

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

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

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

PRESENTATION BY KAISER OF A \$25,000 CHECK TO THE PARCS DEPARTMENT TO ASSIST IN THE CONTINUATION OF THE HEALTHY LIFESTYLE FITNESS CAMP - PRESIDENT STERLING

Presentation made.

**PROCLAMATION OF "AMATEUR RADIO WEEK" - MAYOR'S OFFICE
PROCLAMATION OF "NAT DiBUDUO DAY" - COUNCILMEMBER BRAND**

The above proclamations were read and presented.

SPECIAL RECOGNITION OF THE SOUTH CENTRAL AND SOUTH EAST FRESNO MINISTERS FOR THEIR CONTRIBUTION TO THE MOSQUEDA LITTLE LEAGUE - MAYOR'S OFFICE AND COUNCILMEMBER DAGES

Recognition made.

PRESENTATION BY THE DEPARTMENT OF PUBLIC UTILITIES GOLF TOURNAMENT COMMITTEE OF A CHECK TO THE FRESNO COMMUNITY FOOD BANK

1. PRESENTATION BY THE GOLF COMMITTEE TO THE WASTEWATER DIVISION TEAM FOR PLACING #1 IN THE SAME-DIVISION EMPLOYEE TEAMS

Presentations made.

APPROVE MINUTES OF JUNE 16, 2009, AND JUNE 18, 2009:

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the minutes of June 16 and 18, 2009, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Dages (1) requested staff provide an update on the community garden at Peach and Butler Avenues; and (2) questioned if the police and sheriff bookings/evidence room consolidation could be resurrected stating it was an appropriate time to consolidate, with City Manager Souza responding and stating an update would be provided.

Councilmember Xiong reported (1) he attended the Cambodian Reconciliation Committee's 19th annual commencement event, congratulated the committee for doing a great job for the Cambodian community, and presented a decorated plate to PARCS Director Cooper for the department as a sponsor of the event; and (2) thanked the public works department, Central Unified, PG&E,

AT&T and FID for working together on the Teague Elementary Safe Routes to School public safety project.

Councilmember Borgeas (1) noted the Interior Secretary from Washington was scheduled to be in Fresno on Sunday for a town Hall meeting and upon his questions City Attorney Sanchez and President Sterling clarified issues relative to council member's ability to attend the open town hall meeting and/or holding a noticed special public meeting; and (2) congratulated the USA soccer team for beating Spain 2-0 in the Confederation Cup.

Acting President Westerlund (1) requested staff plant trees in the large tree planter boxes on Mariposa Mall by the police department; and (2) spoke to Sacramento receiving a \$10 million grant for water meter installation and requested staff make that a priority with the Washington lobbyists stating it would be a huge assistance for the city..

President Sterling reported she attended the Governor's budget presentation last week, the Eggs & Issues Breakfast with Assemblyman Gilmore, the Local Solutions to Regional Issues, and The Meth Recovery Project; stated she welcomed the Miss California pageant contestants at City Hall last Saturday; and stated attended the Juneteenth events at Eaton Plaza and the Hinton Center, the Senior Information Fair hosted by the police department, and the Juvenile Justice Open House last evening.

APPROVE AGENDA:

(1-L) RESOLUTION - APPROVING AMENDMENT NO. 1 TO THE DISTRICT COOPERATIVE AGREEMENT WITH CALTRANS FOR FREEWAY 180 FROM MARKS AVENUE TO THE HUGHES/WEST DIAGONAL, AND AUTHORIZE THE CITY ENGINEER TO EXECUTE THE AMENDMENT ON BEHALF OF TH CITY

City Clerk Klisch corrected the title stating there was no resolution involved.

(1-X) AUTHORIZE THE CITY MANAGER TO EXECUTE ALL DOCUMENTS, SUBJECT TO APPROVAL AS TO FORM BY THE CITY ATTORNEY'S OFFICE, RELATING TO THE UTILIZATION OF PARTICIPANTS FROM THE CITY OF CLOVIS, AS FUNDED BY THE FRESNO COUNTY WORKFORCE INVESTMENT BOARD, TO OPERATE THE SUMMER YOUTH EMPLOYMENT PROGRAM AT CITY OF FRESNO WORK SITES

Removed from the agenda by staff.

(9:30 A.M. "B") ACTIONS PERTAINING TO FRESNO POLICE OFFICERS' ASSOCIATION (FPOA) MOUs

- 1. ADOPT A MEMORANDUM OF UNDERSTANDING (MOU) WITH FPOA NON-SUPERVISORY POLICE, UNIT 4, PROVIDING COMPENSATION AND BENEFITS RESULTING FROM AN AGREEMENT TO OPEN AND EXTEND THE EXISTING MOU**
- 2. ADOPT AN MOU WITH FPOA POLICE MANAGEMENT, UNIT 9, PROVIDING COMPENSATION AND BENEFITS RESULTING FROM AN AGREEMENT TO OPEN AND EXTEND THE EXISTING MOU**
- 3. APPROVE AN AMENDMENT TO THE CITY OF FRESNO RETIREE HEALTH REIMBURSEMENT ARRANGEMENT TO INCLUDE A REVISION TO APPENDIX FOR POLICE NON-SUPERVISORY UNIT AND THE APPENDIX FOR POLICE MANAGEMENT UNIT**
- 4. RESOLUTION - 11TH AMENDMENT TO SALARY RES. 20089-165 AMENDING EXHIBIT 2, SECTION 2.1, POLICE MANAGEMENT**

City Clerk Klisch advised the item would be heard after 2:00 p.m.

(10:30 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

(C) AWARD A CONTRACT TO H.D. MATTHEWS DEMOLITION & EXCAVATION FOR THE DEMOLITION AND CLEARANCE OF ALL STRUCTURES LOCATED AT 4007 AND 4015/4017 E. VENTURA STREET WITHIN THE SOUTHEAST FRESNO REVITALIZATION PROJECT AREA

Removed from the agenda by staff.

(2:00 P.M. #6) RESOLUTION - ESTABLISHING COMPARISONS FOR PURPOSES OF ESTABLISHING RETIREMENT BENEFITS FOR DELETED CLASSES

Removed from the agenda by staff.

President Sterling advised when Council reconvenes after lunch at 2:00 p.m. the 2:00 p.m. budget item would be heard followed by closed/special closed session and then the FPOA (9:30 a.m.) item.

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

(1-A) APPROVE A COST SHARE AGREEMENT WITH THE FRESNO IRRIGATION DISTRICT IN THE AMOUNT OF \$86,901 FOR CONSTRUCTION OF IMPROVEMENTS TO THE ENTERPRISE CANAL SIPHON AT BIG DRY CREEK CROSSING, AND AUTHORIZE THE PUBLIC UTILITIES AND PUBLIC WORKS DIRECTORS TO SIGN ON BEHALF OF THE CITY

(1-B) APPROVE THE INTERAGENCY CONSTRUCTION AGREEMENT AMENDMENT FOR CONSTRUCTION OF AN ALL-WEATHER DRIVABLE LEVEE AND CRITICAL FACILITIES IMPROVEMENTS ALONG THE ENTERPRISE CANAL FUNDED UTILIZING \$1,537,106 OF A 20-YEAR SAFE DRINKING WATER STATE REVOLVING FUND LOW INTEREST LOAN, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES TO SIGN ON BEHALF OF THE CITY

(1-C) APPROVE A CONTRACT CHANGE ORDER IN THE AMOUNT OF \$74,300 TO MYERS BROTHERS WELL DRILLING, INC., FOR THE DRILLING OF NEW RECLAMATION WELLS AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

(1-D) AWARD A CONTRACT IN THE AMOUNT OF \$1,328,000 TO MWH AMERICAS, INC., FOR THE DESIGN OF THE DEWATERING FACILITY UPGRADE AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

(1-E) AWARD A CONSTRUCTION CONTRACT TO GRIZZLY CONSTRUCTION IN THE AMOUNT OF \$130,370 FOR INSTALLATION OF PERMANENT DISINFECTION FACILITIES AT CITY WELL SITE PUMP STATION 197 UNDER A STATE REVOLVING FUND LOW INTEREST LOAN

(1-F) AWARD A CONSTRUCTION CONTRACT TO GRIZZLY CONSTRUCTION IN THE AMOUNT OF \$136,000 FOR INSTALLATION OF PERMANENT DISINFECTION FACILITIES AT CITY WELL SITE PUMP STATIONS 76, 104 AND 105 UNDER A STATE REVOLVING FUND LOW INTEREST LOAN

(1-G) AWARD A CONSTRUCTION CONTRACT TO GRIZZLY CONSTRUCTION IN THE AMOUNT OF \$180,400 FOR INSTALLATION OF PERMANENT DISINFECTION FACILITIES AT CITY WELL SITE PUMP STATIONS 57, 209 AND 211 UNDER A STATE REVOLVING FUND LOW INTEREST LOAN

(1-H) RESOLUTION NO. 2009-140 - AUTHORIZING THE ACCEPTANCE OF THE 2009 AMERICAN RECOVERY AND REINVESTMENT ACT TRANSPORTATION ENHANCEMENT (ARRA-TE) FUNDS AMENDED BY THE COUNCIL OF FRESNO COUNTY GOVERNMENTS (COG) TO REPLACE THE 2006 COMPETITIVE STATE TRANSPORTATION IMPROVEMENT PROGRAM TRANSPORTATION ENHANCEMENT (STIP-TE) GRANT FUNDS TO ACCELERATE THE CLOVIS AVENUE MEDIAN ISLAND LANDSCAPING PROJECT, AND AUTHORIZE EXECUTION OF DOCUMENTS BY THE PUBLIC WORKS DIRECTOR OR DESIGNEE

(1-I) ADOPT A MITIGATED NEGATIVE DECLARATION, AND AWARD A CONTRACT TO FLOYD JOHNSTON CONSTRUCTION FOR THE BASE BID AND ADD ALTERNATE I IN THE AMOUNT OF \$2,803,452.90 FOR THE S. CHERRY AND E. CENTRAL INSTALLATION OF 18"-36" SEWER MAINS, A LIFT STATION AND A 14" WATER MAIN, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CONTRACT ON BEHALF OF THE CITY

(1-J) ADOPT A MITIGATED NEGATIVE DECLARATION, AND AWARD A CONTRACT TO HAYDON CONSTRUCTION, INC., IN THE AMOUNT OF \$208,829 FOR THE INSTALLATION OF A 12" WATER MAIN IN N. PALM AVENUE BETWEEN E. ASHLAN AND W. LANSING AVENUE, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CONTRACT ON BEHALF OF THE CITY

(1-K) RESOLUTION NO. 2009-141 - APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT AND CLOVIS COMMUNITY FOUNDATION, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE MOU ON BEHALF OF THE CITY

(1-L) APPROVE AMENDMENT NO. 1 TO THE DISTRICT COOPERATIVE AGREEMENT WITH CALTRANS FOR FREEWAY 180 FROM MARKS AVENUE TO THE HUGHES/WEST DIAGONAL, AND AUTHORIZE THE CITY ENGINEER TO EXECUTE THE AMENDMENT ON BEHALF OF TH CITY

(1-M) AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO EXECUTE A GRANT DEED IN FAVOR OF CALTRANS FOR 1,371 SQUARE FEET OF HERNDON AVENUE RIGHT OF WAY ADJACENT TO THE STATE ROUTE 41/HERNDON AVENUE INTERCHANGE (FREEWAY 41 NORTHBOUND OFF-RAMP)

(1-N) APPROVE AMENDMENT NO. 2 TO THE AGREEMENT WITH BLAIR, CHURCH & FLYNN CONSULTING ENGINEERS IN THE AMOUNT OF \$2,500 TO PERFORM ADDITIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) DESIGN SERVICES FOR THE HERNDON AVENUE WIDENING PROJECT BETWEEN STATE ROUTE 99 AND WEBER AVENUE, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR ASSIGNEE TO SIGN THE AGREEMENT ON BEHALF OF CITY

(1-O) RESOLUTION NO. 2009-142 - 62ND AMENDMENT TO AAR 2008-162 APPROPRIATING \$545,800 FOR THE RE-BUDGET OF PUBLIC WORKS CAPITAL PROJECTS PREVIOUSLY APPROVED BY COUNCIL

(1-P) APPROVE AMENDMENT NO. 1 TO THE CONSULTANT SERVICES AGREEMENT WITH JANE YOW FOR 'ASPIRE TO SUPERVISE' TRAINING, AND AUTHORIZE THE PERSONNEL SERVICES DIRECTOR TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

(1-Q) AUTHORIZE A JOINT AGREEMENT BETWEEN THE CITY OF FRESNO, THE COUNTY OF FRESNO, AND THE CITIES OF CLOVIS, PARLIER, REEDLEY, SANGER AND SELMA FOR \$551,306 FROM THE BYRNE JUSTICE ASSISTANCE GRANT PROGRAM, FROM THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE, AND CONSIDERATION OF THE CITY'S PROPOSED SPENDING PLAN FOR FEDERAL FUNDING OF THE 2009 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM

(1-R) APPROVE A TWO-YEAR EXTENSION TO THE CURRENT CONTRACT BETWEEN THE FRESNO CITY COLLEGE POLICE ACADEMY AND THE FRESNO POLICE DEPARTMENT FOR CONTRACT INSTRUCTION, ASSESSMENT AND COUNSELING SERVICES TO MEET THE NEEDS OF THE DEPARTMENT

(1-S) APPROVE A ONE-YEAR CONTRACT RENEWAL WITH THE FRESNO UNIFIED SCHOOL DISTRICT TO PROVIDE \$374,670 FOR THE PARCS DEPARTMENT TO CONDUCT A COLLABORATIVE AFTER-SCHOOL RECREATION PROGRAM RUNNING THROUGH JUNE 10, 2010, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-T) AWARD A CONTRACT TO KUCKENBECKER TRACTOR IN THE AMOUNT OF \$144,451.81 FOR THREE TURF TRACTORS

(1-U) RESOLUTION NO. 2009-143 - CONCERNING MEASURE C EXTENSION LOCAL TRANSPORTATION PURPOSES PASS-THROUGH PROJECTS AND PROGRAM FUNDS ANNUAL ALLOCATION FOR FY 2009-2020

1. AUTHORIZE THE CITY MANAGER TO EXECUTE LOCAL TRANSPORTATION PASS THROUGH REVENUES CERTIFICATION AND CLAIM FORMS

(1-V) APPROVE (1) THE NOMINATION OF BRYN FORHAN, LEE AYERS AND JAMES WOODWARD TO BE RECOMMENDED TO THE GOVERNOR'S APPOINTMENTS UNIT AS THE CITY'S CITIZEN REPRESENTATIVES TO THE SAN JOAQUIN CONSERVANCY BOARD; (2) THE APPOINTMENT OF RACHELLE TAYLOR AND REAPPOINTMENT OF RONALD SHEPPARD TO THE DISABILITY ADVISORY COMMITTEE; AND (3) THE REAPPOINTMENT OF MICHAEL McDONALD TO THE CIVIL SERVICE BOARD - MAYOR'S OFFICE

(1-W) AUTHORIZE THE INTERIM PLANNING & DEVELOPMENT DIRECTOR TO NEGOTIATE AND ENTER INTO A SERVICE PROVIDER AGREEMENT WITH THE FRESNO COUNTY WORKFORCE INVESTMENT BOARD TO RECEIVE \$50,000 TO FUND GREEN JOBS TRAINING AND/OR SUMMER YOUTH EMPLOYMENT COORDINATION WITHIN THE CITY

(2 - 0) On motion of Councilmember Dages, seconded by Councilmember Brand, 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.) UNSCHEDULED ORAL COMMUNICATIONS:

Alan Costa, 4471 E. Springfield, spoke to dangerous dogs in his neighborhood and to his complaint against the SPCA. Upon question Mr. Costa advised he lived in the county whereupon City Manager Souza stated he would forward Mr. Costa's information to the appropriate county office.

Paul Hurlbut spoke to fire department issues/concerns relative to class designations and ISO ratings.

Jesse Gomez, 2718 E. Shea Drive, on behalf of his neighbors, spoke in opposition to a group home in their neighborhood. Councilmember Brand responded and stated his office and the mayor's office had received emails and were working together on the issue and would be in contact with the neighborhood.

Paula Savino spoke to homeless issues.

Rick Mirigian, 2526 N. Rowell, spoke to a proposal he would submit to the city next week to have mixed martial arts (MMA) events at Woodward Park, to the city's economic condition/shortfall, to the city's need for revenue and how his proposal would provide needed revenue, and to Woodward Park being an ideal venue, and requested his proposal be reviewed without prejudice.

Jason Weiner, 6642 N. Marty, licensed promoter who works with Mr. Mirigian, spoke in support of Mr. Mirigian's proposal for MMA events at Woodward Park and to the economic benefits the events would provide city-wide.

Charles Waters, Veteran/Veteran Advocate, spoke to the need for funding for veterans' organizations to carry out their projects and spoke in support of the MMA group and the upcoming proposal stating the veterans were offered a much needed donation and expanded further on how the events would benefit the entire community.

William Dietzel, 4877 W. Norwich, encouraged all to watch the Veterans channel to see why it was important to support the veterans for their community projects, and spoke in support of the MMA events as a much needed revenue source and to how the sport was growing.

153-223

6/25/09

(9:15 A.M. “A”) CONSIDERATION OF ORDINANCES AMENDING THE FMC RELATING TO THE CALCULATION OF COST OF LIVING ADJUSTMENTS UNDER THE CITY’S RETIREMENT SYSTEMS - PRESIDENT STERLING
1. BILL NO. B-24 - RELATING TO THE SECOND TIER OF THE FIRE AND POLICE RETIREMENT SYSTEM, AS AMENDED, ADDING A 6/30/10 SUNSET CLAUSE
2. BILL NO. B-25 - RELATING TO THE EMPLOYEES RETIREMENT SYSTEM, AS AMENDED, ADDING A 6/30/10 SUNSET CLAUSE

President Sterling introduced the item and retiree representative Frank Balekian and Retirement Administrator McDivitt expanded on the measures before Council, the decrease in the CPI index, and the concept of banking any negative cost of living adjustments, and recommended approval, all as contained in the report to Council as submitted. President Sterling stated this was crucial for the retirees, especially in these hard economic times as many were on fixed incomes, and made a motion to introduce the bills, which motion was seconded by Councilmember Dages. City Manager Souza stated he and Mayor Swearingin supported the concept and felt it was the right thing to do in principle, added he appreciated the statement that this was minor but questioned what would happen if there is a 4% or 5% decrease again next year, and stated there was a concern about making a permanent change to the FMC and after discussing this with the city attorney’s office he was requesting this amendment be sunsetted on June 30, 2010, which would allow staff the opportunity to work with the retirement division over the next year to insure there are no unanticipated consequences and further explained. President Sterling accepted the amendment and requested Council be kept informed as staff works through the issue.

Upon questions of Councilmember Dages, Mr. McDivitt stated he had no problem with including a sunset clause and Mr. Souza stated the ordinances could be renewed yearly if necessary. Councilmember Dages stated the flexibility was important and expressed his support. Acting President Westerlund stated he was also concerned about unintended consequences as no one can predict where the CPI will go and commented further on the issue and stated his support. Councilmember Brand echoed the city manager’s caution, stated sometimes seemingly innocent decisions that have seemingly have no financial consequences can come back to haunt, upon his question Mr. McDivitt stated he saw no circumstances that could be detrimental in the future, and concurred with Acting President Westerlund that the retirees would pay for it now or later and stated the only issue here was the carrying cost and explained. President Sterling reiterated this was an important issue, items would have to be dealt with as they come forth, and along with Councilmember Dages thanked Mr. McDivitt and Mr. Balekian for all their work.

On motion of President Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Bill Nos. B-24 and B-25 introduced before the City Council and laid over, as amended, adding a 6/30/10, sunset clause, by the following vote:

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

(9:15 A.M. “C”) RESOLUTION NO. 2009-144 - RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF FRESNO REQUESTING RELIEF FROM DROUGHT AND REGULATORY DECISIONS SEVERELY REDUCING THE AMOUNT OF FEDERAL WATER SUPPLY DELIVERIES TO FRESNO COUNTY AGRICULTURE - ACTING PRESIDENT WESTERLUND

Acting President Westerlund spoke to the man-made tragedy of water delivery for hundreds of thousands of acres on the west side of the valley and the resulting huge unemployment rates to our west side neighbors, expanded further on the real human tragedy element, the decisions by the federal court on water pumping, and efforts that have been undertaken, and thanked Mayor Swearingin,

Martin McIntyre and **(3 - 0)** Councilmember Borgeas for all their work and assistance in this matter. Councilmember Borgeas stated he was proud to be a co-sponsor of this resolution and thanked the Mayor and her staff for their work, and spoke to how he became involved in the issue and to the need to appreciate the human element. Mayor Chief of Staff White stated from the mayor's perspective this was a no-brainer, stated this issue not only affected the entire valley but also directly affected city of Fresno and explained, and stated it was important to have a united front and paper (symbolic) resolutions did work and encouraged adoption.

At the request of Acting President Westerlund, Piedad Ayala of Riverdale, and Martin McIntyre, representing the San Luis Water District and city residents, spoke in support of the resolution and expanded further on the human element affect, the seriousness of this issue and how it will become much more serious, and the delta smelt issue/debate.

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Acting President Westerlund made a motion to adopt the resolution, which motion was seconded by Councilmember Borgeas.

Speaking in support of the resolution were: Sarah Woolf; Tricia Geringer of Congressman Radanovich's office, who read a letter from the Congressman into the record; Ryan Jacobsen, Executive Director of the Fresno County Farm Bureau and FID board member; Lon Martin, Assistant Public Utilities Director, speaking as a community resident, who also spoke to the need to change laws; Mike Prandini, Building Industry Association; and Sandra Brock, city planner, speaking as a citizen and taxpayer, 33000 George Smith Road, Squaw Valley, who also spoke to the CVP Improvement Act and concern.

Councilmember Borgeas thanked all for their input and encouraged council members to attend the town hall meeting on Sunday to show support for the Mayor and all other officials involved. Councilmember Brand stated he fully supported the resolution but the harsh reality was symbolic resolutions fall on deaf ears and made a challenge to all to make the huge transition from symbolism to substantive and find ways to make a difference. Councilmember Xiong also expressed his support but stated another equally important issue to be fought was the taking of the gas tax which would have an immediate impact on cities and added he felt that issue was not getting the same sense of urgency and further explained. Councilmember Perea thanked his colleagues for bringing this resolution forth and spoke to the importance of showing unity behind this cause, to how urban areas are being affected and not just rural areas, and to the efforts to ensure the long-term viability of the valley's agricultural economy is maintained. Acting President Westerlund made concluding remarks, addressed comments made, and expanded further on the importance of unification, making the city's voice heard, how laws can be changed, and his astonishment at hearing how environmentalists would like to see agriculture in California go away. President Sterling stated this matter touched the entire state tip-to-tip and spoke to how important the central valley was in keeping the entire state together.

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution No. 2009-144 hereby adopted, by the following vote:

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

(9:15 A.M. "B") REQUEST COUNCIL SUPPORT TO REDUCE THE DURATION OF LUNCH BREAKS AT COUNCIL MEETINGS FROM TWO (2) HOURS TO NINETY (90) MINUTES - COUNCILMEMBER BRAND

Councilmember Brand spoke to how the council agenda is never on schedule and to how people present for morning issues oftentimes have to wait for hours and/or return in the afternoon, and stated he felt ninety minutes was plenty of time for the break, to attend meetings, and to move the city's business forward in a more expeditious manner and made a motion to approve, which motion was seconded by Councilmember Borgeas.

President Sterling concurred sometimes two hours might be too long but stated members at time needed to attend lunch time meetings and with traveling time ninety minutes might not be sufficient, and stated she hoped, if this is approved, that some flexibility will be allowed. Acting President Westerlund stated he supported the motion and added nothing in this change would preclude

Council from having flexibility and explained. Upon questions of Councilmember Dages, City Attorney Sanchez stated, if approved, this would be an informal practice to limit lunch breaks to ninety minutes unless there is a specific need and that would be at the Council President's discretion subject to a council majority, and this action could have been done through a procedural formal resolution or by minute resolution. President Sterling stated she supported the intent but added as Council President she does have some meetings to attend to, the issue of an alternate with a voting right still had not been resolved and that concerned her, and she would work with Council if the change is approved.

On motion of Councilmember Brand, seconded by Councilmember Borgeas, duly carried, RESOLVED, the duration of Council meeting lunch breaks hereby reduced from two (2) hours to ninety (90) minutes, by the following vote:

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

153-225

6/25/09

(9:30 A.M. "A") RESOLUTION NO. 2009-145 - EXTENDING PAYMENT OF SALARY DIFFERENTIAL BENEFITS AND THE CITY'S PORTION OF THE EMPLOYEE'S HEALTH AND WELFARE CONTRIBUTION; PROVIDING FOR CERTAIN CONTINUING LEAVE ACCRUALS FOR PERMANENT CITY EMPLOYEES WHILE EMPLOYEES ARE SERVING IN ACTIVE MILITARY DUTY ON DEPLOYMENTS OF MORE THAN THIRTY-ONE (31) DAYS; AND CONTINUED PAYMENT OF THE EMPLOYEE PORTION OF THE HEALTH AND WELFARE PREMIUM FOR DEPENDENTS WHEN NO MILITARY HEALTH COVERAGE IS AVAILABLE WHILE EMPLOYEES ARE SERVING IN ACTIVE MILITARY DEPLOYMENTS OF MORE THAN THIRTY-ONE (31) DAYS FOR PERMANENT CITY EMPLOYEES CALLED INTO ACTIVE DUTY AS A RESULT OF THE ONGOING MIDDLE EASTERN CONFLICT

Personnel Services Director Bond stated this would continue the practice started in 2002, there were currently thirteen employees on active duty with four receiving salary differential, and gave a brief overview of the issue and recommended approval, all as contained in the staff report as submitted.

Speaking to the issue were Bill Trollinger, Vice President of the FPOA, **(4 - 0)** and Mr. Watson, who both spoke to the language "*when no military health coverage is available*" stating Tri Care was available to all but it created a burden on families as they had to change medical providers and the original intent of the resolution was to not disrupt families, with Mr. Watson adding he was one employee who was negatively affected when he was deployed.

Acting President Westerlund stated the issue of some employees wanting to stay with the H&W Trust instead of Tri Care came up after he left for military duty, spoke in support of Tri Care, and requested personnel staff take that extra step and meet with employees who are being deployed to make it clear to them that they do have the option of staying with the city and paying into the system while they are gone. Upon his question, Ms. Bond stated staff was working on past issues whereupon Acting President Westerlund made a motion to adopt the resolution, which was seconded by Councilmember Brand.

Ms. Bond, Mr. Trollinger, ACM Rudd and Mr. Watson responded to comments and questions of Councilmember Dages relative to there only being thirteen employees at issue and why they could not be taken care of without having Tri Care involved, his hearing of instances where employees did not receive notice and were charged upon return/owing money, if #3 in the resolution was an addition/new, if that section was not being enforced, if employees were satisfied with moving to Tri Care, if a system was in place to inform employees to meet with personnel, what Mr. Watson's situation was, concern with forcing employees to go with Tri Care, need to take care of military employees as their families are going through enough already without having to worry about insurance issues, and support for the resolution and intent to watch things closely to ensure employees are being taken care of.

Acting President Westerlund added when he got word he would be deployed the language he received thru email did not trigger a call to the personnel department and emphasized it needed to be made clear to employees that they need to talk to personnel about their coverage or it may cost them money and elaborated further on the importance of education beforehand and not when employees are at their duty station in uniform.

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2009-145 hereby adopted, by the following vote:

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

(10:00 A.M.) CONTINUED HEARING ON ADOPTION OF PLAN AMENDMENT APPLICATION NO. A-09-02, THE AIR QUALITY UPDATE FOR THE 2025 FRESNO GENERAL PLAN, INITIATED BY THE INTERIM PLANNING AND DEVELOPMENT DIRECTOR PURSUANT TO PROVISIONS OF AB 170

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION AND AMENDMENTS TO THE GENERAL PLAN MEIR MITIGATION MEASURE CHECKLIST FOR E.A. NO. A-09-02

2. RESOLUTION NO. 2009-146 - APPROVING PLAN AMENDMENT APPLICATION NO. A-09-02, as amended, with a minor revision

153-226

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Planning Manager Unruh noted the public hearing was closed on June 18th and at issue this date was Council deliberation and action, noted staff prepared a complete written response to the testimony/questions/requests made last week, and advised Council had a slightly revised resolution which referenced the determination that this plan amendment was consistent and compatible with other provisions of the 2025 General Plan.

Upon call, no one wished to be heard.

Acting President Westerlund thanked staff for the replies to the objections raised at the public hearing and presented questions and comments relative to when Council could expect to see a new/updated MEIR for the 2025 Plan, if it would include a subsection for SEGA as well as an MEIR for the entire city, anticipated timeline for a draft plan, former Councilmember Boyajian's concern with the MEIR and what it did and did not include and need to update the MEIR in a solid way to preclude the city from putting itself in any further potential legal jeopardy, there being questions on global warming yet to be answered but support for moving this forward based on what is required under state law and what may be required under new legislation, and measures to help the city as the worst air basin in the state, with Interim P&D Director Bergthold and Planner Brock responding throughout.

On motion of Councilmember Xiong, seconded by Councilmember Brand, duly carried, RESOLVED, the environmental finding of a Mitigated Negative Declaration for the subject E.A., with its proposed amendments to the 2025 Fresno General Plan MEIR Mitigation Measure Checklist hereby approved, and the above entitled Resolution No. 2009-146 hereby adopted, by the following vote:

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

Councilmember Xiong advised a delegation from Thailand came through and Council was unable to recognize them as they were in mid-discussion and welcomed them to the city.

(10:30 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 11:44 a.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF JUNE 4, 2009

On motion of Acting President Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the Agency Minutes of June 4, 2009, approved as submitted.

(‘A’) JOINT RESOLUTION NO. 2009-147/1743 - MAKING CERTAIN FINDINGS PURSUANT TO COMMUNITY REDEVELOPMENT LAW AND AUTHORIZING THE AGENCY’S INSTALLATION OF A TRAFFIC SIGNAL AT JENSEN AND WILLOW AVENUES WITHIN THE SOUTHEAST FRESNO REVITALIZATION PROJECT AREA
1. AWARD CONTRACT TO MADCO ELECTRIC, INC., IN THE AMOUNT OF \$337,974, FOR THE JENSEN/WILLOW TRAFFIC SIGNAL PROJECT (Agency action)

Executive Director Murphey advised of a correction on Pg. 5 of the resolution changing the date in the clerk’s certification to June 15 instead of June 10, and advised this was a UGM reimbursement project.

Councilmember Dages spoke briefly in support and made a motion to approve staff’s recommendation..

On motion of Councilmember/Member Dages, seconded by Councilmember/Vice Chair Brand, duly carried, RESOLVED, the above entitled Joint Council/Agency Resolution No. 2009-147/1743 hereby adopted, and the above entitled Agency contract awarded to Madco Electric, Inc., as recommended, by the following vote:

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

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(‘B’) JOINT RESOLUTION NO. 2009-148/1744 - MAKING CERTAIN FINDINGS PURSUANT TO COMMUNITY REDEVELOPMENT LAW AND AUTHORIZING THE AGENCY TO INSTALL PUBLIC IMPROVEMENTS INCLUDING PROPOSED STREET LIGHT INSTALLATION ON BELMONT AVENUE BETWEEN CEDAR AND CHESTNUT AVENUES WITHIN THE CENTRAL CITY COMMERCIAL REVITALIZATION PROJECT AREA
1. AWARD CONTRACT TO BROWNING CONTRACTORS, INC., IN THE AMOUNT OF \$396,300 FOR THE INSTALLATION OF SAID PUBLIC IMPROVEMENTS (Agency action)

Executive Director Murphey advised the same correction noted in the previous item was being made here and added this project came in 38% below the engineer’s estimate.

On motion of Councilmember/Member Perea, seconded by Councilmember/Vice Chair Brand, duly carried, RESOLVED, the above entitled Joint Council/Agency Resolution No. 2009-148/1744 hereby adopted, and the above entitled contract awarded as recommended to Browning Contractors, Inc., by the following vote:

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

The joint bodies adjourned their meeting at 11:48 p.m.

LUNCH RECESS - 11:50 A.M. - 2:03 P.M.

(2:00 P.M. #1) ADOPTION OF FY 2009-2010 ANNUAL BUDGET AND RELATED ITEMS:

1. RESOLUTION - ANNUAL APPROPRIATION RESOLUTION (AAR) - ADOPTING THE FY 2010 BUDGET AND APPROPRIATING TO THE VARIOUS DEPARTMENTS AMOUNTS SET FORTH FOR THE PURPOSES NAMED HEREIN
2. RESOLUTION - FY 2010 POSITION AUTHORIZATION RESOLUTION (PAR) - ESTABLISHING THE NUMBER OF POSITIONS AUTHORIZED IN THE VARIOUS DEPARTMENTS AND OFFICES OF THE CITY
3. RESOLUTION - FY 2010 GANN APPROPRIATION LIMIT - SELECTING THE METHOD TO DETERMINE GANN APPROPRIATION LIMIT
4. BILL - FY 2010 PROPERTY TAX OVERRIDE (PTO) ORDINANCE - AUTHORIZING THE LEVY AND COLLECTION OF A PROPERTY TAX ON TAXABLE PROPERTY IN THE CITY FO FRESNO FOR PARTIAL FUNDING OF THE FRESNO FIRE

AND POLICE RETIREMENT SYSTEM AND THE FRESNO CITY EMPLOYEES' RETIREMENT SYSTEM FOR THE FY BEGINNING JULY 1, 2009

5. RESOLUTION - FY 2010 SALARY RESOLUTION - ESTABLISHING RULES FOR THE APPLICATION OF CITY EMPLOYEE COMPENSATION RATES AND SCHEDULES AND RELATED REQUIREMENTS, AND ESTABLISHING COMPENSATION RATES AND SCHEDULES

(6. REMOVED FROM THE AGENDA)

7. RESOLUTION - APPROVING SUBMISSION OF THE FY 2009-2010 ANNUAL ACTION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR CDBG, HOME, ESG AND HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) PROGRAM FUNDS, AND AUTHORIZING THE CITY MANAGER TO SIGN ALL IMPLEMENTING DOCUMENTS REQUIRED BY HUD

Upon question of President Sterling, City Attorney Sanchez stated the fire department's budget could be voted upon separately or all of the above items could be approved with one motion.

Upon call, no one wished to be heard.

Councilmember Perea advised he was the one who requested the fire department be pulled and voted upon separately, stated while there was a lot in the budget he disagreed with he also felt there were some good things for the community but he could not vote for the budget as a whole with the cuts proposed for the fire department, and requested Council vote on the fire department separately.

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Upon question of Councilmember Dages, Mr. Sanchez recommended, if Council was inclined to break out a particular portion of the budget, that a motion be made identifying the portion to be broken out from the rest.

Acting President Westerlund noted the budget was built upon compromises/concessions of the bargaining units and upon question City Manager Souza stated if resolution is not reached with the labor units staff would return with either amendments to the budget itself or with implementation strategies. Upon further question Mr. Souza stated the budget was currently \$84,600 out of balance.

A motion of Councilmember Perea, seconded by President Sterling, to vote on the fire department budget separately failed, due to the following vote:

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

1. RESOLUTION NO. 2009-149 - ANNUAL APPROPRIATION RESOLUTION (AAR) - ADOPTING THE FY 2010 BUDGET AND APPROPRIATING TO THE VARIOUS DEPARTMENTS AMOUNTS SET FORTH FOR THE PURPOSES NAMED HEREIN

2. RESOLUTION NO. 2009-150 - FY 2010 POSITION AUTHORIZATION RESOLUTION (PAR) - ESTABLISHING THE NUMBER OF POSITIONS AUTHORIZED IN THE VARIOUS DEPARTMENTS AND OFFICES OF THE CITY

3. RESOLUTION NO. 2009-151 - FY 2010 GANN APPROPRIATION LIMIT - SELECTING THE METHOD TO DETERMINE GANN APPROPRIATION LIMIT

4. BILL NO. B -26 - ORDINANCE NO. 2009-24 - FY 2010 PROPERTY TAX OVERRIDE (PTO) ORDINANCE - AUTHORIZING THE LEVY AND COLLECTION OF A PROPERTY TAX ON TAXABLE PROPERTY IN THE CITY FOR FRESNO FOR PARTIAL FUNDING OF THE FRESNO FIRE AND POLICE RETIREMENT SYSTEM AND THE FRESNO CITY EMPLOYEES' RETIREMENT SYSTEM FOR THE FY BEGINNING JULY 1, 2009

5. RESOLUTION NO. 2009-152 - FY 2010 SALARY RESOLUTION - ESTABLISHING RULES FOR THE APPLICATION OF CITY EMPLOYEE COMPENSATION RATES AND SCHEDULES AND RELATED REQUIREMENTS, AND ESTABLISHING COMPENSATION RATES AND SCHEDULES

6. REMOVED FROM THE AGENDA

7. RESOLUTION NO. 2009-153 - APPROVING SUBMISSION OF THE FY 2009-2010 ANNUAL ACTION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR CDBG, HOME, ESG AND HOUSING

OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) PROGRAM FUNDS, AND AUTHORIZING THE CITY MANAGER TO SIGN ALL IMPLEMENTING DOCUMENTS REQUIRED BY HUD

Upon questions of Acting President Westerlund, Mr. Souza confirmed staff would be coming back to Council in the event the State does decide to take gas tax revenues and if the concessions/assumptions the budget was built on are not achieved. Acting President Westerlund stated this had been a difficult year for everyone across the state and country and even though this was the toughest budget for him and difficult to adopt he felt it was solid given the circumstances, and thanked Mayor Swearingin for her leadership and staff for all their work. Councilmember Xiong stated he had a feeling Council would be back dealing with the budget sooner than anyone thinks with the taking of proposition and the gas tax funds, and elaborated on his concerns including the gas tax issue not being as high as the water issue. Councilmember Borgeas stated this budget was very close to being balanced and he was very pleased with the work that was done, and presented questions relative to Sacramento moving forward on the gas tax and if a suit were to be initiated, with Mr. Sanchez responding to questions and clarifying issues including the League of California Cities authorizing suit. Councilmember Borgeas stated the taking of gas tax revenues would be outright thievery and spoke in support of taking the matter to court if necessary. City Manager Souza stated he appreciated the passion on the gas tax issue but stated to leave the impression that the administration and staff were sitting and waiting on Sacramento was way incorrect, and along with Mayor Chief of Staff White expanded on the meetings the Mayor/staff have attended with the Governor, the Speaker and rest of the legislature, on discussions that have taken place, the League's approach, the Big 10's perspective, and to how things were moving quickly, the Mayor/staff were being very aggressive, and the progress being made. Councilmember Brand stated this whole experience was very educational for him, stated this was a difficult process with differences of opinions but there was never any disrespect amongst council members, stated his comment made last week about the precarious nature of the budget was in no way meant to imply that staff put together numbers that were stretched or not conservatively done, commended the Mayor and staff for all the heavy lifting and work done before presenting the budget to Council, and stated this was a unique experience and in view of a billion dollar budget he would support it but the accounting side of him did not like it being out of balance by \$84,600. Councilmember Xiong stated he did not mean to imply the mayor and staff were not actively engaged with the state as that was the responsibility of all elected officials, and stated he was wearing the hat of a community advocate as he felt that side was being missed and further explained.

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On motion of President Sterling, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution Nos. 2009-149, 2009-150, 2009-151, 2009-152 and 2009-153 hereby adopted, and the above entitled Bill No. B-26 adopted as Ordinance No. 2009-24, by the following vote:

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

Mayor Swearingin thanked Council for working with the administration and staff stating that was a testament to the commitment to work together and make it through these difficult times, stated she was very hopeful the budget would not have to be opened up again the next month or so and that the city would not have to deal with \$10 million less, and urged all to stay focused on making sure the legislature and governor know the city's position on local revenues staying put and to borrow and not take.

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

(‘A’) EXISTING LITIGATION - CASE NAMES:

1. EYA DEAN V. COF, ET AL.
2. HARRIS CONSTRUCTION COMPANY, INC., ET AL., V. FRESNO METROPOLITAN MUSEUM, ET AL., DOES 1 - 500

(‘B’) ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION:

1. LAS CASITAS DE SER RETIREMENT VILLAGE V. COF
2. COF V. FRESNO METROPOLITAN MUSEUM OF ART AND SCIENCE, ET AL., DOES 1 - 100

(2:00 P.M. #2) SPECIAL NOTICE CLOSED SESSION - CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE

ORGANIZATIONS:

1. FRESNO POLICE OFFICERS' ASSOCIATION (FPOA), NON-SUPERVISORY, UNIT 4, AND POLICE MANAGEMENT, UNIT 9
2. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (IBEW)
3. CITY OF FRESNO PROFESSIONAL EMPLOYEES' ASSOCIATION (CFPEA)

The City Council met in regular and special notice closed session in Room 2125 at the hour of 2:45 p.m. to consider the above matters and reconvened in regular open session at 4:43 p.m. No announcements were made.

(9:30 A.M. "B") ACTIONS PERTAINING TO FRESNO POLICE OFFICERS' ASSOCIATION (FPOA) MOUs

1. ADOPT A MEMORANDUM OF UNDERSTANDING (MOU) WITH FPOA NON-SUPERVISORY POLICE, UNIT 4, PROVIDING COMPENSATION AND BENEFITS RESULTING FROM AN AGREEMENT TO OPEN AND EXTEND THE EXISTING MOU
2. ADOPT AN MOU WITH FPOA POLICE MANAGEMENT, UNIT 9, PROVIDING COMPENSATION AND BENEFITS RESULTING FROM AN AGREEMENT TO OPEN AND EXTEND THE EXISTING MOU
3. APPROVE AN AMENDMENT TO THE CITY OF FRESNO RETIREE HEALTH REIMBURSEMENT ARRANGEMENT TO INCLUDE A REVISION TO APPENDIX FOR POLICE NON-SUPERVISORY UNIT AND THE APPENDIX FOR POLICE MANAGEMENT UNIT
4. **RESOLUTION NO. 2009-154** - 11TH AMENDMENT TO SALARY RES. 20089-165 AMENDING EXHIBIT 2, SECTION 2.1, POLICE MANAGEMENT

Labor Relations Manager Phillips gave an overview of the issue and recommended approval, all as contained in the staff report as submitted.

Councilmember Dages commended FPOA for stepping up the plate and seeing the value of keeping people employed, and made a motion to approve staff's recommendation, which was seconded by Councilmember Brand. President Sterling and Councilmember Borgeas spoke briefly and also commended FPOA for their leadership and efforts in these challenging times.

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At the request of Councilmember Xiong, **(6 - 0)** ACM Rudd spoke to the formal response that was sent out to the units and the questions to FPOA relative to the mayor being fully briefed, full cost evaluation associated with the agreement, and the city's recently adopted voluntary leave program.

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled MOUs with FPOA Non-Supervisory Police/Unit 4 and FPOA Police Management/Unit 9 hereby adopted, the above entitled amendment to the City of Fresno Retiree Health Reimbursement Arrangement hereby approved, and the above entitled Resolution No. 2009-154 hereby adopted, by the following vote:

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

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 4:51 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the 16th day of July , 2009.

