGENCY AND RELATED DOCUMENTS; AND (2) AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE THE AGREEMENT, PREPARE ANY DOCUMENTS, AND TAKE OTHER ACTIONS NECESSARY TO CARRY OUT THE AGENCY’S OBLIGATIONS UNDER THE AGREEMENT, INCLUDING THE AUTHORITY TO EXECUTE CONTRACTS, with a minor correction

Director Murphey reviewed the issue and recommended approval, all as contained in the staff report as submitted, and advised of a minor correction to Page 2 of the Resolution, last sentence of Section 3, deleting the words “*and direction*” to have the sentence read: “...approval as to form by the City Attorney.” City Attorney Sanchez added an attachment identified as a Recognition Agreement between the Agency and Wells Fargo was inadvertently attached to the item and was not related to this transaction.

Barbara Hunt spoke to the issue.

Vice Chair Brand spoke to past delays/implementation problems and the tight market on foreclosed homes and asked members to be aware of the current inherent limitations. Assistant Director Raymond and Ms. Murphey responded to questions of Chair Xiong relative to contractors/investors interested in participating in the NSP, NSP requirements/criteria, the RFP process, and if the Agency would purchase homes but not be involved in the construction.

On motion of Vice Chair Brand, seconded by Member Westerlund, duly carried, RESOLVED, the above entitled Agency Resolution No. 1749 hereby adopted, by the following vote:

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

154-107

10/22/09

The joint bodies adjourned their meeting at 11:17 a.m. and the City Council reconvened in regular session. President Sterling left the meeting at 11:17 a.m. due to a commitment.

(11:00 A.M.) CONTESTED CONSENT CALENDAR ITEMS:

(1-L) BILL FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO SAFE AND SANE

FIREWORKS EXCEPTIONS AND SALE OF SAFE AND SANE FIREWORKS

Upon question of Councilmember Dages Deputy Fire Chief Donis advised staff met with one of the primarily two organizations that sell safe and sane fireworks about these changes, and spoke to the changes stating they were more logistics in nature and explained. Councilmember Dages advised his concern was there was an ordinance in place now and these changes would take authority away from council, the fire department would make judgement calls without council knowledge, and the number of sellers was being eliminated, stated he was reluctant to support anything that takes an ordinance away and gives complete control to the fire department without assessing council’s opinion on new procedures or policies and elaborated further, and stated he would not support this. Councilmember Borgeas stated interesting points were made and suggested laying the matter over to review this policy further and see where it is going and how it will impact council authority, whereupon a motion and second was made to continue the matter to allow staff to meet with council members and engage the other fireworks vendors. Councilmember Perea spoke in support of the continuance and stated when the matter comes back he wanted to see guidelines and some level of council oversight/inclusion in the process along with giving the department greater flexibility. City Manager Souza clarified the goal here was not to circumvent a policy process but was to streamline the administrative process and stated staff would go back and retool the ordinance leaving policy components in place and extracting those things that are administrative. Councilmember Xiong stated it was important to include the vendors and community contacts in discussions. Upon question of Acting President Westerlund Ms. Donis advised TNT, Phantom and Black Cat were the three distributors/vendors at issue and that staff would be contacting.

On motion of Councilmember Dages, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Item 1-L referred back to staff to allow for meeting with Council member and Safe and Sane fireworks vendors to address issues of concern, obtain input, and bring the matter back when ready, by the following vote:

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

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

(‘A’) ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: CITY OF FRESNO V. RBC REAL ESTATE FINANCE, INC., TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, DUNMORE MONTECITO, LLC

The City Council met in closed session in Room 2125 at the hour of 11:29 a.m. to consider the above matter.

RECESS - 11:37 A.M. - 5:00 P.M.

(5:00 P.M. #1) BILL NO. B-37 - ORDINANCE NO. 2009-38 - ADOPTING TEXT AMENDMENT NO. TA-09-03 AND ENVIRONMENTAL FINDINGS AS RECOMMENDED BY THE PLANNING COMMISSION, WITH SEVERAL MINOR MODIFICATIONS, RELATING TO RESTAURANTS WITH ALCOHOL SALES, TAVERNS AND NIGHT CLUBS, as amended, adding a provision to review the ordinance in one year

Interim Planning Manager Rodriguez advised there was no new information to report but added he had been approached by community members as well as bar/nightclub owners and made a clarification that nightclubs in the downtown area bound by Highways 41, 180 and 99 south of Divisadero could remain open until 4:00 with continued dancing and operations but alcohol would still have to cease at 2:00 a.m.

Jerry Duncan, E. Waterford, encouraged Council’s support and clarified this ordinance would only apply if someone wishes to change their current operation.

Acting President Westerlund advised he met with community members including MADD who had valid concerns and spoke to bars/nightclubs becoming nuisances and at his request Mr. Rodriguez explained how those issues would be triggered, how the city would be active in enforcement, and how the CUP and revocation processes would work. Acting President Westerlund stated he would be looking towards planning & development staff to take an active role when there is a problem and elaborated, and added there will be intended and unintended consequences of this ordinance so he was supportive of an official review in one year. Mr.

Rodriguez advised currently there was no provision to revisit the ordinance in one year and requested one be added, whereupon Acting President Westerlund made a motion to adopt the bill, as amended, adding a provision to fully review the ordinance in one year, which motion was seconded by Councilmember Borgeas. Councilmember Xiong added MADD did initially have some concerns but it was his understanding they were comfortable with the ordinance and process after talking with staff. Councilmember Borgeas added even the seemingly best policies have flaws and this one would be no different so the one year review was very appropriate, and presented questions relative to public notification (**5 - 0**), process for public participation/input, changes and requirement for community meetings at the business owners' expense, and the 4:00 a.m. rule and staff's logic therefore, with Mr. Rodriguez responding and clarifying issues. Councilmember Brand spoke briefly to calls for police service, people moving from bar to bar and support for the ordinance as people will not drive as much, the city's aggressive DUI program, and need for staff to keep a close eye on statistics to ensure this will not contribute in any way to public safety. Mr. Rodriguez responded to questions of President Sterling relative to how loud music complaints will be handled, current and new permits and fees, dance permits, and notification/outreach plan for the new ordinance. President Sterling expressed her support stating this was a good ordinance and overdue and thanked staff.

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Bill No. B-37 adopted as Ordinance No. 2009-38, as amended, adding a provision to review the ordinance in one year, by the following vote:

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

(5:00 P.M. #2) HEARING ON PLAN AMENDMENT APPLICATION NO. A-08-09, REZONE APPLICATION NO. R-08-013, AND ENVIRONMENTAL ASSESSMENT NO. A-08-09/R-08-13, FILED BY SOL DEVELOPMENT ASSOCIATES, LLC, ON BEHALF OF OWNERS JOHN & SHELLY SHAMSHOIAN AND CYRUS & DIANNA SETOODEH, PROPERTY LOCATED AT 2551 S. MINNEWAWA AVENUE (NORTHWEST CORNER OF E. JENSEN AND S. MINNEWAWA)

1. CONSIDER AND APPROVE THE ENVIRONMENTAL FINDING OF A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-08-09/R-08-13 DATED SEPTEMBER 4, 2009
2. **RESOLUTION NO. 2009-216** - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE ROOSEVELT COMMUNITY PLAN (APPROVING PLAN AMENDMENT NO. A-08-09)
3. **BILL NO. B-39 - ORDINANCE NO. 2009-39** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-2/EA/UGM/cz, as amended, adding four (4) additional conditions

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

Planner Salinas gave a PowerPoint presentation on the project which consisted of a Map of the Subject Site, Proposed Zoning and Land Use Changes, Aerial Photos of the Site, Density, Rationale for Supporting the Plan Amendment, Half-Mile Radius Map - Planned Land Uses, Half-Mile Radius Area Photo, District 5 Plan Implementation Committee Review, Planning Commission Review and Approval, Appeals Received (traffic, noise, neighborhood compatibility), and Staff's Recommendations.

Bill Robinson of Sol Development Associates, representing the applicants, acknowledged project supporters in attendance, expanded further on the proposed project and neighborhood concerns at length, and urged Council's support.

Councilmember Dages thanked Javier Hernandez and Jason Berger for putting on the community meeting and inviting him.

RECESS - 5:55 P.M. - 6:14 P.M.

154-109

10/22/09

Speaking to the issue were: Javier Hernandez, E. Grove, concerns/opposed; Don Scordino, N. Knoll, support; Carmel Sanders, E. Menlo Avenue, support; Heidi Nakayama, E. Atchison, opposed; Jason Berger, E. Grove, concerns/requested additional conditions if approved (**6 - 0**); Jennifer Hutchison, E. Eugenia, opposed; Rick Wiens, E. Burns, opposed; Lori Rold, E. Burns, opposed; Joyce Ceronsky, E. Grove, concerns/opposed; Sue Williams, Sunnyside Property Owners Association, concerns/request additional conditions if approved; Hannah DeGroot, E. Sussex Way; support; and Jessica Peterson, W. Nees, support.

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

Councilmember Dages thanked the Sunnyside Property Owners Association for their letter with suggested conditions of zoning and spoke at length to numerous project issues and neighborhood concerns including whether Minnewawa could be extended out to Church Avenue, when Minnewawa would be developed out to Church, if a condition could be added to develop Minnewawa, the bike trail and canal trail, lack of a plan and if a submittal of a plan could be conditioned, the appeal process, if a condition could be added to bring the site plan back to the planning commission or city council, “Safe Routes to School”/how children will get to school, traffic concerns/people traveling through the neighborhood to get to a major street/how that problem can be addressed, noticing, density/number of units/caps, the Jensen/Minnewawa traffic signal, the Traffic Study Mitigation Impact (TSMI) fee/who pays/where the funds go, the Clovis/Jensen signal issue **(7 - 0)** and if it was on the priority list, need to install traffic signals before areas become problems, need for a traffic impact update of the Minnewawa/Church intersection, the 25% open space requirement, and site plan details and if conditions could be placed on balcony design/placement and desired amenities (pools, clubhouses, etc.), with Traffic Engineer Jones, Ms. Salinas, City Attorney Sanchez and Mr. Robinson responding throughout. At the invitation of Councilmember Dages Mr. Berger spoke further to neighborhood concerns/requests and/or presented questions relative to developing Minnewawa to Church, the unknowns about development plans for surrounding area, lack of commercial and need for commercial in the area for this project to succeed, and additional opportunity for neighborhood input. With staff’s assistance Councilmember Dages made a motion to approve staff’s recommendations, along with the following new conditions: **(1)** increase notification from 500’ to a 1,000-foot radius for the two neighborhood meetings, **(2)** update the transportation impact study (TIS) to include the Minnewawa/Church intersection, **(3)** make it a gated complex, **(4)** have the CUP go before the planning commission and city council, and **(5)** have balconies face the interior of the complex. Upon call the motion died for lack of a second. Mr. Robinson expressed concern with the balcony condition and explained reasons therefor, whereupon Councilmember Dages withdrew that condition. **(8 - 0)** At the invitation of Councilmember Dages Ms. Hutchison spoke additionally and reiterated the neighborhood did not want this project but if it were to be approved they wanted it to succeed and that was why they were being persistent with their requests, and upon expressing concern Councilmember Dages clarified the developer would not be able to “put in whatever they want” as there would still be two more neighborhood meetings and the CUP would come before the planning commission and the city council and that was all included in the motion. Upon further question of Ms. Hutchison Mr. Sanchez stated a condition that there be no Section 8 housing could not be placed as that would bring about potential lawsuits, with Councilmember Dages speaking further to that issue. Councilmember Dages again made a motion to approve, along with the above conditions #1 - #4, excluding the balcony condition (#5), which motion was seconded by President Sterling.

Councilmember Brand thanked everyone for their input and commented on federal law requirement for high density and mixed use projects, the cost to build and renters of the complex being of medium income, the advantage of large complexes, the fact that apartment complexes were a part of a city, the project time line, commercial development, and the conditions of the Sunnyside Property Owner’s Association and Councilmember Dages and his support for the motion. Councilmember Borgeas also thanked everyone stating their input was very important, and upon expressing concern with imposing conditions (balcony placement) prior to holding the community meetings Councilmember Dages clarified the balcony condition had been removed. Upon request City Clerk Klich reiterated the new conditions. Acting President Westerlund thanked everyone for their input and commented on the issue stating the CUP process was the neighborhood’s protection, multi-family housing was the future not only for the city but the state as a whole, Councilmember Brand was correct that small complexes turn out to the worst, and from his district experience wrought iron fences along the canal should be requested as eyes were needed along the trails, elaborating on the issues throughout. Councilmember Xiong spoke to the diversity of multi-family housing and cautioned council about conditions that reflect NIMBYism (not in my back yard) ideals. Councilmember Perea concurred stating all members have had to deal with NIMBY issues in their districts, he was disappointed and saddened with some of the comments, one sure way of losing his vote is when certain conditions are requested that alienate a group of people from moving to a certain part of town, and it was important to follow the appropriate process fairly with any development. President Sterling thanked everyone for coming out and Councilmember Dages for all his effort.

154-110

10/22/09

On motion of Councilmember Dages, seconded by President Sterling, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, the above entitled Resolution No. 2009-216 hereby adopted, and the above entitled Bill No. B-39 adopted as Ordinance No. 2009-39, as amended, adding four (4) new conditions as verbalized above in addition to the staff-imposed conditions, by the following vote:

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

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 8:05 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the ___29th___ day of _____October _____, 2009.

_____/s/_____/s/_____ATTEST_____

Cynthia Sterling, Council President

Yolanda Salazar, Assistant City Clerk