

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:	Brian Calhoun	Councilmember
	Paul Caprioglio	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Councilmember
	Cynthia Sterling	Acting Council President
	Blong Xiong	Council President

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

Captain Dwayne Brasil of the Salvation Army gave the invocation, and President Xiong led the Pledge of Allegiance.

PROCLAMATION OF "KERRI DONIS DAY"

Read and presented.

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

Certificates of Commendation were presented to Leslie Parker, Sam Thivarath, Brett Fickel, James Ingram, David Vargas, Theresa Alvarez and Luis Rivera of the Public Utilities Department; Pat Hayden, Sandy Sun, Gene Johnson, Anthony Gates and Tina Taira of the Police Department; Jennifer Brown and Robin Wilson of the Planning & Development Department; Yer Her of the Personnel Services Department; Wendi Danyluk and Lawrence Mathews of the PARCS Department; Dick Strobe of the Information Services Department; Tracy Souders of the General Services Department; John Sigala, Eligah Turner and Alison Lee of Fresno Area Express; Dean Bingman, Salvador Mendez and Maria Campos of the Fire Department; Donita Bonesteel and Randy Schwan of the Finance Department; Tamara Bogosian of the City Attorney's office; and Georgeanne White from the Mayor/City Council/City Manager/ Call Center/City Clerk Offices. A reception for the employees was held immediately following the presentation.

RECESS - 9:10 A.M. - 9:21 A.M.

APPROVE MINUTES OF OCTOBER 7, 2008:

On motion of Councilmember Caprioglio, seconded by Acting President Sterling, duly carried, RESOLVED, the minutes of October 7, 2008, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Calhoun (1) acknowledged the passing of past council member Leland Scott and spoke to how much Mr. Scott cared for his community; (2) requested City Manager Souza provide information to him on the process/policy for building naming rights; and (3) requested "NO SMOKING" signs be placed at FAX transfer stations stating the second hand smoke was very annoying to waiting customers. ACM Rudd stated signs would be ordered and installed upon receipt in about two to three weeks.

Acting President Sterling requested City Manager Souza schedule a workshop on next week's agenda on the Housing and Economic Recovery Act 2008 Neighborhood Stabilization Program to get Council up to speed on the process.

Councilmember Dages requested staff provide an update on Fancher Creek.

APPROVE AGENDA:

(4:00 P.M. "C") HEARING ON 2008 CYCLE II TRIMESTER PLAN AMENDMENT APPLICATION NO. A-08-62, REZONE APPLICATION NO. R-08-12, AND ENVIRONMENTAL FINDINGS, FILED BY SOL DEVELOPMENT ASSOCIATES, LLC, ON BEHALF OF HORIZON ENTERPRISES, NORTHWEST CORNER OF E. BRALY AVENUE AND S. SARAH STREET (Refer back to staff)

Referred back to staff as noted.

(4:00 P.M. "D") HEARING ON 2008 CYCLE II TRIMESTER PLAN AMENDMENT APPLICATION NO. A-08-08 AND ENVIRONMENTAL FINDINGS, FILED BY JEFFREY T. ROBERTS ON BEHALF OF GRANVILLE HOMES, NORTHEAST CORNER OF W. BULLARD AND N. GRANTLAND AVENUES (Continue to October 28, 2008, at 10:00 a.m.)

Continued as noted.

(9:00 A.M.) SCHEDULED COMMUNICATION: APPEARANCE B MICHAEL BUMGARNER REGARDING CONCERN WITH THE PARKING AND STORAGE OF AUTOS, RVs, COMMERCIAL VEHICLES, AND BOATS IN CITY NEIGHBORHOODS

Request to appear withdrawn.

CITY COUNCIL MEETING SCHEDULE: NOVEMBER 4, 2008, ELECTION DAY

Councilmember Dages noted the Council meeting schedule showed the November 4th meeting as "tentative" and questioned if it could be cancelled. City Manager Souza requested a morning only meeting be held as there were two matters that were time sensitive and could not wait until November 18th, and committed to having the meeting end at noon or earlier.

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

Ayes : Calhoun, Caprioglio, Dages, Duncan, Perea, Sterling, Xiong
Noes : None
Absent : None

ADOPT CONSENT CALENDAR:

Sandra Brock requested a full hearing be held on Item **1-O**.

(2 - 0) Relative to Item **1-F**, Councilmember Dages advised the project was in District 4 and not 5. So noted.

Councilmember Calhoun pulled Items **1-C** and **1-O** from the Consent Calendar for separate discussion/action. Councilmember Duncan stated he was also going to pull Item **1-O**.

(1-A) AUTHORIZE ACCEPTANCE OF A GRANT AWARD OF \$266,000 FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING (COPS), FOR THE TECHNOLOGY 2008 GRANT PROGRAM, AND AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE THE AGREEMENT AND REQUIRED PROGRAM DOCUMENTS

1. RESOLUTION NO. 2008-289 - 31ST AMENDMENT TO AAR 2008-162 APPROPRIATING THE FUNDS INTO THE FY 2009 BUDGET FOR THE COPS OFFICE TECHNOLOGY PROJECT

(1-B) APPROVE AND AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO A GANG PREVENTION SERVICE CONTRACT

WITH CROSSOVER MINISTRIES, d.b.a. AESTHETIC VIEW INSTITUTE (AIV), FOR ANGER MANAGEMENT SERVICES IN AN AMOUNT NTE \$105,000

(1-D) RESOLUTION NO. 2008-290 - 15TH AMENDMENT TO AAR 2008-162 APPROPRIATING \$40,000 FOR STAFF COSTS TO COMPLETE THE PHASE 2 GROUNDWATER REMEDIATION PROJECT AT THE FRESNO SANITARY LANDFILL

(1-E) ADOPT FINDING OF A CATEGORICAL EXEMPTION, CLASS 1 EXEMPTION UNDER CEQA, AND AWARD A CONTRACT TO DAVE CHRISTIAN CONSTRUCTION, INC., IN THE AMOUNT OF \$1,387,025 FOR INSTALLATION OF ASPHALT CONCRETE OVERLAY IN NO NEIGHBORHOOD LEFT BEHIND AREA 63

(1-F) ADOPT FINDING OF A CATEGORICAL EXEMPTION, CLASS 1 EXEMPTION UNDER CEQA, AND AWARD A CONTRACT TO JWT GENERAL ENGINEERING, INC., IN THE AMOUNT OF \$1,058,670 FOR INSTALLATION OF ASPHALT CONCRETE OVERLAY IN NO NEIGHBORHOOD LEFT BEHIND AREAS 40, 48 AND 49

(1-G) AWARD A CONTRACT TO SMITH CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$130,669 TO CONSTRUCT WELL SITE IMPROVEMENTS AT PUMP STATION 179

(1-H) AUTHORIZE THE DEPARTMENT OF TRANSPORTATION/FRESNO AREA EXPRESS TO APPLY FOR BUS RAPID TRANSIT (BRT) VERY SMALL START FUNDS THROUGH THE FEDERAL TRANSIT ADMINISTRATION FOR FY 2009, AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE ALL CLAIM DOCUMENTS ON BEHALF OF THE CITY

(1-I) AUTHORIZE THE DIRECTOR OF TRANSPORTATION/FRESNO AREA EXPRESS TO REJECT THE BID FOR AN AUTOMATED FAREBOX COLLECTION SYSTEM BECAUSE IT SUBSTANTIALLY EXCEEDS THE FUNDS AVAILABLE FOR THE PROJECT, AND DIRECT STAFF TO REVISE THE SPECIFICATIONS AND REBID THE PROJECT

(1-J) RESOLUTION NO. 2008-291 - DEDICATING CERTAIN CITY-OWNED PROPERTY FOR PUBIC STREET AND PUBLIC WALKWAY PURPOSES AT PUMP STATION 40A LOCATED ON THE SOUTH SIDE OF E. ANNADALE AVENUE WEST OF S. EAST AVENUE

(1-K) ADOPT FINDING OF A CATEGORICAL EXEMPTION UNDER CEQA AND AWARD A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$122,431.10 TO WITBRO INC., d.b.a. SEAL RITE GRADING & PAVING CO., FOR CONSTRUCTION OF BICYCLE FACILITIES ALONG FIRST STREET FROM DAKOTA TO HERNDON AVENUES

(1-L) ADOPT A FINDING OF CONFORMITY TO THE MEIR FOR WIDENING AND INSTALLATION OF STREETLIGHTS, CURBS, GUTTER, SIDEWALKS AND DRIVEWAY APPROACHES ALONG W. CALIFORNIA AVENUE BETWEEN S. WEST AND S. FRUIT AVENUES; APPROVE THE ACQUISITION OF ONE PUBLIC STREET EASEMENT NECESSARY FOR THE WIDENING OF W. CALIFORNIA AVENUE ON THE NORTH SIDE OF W. CALIFORNIA BETWEEN S. WEST AND S. FRUIT FROM PROPERTY OWNER ROBERT JAYNE FOR THE APPRAISED VALUE OF \$3,050; AND AUTHORIZE THE ASSISTANT PUBLIC WORKS DIRECTOR TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

(1-M) RESOLUTION NO. 2008-292 - GRANTING AUTHORITY TO THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE AGREEMENTS OF A ROUTINE NATURE WITH THE UNION PACIFIC RAILROAD, BURLINGTON NORTHERN SANTA FE RAILWAY, AND THE SAN JOAQUIN VALLEY RAILROAD

(1-N) APPROVE A CONSULTANT SERVICES AGREEMENT WITH DAVID PAUL ROSEN & ASSOCIATES FOR \$70,250 FOR HOUSING TRUST FUND CONSULTANT SERVICES

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

152-123

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Ayes : Calhoun, Caprioglio, Dages, Duncan, Perea, Sterling, Xiong
Noes : None
Absent : None

CONTESTED CONSENT CALENDAR:

(1-C) APPROVE THE HONORABLE BRETT DORIAN AS THE VIDEO POLICING PROJECT AUDITOR AND AN ACCOMPANYING SERVICE CONTRACT FOR VIDEO POLICING AUDITING SERVICES

Councilmember Calhoun stated he had concerns with moving down the road of police services with video cameras along with the issue of privacy; stated cameras gave a false sense of security as they did not prevent crime and only helped after the fact; stated there was also a big expense involved and those dollars could be better used for police officers; clarified his opposition had nothing to do with the retired judge and stated he was going to be consistent with his belief that cameras were not the way to go; and read into the record excerpts from a recent Newsweek article entitled “To Watch the Watchers” which talked about Britain being crowned “the most watched society in the world”, how Scotland Yard stated CCTV (closed circuit TV) was not very effective in stopping crime, and the problem of hackers and “video sniffing”.

A motion and second was made to approve staff’s recommendation.

Speaking in opposition to the issue and expressing their concerns were: Paul Hurlbut; Bill Simon, ACLU Board Member; Camille Russell; and Charles Krueger, 1237 P Street.

Upon question of President Xiong, City Manager Souza confirmed there was no cost associated with this contract. President Xiong spoke to how oversight was such an important piece to this project and to how members did not approve further camera installation until this piece was in place.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the Honorable Brett Dorian as the Video Policing Project Auditor and the accompanying service contract for video policing auditing services hereby approved, by the following vote

Ayes : Caprioglio, Dages, Duncan, Perea, Sterling, Xiong
Noes : Calhoun
Absent : None

(1-O) APPROVE SIDE LETTERS OF AGREEMENT WITH THE FRESNO POLICE OFFICERS ASSOCIATION (NON-MANAGEMENT POLICE UNIT 4; POLICE MANAGEMENT, UNIT 9), PROVIDING BENEFITS RESULTING FROM AN MOU RE-OPENER

1. APPROVE AMENDMENTS TO THE CITY OF FRESNO RETIREE HEALTH REIMBURSEMENT ARRANGEMENT TO INCLUDE A REVISION TO APPENDIX FOR POLICE NON-MANAGEMENT AND MANAGEMENT UNITS

Councilmember Calhoun stated he has been generally supportive of agreements worked out between staff and bargaining units but he disagreed with this one as it went beyond appropriate give and take; stated this would provide financial incentives to those who wish to retire but “sit on their hands” and do not retire in a timely fashion and elaborated; stressed the incentive should be a desire to have the position replaced with a fine officer with no games played and no additional dollars; and stated he was also concerned with this money coming out of the general fund in the middle of the year and made a motion to deny, which motion was seconded by Councilmember Duncan. Acting President Sterling left the meeting at 9:47a.m. during Councilmember Calhoun’s comments and returned later in the meeting.

Speaking to the issue were: Sandra Brock, Employees Retirement System member, who spoke in opposition stating only one bargaining group would benefit, concurred there would be future on-going costs and other groups would want equity, and requested, if surplus money was available, that funding be allocated for a study of the 1%/2% inconsistency in the Employees Retirement System; and Jacky Parks, FPOA President, who stated this was an excellent program, there was no more cost now to the City than there would be in the future and explained, and there were clear benefits and he hoped Council would look at the total package.

152-124

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Councilmember Duncan stated his concerns were primarily financial and presented questions and comments relative to the where the \$340,000 cost would come from, if it was known what police services will be cut/not provided, belief there will be an impact on services to the public as the cost is coming from the department’s budget, and concern with these types of negotiations occurring in the middle of contracts and desire to table this matter and have it negotiated through the normal process. City Manager Souza responded and clarified this issue was here because of a re-opener, staff felt this option best addressed both the needs to retain/recruit officers and reduce overtime, and this was an appropriate action and a continuation of the meet and confer process, elaborating throughout.

A motion of Councilmember Calhoun, seconded by Councilmember Duncan, to deny the Side Letters of Agreement with FPOA and the Amendments to the Retiree Health Reimbursement Arrangement failed, due to the following tie vote:

Ayes : Calhoun, Caprioglio, Duncan
Noes : Dages, Perea, Xiong
Absent : Sterling

A motion of Councilmember Dages, seconded by Councilmember Perea, to approve the Side Letters of Agreement with FPOA and the Amendments to the Retiree Health Reimbursement Arrangement failed, due to the following tie vote:

Ayes : Dages, Perea, Xiong
Noes : Calhoun, Caprioglio, Duncan
Absent : Sterling

Brief discussion ensued on the ability to bring the item back when a full Council is present, with City Attorney Sanchez responding, and prior to the 10:00 a.m. hearing Mr. Sanchez made a clarification on tie-votes and who may bring the matter back for reconsideration.

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

(‘A’) SCHEDULED COMMUNICATIONS:

APPEARANCE BY CAMILLE RUSSELL TO DISCUSS THE CITY’S PLAN FOR THE HMONG COMMUNITY GARDEN

Appearance made/no action taken.

APPEARANCE BY JOSHUA CRANSTON TO REQUEST THE HMONG COMMUNITY GARDEN ON BELMONT AND DEWITT NOT BE DEMOLISHED

Appearance made/no action taken.

(‘B’) UNSCHEDULED COMMUNICATIONS:

Speaking in opposition to relocating the Hmong community garden to Melody Park were: Chuhez Thao, 2904 N. Blackstone; and Mai Summer Vue, 4016 E. Holland, on behalf of the gardeners, who also stated no agreement was reached last Friday **(3 - 0)**.

Upon question of President Xiong, Councilmember Dages requested City Clerk Klisch schedule the Hmong garden issue on next week’s agenda, with a time to be determined. President Xiong clarified to those present that Council could not take any action this date and speakers present for the issue could either wait to speak next week when an action item is before Council or comment at this time.

Jon Drums, 5965 E. Shields #123, who resides in an area surrounding Melody Park, expressed concern and spoke in opposition to eliminating the ponding basin for a garden and expressed further concern with the lack of notification to area residents on the plan to relocate the garden to Melody Park.

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Rob DeFrees, 119 N. Calaveras, spoke to the importance showing/proclaiming/displaying civic pride.

Richard Yanes, Executive Director of Fresno Metro Ministry, 1055 Van Ness, stated he would comment on the Hmong garden issue next week.

Cathy Caples, Director of Hands On Central California, along with McLane High School students, spoke to National Make a Difference Day and submitted flyers and invited Council to join the volunteers.

Sherry Smith, 4724 W. Swift, spoke to the lack of public and safety services in the Ashlan/Cornelia corridor.

Acting President Sterling returned to the meeting at 10:36 a.m.

Paul Hurlbut spoke to the importance of utilizing existing vacant buildings and requested a squad truck and fire crew be located at Fire Station 16.

Speaking in opposition to relocating the Hmong community garden (some with an interpreter) and expressing various related concerns were: Pahoua Lor, 6907 W. Celeste; Lia Vang, gardener; Moua Her; Seng Her, gardener; Yer Moua; Yee Vang; Youa Pao Vang; Joua Lue Lo; Ia Lor; Vang Yang; Chee Yang; Lisa Vang (**4 - 0**); Daniela Simunovic, 2747 N. Van Ness Blvd.; Jenny Saklar, 1801 Broadway #113; Mark Baxter, 540 E. Nees; Yeng Mua; Diana VaVerka, 2554 N. Maroa; Diane Corbin, 4843 N. Thesta; Ashley Fairburn, 933 "F" Street; Will Tranquilli; and Cynthia Brennan, 2531 N. Marks.

City Manager Souza stated he appreciated the passion and concern expressed this date but he took exception with some of the implications/comments made that this mayor, administration and council did not care about the Hmong people and were trying to destroy the Hmong civilization stating the facts did not bear that out and those comments were uncalled for, and stated staff would work through communication and other factors and would, and was committed to, solving this issue.

Just prior to the 10:00 a.m. hearing, Councilmember Caprioglio stated he also appreciated the compassion but he was disappointed with the interpretation of some of the speakers as to what transpired the past couple of weeks; stated it was critical that everyone keep an open mind on all issues, it was his duty to represent all citizens and balance the needs and do what is right for the majority, and he also had to represent the interests of minority groups; and stated with a great deal of diligence and effort by staff and some council members he felt a compromise that satisfied the needs of all parties involved had been reached.

(1-0) APPROVE SIDE LETTERS OF AGREEMENT WITH THE FRESNO POLICE OFFICERS ASSOCIATION (NON-MANAGEMENT POLICE UNIT 4; POLICE MANAGEMENT, UNIT 9), PROVIDING BENEFITS RESULTING FROM AN MOU RE-OPENER; AND APPROVE AMENDMENTS TO THE CITY OF FRESNO RETIREE HEALTH REIMBURSEMENT ARRANGEMENT TO INCLUDE A REVISION TO APPENDIX FOR POLICE NON-MANAGEMENT AND MANAGEMENT UNITS
(Continued from earlier)

City Attorney Sanchez clarified, pursuant to the FMC, a tie vote was deemed a decision *not to approve* and the prevailing side was the "no" votes, and further clarified any one of the failed motions that were made could be formally reconsidered this date by a motion from a member of the prevailing side which would then be procedurally taken by a majority vote of the Council. (**Note** - The item was not brought back for reconsideration this date).

(9:00 A.M.) UNSCHEDULED COMMUNICATIONS: (Continued from earlier)

President Xiong advised a speaker's card had possibly been misplaced and reopened Unscheduled Communications. A Hmong gardener, whose name was inaudible, spoke through an interpreter to the importance of, and need for, the garden for the Hmong community and to the hardships the elderly and non-drivers would face if the garden is moved to another site.

152-126

10/21/08

(10:00 A.M.) HEARING ON CFD NO. 11, ANNEXATION NO. 31 - FINAL TRACT MAP NO. 5358

- 1. RESOLUTION NO. 2008-293 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX**
- 2. RESOLUTION NO. 2008-294 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 3. RESOLUTION NO. 2008-295 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-65 - ORDINANCE NO. 2008-63 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2008-2009 AND FUTURE TAX YEARS**

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

City Engineer/Assistant Director Mozier gave a brief overview of the issue, all as contained in the staff report as submitted, and recommended approval.

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

On motion of Councilmember Calhoun, seconded by Acting President Sterling, duly carried, RESOLVED, the above entitled Resolution Nos. 2008-293, 2008-294 and 2008-295 hereby adopted, and the above entitled Bill No. B-65 adopted as Ordinance No. 2008-63, by the following vote:

Ayes : Calhoun, Caprioglio, Dages, Duncan, Perea, Sterling, Xiong
Noes : None
Absent : None

(10:10 A.M.) HEARING TO CONSIDER INCREASING THE CITYWIDE TRAFFIC SIGNAL MITIGATION IMPACT FEE AND ADOPTING A FINDING OF CONFORMITY WITH THE 2025 GENERAL PLAN MEIR

1. RESOLUTION NO. 2008-296 - 465TH AMENDMENT TO MFS RES. 80-410 INCREASING THE CITYWIDE TRAFFIC SIGNAL MITIGATION IMPACT FEE FROM \$45.98 TO \$47.12 PER AVERAGE DAILY TRIP GENERATED BY NEW DEVELOPMENT

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

City Engineer/Assistant Director Mozier reviewed the issue, all as contained in the staff report as submitted, and recommended approval.

Mike Prandini with the Building Industry Association, spoke to how the BIA worked with staff on this issue and stated even though this was not the time to increase fees they were supportive of the 2.48% increase and this was an appropriate fee at this time.

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

Mr. Mozier and Public Works Director Weimiller responded to questions and comments of Councilmembers Duncan and Sterling, and/or clarified issues relative to who, besides the BIA, staff conferred with on this increase, **(5 - 0)** who provided feedback, concern with increasing fees when the economy is quickly dying and the building industry is virtually dead, increased fees sending a non-positive message to the investment community, need for the city to hold the line and help the economy get back on track, request to Council to oppose this, these difficult economic times and the in-depth consideration staff gave to this issue, staff's support for incremental increases, and this increase being necessary to keep the city strong and strengthen infrastructure. Acting President Sterling made a motion to approve staff's recommendation, which was seconded by Councilmember Caprioglio. Councilmember Calhoun left the meeting at 12:00 noon during discussion.

Mr. Mozier and Mr. Prandini responded to questions and comments of Councilmember Dages relative to the new signal list, what will happen to signals that are already installed at listed intersections, concern with money being wasted by taking out signals and putting them back in, process for improvements made and developer reimbursements, and the BIA representing mostly residential and if industrial builders were informed of this increase. Councilmember Dages stated he agreed with the concern of increasing fees at this time but he would reluctantly support this adding he supported increasing fees incrementally.

152-127

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Mr. Mozier, City Attorney Sanchez, Mr. Weimiller and the motion-makers responded to questions/comments of Councilmember Perea relative to why signals were being removed on Blackstone at McKinley, Clinton and Ashlan, need to receive more information/justification on why they are being removed, and if those three intersections could be separated from action this date and not be unilaterally removed until additional information is received from staff.

On motion of Acting President Sterling, seconded by Councilmember Caprioglio, duly carried, RESOLVED, a Finding of Conformity with the MEIR hereby adopted, the list of intersections covered by the Citywide Traffic Signal Mitigation Impact Fee Nexus Analysis dated August 29, 2008, amended as recommended, and the above entitled Resolution No. 2008-296 hereby adopted, and, BE IT FURTHER RESOLVED, staff directed to look into adding back the Blackstone projects at McKinley, Clinton and Ashlan Avenues and report back, along with possible funding sources, by the following vote:

Ayes : Caprioglio, Dages, Perea, Sterling, Xiong
Noes : Duncan
Absent : Calhoun

LUNCH RECESS - 12:15 P.M. - 3:30 P.M. All members were present.

CLOSED SESSION:

(‘A’) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATION: FRESNO CITY EMPLOYEES ASSOCIATION (FCEA)

The City Council met in closed session in Room 2125 at the hour of 3:30 p.m. to consider the above matter and reconvened in regular open session at 3:50 p.m. No announcements were made.

(9:15 A.M.) DIRECT CITY ATTORNEY’S OFFICE TO RETURN WITH A POLICY OR RESOLUTION DIRECTING ALL CITY ENFORCEMENT AGENCIES TO WITHHOLD ENFORCEMENT UNTIL 12:30 A.M. OF ANY CONDITION IN CITY-ISSUED CUPS LIMITING THE CONSUMPTION OF FOOD AND BEVERAGE TO MIDNIGHT - COUNCILMEMBER DUNCAN

Councilmember Duncan reviewed the issue, all as contained in his report to Council as submitted, clarified this small modification would provide an opportunity for people already in an establishment at midnight to finish their food/drink, and added the police department was supportive and made a motion to direct staff as outlined above, which motion was seconded by Councilmember Dages. Councilmember Perea stated he was supportive and questioned why establishments could not just stay open until 2:00 a.m., with Councilmember Duncan stating some businesses were located very close to residential homes and staff was currently working on that issue and would be coming back with something in about 30 days that would standardize the process for businesses and address those who want to apply for later hours. City Attorney Sanchez clarified if this motion passes CUP conditions would not be changed and staff would draft and return with a policy on how closing will be uniformly enforced. President Xiong added he has also been contacted by some business owners on operating/closing hour consistency and stated he was glad to hear those issues were being addressed.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, **RESOLVED**, the City Attorney’s Office directed to return with a policy or resolution directing all city enforcement agencies to withhold enforcement until 12:30 a.m. of any condition in city-issued CUPs limiting the consumption of food and beverage to midnight, by the following vote:

Ayes : Calhoun, Caprioglio, Dages, Duncan, Perea, Sterling, Xiong
Noes : None
Absent : None

RECESS - 3:57 P.M. - 4:00 P.M.

(4:00 P.M.) HEARING ON 2008 CYCLE II TRIMESTER PLAN AMENDMENTS

152-128

10/21/08

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

Planning Manager Sanchez gave a brief PowerPoint presentation that covered five applications that were submitted for consideration in the 2008 Cycle II filing period, all as contained in the staff report as submitted, advised staff’s recommendation was to approve the two applications before Council this date, and introduced new planner McKenzie Contreras to Council.

(‘A’) CONSIDER PLAN AMENDMENT APPLICATION NO. A-08-03, REZONE APPLICATION NO. R-08-10, AND ENVIRONMENTAL FINDINGS, FILED BY DIRK POESCHEL ON BEHALF OF GOLDEN KEY REAL ESTATE, WEST SIDE OF N. FIRST STREET BETWEEN E. NORMAL AND E. PERALTA WAY (1839 N. FIRST, 3087 & 3092 E. UNIVERSITY, AND 3095 E. PERALTA WAY)

1. ADOPT A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-08-03/R-08-10
2. **RESOLUTION NO. 2008-297** - AMENDING THE 2025 FRESNO GENERAL PLAN AND McLANE COMMUNITY PLAN
3. **BILL NO. B-66 - ORDINANCE NO. 2008-64** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-1 TO R-P

Planner Contreras gave a PowerPoint presentation on the plan amendment and rezone applications, all as contained in the staff report as submitted, and recommended approval.

Dirk Poeschel, 923 Van Ness, on behalf of Golden Key Realty and the Garza family, stated he supported staff’s position and recommendation.

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

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, the above entitled Resolution No. 2008-297 hereby adopted, and the above entitled Bill No. B-66 adopted as Ordinance No. 2008-64, by the following vote:

Ayes : Calhoun, Caprioglio, Dages, Duncan, Perea, Sterling, Xiong
Noes : None
Absent : None

(‘B’) CONSIDER PLAN AMENDMENT APPLICATION NO. A-08-04 AND ENVIRONMENTAL FINDINGS, FIELD BY COPPER RIVER RANCH, LLC, ON BEHALF OF NORMAN AND PAMELA KIZIRIAN, PROPERTY LOCATED NORTH OF COPPER AVENUE BETWEEN THE N. CHESTNUT AVENUE ALIGNMENT AND N. MAPLE AVENUES (11261 N. CHESTNUT AVENUE)

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-08-04

2. RESOLUTION NO. 2008-298 - AMENDING THE 2025 GENERAL PLAN AND WOODWARD PARK COMMUNITY PLAN

Planning Manager Fabino gave a PowerPoint presentation on the issue, all as contained in the staff report as submitted, and recommended approval.

Jeff Roberts, representing the Kizirian Family, requested Council’s support.

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

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, the four findings outlined in the staff report recognizing that a substantial change in circumstance has occurred since the filing of this application adopted, and the above entitled Resolution No. 2008-298 hereby adopted, by the following vote:

Ayes : Calhoun, Caprioglio, Dages, Duncan, Perea, Sterling, Xiong
Noes : None
Absent : None

152-129

10/21/08

Councilmember Calhoun stated past practice has been to schedule these trimester plan amendment applications late in the afternoon for the benefit of the public but noted not a lot of people have been showing up other than the applicant representatives, and requested in the future that these items be placed in the normal schedule so Council meetings do not have to be drawn on throughout the day. Planning Manage Sanchez concurred and stated only those applications that may be controversial will be scheduled later in the day.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 4:14 p.m. having arrived and hearing no objection, President Xiong declared the meeting adjourned.

Approved on the 28th day of October, 2008.

/s/ Blong Xiong, Council President

ATTEST

/s/ Yolanda Salazar, Assistant City Clerk

152-130

10/21/08