

The City Council met in special session at the hour of 11:00 a.m. in the Council Chamber, City Hall, on the day above written.

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

Absent :	Andreas Borgeas	Councilmember
	Blong Xiong	Councilmember

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

(11:00 A.M.) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL (Continued from 7/7/09):

(‘A’) EXISTING LITIGATION - CASE NAME: HARRIS CONSTRUCTION COMPANY, INC., ET AL., V. FRESNO METROPOLITAN MUSEUM, ET AL. (FRESNO SUPERIOR COURT CASE NO. 09CECG99634)

(‘B’) ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: CITY OF FRESNO V. METROPOLITAN MUSEUM OF ART AND SCIENCE, ET AL.

The City Council convened in continued closed session in Room 2125 at the hour of 11:00 a.m. to consider the above matters and reconvened in open session at 12:25 p.m.

(‘A’) RESOLUTION NO. 2009-155 - APPROVING A BINDING MEMORANDUM OF UNDERSTANDING (MOU) WITH THE FRESNO METROPOLITAN MUSEUM OF ART AND SCIENCE, DIRECTING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE MOU AND ALL NECESSARY DOCUMENTS TO IMPLEMENT THE TERMS OF THE MOU, AND ADOPT CEQA EXEMPTION PER GUIDELINE 15301, AS AMENDED

City Attorney Sanchez stated the terms and conditions worked out with the Met were before Council and advised the document was submitted to The Met who made some changes and those changes were received yesterday. Assistant City Attorney Sloan read each of the proposed changes into the record, along with the City’s responses to The Met’s proposal. Mr. Sanchez stated the changes and the City’s responses would be the basis for public discussion and Council deliberation.

Mayor Swearingin expressed her appreciation of the Council’s and Met’s work and diligence on this matter, and stated there were still a lot of execution risks but this MOU was the best chance of moving forward based on where the matter stood this date.

Riley Walter, representing The Met, thanked Council and staff for all their efforts, stated clearly no one wanted to be here but this was the best that could be done under the circumstances, and stated while The Met could not guarantee the outcome it could guarantee the effort and advised the changes read into the record by Mr. Sloan were acceptable to The Met.

Speaking in support of the Met and/or to the issue were: Cynthia Cooper, Executive Director of the Fresno Coalition for Arts, Science & History, 1468 Wishon, who read into the record their letter of support for The Met; former council member Brian Calhoun, 289 W. Audubon, who spoke to his and Council’s vote to back-stop The Met, stated there was no choice but to continue to back them up as promised, encouraged Council and the Mayor to get more involved in the Met’s daily operations, and suggested serious thought be given to replacing board members due to the serious level of failure; Richard Johanson, 2312 Dawson Cove Lane, Clovis, past board

member and past president of The Met; Jack Emerian, President of the Fresno Historical Society; Pat Caiazza, 2720 Alamos, Clovis, Met docent; Jim Franklin, Pastor of Cornerstone Church and Met neighbor; and Larry Powell, schools representative.

President Sterling thanked The Met for working with the City, thanked Mayor Swearengin for her leadership, and thanked staff and all involved for all their efforts, and stated the city had been actively involved and would continue to stay engaged while moving forward as a team.

Mr. Sanchez stated there was an exhibit that laid out the parcels which should have been attached to the MOU as Exhibit A and made copies available to the public; advised with Section 6 of the resolution there was a proposal to delete the term "designee" and just have the city manager individually authorized and directed to take all steps necessary to execute the document; and recommended, if this is approved, that The Met also execute the MOU this date.

Acting President Westerlund thanked the speakers and those in attendance and also thanked Mayor Swearengin for coming in and being so hands-on and involved in this unprecedented situation with an important institution; elaborated on the issue starting with the July 2007 Council vote and the functioning credit market at that time, the knowledge that there were risks involved, Council making the right vote for the entire valley, and the unexpected market change; stated he was feeling better about this matter due to the new leadership and added The Met needed to be given an opportunity to get through this; stated there was still a great deal of risk involved, The Met would have to raise a great deal of money to continue their operation, and the city stepped up and it was now time for the community to step up with contributions if they value the institution; and stated it will be known in six months whether this will work or not and advised he would be Council President at that time and as such scheduled an update report for January 14, 2010. A motion and second was made to adopt the resolution. Councilmember Brand thanked all in attendance, the Council, Mayor, staff and Met officials for their help, and Dennis Woods with United Security Bank; expanded further on the history of the issue, the project process, mistakes made, and confluence of events -- some beyond and some within the city's control -- that got the parties to this point; stated the entire process was very agonizing and a fine balance had to be found to protect the financial interest of city yet not be so overbearing so as to crush any hope of The Met surviving; stated the only path for the City to try to recoup its' money would be through the success of The Met recovering financially; and spoke to the appraisal and risks, stated the city really had no option here and he would reluctantly support the motion, and he hoped The Met would be successful and the City would be able to recover most of its funding. President Sterling added Councilmember Brand had been a great balance in keeping council informed on both sides and where they needed to be, acknowledged this had been a collective effort of all, and stated even though some decisions are made with a heavy heart Council makes decisions that are in the best interest of the city.

On motion of President Sterling, seconded by Acting President Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2009-155 hereby adopted, as amended, by the following vote:

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

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 1:11 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the 23rd day of July, 2009.

_____/s/_____
Cynthia Sterling, Council President

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