

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

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

Dr. Rick Bartlett of Bethany Church gave the invocation and President Sterling led the Pledge of Allegiance.

PRESENTATION OF THE SPCA PET OF THE MONTH - PRESIDENT STERLING

The pet of the month available for adoption, a six month old female German shorthair pointer, was presented.

PROCLAMATION OF "CHIEF RANDY BRUEGMAN DAY" - MAYOR AND CITY COUNCIL

PROCLAMATION OF "DEAF AWARENESS WEEK" - MAYOR AND CITY COUNCIL

PROCLAMATION OF "REEL PRIDE DAY" - COUNCILMEMBER PEREA

PROCLAMATION OF "ENTREPRENEUR AND INNOVATION WEEK" - COUNCILMEMBER XIONG

CERTIFICATE TO AUSTIN EWELL AND THE SAINT AGNES MEN'S CLUB 27TH ANNUAL CROSS CITY RACE - PRESIDENT STERLING

ADD-ON: PROCLAMATION OF MITOCHONDRIAL DISEASE AWARENESS WEEK AND RECOGNITION OF BRITTANY WILKINSON

The above proclamations and certificate were read and presented.

PRESENTATION OF "PRIME TIME FOR BUSINESS: MATHEWS HARLEY DAVIDSON STORE" - PRESIDENT STERLING AND D&CR DEPARTMENT

President Sterling introduced the item and a proclamation honoring Mathews Harley Davidson Store as a Prime Time business was read and presented to the family. Family members Cara Mathews and Melissa gave an overview and PowerPoint presentation on the company which consisted of Community Service, History, Location (**2 - 0**), Future Plans, and What Can the City Do?, and also spoke further to their expansion plans, it being unknown whether corporate officials would renew their dealer agreement, and the family's desire to remain at their downtown location. President Sterling again commended the family and the many supporters in attendance and along with Councilmember Brand advised the city of Fresno would provide letters of support and do whatever it could to keep the business at their same location.

APPROVE MINUTES OF AUGUST 27, 2009, and SEPTEMBER 10, 2009:

On motion of Councilmember Xiong, seconded by Acting President Westerlund, duly carried, RESOLVED, the minutes of August 27 and September 10, 2009, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Brand spoke to a workshop he attended on new market tax credits and how they might apply to The Met and requested the city manager follow up on the matter and advised he would provide information.

Councilmember Xiong (1) welcomed and congratulated the new Fresno police officers; (2) requested all to support the junior hockey team on Saturday at Selland Arena; (3) thanked the Toastmasters Club for their invitation and spoke to the great work they do; and (4) commented on the Mexican Independence Day celebration and flag raising ceremony and the 9/11 service and recognition and thanked all involved in the events, especially Hands On.

Councilmember Borgeas (1) thanked the Mayor's office and her staff for investigating the possibility of banking districts for Fresno; (2) advised he attended the League of California Cities conference yesterday in San Jose and stated it was a good experience; and (3) commented on the 199th anniversary of Mexico's independence and welcomed the new consulate to Fresno stating it was important for diplomatic relations.

Councilmember Dages (1) noted the Big Fresno Fair was coming and advised city employees would again be allowed to enter the fair for free for lunch (11 a.m. - 2:00 p.m.) through the Chance entrance; and (2) spoke to the Mexican Independence Day celebration at the Senior Citizens Village and commended the fire department for preparing/serving an enchiladas dinner to the residents.

Acting President Westerlund (1) congratulated the change in command of the 144th Fighter Wing; (2) extended "good luck" wishes to Fresno State as they take on Boise Friday; (3) pursuant to AB 1234 reported on his travels to Manteca and to San Jose for the Silicon Valley Leadership forum; and (4) relative to the Bob Brewer appearance on 8/27/09 (Central Valley RV) requested staff provide him with a map of what was vacated and what improvements are needed.

President Sterling (1) thanked Mayor Swearingin and her staff for their work on the H1N1 vaccine which is expected to arrive sometime in October; (2) advised she attended the opening of the Mendota police department, the Commercial Real Estate Women's luncheon, the appreciation and retirement dinner for Pastor Adam at St. Joseph's Baptist Church, and the KJWL/KYNO art gallery event highlighting Yosemite National Park; (3) congratulated Council staff member Pete Munoz who was honored at a retirement luncheon for his 20 years of service in the National Guard; and (4) advised she attended the groundbreaking for the Chandler Airport taxiway project, the Fresno police officer swearing-in ceremony, the Central California Women's Conference with keynote speaker Robin Roberts of Good Morning America, and the Mexican Independence Day event at President John Welty's home.

APPROVE AGENDA:

(2:30 P.M.) CONTINUED HEARING TO CONSIDER THE FANCHER CREEK DEVELOPMENT AGREEMENT (Continue to October 1, 2009, at 2:30 p.m.)

Continued as noted.

(1:30 P.M. #2 "A") RESOLUTION - INITIATING A GENERAL PLAN AMENDMENT AND REZONE APPLICATION RELATING TO PROPERTY ON THE SOUTHEAST CORNER OF W. WHITESBRIDGE AND S. HUGHES AVENUES

President Sterling removed the item from the agenda stating agreement had been reached. Brief discussion ensued.

(1-R) DETERMINING THAT FRYER ROOFING CO., INC. IS A NON-RESPONSIVE BIDDER AND AWARD A CONTRACT IN THE AMOUNT OF \$287,900 TO FRESNO ROOFING COMPANY, INC., TO REMOVE AND REPLACE THE ROOF SYSTEM AT THE FRESNO ART MUSEUM BUILDING

Removed from the agenda by staff and upon question of Acting President Westerlund ACM Rudd stated the item would be rescheduled.

On motion of Councilmember Dages, seconded by Councilmember Brand, 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:

Paul Hurlbut, 4701 W. Swift, stated he questioned the validity of Item **1-Q**, he objected to the lack of opportunity to address each appointment individually, and spoke to both appointees.

Acting President Westerlund pulled Items **1-F**, **1-I** and **1-J** from the Consent Calendar for separate discussion/action.

President Sterling advised someone wished to speak to Item **1-F** but could not return at 1:30 p.m. whereupon City Attorney Sanchez stated the person could enter their comments into the record at this time and PARCS Director Cooper clarified the person could be present in the afternoon.

(1-A) APPROVE THE PURCHASE FROM CALTRANS OF A SURPLUS VACANT PARCEL NEAR THE CHANDLER EXECUTIVE AIRPORT FOR \$2,000 AND ADOPT CATEGORICAL EXEMPTION FROM CEQA

1. RESOLUTION NO. 2009-196 - CERTIFYING PUBLIC USES UPON ACCEPTANCE OF SURPLUS CALTRANS PROPERTIES

(1-B) APPROVE AN AGREEMENT AUTHORIZING THE CITY OF FRESNO TO ENTER INTO A CONTRACT WITH THE 21ST DISTRICT AGRICULTURAL ASSOCIATION TO PROVIDE POLICE SERVICES AT THE 2009 FRESNO DISTRICT FAIR

(1-C) RESOLUTION NO. 2009-197 - AUTHORIZING APPLICATION TO THE U.S. DEPARTMENT OF HOMELAND SECURITY FY 2009 INTEROPERABLE EMERGENCY COMMUNICATIONS GRANT PROGRAM (IECGP), SUB-GRANTED THROUGH THE STATE EMERGENCY MANAGEMENT AGENCY, AND AUTHORIZING THE CHIEF OF POLICE OR DESIGNEE TO SIGN AND COMPLETE ALL REQUIRED DOCUMENTS

(1-D) RESOLUTION NO. 2009-198 - AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF GRANT AWARD FOR \$351,300 FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM AND AUTHORIZE COMPLETION OF DOCUMENTS

1. RESOLUTION NO. 2009-199 - 15TH AMENDMENT TO AAR 2009-149 APPROPRIATING THE GRANT FUNDS TO THE FIRE DEPARTMENT TO PROVIDE FIRE PREVENTION AND EDUCATION PUBLIC SERVICE ANNOUNCEMENTS AND ARSON INVESTIGATION EQUIPMENT AND TRAINING

(1-E) APPROVE AGREEMENT WITH THE FRESNO COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF \$14,490.12 FOR THE PARCS DEPARTMENT TO CONDUCT A COLLABORATIVE INFORMAL SCIENCE PROGRAM RUNNING THROUGH JUNE 30, 2010, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT N BEHALF OF THE CITY

(1-G) RESOLUTION NO. 2009-200 - APPROVING THE SUMMARY VACATION OF A 10 FOOT WIDE PUBLIC UTILITY EASEMENT ALONG THE WEST SIDE OF N. VALENTINE AVENUE SOUTH OF W. LOCUST AVENUE

(1-H) RESOLUTION NO. 2009-201 - APPROVING THE SUMMARY VACATION OF PORTIONS OF AN EXISTING PUBLIC PEDESTRIAN EASEMENT AT THE SOUTHWEST CORNER OF SHAW AVENUE AND FRESNO STREET

(1-K) APPROVE CONTRACT CHANGE ORDER NO. 1 WITH KAWEAH CONSTRUCTION COMPANY TO REVISE THE CONTRACT COMPLETION DATE FOR THE HEADWORKS NEW RAW SEWAGE PUMP AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY FROM JUNE 6, 2007, TO JANUARY 16, 2009, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CHANGE ORDER ON BEHALF OF THE CITY

(1-L) APPROVE REQUEST FROM FMDiaz CONSTRUCTION, INC., TO SUBSTITUTE VALLEY FENCE COMPANY AND SELF PERFORM THE FENCING PORTION OF THE IMPROVEMENTS FOR WELL SITE IMPROVEMENTS AT PUMP STATION 226-3

(1-M) APPROVE REQUEST FROM FMDiaz CONSTRUCTION, INC., TO SUBSTITUTE LOPEZ LANDSCAPE CONSTRUCTION WITH ALL COMMERCIAL LANDSCAPE SERVICE FOR THE LANDSCAPING PORTION OF THE IMPROVEMENTS FOR WELL SITE IMPROVEMENTS AT PUMP STATION 226-3

(1-N) APPROVE THE 3RD AMENDMENT TO THE AGREEMENT WITH HDR ENGINEERING, INC., FOR REVIEW AND EVALUATION OF THE CITY'S WATER SYSTEM FINANCIAL PLAN AS PART OF THE 2009 WATER REVENUE BOND ISSUANCE, AND AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

(1-O) ADOPT FINDING OF A CATEGORICAL EXEMPTION, CLASS 1 EXEMPTION UNDER CEQA, AND AWARD A CONTRACT IN THE AMOUNT OF \$398,564 TO WITBRO, INC., FOR INSTALLATION OF STREET IMPROVEMENTS/OVERLAY IN NO NEIGHBORHOOD LEFT BEHIND AREA 52 (HUNTINGTON, PEACH, KINGS CANYON AND MINNEWAWA)

(1-P) APPROVE REQUEST FROM DURHAM CONSTRUCTION, INC., TO SUBSTITUTE FOUR CCCC'S SERVICES, INC., WITH ENGINEERED CONTROLS, INC., FOR THE METAL WALL PANELS AND CORRUGATED METAL ROOFING PORTIONS OF THE "CONSTRUCTION OF NEW ANALYTICAL LABORATORY BUILDING AT THE REGIONAL WASTEWATER RECLAMATION FACILITY" PROJECT

(1-Q) APPROVE APPOINTMENTS OF PAWAN JOT TO THE COMMISSION ON THE STATUS OF WOMEN, AND GURDEEP SINGH SHERGILL TO THE DISTRICT 1 IMPLEMENTATION COMMITTEE - COUNCILMEMBER XIONG

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, 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:

(‘A’) SCHEDULED COMMUNICATION:

APPEARANCE BY KENNETH FICK TO DISCUSS THE LOSS OF HIS RESIDENCE

Not present when called.

(‘B’) UNSCHEDULED COMMUNICATION:

Robin Morse and Brandon Morse spoke in support of, and to the need for, medical marijuana and dispensaries, with Mr. Morse also speaking to his attempts to make donations to some non-profit organizations, including PAL, that are not being accepted.

Brunette Harris, HEAT for Southwest Fresno, stated she opposed the use of federal funds for any city project; questioned how the City Council serving as the Redevelopment Agency was not a conflict of interest; questioned how a proposed Charter school became operational without the community being made aware; questioned who the tax implementation committee was; and stated she wanted her comments entered into the record verbatim.

Paul Hurlbut spoke to fire department challenges, areas being left without protection due to the number of firefighters/engines that respond to a fire, pools/contingency plans to support protection, and the lack of fire infrastructure in the area west of Freeway 99 and north of Shields.

Reyes Garza, 412 "F" Street, spoke to the need to help the mentally ill.

Ignacio Garibay spoke to the challenges of low income residents.

Robert Methvin questioned why Mr. Morse' donation to PAL was declined with ACM Rudd directing Mr. Methvin to speak with staff.

(9:30 A.M. #1 "A") PRESENTATION BY PETE MEHAS ON THE CENTRAL CALIFORNIA SCHOOL OF PHARMACY (CCSP) - PRESIDENT STERLING

(3 - 0) Mr. Mehas stated the need for pharmacists in this area drove him to become the spokesman for the CCSP project; advised of supporters and distinguished members of the board; spoke to statistics and the shortage and need for pharmacists; advised the school wanted to locate downtown and spoke to the benefits of having the school in the city; stated the need was clear, the time was now and CCSP was asking the city of Fresno to "jump on board" and help facilitate the school; and advised the website for details was www.ccspeu.org, and acknowledged board and advisory committee members in attendance.

President Sterling, along with Councilmembers Perea, Borgeas, Dages, Xiong and Brand, all expressed their support and commented on the issue including the drafting of an official resolution of support, the diverse community and having a strategy in place to increase that capacity, levels of commitment, and support for and advantages of having the school downtown. Council also recognized supporters in attendance, commended Dr. Mehas and the project team, and stated the city would work with the team and do all it could to assist with the project. There was no further discussion.

(9:30 A.M. #1 "B") PRESENTATION BY TONY BOREN, EXECUTIVE DIRECTOR OF THE FRESNO COUNTY COUNCIL OF GOVERNMENTS (COG), REGARDING COG POLICY ON BOARD REPRESENTATION - PRESIDENT STERLING, ACTING PRESIDENT WESTERLUND AND COUNCILMEMBER XIONG

Mr. Boren spoke to the background of the issue and expanded on COG policy board representation and the agenda screening process, all as contained in his letter to Council as submitted, and stated the process has been fairly successful.

Councilmember Xiong thanked Mr. Boren for the presentation, stated one reason this matter was scheduled was an incident that took place during Mayor Autry's administration wherein a vote differed from council's perspective, stated he felt council needed to discuss and look into how the city council can be more engaged/involved in policies that are made, and presented questions relative to whether any other COG deals with strong mayor forms of government, where the city could to look to find models on how the strong mayor is dealt with, research conducted, how COG would deal with formats/how voting percentages are impacted, and how the mayor and council working issues out internally would affect the JPA provision on representation, with Mr. Boren responding throughout.

ACM Rudd stated he was aware of the incident (the streetcar study) wherein staff felt there was consensus amongst council and subsequently learned there might not have been, pointed out there have been numerous issues dealt with since the city became a strong

mayor form of government but there has been only one time where there appeared to be a disconnect between what was communicated at COG and what council consensus was believed to have been, spoke to the issue of amending the JPA, and added discussion at the board level at the time of the incident was the board was not going to get involved as it was a city of Fresno problem **(4 - 0)** to work out and not a JPA/COG issue. Councilmember Xiong responded and commented further on the issue and stated council should not be afraid to look at how the strong mayor form works or doesn't work for Fresno and/or other cities.

Acting President Westerlund stated this was an appropriate discussion to have and he was interested in seeing how this is done in southern California (and requested information by memo), stated as cities become larger there is a need for a chief executive and acknowledged while there is tension between the executive and legislative branches they do end up working effectively, and elaborated further on the issue, including the sharing of power, and suggested a COG policy calling for mayors to take policy issues back to their city councils for their input prior to making decisions at COG. Mr. Boren stated additional noticing to city councils could be done and responded to further comments. Mr. Rudd stated he was having a struggle with this as it appeared council was looking for a solution to a problem that did not exist, relative to some comments made clarified Mayor Autry was not pushing bonding at the FCTA and advised what staff and the mayor clearly heard from council was the desire to deliver Measure C Tier 1 projects in less time than 20 years and one option mentioned was bonding, and elaborated further on the issue and his concerns and stated he appreciated the discussion but again questioned why something that was not broken was trying to be fixed.

Councilmember Perea stated this was a healthy and good discussion to have and he would support Councilmembers Xiong and Westerlund and help in any way if they wanted to take this on as an issue of governance, acknowledged there have been few times in the past 20+ years where mayors and council members have disagreed with positions COG has taken but added oftentimes he has heard a lot of "grumbling" behind the scenes on issues that never surface to the top and gave the budgetary example of cities pitching in to pay for a portion of California Partnership staff's salary, and elaborated further on the issue, including looking into redefining the JPA if necessary, and stated the city council had an obligation to weigh in more on issues.

City Attorney Sanchez stated another option to consider for the future would be a position paper wherein council is provided with a list of upcoming items to vote on and take a formal position at the monthly report time which he noted would be an internal practice and not something that would have to go through a JPA amendment, with President Sterling stating that could be looked at if there is consensus. Mr. Rudd added when looking at other large areas/cities such as southern California or the Bay Area the other dynamic to consider is that they have different sales tax initiatives specific to a transportation authority adding there were a number of different transportation entities that sit at the table. Acting President Westerlund added a majority council position should maybe be looked at as the official position and further explained, with Mr. Boren and Mr. Rudd responding. Councilmember Xiong stated he also did not think council was ready to go and do a major overhaul and stated even though he was the alternate and more engaged it was important to have this discussion and to try and set a policy to move forward. Councilmember Borgeas stated amending the JPA would be a huge undertaking, a meeting of the minds on major votes was needed, and suggested a short presentation be given to council by staff or the mayor on high profile issues so council can be informed on the direction and options available and then deliberate.

Mayor Chief of Staff White noted the Measure C expenditure plan and Tier 1 projects came before the city council before they were voted on at COG, stated the mayor relies on and trusts the professional staff of the city and COG and added prior to COG meetings she has staff briefings that are based on the policies of the city, and elaborated further and stated the level of review was happening and has happened in the past. Councilmember Borgeas stated council members just wanted to be engaged and in the event of a conflict wanted a mechanism in place for resolution, and questioned if the procedure the mayor goes through should be made a formality rather than just practice. Referencing earlier comments made Ms. White clarified Mayor Swearingin was not able to attend the COG meeting and did not vote on the partnership funding, and with regard to the resolutions and disparaging comments made about the Latino community clarified the mayor did not support the resolution as she did not feel a transportation agency was the appropriate venue for such a resolution to be coming forward **(5 - 0)** and her non-support had nothing to do with the specific merits of the matter.

Councilmember Brand stated he felt the worst thing the city could do is come out with two conflicting opinions on something, added he also felt the solution was internal and not through a JPA amendment, and stated he did not feel a formal protocol was needed and suggested the mayor make a presentation whenever a major issue comes up so council can debate it. President Sterling advised when she was the alternate for Mayor Autry should would get the agenda packet and meet with the city manager or assistant to review/discuss the items and she would express concerns and/or considerations of the council to COG. There was no further discussion.

(9:30 A.M. #1 “D”) PRESENTATION BY ENCOURAGE TOMORROW - PRESIDENT STERLING

Suzanne Moreno, founder of Encourage Tomorrow, a school-based mentoring program, and Mentoring Coordinator Lucy Vasquez gave an introduction and PowerPoint presentation on the program which consisted of the History, Services, Does Mentoring Work?, and the California Dropout Research Project. Volunteer mentor Graciela Todd, restaurateur/caterer, and her mentee Juan Alvarado of Hamilton Middle School, mentor Kathleen Smith, Vice President for Valley Business Bank, and her mentee Savannah Finley of Hamilton, and student mentor Delores Lawrence of McLane High School, all spoke to their experience with the program and/or to the importance of mentoring and adults stepping up the plate to encourage kids to have a greater future. Ms. Vasquez concluded the presentation by identifying the elementary schools participating in the program.

President Sterling commented briefly on the program and requested staff meet with the organization about involving interested city employees. Councilmember Xiong commended Encourage Tomorrow for all their time and effort and commended the volunteers stating the work they do goes beyond the classroom and into the community. There was no further discussion.

(9:30 A.M. #1 “C”) RESOLUTION NO. 2009-202 - APPLYING HEALTHY AIR LIVING STRATEGIES WHENEVER POSSIBLE TO REDUCE THE EMISSIONS THE CITY OF FRESNO PRODUCES - ACTING PRESIDENT WESTERLUND AND MAYOR/CITY MANAGER OFFICES

Acting President Westerlund advised this resolution was part of a program that the Air Pollution Control District was promoting throughout the region and the idea was to promote healthy lifestyles and healthy air living, and noted the city has already adopted quite a few of the strategies and would continue to look at the goal of clean air and made a motion to approve.

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution No. 2009-202 hereby adopted, by the following vote:

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

- (10:15 A.M.) HEARING ON REZONE APPLICATION NO. R-09-002 AND ENVIRONMENTAL FINDINGS FILED BY ALI MOGHADDAM OF CONCORD CONSTRUCTION, SOUTHWEST CORNER OF N. BAIRD AND E. NEES AVENUES**
- 1. CONSIDER AND ADOPT FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR PREPARED FOR E.A. NO. R-09-002/C-09-048**
 - 2. BILL NO. B-33 - ORDINANCE NO. 2009-33 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AE-20/UGM TO R-1/UGM**

President Sterling announced the time had arrived to consider the issue and opened the hearing. Councilmember Brand recused himself from the proceedings due to a conflict of interest and left the meeting at 11:48 a.m.

Planner Contreras 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 Sterling closed the hearing.

Ms. Contreras responded to questions of Acting President Westerlund relative to density designations, if densities were changing, number of units proposed per acre, the site plan and long narrow site, if the fire department was comfortable with the project, fire access, other access points, and the turning circle.

On motion of Councilmember Dages, seconded by President Sterling, duly carried, RESOLVED, a Finding of Conformity for the subject .E.A. hereby adopted, and the above entitled Bill No. B-33 adopted as Ordinance No. 2009-33, by the following vote:

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

(9:30 A.M. #1 “E”) REQUEST FOR ESTABLISHMENT OF POLICIES - ACTING PRESIDENT WESTERLUND

- 1. ESTABLISH POLICY FOR ALL INTERNAL AUDITS WITH MANAGEMENT RESPONSES CONDUCTED BY THE CITY’S INTERNAL AUDIT OFFICE WITH ANY FOLLOW-UP AUDITS POSTED TO THE CITY’S WEBSITE ON AN INTERNAL AUDIT WEB PAGE**
- 2. ESTABLISH POLICY THAT ALL ANNUAL INDEPENDENT FINANCIAL AUDITS WITH MANAGEMENT RESPONSES BE POSTED TO THE CITY WEBSITE ON AN ANNUAL AUDIT WEB PAGE**

Councilmember Brand returned to the meeting at 11:54 a.m.

Acting President Westerlund reviewed #1 stating the public may not know that audits were an internal function of the city, stated staff does a great job and he felt as part of an open government the management letters with the management responses needed to be posted on the web so the public has the opportunity to review them, and reviewed #2, all as contained in the report to council as submitted. A motion and second was made to approve the staff direction.

Councilmember Borgeas commended the initiative stating transparency serves everyone well, and upon his question Acting President Westerlund stated there was an exception for management responses and matters that call for confidentiality (personnel issues, investigations, etc.) which he stated would be flagged by the city attorney and not be published. ACM Rudd stated staff was supportive of both measures adding the purpose of an audit was to improve the organization, and commended Internal Auditor Koury and his staff for all their work. Acting President Westerlund, Councilmember Xiong and President Sterling also commended staff and President Sterling thanked Acting President Westerlund for bringing this forth.

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, staff directed to establish policies calling for (1) all internal audits with management responses conducted by the City’s Internal Audit Office, along with any follow-up audits, to be posted to the City’s website on an Internal Audit web page, and (2) all annual independent financial audits with management responses to be posted to the City website on an Annual Audit web page, by the following vote:

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

LUNCH RECESS - 12:04 P.M. - 1:33 P.M.

(1:30 P.M. #1) CONTESTED CONSENT CALENDAR ITEMS:

(1-F) APPROVE A TEN YEAR LEASE MANAGEMENT AGREEMENT WITH EBITGOLF, INC. (CourseCo) FOR A THIRD TENURE TERM TO OPERATE THE RIVERSIDE MUNICIPAL GOLF COURSE

PARCS Director Cooper, Administrative Manager Melikian, ACM Rudd, CourseCo President Tom Isaak and City Attorney Sanchez responded at length to numerous comments /questions/concerns of Acting President Westerlund and/or clarified issues relative to there being no issues with the management and operation of the golf course, concern with the request for a third successive 10-year lease, why an RFP was not issued, if staff looked at other arrangements at other municipal golf courses, CourseCo being a great partner and having an outstanding relationship with the city, appreciation of relationships but there being a need at times to go out and see what the market is/what the market will bear, concern with negotiations occurring in the year 2018, what the administration’s position was (**6 - 0**), if an RFP was issued 10 or 20 years ago, it being incumbent upon council to get the best deal for the taxpayer, if there was any standard or law that might guide the city in this area, if the city attorney was comfortable with the issue and recommendation, need to re-look at Section 2.03 and go out with an RFP/RFQ, the \$50,000 designated annually for capital improvements and if those funds could be accumulated/carried over from year to year to construct larger projects, and his review of the clubhouse/restrooms/facility itself and need for remodeling and/or upgrades.

Barbara Hunt spoke in support of the issue.

Councilmember Borgeas referenced a Fresno Bee article and upon his question Mr. Cooper clarified a new clubhouse was not imminent, advised staff was solely conducting an investigation at this point, and stated discussions would occur with council if the city moves in that direction. Councilmember Borgeas commended Mr. Isaak stating the facility was fantastic and Mr. Isaak was going a good job. Councilmember Xiong stated an RFP process should be undertaken in 10 years and he would hope that all options for the building will be brought forth to council for their input. Councilmember Brand noted this was a public golf course with reasonable fees and a great amenity for all citizens, stated legitimate issues were raised and spoke to the need to establish performance standards to get around the danger of complacency that could occur after operating the golf course for thirty years, relative to the clubhouse noted there was a tremendous opportunity right now with low construction and engineering costs and commented further, and stated he was comfortable with staff's recommendation at this time but suggested performance standards be specified in 9-10 years for contract renewal.

Mr. Rudd clarified regardless of what the Bee article stated staff has had very preliminary discussions about the clubhouse, advised the next step would be a market analysis due to the Copper River, San Joaquin and Ft. Washington golf courses all having banquet facilities and elaborated further, and stated research and market analysis information would be communicated back to council before next steps are taken.

President Sterling advised she received phone calls expressing concerns about cleanliness, the clubhouse being old, lack of maintenance, and pests/rats at the facility, with Mr. Cooper stating staff would speak with Mr. Isaak about that and clarified the facility was built in the 1960's and was old and in a natural area with a trail and river directly behind.

On motion of Councilmember Xiong, seconded by Councilmember Borgeas, duly carried, RESOLVED, a new 10-year lease management agreement with EBITgolf, Inc. (referred to as CourseCo) for a third tenure term to operate the Riverside Municipal Golf Course hereby approved, by the following vote:

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

(1-I) APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH OMNI-MEANS, INC., IN THE AMOUNT OF \$40,899 FOR ADDITIONAL DESIGN SERVICES NECESSARY TO COMPLETE THE INTERSECTION DESIGN OF CEDAR AND NORTH AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ON BEHALF OF THE CITY

Assistant Public Works Director Banuelos responded to comments and questions of Acting President Westerlund relative to the agreement being approved back in 2006, what has happened in the last three years, why the project was taking so long, if any time and money have been lost, if the intersection will eventually be fully built out, and if the project was ready to move forward and if all properties have been acquired. A motion and second was made to approve staff's recommendation.

Barbara Hunt spoke in support.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the first amendment to the agreement with Omni-Means, Inc., in the amount of \$40,899 for additional design services necessary to complete the intersection design of Cedar and North Avenues hereby approved, and the Public Works Director or designee authorized to sign the amendment on behalf of the City, by the following vote:

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

(1-J) ADOPT A CEQA NOTICE OF EXEMPTION, AWARD A CONTRACT TO BUSH ENGINEERING, INC., IN THE AMOUNT OF \$1,585,519 FOR THE BASE BID PLUS ADD ALTERNATE 1 FOR SHAW AVENUE INTERSECTIONS REPAIR FROM BLACKSTONE TO CHESTNUT AVENUES

Assistant Public Works Director Banuelos responded to questions of Acting President Westerlund relative to whether the repairs would remove the undulations/ruts in the intersections, if sufficient base was left underneath after Caltrans repaved in 1997, project time line, if consideration/sensitivity will be given to football traffic at Cedar and Shaw, and if the 2/10ths depths will be sufficient.

Barbara Hunt spoke in support.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the CEQA Notice of Exemption Document hereby adopted, the subject contract awarded to Bush Engineering, Inc., as recommended, and the Public Works Director or designee authorized to sign the contract on behalf of the City, by the following vote:

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

(9:30 A.M. #1 “F”) REQUEST STAFF PROVIDE A DOCUMENT TRACKING THE CHANGES IN ALL MEMORANDUMS OF UNDERSTANDING (MOUs) AND SIDE LETTER AGREEMENTS - COUNCILMEMBER BRAND

Councilmember Brand reviewed the issue, all as contained in his report to Council as submitted, and stated the tracking would benefit all and allow for transparency and requested Council’s support.

Barbara Hunt spoke to the need for contracts.

Labor Relations Manager Phillips stated the city already highlighted changes to MOUs in various ways, noted examples were distributed to council yesterday and reviewed the examples and explained the process for changes, and advised he talked with several bargaining units and one of them liked the system and adopted it for other areas as it was easier for tracking. ACM Rudd added the city used to do the redline strikeout version which he noted was very cumbersome and confusing for the bargaining units, stated as vice chair of the labor management task force he brought this issue up with the labor organizations on Tuesday and asked if something changed or caused concern and advised none of them conveyed any concerns with the current process and were pleased with it as it is, and stated since information was in a WORD document staff could supply it to council to review prior to the issues being deliberated in closed session.

Acting President Westerlund questioned what Councilmember Brand was asking for and what was different from the current system, whereupon Councilmember Brand stated he also was now a little confused, stated in his talks with Mr. McDivitt he got the clear impression that the process was confusing, stated the goal here was not to reinvent the wheel but to provide a little more clarity so at the end both sides will know what was done, and upon his question on whether there would be any harm to do this City Attorney Sanchez stated the key here was ensuring that what is done allows for review of the flow, staff was representing that the path they developed identified clarity, he could not speak to Mr. McDivitt’s challenges as he had not seen them, and stated as long as there was a methodology that provides clarity that worked for the city he did not see the need for a greater fix, and added if a certain need arises that could be addressed. Councilmember Brand stated he did not want do something that was not necessary and if staff felt this was simple and would make a difference/avoid confusion he was willing to press forward but if everyone felt it would not he would be willing to drop this matter. Mr. Phillips (7 - 0) spoke additionally to tracking and original files being available to refer back to, and upon questions of Councilmember Brand stated changes were already being tracked, stated to try and track all back and forth discussion in any document would probably be impossible, and stated he did not feel there was any room for improvement. Mr. Rudd recommended, since the concern came from the retirement administrator, that staff meet with Mr. McDivitt and discuss his concerns and how the process is working for him, whereupon Councilmember Brand suggested the item be continued with the understanding that staff will meet to hopefully resolve this.

On motion of Councilmember Brand, seconded by Councilmember Borgeas, duly carried, RESOLVED, Item 9:30 a.m. #1-F hereby continued (trailed) with staff to brief Councilmember Brand on the outcome after meeting with the retirement administrator, by the following vote:

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

(9:30 A.M. #1 “G”) SPECIAL NOTICE ADD-ON: RESOLUTION NO. 2009-203 - SUPPORTING THE ORIGINAL AARA TRACK 2 GRANT APPLICATION HIGH SPEED RAIL AUTHORITY STAFF RECOMMENDATIONS - COUNCILMEMBER PEREA, as amended, adding the support of the Mayor

Councilmember Perea reviewed the issue, all as contained in his report to Council as submitted, and made a motion to approve, which was seconded by Councilmember Xiong.

Barbara Hunt spoke in support.

ACM Rudd thanked Councilmember Perea for bringing this resolution forth and stated the resolution was an unprecedented event in a lot of ways as the San Joaquin Valley has had a history of sometimes not getting on the same page on a number of items, stated the consensus building and collaboration seen over the past 6-7 month has been almost historical in its nature and explained, and stated there was now agreement on alignment and elaborated further.

Councilmember Borgeas commended Councilmember Perea for bringing this forth, and noted the mayor, and staff, have been extremely involved and questioned if this was symbolic enough and if the resolution could be amended to be a joint resolution of the City Council *and the Mayor* to send a message of unity, with City Attorney Sanchez stating that was permissible and Councilmember Perea accepting the amendment. Acting President Westerlund stated at some point the High Speed Rail Authority staff recommended Merced to Bakersfield but Authority officials asked staff to look at breaking up the segment and questioned why the Authority thought that might be more competitive for high speed rail dollars, with Councilmember Perea and Mr. Rudd responding.

On motion of Councilmember Perea, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2009-203 hereby adopted, *as amended*, making the Resolution a Joint Resolution of the City Council and Mayor in Support, by the following vote:

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

(9:30 A.M. #2) CITY COUNCIL REPORT ON BOARDS AND COMMITTEE ACTIVITIES:

(“A”) COUNCIL OF GOVERNMENTS (COG) - SWEARENGIN, XIONG
COUNCIL SUB-COMMITTEE TASK FORCE FOR WATER (WATER TASK FORCE) - BORGEAS, BRAND, STERLING
FINANCIAL AUDIT COMMITTEE - BRAND, WESTERLUND, XIONG
FRESNO AREA WORKFORCE INVESTMENT CORPORATION - STERLING
FRESNO COUNTY COUNCIL OF GOVERNMENT’S RAIL CONSOLIDATION COMMITTEE - XIONG
FRESNO COUNTY TRANSPORTATION AUTHORITY (FCTA) - SWEARENGIN, BORGEAS
FRESNO COUNTY WORKFORCE INVESTMENT BOARD - STERLING
FRESNO COUNTY ZOO AUTHORITY - SWEARENGIN, (WESTERLUND - ALTERNATE)
FRESNO MADERA AGENCY ON AGING BOARD - STERLING
JOINT POWER FINANCING AUTHORITY - STERLING

LEADERSHIP COUNCIL ON ENDING HOMELESSNESS - SWEARENGIN, STERLING, XIONG
PUBLIC SAFETY JOINT POWERS AUTHORITY - STERLING
REDEVELOPMENT AGENCY - ALL COUNCIL MEMBERS
SAN JOAQUIN RIVER CONSERVANCY BOARD - SWEARENGIN (BRAND-ALTERNATE)
THE ASSOCIATION FOR THE BEAUTIFICATION OF HIGHWAY 99 - STERLING
UPPER KINGS BASIN INTEGRATED REGIONAL WATER MANAGEMENT JOINT POWERS AUTHORITY - BORGEAS

- and-

(“B”) ECONOMIC DEVELOPMENT CORPORATION (EDC) SERVING FRESNO COUNTY - EX-OFFICIO - BORGEAS
FRESNO CITY & COUNTY CONVENTION & VISITOR’S BUREAU (CVB) - SWEARENGIN, STERLING
LEAGUE OF CALIFORNIA CITIES (ANNUAL MEETING) - SWEARENGIN
SPECIAL CITY SELECTION COMMITTEE, SAN JOAQUIN VALLEY AIR POLLUTION (AD HOC) - STERLING
(WESTERLUND-ALTERNATE)

President Sterling advised the entire list of committees that members serve on was listed this date for information purposes but clarified they would not all be listed in the future when council makes their reports once a month. Acting President Westerlund clarified, and City Attorney Sanchez confirmed, that since these were simply informational reports calling for no action/resolution there would be no need to call for public input.

President Sterling gave brief overviews and reported on the Council Water Sub-Committee Task Force, the Fresno Area Workforce Investment Corporation, the Fresno County Workforce Investment Board, the Fresno-Madera Area Agency on Aging, the Joint Powers Financing Authority, the Leadership Council to End Homelessness, the Public Safety JPA, the Association for the Beautification of Highway 99, and the Convention and Visitor’s Bureau.

Councilmember Xiong advised he had nothing to report on COG and ACM Rudd reported on a letter that will be sent by COG High Speed Rail Authority and a funding item relative to preliminary work on a heavy duty high speed rail facility. Councilmember Xiong stated he would leave the update on the Financial Audit Committee to Chair Westerlund, reported on the Rail Consolidation Committee, and stated President Sterling already reported on the Leadership Council to End Homelessness.

Councilmember Borgeas reported on the Water Task Force, advised there was nothing to report on the Fresno County Transportation Authority, and reported on the Upper Kings Basin JPA and the EDC.

Councilmember Brand stated he had nothing to report on the Audit Committee as he just became a member, advised Councilmember Borgeas was doing the “heavy lifting” on the Water Task Force, and reported on the San Joaquin River Conservancy.

Acting President Westerlund stated this sounded like it was working and offered two suggestions: (1) that Chairs of the various committee just take the lead make the reports and in their absence other members could report, and (2) relative to the Redevelopment Agency stated Council was on that weekly and it could be stricken from the list, and reported on the Financial Audit Committee, advised he had nothing to report on the Zoo Authority, and reported on the San Joaquin Valley Air Pollution Selection Committee.

President Sterling thanked members for their reports and there was no further discussion. (*Note - During the following item ACM Rudd reported on the Zoo Authority and EIR.)

(“C”) RESOLUTION NO. 2009-204 - AMENDING RES. 2003-137 ADDING RULE #29 TO RULES OF PROCEDURE TO PROVIDE OVERSIGHT OF CITY COUNCIL APPOINTMENTS OF COUNCIL MEMBERS TO COMMITTEES

Upon question City Attorney Sanchez stated he had nothing to add as the attachments were self explanatory and key points.

Barbara Hunt spoke to the need for conflict of interest statements.

ACM Rudd apologized and went back to the previous and reported on the Zoo Authority and EIR which he stated was anticipated to be completed and before Council by the first of the year and advised a meeting would be convened in the next 45 days to start laying out an implementation plan and spending priorities.

On motion of Councilmember Xiong, seconded by Acting President Westerlund duly carried, RESOLVED, the above entitled Resolution No. 2009-204 hereby adopted, by the following vote:

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

(3:00 P.M.) WORKSHOP ON CALIFORNIA CONSTITUTIONAL CONVENTION FOR STATE GOVERNMENT REFORM - COUNCILMEMBERS PEREA AND BRAND

Councilmembers Brand and Perea made brief opening comments and introduced the item, and Heather Fargo, former Sacramento Mayor representing California Forward, and Matt Reagan with the Bay Area Council, submitted written information to Council, copies of which are on file in the office of the City Clerk, and both gave an in-depth oral presentation on their efforts toward state government reform entitled “California Forward’s 2010 Reform Plan” **(8 - 0)** and “Repair California - Californians for a State Constitutional Convention”.

General council discussion ensued with Mr. Reagan and Ms. Fargo responding to questions and/or comments of Councilmembers Westerlund, Brand and Xiong relative to time line and need to look at procedure and policy from the prospective of governance, if Repair California (RC) was planning to get on the 2010 ballot, scenarios/what the next steps would be if that happens, California Forward’s (CF) three categories/initiatives, if the initiatives have been through the State Attorney General for an opinion, if CF’s target was 2010, if one proposal would go to the voters, RC’s ballot plan for Propositions 1A and 1B, if there is any realistic chance the Legislature will bring something forward, if CF’s three categories each have to be a proposition, if RC being successful in June of 2010 would preclude CF from doing anything, mandated programs, implementation ability without changes, if both groups approve of an open primary, if there was any possibility the two groups could get together and coordinate all efforts on the same ballot, appreciation of the work of both groups, and bi-partisanship and special interests/how level playing fields are created.

Councilmember Perea thanked Ms. Fargo and Mr. Reagan for taking the time to come to Fresno to make their presentations stating that showed how important this issue was and how important it was for local governments, stated he supported everything CF was doing (and advised he would be faxing over his signed support form) but stated he also believed CF’s reform plan did not go far enough and that was why he was a strong believer in the Constitutional Convention, and presented additional comments and questions relative to the city council being split on the two proposals, importance of unity, if the groups feel it would be a conflict or ineffective for council to pass a resolution supporting both initiatives, and concern with sending out a watered-down message, desire for council to take a meaningful position, and support for endorsing both initiatives if council feels that is a meaningful position, with Ms. Fargo and Mr. Reagan responding throughout.

Acting President Westerlund noted he was the lone “no” vote the last time this matter was discussed but stated after hearing the presentations this date along with there being appropriate firewalls in terms of the convention he would be a “yes” vote on a combined position. President Sterling also thanked both presenters for coming and thanked President Perea for taking the initiative on this and stated she also would be “yes” vote on a joint endorsement. There was no further discussion.

(10:20 A.M.) HEARING TO ADOPT FINDINGS FOR THE DOWNTOWN THREE MILLION GALLON WATER STORAGE TANK, INITIAL STUDY, AND FINDING OF CONFORMITY TO THE MASTER ENVIRONMENTAL IMPACT REPORT (MEIR) PREPARED FOR THE 2025 FRESNO GENERAL PLAN, STATE CLEARING HOUSE NO. 2009081064

Assistant Public Utilities Director Martin reviewed the issue and recommended approval, all as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke to the issue and in support.

(9 - 0) On motion of Acting President Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the findings for the Downtown Three Million Gallon Water Storage Tank, Initial Study and Finding of Conformity to the General Plan MEIR hereby adopted, by the following vote:

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

RECESS - 4:05 P.M. - 4:10 P.M.

(11:00 A.M.) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL/ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: CITY OF FRESNO V. RANCHO HUEVO CREMA, LP, UNITED SECURITY BANK AND BOWIE ENTERPRISES

The City Council met in closed session in Room 2125 at the hour of 4:10 p.m. to consider the above matter and reconvened in regular open session at 4:15 p.m.

(1:30 P.M. #2 "B") APPROVE AMENDED PROMISSORY NOTES GIVEN BY HABITAT FOR HUMANITY FRESNO, INC., AND ASSUMABLE BY LOW-INCOME HOME BUYERS FOR HOME PROGRAM ASSISTED CONSTRUCTION OF TWO AFFORDABLE SINGLE-FAMILY HOMES ON N. ECHO AVENUE

HCD Manager Casares reviewed the issue, all as contained in the staff report as submitted.

Barbara Hunt spoke in support of the issue and expressed concern with home-buyers purchasing homes and then reselling them and making a profit.

Tony Miranda with Habitat for Humanity addressed Ms. Hunt's concern advising a process was in place to deter families from making a windfall profit and covenants are recorded on all properties that restrict homeowner options on moving out, and along with Ms. Casares responded to questions of Councilmembers Brand and Westerlund relative to whether an acceleration clause was in agreements relative to selling, how someone is prevented from passing on 0% interest loans, if the city accepts the principal on the 0% loans, and if deeds of trust are recorded and who the deeds are in favor of.

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the Amended Promissory Notes given by Habitat for Humanity Fresno, Inc., and assumable by low-income homebuyers, for HOME Program assisted construction of the single-family homes hereby approved, by the following vote:

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

(1:30 P.M. #2 "C") ACCEPT AWARD OF \$10,235,445 FROM THE ARRA COPS HIRING RECOVERY GRANT PROGRAM (CHRP), U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, FOR 41 POLICE OFFICERS, AND AUTHORIZE THE EXECUTION OF ALL RELATED DOCUMENTS

Deputy Chief Enmark reviewed the issue, all as contained in the staff report as submitted.

Barbara Hunt spoke in support.

A motion and second was made to adopt staff's recommendation. Upon question of Acting President Westerlund Mr. Enmark clarified the total grant award was for three years and the money was reimbursable and the department would receive funds after money is expended.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the award of \$10,235,445 for the CHRP grant for 41 police officers hereby accepted, and staff authorized to complete all required documents within the required time frame, by the following vote:

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

(2:45 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 4:28 p.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF AUGUST 20, 2009

On motion of President Sterling, seconded by Councilmember Borgeas, duly carried, RESOLVED, the Agency minutes of August 20, 2009, approved as submitted.

(“A”) DIRECT CITY AND AGENCY STAFF TO DRAFT A JOINT REQUEST FOR PROPOSALS (RFP) TO SOLICIT DEVELOPMENT PROPOSALS FOR THE FRESNO METROPOLITAN MUSEUM BLOCK AND THE PARCEL ACROSS THE STREET AND RETURN NO LATER THAN NOVEMBER 1, 2009, FOR FINAL APPROVAL PRIOR TO GOING OUT WITH THE RFP (Joint action) - ACTING PRESIDENT WESTERLUND

Upon question Executive Director Murphey advised staff had nothing to add.

Barbara Hunt spoke to the issue.

Acting President Westerlund gave an in-depth overview of the issue, all as contained in his report to the joint bodies as submitted, and also expanded further on his vision, the South Stadium Project, his concern with breaking out parcels, and his desire to receive proposals for the entire block. Upon his request D&CR Director Scharton and Ms. Murphey spoke to staff's position, the goal to bring vitality and life back into downtown, support for the RFP process, and a draft RFP being available already. Acting President Westerlund added he wanted the mixed use project to be vertical and match the Fresno Bee building.

Extensive discussion ensued. Councilmember Brand spoke to the city trying to recoup its' \$15 million, to how the city was going to have to provide concessions/subsidies, to how everything could change if The Met does not become successful, to the downtown water problem, and to the economy and his hope that this is successful. Ms. Murphey, ACM Rudd and Acting President Westerlund responded to questions and/or comments of Councilmembers Dages and Borgeas relative to the RTKL study and what the acronym stood for, if the study conducted during ex-director Fitzpatrick's tenure was being incorporated into this, the city just barely acquiring the property, concern with the requested action and possibly rushing into something without knowing all the options, if an indeterminate time line could go with the RFP to allow the city to maintain credibility without having to make hard decisions on the course of action to be pursued in the coming months or in the alternative issuing an RFQ instead (**10 - 0**), concurrence with the vitality of The Met being unknown, if Acting President Westerlund would support an indeterminate period of time for both an RFP and an RFQ, the master plan idea being a better way to go than piecemealing, there being costs associated with putting out proposals and if one is put out the city needs to be prepared both mentally and fiscally to act upon it, need to be fair to developers and let them know this preliminary and the city could decide against all options, and support for the RFP being indeterminate or in the alternative putting out an RFQ. Councilmember Perea stated this was a good idea five months ago and it still was today, concurred with Councilmember Brand and stated the truth was this was not going to pay the city back right away and the city will have to subsidize the project and added he felt free land was just the tip, relative to commitment stated he was ready to move forward, advised he had some concerns, particularly with the specific plan, and presented questions relative to whether staff has started with a specific plan, if proposals could conceivably come back around the time the citizens committee starts to meet, if proposals would run through the citizens committee, request to see strict/hard time lines come back in the RFP in terms of an ENA, if the city owned the property right now, current litigation (title insurance and mechanics liens), consequence if an RFP is issued and litigation is still going on in one year, and up-front assurances, with Mr. Scharton and City Attorney Sanchez responding. Councilmember Brand commented additionally on litigation and outstanding issues, presented questions relative to the amount of the mechanics liens and if Chicago Title has assumed liability (with Mr. Sanchez responding), stated he would hate to have a developer design plans and spend money and then find out in 90 days that the city is not in a position to go forward, and relative to the ENA time line added the problem a lot of times is not necessarily the developer but the city and its process and delays.

Acting President Westerlund stated he appreciated the concerns and was glad to hear them as members could support the motion because nothing was being launched here and staff was simply being directed to develop and come back with an RFP and information and elaborated further. Councilmember Borgeas stated legal concerns clearly existed, all issues (vision, an indeterminate period of time, new market tax credits) can be answered once the process begins internally, and stated he would support this to allow Council to weigh-in. Chair Xiong advised three proven members of the development community were very interested and made it clear that if this process is going to take 1 - 2 years they are not interested therefor a time frame needed to be considered and although it would not dictate what Council needs to make a decision.

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, City and Agency staff directed to draft a joint RFP to solicit development proposals for the Fresno Metropolitan Museum block and the parcel across the street and return no later than November 1, 2009, for final approval prior to going out with the RFP, by the following vote:

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

Mr. Sanchez clarified because this was a procedural request for information it would not be subject to the mayor's veto.

The joint bodies adjourned their meeting at 5:17 p.m. and the City Council reconvened in regular session.

RECESS - 5:18 P.M. - 5:42 P.M.

Councilmember Perea was absent for the remainder of the meeting, and Councilmember Brand was recused due to a conflict of interest.

(5:30 P.M.) CONTINUED HEARING ON REZONE APPLICATION NO. R-09-09 AND ENVIRONMENTAL FINDINGS, FILED BY THE CITY OF FRESNO, PROPERTY LOCATED ON THE EAST AND WEST SIDES OF N. POLK AVENUE BETWEEN W. ASHLAN AND W. DAKOTA AVENUES

1. CONSIDER AND ADOPT THE ENVIRONMENTAL FINDING FOR E.A. NO. R-09-09 THAT THE PROJECT PROPOSAL CONFORMS TO THE PROVISIONS OF THE GENERAL PLAN MEIR

2. **BILL NO. B-34 - ORDINANCE NO. 2009-34 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM RR (COUNTY) TO R-1/UGM/ANX AND R-A//UGM/ANX, as amended, adding a condition that the developer install a water line with stubs along Polk Avenue between Ashlan and Dakota along with fire hydrants for fire service**

President Sterling announced the time had arrived to consider the issue and opened the hearing. Planner Braun gave a PowerPoint presentation on the issue which consisted of the Vicinity Map, Annexation Boundary Map, Project History, City/County Boundary Map, Plan Designations, Aerial View, Rezone Application, "ANX" Annexed Rural Residential Transitional Overlay District, and Project Improvements on N. Polk Avenue, addressed the letter that was submitted to Council relative to concerns about being annexed to the city and associated costs, and recommended approval.

Gary Giannetta, 1119 "S" Street, project engineer for Tract 5538, spoke to the requirement for the rezone to record the annexation, advised the rezone was required by LAFCO for the development to proceed, and requested approval.

Speaking to the issue were: Cynthia Berube and Michael Berube, 3897 N. Polk, who elaborated on their concerns including costs to be incurred by the thirteen affected families, lack of a water line, the developer being the only one to benefit, higher taxes/expenses, the Polk Avenue improvements, street widening and sewer/water lines, undergrounding of power lines, and changes since 2006 and feeling that they have not received answers to questions (**11 - 0**); Sue Ann Barber, 3877 N. Polk, who expressed concerns relative to annexation and residents being told the developer would pay for sewer hook-up and hearing from the owner that that is not the case now; Mike Prandini, representing the BIA, who spoke to LAFCO requirements and stated it was critical that the pre-zonings move forward or the city would be stymied in reaching the ultimate growth boundary to the west of Freeway 99 and elaborated further; and Paul Hurlbut, 4701 W. Swift, who stated rules changed and promises were made to the people and forgotten.

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

Ms. Barber, Mr. Braun, Mr. Giannetta and PUD Supervising Engineering Technician Carbajal responded to questions of Councilmembers Borgeas and Westerlund relative to speaker comments, if a promise was made that residents would not be imposed with hook-up costs, what the history was of that promise and if costs are now being imposed, the offer being taken off the table prior to the LAFCO hearing and if residents were aware of that, who the developer was, if there was any other developer between the

original and current one, the water line issue, if sewer was part of the project and if there will be sewer laterals for hook-up, why a water main was not a condition of approval, if there were fire hydrants currently, if it was ever indicated there would ever be a water line down Polk,

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requirements/CUP and if a water line was not included, and water line plan/if there will be a line eventually. Mr. Giannetta confirmed a water line was not a condition nor was it needed for the development but stated if that will resolve the issues with the neighbors the owner was willing to put a water line in with fire hydrants for fire service. Mr. Giannetta and Ms. Barber responded to additional questions relative to what the situation was with the power lines, district meetings, and a different offer made on another Bonadelle home project. Ms. Barber added it was her belief none of the neighbors recalled hearing the sewer hook-up offer was ever rescinded. Acting President Westerlund stated the city was growing and had caught up top the area which comes with change, spoke to problems of county islands and stated the city has to grow in as orderly a fashion as possible and he had to support the annexation and made a motion to approve, with the condition for installation of a water line along N. Polk with fire hydrants, which motion was seconded by Councilmember Borgeas.

Extensive discussion continued. Mr. Braun and ACM Rudd responded to questions and comments of Councilmember Dages relative to the number of lots at issue, what will happen to the 13 properties when the additional 93 water users deplete/lower the water table, if it was better to hook-up to the city water line now instead of when the water runs out, the sewer line and a situation that occurred in his district burdening and costing residents, it being less expensive to hook up while trenches are being dug and lines are being laid, if something could be worked out for the homeowners, if the residents will be subject to any city taxes, the unfair process of government doing things and burdening homeowners with costs, why rules that were there at the beginning were changed, concern with people having no choice but to hook-up to the sewer and why something can not be made available to offset costs, and his support for, and if staff could, look into adding the hook-up costs to the property tax bill to pay over a period of as was done in the past. Mr. Rudd stated staff would look at some options including adding the cost over a period of time to the rate for the individual property.

President Sterling thanked the neighbors for coming out this evening, upon her question Mr. Braun confirmed the developer would install a water line with stub-outs, along with the sewer, on Polk from Ashlan to Dakota, and presented additional questions relative to whether water meters will be enforced, who was responsible for water meter hook-up costs, if discussions on project plans were held with the neighbors when the new developer took over, if the developer attended the community meetings (12 - 0), and if the developer was aware of the offers that were made to residents, with Mr. Braun, Mr. Carbajal, Mr. Giannetta and Developer Paul Laughton responding throughout. President Sterling stated it was the developer's responsibility to form relationships with the community and not their representatives; stated people are unaware of how processes work and city staff and the developer should have taken the time to talk with the community and further elaborated; stated she hoped staff would be able to work something out for the people as they are not developers but are incurring costs; and stressed treatment of constituents was important and she would not support this on principal. Councilmember Xiong stated he was going through an issue in his district where a previous council approved plans knowing the type of issues the current council would have to deal with, and spoke to how long existing processes take and upon his question Mr. Rudd stated staff could try to come back with a program, if one is place, within 30-45 days. Councilmember Xiong requested the neighbors be included and kept informed.

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby adopted, and the above entitled Bill No. B-34 rezoning the subject properties adopted as Ordinance No. 2009-34, with the added condition that the developer install a water line with stub-outs along N. Polk Avenue between Ashlan and Dakota, along with fire hydrants for fire service, by the following vote:

Ayes : Borgeas, Dages, Xiong, Westerlund
Noes : Sterling
Absent : Perea
Recused : Brand

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 6:48 p.m. having arrived and hearing no

objection, President Sterling declared the meeting adjourned.

Approved on the 24th day of September, 2009.

_____/s/_____
Cynthia Sterling, Council President

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