

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

Councilmember Dages gave the invocation and President Sterling led the Pledge of Allegiance.

PRESENTATION OF THE SPCA PET OF THE MONTH - COUNCILMEMBER BORGEAS

The pet of the month available for adoption, a 3-month old female kitten named "Purrilla", was presented.

PRESENTATION OF CERTIFICATES TO GOOD SAMARITANS - COUNCILMEMBER XIONG

Presented.

PRESENTATION OF "PRIME TIME FOR BUSINESS - WATCHDOIT.COM" - PRESIDENT STERLING AND D&CR DEPT.

President Sterling presented a Certificate of Commendation to WatchDoIt.com President Brendan Kane, and Mr. Kane gave a short PowerPoint presentation on his "how to" needs company which included the History, Market Niche, Revenue Sources, Future of WatchDoIt.com, What Can the City Do?, and Contact Information.

APPROVE MINUTES OF JULY 30, 2009:

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the minutes of July 30, 2009, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) requested a progress report/update from staff on the new business data tracking system, (2) upon his question ACM Rudd stated at the request of a council member a specific staff member can be included in closed session for discussion, and (3) commended all involved in the strides being made against breast cancer, thanked Assembly Member Ted Lou and Dave Jones for meeting with the API leadership, congratulated the Central California Hispanic Chamber and the Fresno Area Hispanic Chamber on their successful lunch and evening events, advised he attended the National Association Community Health Center reopening with West Fresno Community Health Center, attended a Big Brothers/Big Sisters event, thanked the Lao Veterans for providing historical books, attended the Indian Independence celebration at Fresno State, recognized Luis Santana from Reading and Beyond for receiving a leadership award, and congratulated Reel Pride on their 20th year of operation and upcoming festival.

Councilmember Borgeas thanked public utilities staff for their attendance/participation/assistance at his well attended neighborhood meeting on water related issues stating it was a great success.

Councilmember Dages thanked public works staff for the Kings Canyon repaving project between Cedar and Chestnut Avenues and added the timing was perfect with the upcoming Fresno Fair.

President Sterling (1) thanked staff for all the street work improvements being made in northwest areas of her district, (2) gave a brief update on the Independent Review Officer and the committee’s work; and (3) reported she attended/participated in the Fresno County Farm Bureau media event, Central Unified’s State of the District breakfast event, National Night Out, the Lowell press conference with HUD Secretary Sims, the reopening of the West Fresno Community Health Care Center, the Women’s Equality Day breakfast, the Big Brothers Big Sisters luncheon, the West Fresno Health Care Coalition back-to-school backpack give away event, and the Indian Independence Day event at the Fresno State satellite student union.

Acting President Westerlund (1) expressed concern with the early release of jail inmates, spoke to the need for city/county consolidation, and stated it was time to speak with county residents residing in county islands on consolidation and the difference in the levels of policing service, with City Manager Souza responding and stating staff was in agreement and working on and monitoring the issue; (2) thanked Mayor Swearingin for coming into District 4 for her first town hall meeting; (3) extended a reminder to all that school was back in session and urged drivers to slow down around schools; and (4) questioned if the proper process was followed for the closing of Maple Avenue north of Shaw, with Mr. Souza responding. President Sterling responded and also commented on school safety and the early release of inmates.

APPROVE AGENDA:

(10:30 A.M.) CONTINUED HEARING TO CONSIDER AN APPEAL FILED BY GARY McDONALD AND FORMER COUNCILMEMBER JERRY DUNCAN APPEALING THE PLANNING COMMISSION’S DENIAL OF VESTING TENTATIVE TRACT MAP NO. 5933 AND CUP NO. C-08-59 *(Continue to September 24, 2009, at 10:30 a.m.)*

Continued as noted.

(2:30 P.M.) HEARING TO CONSIDER A DEVELOPMENT AGREEMENT WITH FANCHER CREEK PROPERTIES, LLC, RELATING TO AN APPROXIMATELY 95-ACRE MIXED RETAIL AND RESIDENTIAL DEVELOPMENT PROJECT *(Continue to September 17, 2009, at 2:30 p.m.)*

Continued as noted.

CLARIFICATION OF TIME FOR CONTESTED CONSENT CALENDAR ITEMS

City Clerk Klisch clarified contested consent items, if any, would be heard at 1:30 p.m. noting the time for consideration was listed twice on the agenda at 1:30 p.m. and “immediately after adoption of the Consent Calendar”. So noted.

(10:45 A.M.) CONTINUED HEARING ON PLAN AMENDMENT NO. A-08-16, REZONE APPLICATION NO. R-08-26, AND ENVIRONMENTAL FINDINGS, FILED BY RIVERFRONT VENTURES, LLC, PROPERTY LOCATED ON THE NORTHWEST CORNER OF N. BRYAN AND W. HERNDON AVENUES

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-08-16/R-08-26
2. RESOLUTION - AMENDING THE GENERAL PLAN AND BULLARD COMMUNITY PLAN
3. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-2/EA/UGM/cz

City Clerk Klisch advised the hearing was being continued to September 24, 2009, at 10:45 a.m. at the request of staff.

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

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

ADOPT CONSENT CALENDAR:

Acting President Westerlund thanked Public Works Director Weimiller for answering his questions on Item **1-I**.

(1-A) RESOLUTION NO. 2009-176 - 3RD AMENDMENT TO AAR 2009-149 APPROPRIATING \$850K OF FEDERAL EQUITABLE SHARING AGREEMENT AND STATE ASSET FORFEITURE PROGRAM FUNDS INTO THE FY 2010 BUDGET

(1-B) AUTHORIZE ACCEPTANCE OF FY 2008 INTEROPERABLE EMERGENCY COMMUNICATIONS GRANT PROGRAM FUNDS TOTALING \$708,360 SUB-GRANTED FROM THE STATE EMERGENCY MANAGEMENT AGENCY/U.S. DEPARTMENT OF HOMELAND SECURITY

1. RESOLUTION NO. 2009-177 - 6TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$300K FOR THE POLICE DEPARTMENT'S HOMELAND SECURITY GRANT PROGRAM

(1-C) APPROVE A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE FRESNO COUNTY ECONOMIC OPPORTUNITIES COMMISSION FOR THE 'FRESNO SAFE AND PROUD NEIGHBORHOODS' AMERICORPS PROGRAM

(1-D) AUTHORIZE RENEWAL OF THE SENIOR HOT MEALS SITE MANAGEMENT CONTRACT WITH THE FRESNO-MADERA AREA AGENCY ON AGING (FMAAA)

1. RESOLUTION NO. 2009-178 - APPROVING THE FY 2009-2010 SERVICE PROVIDER CONTRACT WITH THE FMAAA AND AUTHORIZING EXECUTION OF DOCUMENTS

(1-E) RESOLUTION NO. 2009-179 - 9TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$46,300 DONATED BY VARIOUS ORGANIZATIONS INTO THE PARCS BUDGET FOR THE HEALTHY LIFESTYLES FITNESS PROGRAM

(1-F) RESOLUTION NO. 2009-180 - 7TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$10K OF A \$15K PG&E GRANT INTO THE PARCS BUDGET FOR OPERATION OF SIX (6) COOLING CENTERS THROUGHOUT THE CITY

(1-G) RESOLUTION NO. 2009-181 - 8TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$25,200 OF COMMUNITY DONATIONS AND REGISTRATION FEES INTO THE PARCS BUDGET FOR THE PARCS YOUTH SPORT PROGRAM

(1-H) APPROVE A CONTRACT IN THE AMOUNT OF \$1,615.28 WITH THE FRESNO COUNTY OFFICE OF EDUCATION FOR THE PARCS DEPARTMENT TO CONDUCT A FAMILY SCIENCE NIGHT AT KING ELEMENTARY SCHOOL ON 5/10/10, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-I) AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO ENTER INTO A ONE (1) YEAR AGREEMENT WITH CLUB ONE CASINO FOR PARKING SERVICES AT PARKING GARAGE NO. 8 AT A FIXED RATE OF \$6,000 PER MONTH FOR 100 SPACES

(1-J) ACTIONS RELATING TO THE CITYWIDE SIGN REPLACEMENT PROJECT

1. ADOPT FINDING OF A CATEGORICAL EXEMPTION THAT THE PROJECT HAS NO POTENTIAL TO ADVERSELY IMPACT AIR QUALITY OR ANY OTHER ENVIRONMENTAL AREA AND IS EXEMPT FROM CEQA PURSUANT TO CEQA GUIDELINES

2. AWARD A CONSTRUCTION CONTRACT, INCLUDING THE BASE BID PLUS ADD ALTERNATES A, B, C, D AND E, TO CHRISP COMPANY FOR CONSTRUCTION OF THE CITYWIDE SIGN REPLACEMENT PROJECT

3. AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CONTACT ON BEHALF OF THE CITY

(1-K) APPROVE AMENDMENT NO. 1 TO THE AGREEMENT WITH SHIBUMI CONSULTING SERVICES FOR ADDITIONAL PROGRAMMING SERVICES TO UPDATE THE CITY'S BILLING SYSTEM TO ACCOMMODATE THE AUTOMATED METER READING (AMR) SYSTEM

154-36

8/20/09

(1-L) RESOLUTION NO. 2009-182 - APPROVING THE FINAL MAP OF TRACT NO. 5462 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, N. CECELIA AND W. ESCALON AVENUES

1. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS

(1-M) AUTHORIZE THE INTERIM PLANNING & DEVELOPMENT DIRECTOR TO ACCEPT \$15K FROM PACIFIC GAS & ELECTRIC (PG&E) COMPANY TO PROMOTE THE OFFICIAL LAUNCH OF THE "SUSTAINABLE FRESNO" PROGRAM

1. RESOLUTION NO. 2009-183 - 11TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$15K TO THE P&D DEPARTMENT FOR THE SUSTAINABLE FRESNO PROGRAM

On motion of Councilmember Dages, seconded by Councilmember Perea, 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

(9:00 A.M.) PUBLIC COMMENT - UNSCHEDULED ORAL COMMUNICATIONS:

Diana Kirby, President of the Fresno Chapter of Americans for Safe Access; Andrea Lomascola, S. Argyle **(2 - 0)**; Deborah Facio, Americans for Safe Access; Bill McPike; Lydia Findley, W. Garland Avenue; Tommy Hawkins Jr., N Parkway Dr.; William McCrory, Tulare Co. resident; Joel Levato, S. 8th Street; Sean Dwyer, Richert Avenue; Francine Tapia, N. Coventry, Clovis; Daniel Phillips, N. Vagedes; Tyron Mister, S. Lotus Avenue; Kelly McBride; David McCarthy, W. Olive Avenue, Hemp Shack owner; Dr. Jan Simpson, Chiropractor; Joe Beamon IV; Leigh Williams; Robert Williams, Beverly Avenue, Clovis; Hugh Austin; and Lee Stovall, all spoke in support of medicinal medical cannabis/marijuana and/or to the need to allow the operation of collectives in the city. Upon the request and questions of council members City Attorney Sanchez and City Manager Souza clarified issues relative to the city's current ordinance, state and federal law, and this being a code enforcement land use issue and not a policing issue.

Reyes Garza spoke to **(1)** comments made on the early inmate release stating murderers would not be released and scare tactics should not be used, and **(2)** to the need to help the mentally ill **(3 - 0)**.

Paul Hurlbut, 4701 W. Swift, spoke to insufficient infrastructure in the area west of Freeway 99 and north of Shields.

Brunette Harris, HEAT, POB 12571, **(1)** stated she was opposed to the use of CDBG funds; **(2)** clarified issues relative to a cancelled meeting between HEAT and a developer that was brought up at a prior council meeting; and **(3)** expressed concern with Council's treatment of citizens who speak before Council.

Sherry Smith, 4724 W. Swift, submitted a document into the record entitled "Station Location Analysis" and requested a fire station be built at Gettysburg and Barcus.

(9:30 A.M.) HEARING ON THE VACATION OF THE SOUTH HALF OF W. BROWNING AVENUE BETWEEN N. MILBURN AND N. SALINAS AVENUES

1. RESOLUTION NO. 2009-184 - ORDERING THE VACATION OF THE ABOVE

President Sterling announced the time had arrived to consider the issue and opened the hearing. Senior Engineering Technician Polsgrove reviewed the issue and recommended approval, all as contained in the staff report as submitted.

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

Mr. Polsgrove responded briefly to questions of Councilmember Borgeas relative to the right-of-way proposed for vacation being unnecessary for public street purposes, the condition to reserve a public utility easement, and if there was no discrepancy.

On motion of Councilmember Borgeas, seconded by Acting President Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2009-184 hereby adopted, by the following vote:

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

(10:00 A.M. "A") RESOLUTION NO. 2009-185 - A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO SUPPORTING A CALIFORNIA CONSTITUTIONAL CONVENTION, as amended to read: A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO WELCOMING DISCUSSIONS AND/OR A PROPOSED FRAMEWORK FOR A CALIFORNIA

CONSTITUTIONAL CONVENTION, and further amended adding California Forward language to the last "RESOLVED" paragraph - COUNCILMEMBERS PEREA AND BRAND

Councilmember Perea stated the call for state government reform was becoming louder and louder; there were two group movements currently: California Forward seeking reform through the initiative process and a bay area group seeking a Constitutional Convention to see what opportunities there were to create a better, more efficient government; advised he participated in a Constitutional Convention summit and there was agreement on the need for some kind of change; and clarified this resolution does not mention anything specific for change or call for endorsement of any particular issue but states Council's support for the idea of a Constitutional Convention in general and reforming state government. Councilmember Brand added it was clear Sacramento was totally broken citing the yearly budget struggles, and clarified this was a general concept, no specific remedy was being endorsed, and the fact that democrats and republicans were co-sponsoring this said a lot.

Al Smith, CEO of the Greater Fresno Area Chamber of Commerce, spoke to the Chamber's work with REAL, an organization consisting of the ten top cities in the state, and expressed support for exploring what needs to be changed.

Councilmembers Perea and Brand responded to questions and comments of Acting President Westerlund relative to definition of a "limited" Constitutional Convention, if the reopening of Proposition 13 was the only issue not supported, concurrence that Sacramento was dysfunctional, the resolution as presented being too open-ended, inability to support the resolution without further definition on what a "limited Constitutional Convention" is and some real parameters, and his interest in what California Forward is presenting. Councilmember Xiong also spoke to California Forward and upon his question Councilmember Perea stated Council did not have to choose one group over the other and any member could bring forth a resolution next week endorsing what California Forward was doing. Councilmember Xiong commented further on the issue and singling out a special group and requested California Forward be included in the resolution.

Councilmember Borgeas stated he would always be supportive of a forum to remedy the dysfunction in Sacramento but he had reservations that this resolution would open the door to a variety of slated special interest groups with an agenda not clearly identified and suggested the title of the resolution be changed to "Resolution of the Council of the City of Fresno welcoming discussions and/or a proposed framework for a California Constitutional Convention" stating as currently written Council would be supporting a convention without knowing any identified items or parties contributing to the process. Councilmember Perea agreed to the change and commented further, and Councilmember Borgeas made a motion to adopt the resolution with the title change, which was seconded by Councilmember Brand. Councilmember Xiong stated he also made a request to include discussion on California Forward's concepts and upon questioning it's placement in the resolution and the City Attorney's advice it was added to the NOW, THEREFORE, BE IT RESOLVED paragraph as follows: "... the Fresno City Council supports a limited Constitutional Convention and the efforts of California Forward and other involved entities", which was accepted by the motion-makers. City Manager Souza stated the challenge with that addition was Council would now be supporting two distinctly different approaches to the solution everyone wanted, suggested Council step back and have someone from California Forward make a presentation to Council and speak to what their approach is going to be, and stated once Council hears the presentation and distinctions between the two groups are made clear a decision could then be made. Brief discussion ensued and Acting President Westerlund agreed with Mr. Souza and suggested Council have a presentation by both groups and then draft a resolution. Councilmember Perea stated by delaying action Council would be doing exactly what the state Legislature does and added the resolution was strong enough with the amendments and requested a vote. Councilmember Brand reiterated Council would not be endorsing any specific proposal, there was no reason why both groups could not make a presentation to Council in the future, no commitment was being made by adopting the resolution, and also called for a vote.

154-38

8/20/09

President Sterling and Councilmember Borgeas (4 - 0) spoke in support of the issue and to the amendments, and Councilmember Brand added he and Councilmember Perea were willing to have a workshop in September with both groups so Council could take a more defined position.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2009-185 hereby adopted, as amended, changing the title of the resolution and adding language to the NOW THEREFORE, BE IT RESOLVED paragraph as verbalized above, by the following vote:

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

(10:00 A.M. ‘B’) BOARDS AND COMMISSIONS COMMITTEE’S RECOMMENDATIONS TO COUNCIL - COUNCILMEMBER XIONG, ACTING PRESIDENT WESTERLUND AND PRESIDENT STERLING

Councilmember Xiong thanked the ad-hoc committee and staff for their work on this issue and reviewed the recommendations, with Acting President Westerlund reviewing recommendation #2, and stated recommendations 5 and 6 have been discussed for a long time and Council could work with the Legislature, have a workshop, and discuss what Council believes their level of participation should be. President Sterling noted she was the Council representative for the Air Board selection committee and was not going to be able to attend the next meeting and was going to work on an alternate, and spoke to the reporting process, thanked Acting President Westerlund stating this should have been done a long time ago, and stated she would begin her reporting in September. Councilmember Borgeas commended the committee, spoke briefly to some of the recommendation, and stated it was important to have protocols in place.

On motion of Councilmember Xiong, seconded by President Sterling, duly carried, **RESOLVED**, the City Attorney instructed to return with the appropriate documents to implement the agreed-upon recommendations, primarily Recommendations 1 through 4, and include those recommendations that are appropriate in the City Council Rules of Procedure, and further Committee meeting(s) to be held on Recommendations 5 and 6, by the following vote:

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

(11:00 A.M.) CLOSED SESSION: CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:
1. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753, MANAGEMENT UNIT
2. FRESNO CITY EMPLOYEES’ ASSOCIATION (FCEA)

The City Council met in closed session in Room 2125 at the hour of 11:14 a.m. to consider the above matter and broke for lunch thereafter.

LUNCH BREAK - 11:25 A.M. - 1:32 P.M.

(1:30 P.M. ‘A’) DIRECT STAFF TO INITIATE THE PROPOSITION 218 HEARING PROCESS TO ENACT A WATER METER FEE

Assistant Public Utilities Director Andersen gave an in-depth review of the issue, all as contained in the staff report as submitted.

Laura Robertson, W. Indianapolis Avenue, spoke to water wastage and hardships on those with fixed incomes.

Councilmember Perea advised of a call he received from an irate constituent on the disrespectful service received from a contracting crew, and presented a question on the process, with Mr. Andersen requesting citizen calls be referred to him and advised a hearing would be held in late October or early November. Mr. Andersen and City Attorney Sanchez responded to questions of Acting President Westerlund and Councilmember Borgeas relative to the many moving pieces associated with the transition from flat rate billing, the revenue-neutral design, data and analysis, if adjustments will be able to be made if assumptions are off, Proposition 218/the 5-year rate plan nexus study/if requirements were met, if staff could look into making seniors on fixed incomes the first recipients of meters to take advantage of probable lower rates, and the \$70 million total cost for water meters and if the city will be reimbursed.

Speaking further to the issue were: Loran Harding, W. Harvard Avenue, who spoke to the need to notice the various meetings on the city’s website, and presented questions/comments/concerns on the Proposition 218 hearing process; and Doug Vagim, N. Poplar Avenue, who spoke in strong opposition to water meters and requested a vote of the people **(5 - 0)**.

President Sterling advised water meters were a state mandate with a 2013 deadline and thanked the department for being

sensitive to issues and concerns, especially those on fixed incomes which she stated has always been of concern to her.

On motion of Councilmember Xiong, seconded by Councilmember Dages, duly carried, RESOLVED, staff directed to initiate the Proposition 218 hearing process to change the billing method for water from a flat rate to a metered rate, by the following vote:

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

(1:30 P.M. 'B') ADOPT A SIDE LETTER OF AGREEMENT WITH THE FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA), NON SUPERVISORY WHITE COLLAR, UNIT 3

Labor Relations Manager Phillips reviewed the issue and recommended approval, all as contained in the staff report as submitted.

Alex Correa, representing FCEA, spoke in support.

Councilmember Brand thanked FCEA for their sacrifices and cooperative spirit and made a motion to approve staff's recommendation.

On motion of Councilmember Brand, seconded by Councilmember Dages, duly carried, RESOLVED, the Side Letter of Agreement on compensation and benefits and term of the MOU hereby adopted, by the following vote:

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

(2:00 P.M.) REGULAR MEETING OF THE REDEVELOPMENT AGENCY

The City Council recessed at 2:09 p.m. and convened in regular session as the Redevelopment Agency.

APPROVE AGENCY MINUTES OF JULY 30, 2009

On motion of Member Dages, seconded by Member Sterling, duly carried, RESOLVED, the Agency minutes of July 30, 2009, approved as submitted.

(“A”) APPROVE AN OWNER PARTICIPATION AGREEMENT (OPA) WITH TFS INVESTMENTS, LLC, FOR DEVELOPMENT OF A MIXED-USE RESIDENTIAL PROJECT AT 532-614 N. FULTON STREET IN THE FREEWAY 99-GOLDEN STATE CORRIDOR REDEVELOPMENT PROJECT AREA

154-40

8/20/09

Executive Director Murphey reviewed the issue and advised the project was assessed under the EIR and exempt under Class 1 CEQA for remodeling existing structures and would reverse blight

Speaking in support of the issue were: Jerry Duncan, W. Waterford Avenue; and Christopher Montoya, W. Stuart Avenue.

Member Sterling thanked the developer, spoke in support stating this was a wonderful project for the area, and made a motion to approve staff's recommendation. Ms. Murphey responded briefly to questions of Member Westerlund relative to the loan, repayment monitoring and tracking, and qualifications and audit. Vice Chair Brand stated he managed this property for 15 years and expressed his support stating the development was well needed in that area.

On motion of Member Sterling, seconded by Vice Chair Brand, duly carried, RESOLVED, the above entitled OPA with TFS Investments, LLC hereby approved, by the following vote:

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

Absent : None

(“B”) APPROVE AN OWNER PARTICIPATION AGREEMENT (OPA) WITH MAYFLOWER LOFTS, LLC, FOR DEVELOPMENT OF A MIXED-INCOME RESIDENTIAL PROJECT AT 1417 BROADWAY IN THE FULTON REDEVELOPMENT PROJECT

Assistant RDA Director Raymond reviewed the issue and advised the project was assessed under the EIR and exempt under Class 1 CEQA.

Member Sterling thanked the developer, commented on the project and expressed her support, and made a motion to approve. Mr. Raymond and Executive Director Murphey responded to questions of Member Westerlund relative to the process for loan prepayment, the pitfall of an outright grant versus a loan, lifting of covenants, and the previous project and per unit subsidy.

On motion of Member Sterling, seconded by Member Dages, duly carried, RESOLVED, the above entitled OPA with Mayflower Lofts, LLC hereby approved, by the following vote:

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

(“C”) AGENCY RESOLUTION NO. 1747 - APPROVING AN ADMINISTRATIVE POLICY TITLED “REDEVELOPMENT IMPROVEMENT ACT FOR REDEVELOPMENT AGENCY PROJECT ASSISTANCE, DEVELOPMENT AGREEMENTS, AND PROFESSIONAL CONSULTANT SOLICITATION PROCESSES”, as amended, deleting the requirement for a super-majority vote for Exclusive Negotiating Agreements (ENAs) - VICE CHAIR BRAND

Vice Chair Brand acknowledged the assistance of Agency and city staff and advised of those who were endorsing the resolution, gave an overview of the issue and policy, all as contained in the report to Council as submitted, and stated this was significantly different from the Better Business Act and explained and made a motion to adopt the resolution, which was seconded by Member Borgeas.

Speaking in support of the resolution, transparency, and/or further to the policy were: Al Smith, CEO of the Chamber of Commerce; Kirk Pool, Fresno Police Officers’ Association; Joe Moore, Board President of the Downtown Association; Terry Figgs, representing the League of Women Voters; Alex Correa, Fresno City Employees’ Association; and Laura Robertson.

Member Westerlund thanked Vice Chair Brand for his work and opinion on this issue citing his business expertise, stated there were some things he liked in the policy but he also had some significant concerns relative to partnering and the potential of driving investors away, stated this policy was patterned after the Better Business Act and he felt it was too far on that side and added the Redevelopment Agency was a completely different function and public purpose from the city and explained **(6 - 0)**, stated he felt this

154-41

8/20/09

resolution was, in a sense, trying to fix an issue that was not problem from the five years he has been around the Agency, and questioned if Vice Chair Brand would consent to making this a workshop this date and return next week with a more balanced policy. Vice Chair Brand stated the policy was fully vetted to a lot of people and staff looked at it extensively, added there would never be a perfect policy and he did not think a workshop was needed, and stated he wanted to move forward on this and added amendments could always be made later if necessary. Member Westerlund stated while the policy may have been vetted with others it had not been vetted with Agency member, stated he had numerous concerns and amendments and that was why a workshop would have been appreciated, questioned how the 20% affordable unit number was derived at, stated the super majority vote for RFPs was excessive and should be deleted, and began speaking to the financials, noted he had 1½ pages of concerns/changes, and stated rather than go through each of his items he would just have to vote “no”. Upon question of Vice Chair Brand City Attorney Sanchez stated there would be no problem amending the policy in the future, whereupon Vice Chair Brand stated realistically only one project per year would fall under these parameters, this was the first step and his goal was to shine a spotlight on the Agency to illuminate its’ policy and still try to maintain a business-friendly atmosphere with developers, and reiterated this could be amended later if necessary.

Member Westerlund made a motion to amend Page 6/Section 5, Page 16/Section 5, and Page 17/Section 5 deleting the super-majority vote requirements. Brief discussion ensued on the process for motions and seconds (with Mr. Sanchez and Member

Westerlund responding) whereupon Member Westerlund withdrew his motion to allow members to complete discussion. Member Borgeas commended Vice Chair Brand for trying to put his arms around such a complicated institution as the RDA, stated the document was very good but not perfect as no document would ever be perfect adding it would have to be vetted over time, and stated he also thought about the super-majority requirement. Upon his question Vice Chair Brand explained his reasoning for a super-majority vote, stated he would compromise on the ENA and go with a simple majority vote, and stated he would keep the super-majority requirement for Master ENAs as there was a lot more at stake, more money, and the threshold needed to be raised. Member Borgeas thanked Vice Chair Brand for that and spoke to financial information/director discretion/waivers and to how that could become political but stated he had no better answer than what was being proposed, and stated the policy was not perfect but was the best to move forward and agreed it could be revisited in the future as it was not cast in stone. Vice Chair Brand expanded further on the director discretion issue and made an amendment to his motion to delete the super-majority vote requirement on ENAs, which was accepted by Member Borgeas.

Member Perea stated he was glad he voted for the Better Business Act in light of all the issues that came up and also to have a more rigorous process for future ones that may arise, added he wanted to make sure issues were being addressed here and this was not just a continuance or a matter of trying to duplicate what was done with the city, and presented questions relative to what staff's perspective was, how staff sees this playing out and how it would affect smaller projects, what type of projects would fall under these parameters, if this policy would kill projects before they even start, if the policy would apply to all proposals, financial information and if due-diligence was being done routinely already, and if there would be yearly triggers/automatic reviews, with Executive Director Murphey and Vice Chair Brand responding. Member Sterling thanked Vice Chair Brand and Agency staff for their collaboration, and expanded further on the issue and her support stating this policy would provide balance, due-diligence and transparency. Member Westerlund spoke to the number of good projects over the threshold amount that came to fruition and his concern with going into partnering in an adversarial way, and stated another concern of his was the good faith deposit on ENAs stating ENAs were to simply determine the feasibility of whether the project makes sense or not, with Ms. Murphey responding. Member Dages commended Vice Chair Brand, stated the Agency board sets policy and can always change it (7 - 0), and stated he was opposed to changing the super-majority requirement stating it would eliminate "losers" coming forth. Chair Xiong commented briefly and expressed his support.

On motion of Vice Chair Brand, seconded by Member Borgeas, duly carried, RESOLVED, the above entitled Agency Resolution No. 1747 hereby adopted, as amended, deleting the requirement for a super-majority vote for Exclusive Negotiating Agreements (ENAs), by the following vote:

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

The Redevelopment Agency adjourned its meeting at 3:42 p.m. and the City Council reconvened.

154-42

8/20/09

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:42 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the 27th day of August, 2009.

_____/s/_____
ATTEST _____/s/_____

Cynthia Sterling, Council President

Yolanda Salazar, Assistant City Clerk

