

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

Pastor Loren Pankratz of New Covenant Community Church gave the invocation and President Xiong led the Pledge of Allegiance.

**(ADD-ON) PROCLAMATION OF FRESNO STATE BULLDOG BASEBALL TEAM DAY**

Read and presented.

**RESOLUTIONS OF COMMENDATION TO JACK POULTER AND BENNY HUERT - MAYOR AND CITY COUNCIL**

Presented.

**PRESENTATION OF THE SPCA PET OF THE MONTH - ACTING PRESIDENT STERLING**

The pet of the month available for adoption, a female German shepherd puppy, was presented.

**PRESENTATION OF CERTIFICATES TO THE SUMMER QUARTER P.R.I.D.E. TEAM**

Presented. A reception to honor the employees was held immediately following the presentation **(2 - 0)**.

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**RECESS - 9:20 A.M. - 9:31 A.M.**

**APPROVE MINUTES OF JUNE 24 AND JULY 1, 2008**

On motion of Councilmember Caprioglio, seconded by Acting President Sterling, duly carried, RESOLVED, the minutes of June 24 and July 1, 2008, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

ACTING PRESIDENT STERLING: (1) Request staff return with a plan outlining what the City will do to ensure that any funds committed to One by One Leadership are protected; (2) request meeting be adjourned in memory of Police Patrol Officer Ronald Bridges of the Central Policing District; (3) invitation to all to attend/support the tri-tip barbeque lunch tomorrow at the Southwest Police station to benefit Santa's Village; and (4) announcement of the Downtown Association's \$5.00 Friday lunches and encouragement to all to patronize participating restaurants in the downtown area.

COUNCILMEMBER DUNCAN: Concern with over-building and request for tray memo on the SEGA and intent to build a second regional shopping center within a few miles from the currently planned Fancher Creek shopping center, with City Manager Souza responding.

PRESIDENT XIONG: (1) Thank you to Harvest Elementary and Central Unified for the opportunity to read at the summer school English learners program; (2) thank you to staff of Huntington Place Apartments for improvements made; (3) report on promotion by California Volunteer Executive Director Karen Baker on volunteering; (4) commendation to PARCS department on the cooling centers; (5) comments on Operation Clean Air and the city's efforts; and (6) request to include photos of the Fresno State baseball and softball teams in Kern Street Sports Town.

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**APPROVE AGENDA:**

**(3:00 P.M.)** JOINT MEETING WITH THE REDEVELOPMENT AGENCY TO CONSIDER ADOPTION OF AGENCY RESOLUTION CERTIFYING THE SEIR FOR THE OLD ARMENIAN TOWN PROJECT - RELOCATION OF HISTORICAL RESOURCES

**(Continue to July 22, 2008, at 3:30 p.m.)**

Continued as noted.

**(1-I)** APPROVE AND AUTHORIZE THE POLICE CHIEF TO ENTER INTO CONTRACTS FOR CLINICAL ASSESSMENT CONSULTING SERVICES FOR THE MAYOR'S GANG PREVENTION INITIATIVE (MGPI) PROJECT WITH (1) ASSESSMENT, TRAINING & RESEARCH ASSOCIATES IN AN AMOUNT NOT TO EXCEED \$93,600, (2) COMPREHENSIVE YOUTH SERVICES IN AN AMOUNT NOT TO EXCEED \$46,700, AND (3) CLINICAL CONSULTANTS IN AN AMOUNT NOT TO EXCEED \$46,800

Removed from the agenda by staff.

**(1-J)** AWARD A CONTRACT TO KAYCO COMPOSITES, LLC IN THE AMOUNT OF \$127,616 TO FURNISH AND INSTALL AN ICE FLOOR COVER AT SELLAND ARENA

Removed from the agenda by staff.

**(9:30 A.M. "C")** APPROVE HOME INVESTMENT PARTNERSHIPS PROGRAM LOAN FUNDS IN THE AMOUNT OF \$2,100,000 TO BASTIAN COURT LP FOR THE 61-UNIT BASTIAN COURT AFFORDABLE MULTI-FAMILY DEVELOPMENT PROJECT ON THE NORTHWEST CORNER OF STANISLAUS AND "L" STREETS

Removed from the agenda by staff.

On motion of Acting President sterling, seconded by Councilmember Caprioglio, 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

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**ADOPT CONSENT CALENDAR:**

Brunette Harris, HEAT for Southwest Fresno, stated her opposition to Items **1-A** and **1-Q** due to lack of community meetings.

Councilmembers Dages and Calhoun pulled Item **1-Q** from the Consent Calendar for separate discussion/action at 2:00 p.m.

**(1-A)** APPROVE AMENDMENT NO. 1 TO EXTEND KEARNEY HANGARS, INC.'S GROUND LEASE OF SIXTEEN "T" HANGARS FOR 15.5 YEARS AT THE CHANDLER EXECUTIVE AIRPORT

**(1-B)** APPROVE AMENDMENT NO. 1 TO THE AGREEMENT WITH DALE RUTHERFORD, AIA, IN THE AMOUNT OF \$251,511 TO PROVIDE PROFESSIONAL CONSULTING SERVICES FOR THE DESIGN OF THE NEXT PHASE OF ACOUSTIC TREATMENT OF 75 HOMES UNDER THE FYI AIRPORT SOUND MITIGATION ACOUSTICAL REMEDY TREATMENT (SMART) PROGRAM

**(1-C)** AWARD A CONSTRUCTION CONTRACT TO ROEBBELEN CONTRACTING, INC., IN THE AMOUNT OF \$227,000 FOR THE FYI AIRPORT TERMINAL CRANE RAIL PROJECT

**(1-D)** AWARD A CONSTRUCTION CONTRACT TO COLLINS ELECTRIC COMPANY, INC., IN THE AMOUNT OF \$203,108 FOR THE FYI AIRPORT CONCOURSE SWITCHGEAR REPLACEMENT PROJECT

**(1-E)** AWARD A CONTRACT TO LEE CRIPPEN DEMOLITION IN THE AMOUNT OF \$82,470 FOR THE DEMOLITION OF FYI AIRPORT WAREHOUSE BUILDING T296 AT 5576 E. AIRWAYS AVENUE

**(1-F)** AWARD A CONTRACT TO CONCEPTS PLUS LLC IN THE AMOUNT OF \$48,380 TO PROCURE, DELIVER AND SET IN PLACE SIXTEEN AIRLINE TICKET COUNTER INSERTS AT THE FYI AIRPORT

**(1-G)** APPROVE APPOINTMENT OF JEFFREY HARRINGTON TO THE HOUSING AND COMMUNITY DEVELOPMENT COMMISSION

**(1-H)** APPROVE SIDE LETTER OF AGREEMENT WITH INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF), LOCAL 753, FIRE BASIC, UNIT 05, REGARDING MEAL SUBSIDIES DURING FIRE STATION RENOVATIONS

**(1-K)** AWARD A CONTRACT TO PRO MEDIA IN THE AMOUNT OF \$337,786.77 TO INSTALL A NEW SOUND SYSTEM IN THE SELLAND ARENA

**(1-L) RESOLUTION NO. 2008-168** - APPROVING THE SUMMARY VACATION OF A PORTION OF N. GARDEN AVENUE SOUTH OF E. TYLER AVENUE

**(1-M)** APPROVE AGREEMENT WITH TAYLOR TETER PARTNERSHIP IN THE AMOUNT OF \$294,250 AND A CONTINGENCY AMOUNT NOT TO EXCEED \$10,000 FOR THE DESIGN OF PLANS AND GENERAL CONSTRUCTION CONTRACT DOCUMENTS FOR CONSTRUCTION OF NEW FIRE STATION NO. 18 ON SHAW AT BRYAN AVENUES WEST OF HIGHWAY 99, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

**(1-N)** ADOPT A FINDING OF CATEGORICAL EXEMPTION, CLASS I, FOR INSTALLATION OF PROTECTED LEFT TURN PHASING AT THE CLINTON AVENUE/FIRST STREET INTERSECTION, APPROVE THE ACQUISITION OF A PUBLIC STREET EASEMENT ON THE NORTHWEST CORNER OF E. CLINTON AND N. FIRST STREET FOR THE LEFT TURN PHASING SIGNALIZATION AND IMPROVEMENT PROJECT FROM PROPERTY OWNERS SAM AND ANGELA MARZILIANO FOR THE APPRAISED VALUE OF \$500.00, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

**(1-O) RESOLUTION NO. 2008-169** - CLAIMING FUNDS FOR UNCASHED CHECKS DATING FROM 1992-2003 (VOID AND CANCEL THE CHECKS AND TRANSFER FUNDS TO THE GENERAL FUND FOR FY 2009)

**(1-P)** APPROVE AND AUTHORIZE ENTRY INTO RESTATING AND SUPERSEDING AMENDMENT II TO THE ENA WITH ROEM DEVELOPMENT CORPORATION TO PROVIDE ADDITIONAL TIME TO COMPLETE A D&DA FOR THE TRANSIT VILLAGE PROJECT ON KINGS CANYON ROAD, AND AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO SIGN THE AMENDMENT SUBJECT TO CITY ATTORNEY APPROVAL

**(1-R) RESOLUTION NO. 2008-170** - INITIATING REZONING (PRE-ZONING) ON 12 PARCELS OF LAND WITHIN THE CITY'S SPHERE OF INFLUENCE, PROPERTY LOCATED ON THE NORTH AND SOUTH SIDES OF E. COPPER AVENUE WEST OF N. WILLOW (COPPER-WILLOW NO. 4 REORGANIZATION)

(1-S) ACTIONS RELATING TO THE BRAWLEY AVENUE, HERNDON TO PALO ALTO, STREET IMPROVEMENT PROJECT  
1. ADOPT THE FINDING OF A MITIGATED NEGATIVE DECLARATION PURSUANT TO CEQA GUIDELINES AND E.A. NO. EA-00-61

2. AWARD A CONSTRUCTION CONTRACT TO TRI-COUNTY GRADING & PAVING IN THE AMOUNT OF \$321,735.50 FOR THE BRAWLEY AVENUE PROJECT, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CONTRACT ON BEHALF OF THE CITY

(1-T) **RESOLUTION NO. 2008-171** - DECLARING RESULTS OF THE JUNE 3, 2008, STATEWIDE DIRECT PRIMARY ELECTION

(1-U) APPROVE A ONE-YEAR CONTRACT RENEWAL WITH THE FRESNO UNIFIED SCHOOL DISTRICT TO PROVIDE \$662,769 FOR THE PARCS DEPARTMENT TO CONDUCT A COLLABORATIVE AFTER-SCHOOL RECREATION PROGRAM RUNNING THROUGH 6/30/09, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-V) APPROVE BASIN "XX" AGREEMENT WITH THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT FOR JOINT USE OF THE DRAINAGE BASIN PARK, AND AUTHORIZE THE PARCS DIRECTOR OR DESIGNEE TO EXECUTE ALL DOCUMENTS PERTAINING THERETO ON BEHALF OF THE CITY

(1-W) ADOPT FINDING OF A CATEGORICAL EXEMPTION, CLASS 1 EXEMPTION UNDER CEQA, AND AWARD A CONTRACT IN THE AMOUNT OF \$399,906 TO YARBS ENTERPRISE FOR INSTALLATION OF STREET INFRASTRUCTURE IN NO NEIGHBORHOOD LEFT BEHIND AREA 92

(1-X) **RESOLUTION NO. 2008-172** - 469<sup>TH</sup> AMENDMENT TO THE MFS ADJUSTING VARIOUS FEES IN THE DEPARTMENT OF PUBLIC UTILITIES SOLID WASTE FEE SECTION BEGINNING WITH THE SEPTEMBER 2008 BILLING CYCLE

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

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

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

**1. SCHEDULED COMMUNICATION: APPEARANCE BY LESLIE HOBODY TO DISCUSS WEST FRESNO**

Appearance made with Ms. Hobdy expressing concern with plans for Frank H. Ball playground. ACM Rudd responded and advised no changes would be made at the playground and a community meeting on the issue would be held this coming Saturday.

**2. UNSCHEDULED COMMUNICATIONS:**

Brunette Harris, HEAT for Southwest Fresno, requested a response from President Xiong on materials previously submitted; requested any projects/developments in southwest Fresno be ceased immediately; expressed concern with the lack of community meetings and Council representation; and spoke in opposition to using federal funds for any city projects. President Xiong advised a response was sent out last Friday.

Sherry Smith, 4724 W. Swift, spoke to the need for extensive infrastructure improvements in the Ashlan Cornelia corridor.

Gus Gomez, 4709 W. Swift, spoke to the importance of protecting libraries from fire.

\*\* Visiting students from Roosevelt High School were recognized and welcomed.

Paula Savino, 7449 N. Mansionette Dr., spoke to the need for housing for the homeless.

Paul Hurlbut, 4701 W. Swift, expressed concerns relative to fire personnel being unable to respond to medical emergencies, the upcoming closure of Fire Station 16 in the Ashlan Cornelia area, and the lack of parks/green space in the area.

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**(9:15 A.M. "A") APPEARANCE BY CLIFFORD TUTELIAN TO EXPLAIN THE DELAYS IN THE BUILDING RENOVATION PROJECT AT INYO AND VAN NESS AVENUES - ACTING PRESIDENT STERLING**

Mr. Tutelian referenced his letter sent to Council and gave an oral update stating the construction start date of June was not able to be met, he was working diligently in developing plans, and over \$100,000 had already been expended in architectural and structural engineering, and advised of financial issues/impacts and stated he hoped to start construction in November with completion of the project nine to twelve months later. Acting President Sterling requested Council be kept informed and that Mr. Tutelian provide another update. There was no further discussion.

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**(9:15 A.M. "B") DIRECTION TO STAFF REGARDING OUTREACH TO RETIREES AND VETERANS WHO HAVE NOT YET FILED FOR THE FEDERAL GOVERNMENT 2008 ECONOMIC STIMULUS PAYMENTS - ACTING PRESIDENT STERLING**

Acting President Sterling gave a brief overview of the issue stating with these difficult economic times she wanted to look into any opportunity to help generate income for people and also stimulate the economy. District 3 Chief of Staff Barfield expanded further advising of (1) statistics provided by the IRS on the number of people who have not yet filed for the economic stimulus and (2) the IRS's outreach program that would start this Friday, and requested Council support the city partnering with the IRS in this effort.

Mr. Barfield, ACM Rudd and Acting President Sterling responded to questions of Councilmember Duncan and President Xiong relative to what type of application was involved/what it consisted of, if there was any consequence for those people who do not usually file for taxes, and which city departments would be involved in this outreach effort.

On motion of Acting President Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, staff directed to (1) work with the Internal Revenue Service Center and EITC partners on an outreach program to retirees and veterans who have not yet filed for the 2008 Economic Stimulus payment and (2) provide opportunities to get the forms filed, by the following vote:

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

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**(9:15 A.M. "C") RESOLUTION NO. 2008-173 - 470<sup>TH</sup> AMENDMENT TO THE MFS REPEALING THE EXTRA \$2.00 CHARGE FOR "NON-RESIDENTS" TO ENTER ROEDING PARK, WOODWARD PARK AND THE REGIONAL SPORTS COMPLEX - COUNCILMEMBER DUNCAN**

Councilmember Duncan advised after some research he found the state pattern was regional parks do cost anything noting only four regional parks in the state charged admission: 1 in Long Beach and 3 in Fresno; stated there was a major problem with the "non-resident" fee and explained, the city did not need to do this, a fee hike should be proposed if more funds were needed, and people should not be discriminated against; noted the City of Roseville was used as a model but they did not charge an entry fee to their parks but gave discounts on programs; and stated the city of Fresno was alone in this and made a motion to approve the resolution, which motion was seconded by Councilmember Perea.

Speaking in support of the motion were: Janis Parks, 2374 S. Bardell **(3 - 0)**; Gerald Lyles, 7459 N. Teilman; John Valentino, 541 E. Terrace, representing the Fresno Chaffee Zoo Board; Ron Sidoli, Director of Rotary Playland/Storyland; and Gail Hurlbut, 4701 W. Swift.

\*\* Another class of visiting students from Roosevelt High School was recognized and welcomed.

PARCS Director Cooper distributed material to Council containing results of the 13 days of collecting the “non-resident” fees (\$2,815), and spoke to the need to retain the fee, to how the city’s parks were becoming destinations, and to how seniors, low income residents and the disabled were taken into consideration and the annual passes that could be purchased.

Extensive discussion ensued. Councilmember Calhoun spoke in support of staff’s recommendation, stated city residents should not have to pay for those living outside the city to use the parks, relative to the zoo issue noted staff came up with an innovative concept to reimburse the zoo, stated this fee should stay in place for one year and after that time the numbers could be looked at and Council could then decide whether or not to continue with it, and reiterated it was unfair to place the entire burden on city residents and added no one was being cheated. Acting President Sterling stated she was originally supportive of the fee but times had changed economically, stated this started out as a good idea but she felt all the logistics had not been discussed/explored, presented questions relative to how the fee was enforced the 13 days it was in effect, how much Fresno County charged to use their parks, and the amount of anticipated revenue that was budgeted and how those funds were going to be used (with Mr. Cooper and City Manager Souza responding and explaining issues throughout), and elaborated further on the downturn in the economy, this being a time of transitioning, this issues not being explained fully to the entire community, hardships, the need to have affordable places for families to go, and the need for staff to continue to look at options and move forward with outreach. Councilmember Perea urged Council to support the resolution stating he felt the city was making life more complicated for people and it should not be hard to enter parks, spoke to the importance of a healthy community and providing safe parks/green space and noted there was an extreme lack of green space already, and stated these were tough times for everyone and the city needed to step up and live within its means and budget just like people are doing and not just raise fees. President Xiong stated he and his family struggled and experienced hard times coming in as refugees so he sympathized with the low income and those struggling to make ends meet, stated if just Roeding Park was involved he might be supportive of eliminating the fee but three parks were involved, spoke to city’s responsibility to maintain parks clarifying the fee was for maintenance and added the city already provided subsidies for programs and activities, and stated this motion was premature, the fee needed to run its course, and members needed to be careful about using hard economic times to justify what needed justification.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2008-173 hereby adopted, by the following vote:

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

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**(9:30 A.M. “A”) RESOLUTION NO. 2008-174 - ADOPTING THE CITY OF FRESNO INVESTMENT POLICY FOR PUBLIC FUNDS FOR FY 2009**

Treasury Officer/Investment Portfolio Manager Wiles gave an in-depth review of the issue, all as contained in the staff report as submitted, and along with City Manager Souza responded to questions of Councilmember Calhoun and clarified issues relative to how local banks will benefit from this **(4 - 0)**, the IndymacBank problem, protecting city funds, why this should be approved, if the city could lose money, dollar amount that would be invested, and concern with investing \$10 million and preference to start with \$5 million. Councilmember Calhoun made a motion to approve the resolution with a limit of \$5 million. The motion was seconded by Acting President Sterling who questioned what the policy was relative to banks giving back to the community (with Mr. Wiles responding), and spoke to her understanding of the issue and her support. Councilmember Perea stated it sounded like the motion would get the city back to its’ original policy, whereupon Mr. Souza requested the motion be amended to have \$5 million stay in traditional collateralized accounts and have \$5 million available for the new program. Brief discussion ensued and the change was accepted by the motion-makers. Councilmember Perea stated he felt the amount put into local banks should not be reduced at any level and the city needed to look into how to work with local banks to invest more, not less.

Mr. Souza, Mr. Wiles and City Attorney Sanchez responded to questions and/or comments of Councilmember Duncan and President Xiong and/or clarified issues relative to how the amended motion differed from staff’s recommendation, why there should be a limit, staff’s recommendation being adequate and there being no need for the amended motion, a limit being insulting to the local investment community, what the problem was in getting this investment money into the local community, what changes were needed for the city to participate in the CDARS program, need to not place artificial barriers and complicate things, the policy being fine as presented, if the new policy would provide for an improved process and allow money to be moved as desired, and if staff was supportive of \$10 million for investing.

A motion of Councilmember Calhoun, seconded by Acting President Sterling, to adopt the Resolution, as amended, to place \$5 million in the traditional collateralized accounts and \$5 million in the new program failed, by the following vote:

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

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2008-174 hereby adopted as recommended by staff, by the following vote:

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

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**(9:30 A.M. "B") BILL - ADDING ARTICLE 25 TO CHAPTER 14, PROHIBITING SOLICITATION ON MEDIAN ISLANDS**

City Attorney Sanchez gave a brief overview of the ordinance, all as contained in the staff report as submitted, and stated the ordinance should be introduced if Council was inclined to approve it at its next meeting.

Mary Taliaferro, Serenity Funeral Services, spoke in support of the ordinance, and Kiel Famellos-Schmidt, Planning Council Member for the 10 Year Plan to End Homelessness, and Charles Kruegman, 1237 "P" Street, spoke in opposition.

Councilmember Calhoun clarified this ordinance would apply to any person on median islands and not just panhandlers; stated these people were basically illegal vendors and explained; added individuals looking at you/talking to you/yelling at you were very intimidating and he had received many complaints over the years; relative to charitable organizations stated he did not buy that Valley Children's Hospital (VCH) would automatically lose money because the city was improving the safety of their median islands, he was told VCH would support Council's decision, and VCH would be creative and successful with their Kids Day fund raiser and participants could still stand on street corners; spoke to Fresno Bee articles on this issue, to their marketing process, and to their unfairness and interest in having this ordinance defeated and explained; and made a motion to introduce the ordinance bill, which motion was seconded by President Xiong for discussion. Upon the request of Councilmember Calhoun City Attorney Sanchez clarified this ordinance targeted a specific activity and not a specific group, a person could stand on a street corner soliciting but a violation would occur once they step into the street, there currently was no basis to cite an individual on a median island under existing law, public safety charities were exempt under state law, **(5 - 0)** Kids Day participants would have to be retrained as they would not be able to step out into the street, and a violation of the ordinance would be deemed an infraction and a criminal code enforcement effort with fines of up to \$100, \$200 and \$500 for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> offenses in a 12 month period.

Extensive discussion ensued. Councilmember Dages stated he felt this was directed at the homeless and questioned what the sense was in fining someone who is homeless with no means to pay, and stated this was an exercise in citation procedures and he would not support the ordinance as it was inappropriate and did not address all the issues such as the soliciting occurring at the Jensen/99 off-ramp. Councilmember Duncan thanked the Fresno Bee for their promotion of Valley Children's stating it was fine if they benefitted, and stated he did not support the ordinance as it would criminalize individuals, it would not address the problem of panhandlers, and local authorities could deal with any problem that is created. Acting President Sterling and President Xiong presented questions and comments relative to state law exempting public safety, what the difference was between this ordinance and existing law in terms of public safety, if Kids Day could still occur in a modified fashion, what other cities had this type of prohibition, inability to support the ordinance due to a lot of issues including criminalizing the homeless and those with no money, who would be held liable if someone is injured on medians, need for a city policy -- excluding enforcement -- stating the city deems people on medians as a real safety issue and inappropriate, the challenge of enforcing the ordinance, and if the city has been made aware of specific dangerous conditions, with Mr. Sanchez responding throughout. Brief discussion ensued on dangers known and occurring and ACM Rudd advised his office has received complaints on on-going situations at various intersections and off-ramps, whereupon Mr. Sanchez requested any available evidentiary information be placed in the record and recommended this item be continued one week to allow that information to be clearly supplemented on the record as part of the basis for any Council action. President Xiong reiterated he was not supportive of an enforcement piece as his issue was to mitigate whatever responsibility the city had, and upon his question Councilmember Calhoun stated he wanted what was best for the city, he had seen a lot of strange things occurring and someone was going to get hurt, liability was a legitimate issue, and he was supportive of laying the ordinance over 1-2 weeks so staff could return with the additional information to hopefully make Council more comfortable.

President Xiong directed the city attorney's office to work with involved staff and return with the evidentiary information and a policy resolution (without an enforcement mechanism) recognizing the city's concerns, along with the subject ordinance.

Upon question of Councilmember Duncan, President Xiong clarified there would be no vote on the motion as Councilmember Calhoun agreed to lay the ordinance over for the additional information, whereupon Councilmember Duncan made a motion to not approve the ordinance. Councilmember Calhoun stated he withdrew his motion and Councilmember Duncan clarified an item was on the agenda and was subject to a motion, with Mr. Sanchez clarifying another motion was permissible.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Ordinance Bill denied, by the following vote:

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

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**LUNCH RECESS - 12:15 P.M. - 2:00 P.M.**

**(10:00 A.M.) HEARING ON CFD NO. 11 (FINAL TRACT MAP NO. 501), ANNEXATION NO. 32**

- 1. RESOLUTION NO. 2008-175 - ANNEXING TERRITORY**
- 2. RESOLUTION NO. 2008-176 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 3. RESOLUTION NO. 2008-177 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-46 - ORDINANCE NO. 2008-45 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2008-09 AND FUTURE TAX YEARS**

President Xiong announced the time had arrived to consider the issue, opened the hearing, and upon his question Assistant Public Works Director Mozier advised the staff report as submitted was complete and there was no new information to add.

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

On motion of Councilmember Caprioglio, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2008-175, 2008-176 and 2008-177 hereby adopted, and the above entitled bill No. B-46 adopted as Ordinance No. 2008-45, by the following vote:

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

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**(10:15 A.M.) HEARING ON REZONE APPLICATION NO. R-08-056 AND ENVIRONMENTAL FINDINGS FILED BY THE CITY OF FRESNO, PROPERTY LOCATED BETWEEN E. DAKOTA, E. SHIELDS, STATE ROUTE 168 AND N. CHESTNUT AVENUE**

- 1. CONSIDER AND ADOPT E.A. N. R-08-06, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**
- 2. BILL NO. B-47 - ORDINANCE NO. 2008-46 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AL-20, R-A AND R-1 TO R-A. IN ADDITION THE ANNEXED RURAL RESIDENTIAL TRANSITIONAL OVERLAY (ANX) DISTRICT SHALL APPLY TO APNs 438-070-20, 21 AND 22 OWNED BY THE ARF "NO KILL" DOG SHELTER**

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

Planner Braun gave a PowerPoint presentation on the project, all as contained in the staff report as submitted.

Mr. Ekert, a resident directly across from the animal shelter, spoke in opposition; and Darrell Schmidt, Executive Officer of LAFCO spoke in support.

Upon call, no one else wished to be heard and President Xiong closed the hearing. A motion and second was made to approve staff's recommendation.

City Attorney Sanchez and Mr. Braun responded to questions and/or comments of Councilmembers Dages and Sterling relative to whether the animal shelter would come under city guidelines, how cars parked on lawns would be dealt with, if the county style of living would change quickly and if residents would have to abide by city regulations, if residents had been notified of the changes that will occur, if residents are aware it will take a long time, if ever, to get curbs/gutters/sidewalks installed, need to make residents aware of changes now and not when citations are issued, and if the animal shelter will fall under the same regulations as the SPCA.

Councilmember Calhoun thanked LAFCO for their support, and stated he did not agree with the idea of forcing this process and would stay consistent and oppose the motion adding the residents should have had a vote.

On motion of Councilmember Caprioglio, seconded by Councilmember Duncan, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, and the above entitled Bill No. B-47 adopted as Ordinance No. 2008-46, by the following vote:

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

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**(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:**

**(1-Q) AUTHORIZE NEGOTIATION AND ENTRY OF AMENDMENT NO. 2 TO THE HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM CHDO AGREEMENT WITH FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT GRANTING A TIME EXTENSION FROM 6/30/08 TO 9/30/10, FOR THE CONSTRUCTION OF TEN AFFORDABLE SINGLE-FAMILY HOMES, SUBJECT TO PRIOR APPROVAL BY THE CITY ATTORNEY**

Councilmember Dages noted this project started in December 2004 and an extension to 2010 was now being requested; stated one extension was already approved, this project did not seem to be going anywhere, and he did not see the need to extend something just to extend it again; stressed something should have been done during the past 4 years and added it frustrated him that the money has just been sitting around; and stated he felt agreements should be honored and he would not support this. Interim HCD Manager Casarez explained reasons for the delays, all as contained in the staff report as submitted, and along with City Manager Souza responded to further questions and comments of Councilmember Dages relative to whether or not staff felt 4 years had been enough time, why 10 homes could not be built in 4 years when 3,000 were built in southeast Fresno in 5 years, it being time for the city to take a stand and say "enough is enough" as the city has been very generous with extensions in the past, it not being the city's responsibility to train people, and the length of time it takes Habitat to build houses.

Councilmember Calhoun stated Councilmember Dages raised a number of important issues, stated he had a great amount of respect for Habitat and the work they do, and noted his concern was how this issue got to this point today and presented questions relative to whether money would be lost if this is not approved, if the funds already expended went to legitimate, project-related matters, how this can be prevented from happening again **(6 - 0)**, if a "hand-holding" process was in place to assist CHDOs, and if other cities experienced these types of problems, with Ms. Casarez and Mr. Souza responding. Councilmember Calhoun stated he would support the extension and requested staff provide background information on CHDOs and how the process works. A motion and second was made to approve staff's recommendation.

Acting President Sterling stated she has also been frustrated with this project, thanked Mr. Kelly of the Fresno West Coalition for working with her office to work with Habitat to be successful, and upon her request Mr. Kelly and Javier Hernandez expanded further on the issue, obligations, consequence if this project is not relinquished to Habitat, and what would happen to the funds if this extension is not approved. Upon further question, City Attorney Sanchez stated both the CHDO and the City would be responsible for paying back the funds if this extension is not approved and there would be some offsets. Acting President Sterling spoke in support of Habitat citing her work with them and urged Council to support the extension as this had just taken a longer period of time than expected.

On motion of Councilmember Calhoun, seconded by Acting President Sterling, duly carried, RESOLVED, negotiation and entry of Amendment No. 2 to the HOME Program CHDO agreement with Fresno West Coalition for Economic Development granting a time extension hereby authorized, by the following vote:

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

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**(2:00 P.M. #3) ACTION REGARDING FISCAL YEAR 2009 BUDGET CONSIDERATION REQUESTS AND LINE ITEM VETO:**

President Xiong announced the time had arrived to consider the issues and opened public testimony on all of the budget items.

An unidentified woman spoke in support of adding an Independent Police Auditor position.

City Attorney Sanchez explained the format and requirements for the veto and reconsideration requests.

**('A') REQUEST FOR OVERRIDE OF MAYOR VETO - COUNCILMEMBER DUNCAN:**

**1. AAR RESOLUTION NO. 2008-162 - REALLOCATION OF \$400,000 OF GENERAL FUND TO CONTINGENCY FOR THE SPORTS TOWN PROJECT**

Councilmember Duncan requested Council's support to keep the money in contingency to ensure that the public and Council are involved down the road before construction begins and made a motion to override the veto, which motion was seconded by Councilmember Dages. City Manager Souza spoke to the first phase of the Kern Street project and stated it was not constructed in the "cloak of darkness" but was done publicly and in the most cost effective manner, and clarified these funds were needed to complete the project from Van Ness to the Fulton Mall.

A motion of Councilmember Duncan, seconded by Councilmember Dages, to override the Mayoral veto failed, due to the need for 5 affirmative votes, by the following vote:

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

**('B') REQUEST FOR RECONSIDERATION - CHARTER MANDATED:**

**1. PAR RESOLUTION NO. 2008-163 AND SALARY RESOLUTION NO. 2008-165 - RECONSIDER ADDING BACK THE INDEPENDENT POLICE AUDITOR (IPA) TO THE PAR AND SALARY RESOLUTION AS ORIGINALLY PROPOSED IN THE CITY MANAGER'S OFFICE FY 2009 BUDGET**

City Manager Souza stated the goal of the position was for independent oversight and to begin a process for community discussion on issues before ending up in an extreme situation with a civilian review board and other things that would turn it into a politicized process.

Acting President Sterling spoke in support of an IPA and made a motion to reconsider.

A motion of Acting President Sterling, seconded by President Xiong, to reconsider adding back the Independent Police Auditor failed, by the following vote:

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

**2. PAR RESOLUTION NO. 2008-163 AND AAR RESOLUTION NO. 2008-162 - RECONSIDER \$34,000 OF RESOURCES TO FUND A FULL YEAR OF THE EDUCATION LIAISON AND AUTHORIZE THE POSITION IN THE SALARY RESOLUTION FOR A FULL YEAR AS ORIGINALLY PROPOSED IN THE CITY MANAGER'S OFFICE FY 2009 BUDGET**

City Manager Souza stated a significant amount of activity had been accomplished/completed through this position, cited the letters of support from the County Office of Education, Fresno Unified, and Regent Pete Mehas, and requested Council reconsider the issue. Acting President Sterling spoke in support stating the letter from Superintendent Hanson was testimony enough as to the value of the position for the city and Fresno Unified, stated the next administration should have the opportunity to decide whether or not to retain the position in whatever capacity, and elaborated further on the issue. A motion and second was made to reconsider.

Mr. Souza responded to questions of Councilmember Duncan and clarified issues relative to balancing the budget, upcoming items putting the budget further out of balance, and how staff intended to balance the budget. Councilmember Duncan stated the next mayor could make the decision on this position just like Mayor Autry did, added approval of this would make the budget problem more extreme, and urged Council to oppose the motion.

On motion of Acting President Sterling, seconded by President Xiong, duly carried, RESOLVED, the Education Liaison position and funding hereby authorized for a full year as originally proposed, by the following vote:

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

**3. AAR RESOLUTION NO. 2008-162:**

**a. RECONSIDER INCLUDING \$200,000 OF RESOURCES TO CONTINUE FUNDING THE SOLAR REBATE PROGRAM**

City Manager Souza stated staff understood Council's concerns, believed investment in solar was important for the community, and believed there were opportunities to make this program work, and requested staff be given the opportunity to make it work.

Councilmember Perea thanked staff for giving the program another look and coming up with a stronger program, stated he hoped Council would see the public benefit and wisdom of investing, and made a motion to reconsider.

Councilmember Calhoun stated his strong opposition was the give-away portion, particularly to people in north Fresno adding that was basically a subsidy, and questioned if that would be eliminated and if staff could provide details of the program, with Mr. Souza responding. Mr. Souza responded to questions and comments of Councilmember Duncan relative to what the funding source was for this program, concerns with the program including the people being targeted not being in the market to buy solar projects, amount to be paid back, small businesses renting property and not owning it, the program not being thought through, and need to oppose this to reduce the current budget hole. President Xiong stated his opposition was with the process and effectiveness, added he concurred with Councilmember Duncan, and stated the program needed to be vetted out.

A motion of Councilmember Perea, seconded by Acting President Sterling, to reconsider \$200,000 to continue funding the Solar Rebate Program failed, by the following vote:

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

**b. RECONSIDER \$49,000 OF CDBG RESOURCES TO FUND THE FRESNO WEST COALITION FOR LEADERSHIP**

City Manager Souza requested reconsideration to allow Fresno West to provide for community building and empower a part of the community to become engaged in the process. A motion and second was made for reconsideration.

Councilmember Calhoun clarified his opposition had nothing to do with the earlier CHDO issue, stated he has watched this organization and been to various open houses but has not seen anything come out of it, and stated it was probably time to reorganize and maybe get different leadership and added this was not a good way of spending CDBG funds.

A motion of Councilmember Perea, seconded by President Xiong, to reconsider \$49,000 of CDBG resources to fund the Fresno West Coalition failed, by the following vote:

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

**c. RECONSIDER ADDING \$400,000 OF FUNDS FOR THE SPORTS TOWN PROJECT AS ORIGINALLY PROPOSED**

City Manager Souza clarified currently the budget was \$325,000 in the black, adding this back in would put the budget \$75,000 to the red, and staff would still want to work with the Council President to identify where the \$75,000 is.

Councilmember Perea made a motion to reconsider, stated he has been told by developers that they want the city to invest in infrastructure, and stated this was an opportunity to finish a project that was started and he hoped this project would expand to the Cultural Arts district and other areas where investment in public infrastructure is needed. President Xiong seconded the motion.

Councilmember Calhoun stated he wanted the money put into contingency so discussion could occur on the use of it, stressed he was not satisfied that the Fulton Mall still had not been addressed and elaborated, expressed concern that one half of this project was done and now Council was being asked to double the investment on the mayor's or staff's idea, and stated he had wanted discussion and to get something meaningful started on the Fulton and he would not support this. Upon question of Acting President Sterling, City Attorney Sanchez clarified the earlier veto was not overridden, the \$400,000 was now in an unappropriated line item in the general fund unrelated to anything, and if Council granted this reconsideration the money would go back into a line item for Sportstown without any contingency. Mr. Souza further clarified the funds would go back into the planning & development budget for the purpose of Sportstown, the Fulton Mall debate would be coming forth shortly, and upon further question stated these were general fund dollars and not CDBG.

A motion of Councilmember Perea, seconded by President Xiong, to reconsider adding \$400,000 of funds for the Sportstown Project as originally proposed failed, by the following vote:

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

**(‘C’) REQUEST FOR RECONSIDERATION - TRADITIONAL - AAR RESOLUTION NO. 2008-162:**

- 1. CONSIDER MODIFICATION #2 TO THE SOLAR REBATE PROGRAM TO MODIFY THE PROGRAM TO RETAIN THE INCOME LIMIT OF UP TO 120% OF MEDIAN, BUT RAISE THE LOAN AMOUNT TO UP TO \$20,000 FULLY AMORTIZED TO A LONG TIME (20 YEARS)
- 2. CONSIDER MODIFICATION TO THE SOLAR REBATE PROGRAM TO LIMIT THE REBATE PORTION TO \$75,000 OF THE TOTAL PROGRAM

Items moot based on previous Council action (B-3-a) eliminating the solar program.

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**(2:00 P.M. #2) CLOSED SESSION**

**(‘A’)** CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS: INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS (LOCAL 39), INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753 (IAFF BASIC UNIT), AND INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100 (IBEW)

**(‘B’)** CONFERENCE WITH LEGAL COUNSEL/ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: COF V. AIG FINANCIAL PRODUCTS CORP., ET AL.

The City Council met in closed session in Room 2125 at the hour of 3:18 p.m. to consider the above matters.

City Attorney Sanchez announced, in the matter of Item 'B', Council authorized staff to initiate litigation against AIG Financial and related entitles by a unanimous vote.

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**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 Xiong declared the meeting adjourned.

**Approved** on the \_\_\_ 22nd \_\_\_\_\_ day of \_\_\_\_\_ July \_\_\_\_\_, 2008.

\_\_\_\_\_/s/\_\_\_\_\_  
Blong Xiong, Council President

ATTEST: \_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk