

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
	Larry Westerlund	Acting Council President
	Blong Xiong	Councilmember
	Cynthia Sterling	Council President

Absent:	Henry Perea	Councilmember
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Andy Souza, City Manager
 Bruce Rudd, Assistant City Manager
 Jim Sanchez, City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Pastor William Nolte of the Fresno First Baptist Church gave the invocation, and President Sterling led the Pledge of Allegiance.

PROCLAMATION OF "FAIRMONT PRIVATE SCHOOL DAY" - MAYOR'S OFFICE

(1) PROCLAMATION OF "ARBOR DAY" AND (2) PRESENTATION BY THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION OF THE TREE CITY USA AWARD

PRESENTATION BY CalEPA TO THE CITY OF FRESNO RELATING TO DISTRIBUTION OF GREEN STREET SCENE TO CITY RESIDENTS

PROCLAMATION OF "CITY OF FRESNO AS A 2010 CENSUS PARTNER" - MAYOR'S OFFICE AND COUNCILMEMBER XIONG

The above proclamations were read and presented and the presentations were made.

EARTH DAY RECOGNITION - COUNCILMEMBER XIONG

Recognition made.

ADD ON: PROCLAMATION OF "CRIME VICTIM'S RIGHTS WEEK" - ACTING PRESIDENT WESTERLUND

Read and presented.

PRESENTATION OF "PRIME TIME FOR BUSINESS: BAND OF NEIGHBORS" - D&CR DEPARTMENT AND PRESIDENT STERLING

Bob Haden, CEO of Band of Neighbors, gave a PowerPoint presentation on the business which included Who We Are (Company/Service/Mission/Goal), How It Works, Features, Benefits, Current Traction, and What Can the City Do? (2 - 0). President Sterling commended Mr. Haden and the business on behalf of Council.

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APPROVE MINUTES OF APRIL 7, 2009:

City Clerk Klisch advised of a correction made by Acting President Westerlund, and upon a motion of Councilmember Brand, seconded by Acting President Westerlund, the minutes of April 7, 2009, were approved as corrected relative to the vote for Item 1-I, Pages 153-106/107, showing Acting President Westerlund voting “No”, not “Aye”.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Borgeas (1) noted today was the first Thursday Council meeting, acknowledged former Councilmember Caprioglio in attendance who was one of the architects of the change, and stated this change would allow more time and an opportunity for all stakeholders to reach out to their elected officials and vice versa; (2) thanked public works for the excellent job and professional work being done in Pinedale; (3) spoke to the Herndon Town sewer project and his excitement that it was moving forward; (4) spoke to the water crisis and state of emergency and advised he would be bringing forth an item to form a Council sub-committee on water; and (5) advised a raising of the flag ceremony would be held tomorrow morning at City Hall commemorating the 94th anniversary of the Armenian Genocide and encouraged all to attend.

Councilmember Xiong (1) questioned if it would be possible for Council to see the make-up of the census Complete Count Committee, with City Manager Souza stating staff was reviewing the information and would provide a report within the next two weeks; (2) acknowledged an event this past weekend and commended Granville Homes for their sponsorship; (3) advised he was in Sacramento on April 13th and met the establishment of the California Asian Peace Officer PAC and congratulated the leadership group; (4) thanked Police Chief Dyer for having a meeting with the southeast Asian community at the Mosqueda Center; (5) advised of his participation in the water march along with several other past and present city officials and spoke to the importance of partnering regionally to address the problem; (6) congratulated a company for their networking and efforts to establish collaborative partnerships with local southeast Asian businesses; (7) thanked Mayor Swearengen for attending the Lao New Year Water Festival; (8) spoke to the successful Sikh parade and commended all involved; (9) advised of his attendance at the Kaiser Permanente farmers market stating it was the only certified farmers market here; and (10) advised he and President Sterling attended and toured the FSU Madden Library and peace garden ribbon-cutting and encouraged all to visit the library stating it was incredible.

Councilmember Brand gave a brief progress report on the Neighborhood Stabilization Program and the approximately \$12 million that will be coming to the city to help foreclosed homes.

President Sterling (1) spoke to her participation in the water march with other officials and commended all who participated, (2) commended Councilmember Borgeas on his effort to put together a Council sub-committee on water and declared she would be part of that committee; (3) advised of her attendance at the: Farm Bureau Spring Event, the King of Kings block party, the Saints Rest Missionary Baptist Church concert, the RJI annual event, the FSU Madden Library opening and tour, and the luncheon with the Fresno Street Saints; (4) advised she facilitated the Local Government Commission dinner; (5) thanked the Downtown & Community Revitalization Department for the forum held last evening at Joe’s Steakhouse; and (6) advised she was taking suggestions and hoped two other council members would serve on a sub-committee with herself and Analyst Jones to work on the city budget and requested interested members contact Mr. Jones.

APPROVE AGENDA:

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the AGENDA hereby approved as submitted, by the following vote:

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

ADOPT CONSENT CALENDAR:

Barbara Hunt spoke in general to various items stating *new* members needed to be appointed to boards/commissions, she supported programs for children, and the police department was doing an excellent job.

Acting President Westerlund pulled Item **1-G** from the Consent Calendar for separate discussion/action.

(1-A) AWARD A ONE YEAR REQUIREMENTS CONTRACT, WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS, TO MUNICIPAL MAINTENANCE EQUIPMENT, INC., IN THE AMOUNT OF \$1,029,247.24, FOR STREET SWEEPERS

(1-B) AWARD A CONTRACT TO TEICHERT CONSTRUCTION IN THE AMOUNT OF \$928,971 FOR REQUIREMENTS CONTRACT NO. 3 TO INSTALL WATER METER BOXES WITHIN THE CITY

(1-C) APPROVE A CONSULTING AGREEMENT WITH PROVOST & PRITCHARD, INC., IN THE AMOUNT OF \$98,850 PLUS \$20,000 IN CONTINGENCY, FOR DESIGN OF WELLHEAD TREATMENT FACILITIES AT PUMP STATION 36, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-D) AUTHORIZING THE APPLICATION AND SUBMISSION OF RELATED DOCUMENTS TO THE STATE WATER RESOURCES CONTROL BOARD FOR THE ACCEPTANCE OF FUNDING FROM THE DEPARTMENT OF THE STATE WATER RESOURCE CONTROL BOARD FOR TWO SEWER PROJECTS, AND AUTHORIZE THE PUBLIC UTILITIES DIRECTOR OR DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS

- 1. RESOLUTION NO. 2009-83** - HERNDON SEWER INFRASTRUCTURE PROJECT IN THE AMOUNT OF \$897,167
- 2. RESOLUTION NO. 2009-84** - CORTLAND/FOUNTAIN WAY SEWER SYSTEM PROJECT IN THE AMOUNT OF \$400,000

(1-E) APPROVE APPOINTMENTS OF SALLY CAGLIA AND CHRISTOPHER JOHNSON TO THE HISTORIC PRESERVATION COMMISSION; VONNIE FRANKS TO THE FRESNO-MADERA AREA AGENCY ON AGING BOARD; RE-APPOINTMENTS OF ROY VASQUEZ, JAIME HOLT, HAL KISSLER, SEROP TOROSIAN AND APPOINTMENT OF RAMA KANT DAWAR TO THE PLANNING COMMISSION; APPOINTMENTS OF SANDY CHA AND IZZY EINSIDLER TO THE HOUSING AND COMMUNITY DEVELOPMENT COMMISSION; AND REAPPOINTMENT OF FAY BANEY TO THE MOBILE HOME RENT REVIEW AND STABILIZATION COMMISSION - MAYOR SWEARENGIN

(1-F) **RESOLUTION NO. 2009-85** - APPROVING THE SUMMARY VACATION OF A PORTION OF VERBA AVENUE NORTHEAST OF FIGARDEN DRIVE

(1-H) ADOPT FINDING OF A CATEGORICAL EXEMPTION PURSUANT TO CEQA, AND AWARD A CONSTRUCTION CONTRACT TO TEICHERT CONSTRUCTION COMPANY IN THE AMOUNT OF \$464,853.45 TO INSTALL ROADWAY IMPROVEMENTS AND A NEW TRAFFIC SIGNAL AT THE INTERSECTION OF MARKS AND WEBER AVENUES

(1-I) **RESOLUTION NO. 2009-86** - ADOPT A MITIGATED NEGATIVE DECLARATION, AFFIRM THE APPROVAL OF A PROGRAMMATIC CATEGORICAL EXCLUSION, AND APPROVE THE ACQUISITION OF ONE FEE SIMPLE ACQUISITION AT THE CORNER OF HERNDON AND WEST AVENUES FROM PROPERTY OWNED BY DAVID AND RITA HINOJOSA AND NICANOR HINOJOSA, FOR THE WIDENING AND INSTALLATION OF MEDIAN ISLANDS, CURBS, GUTTERS, SIDEWALKS, BIKE/PEDESTRIAN PATHS, AND DRIVEWAYS AT THE INTERSECTIONS OF HERNDON & WEBER AVENUES AND HERNDON & GOLDEN STATE BOULEVARD

- 1.** AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO ACCEPT THE GRANT DEED FOR THE PROPERTY AND EXECUTE THE AGREEMENT FOR PURCHASE & SALE OF REAL PROPERTY AND COMPLETE THE ACQUISITION THROUGH ESCROW

(1-J) APPROVE SUBMITTAL OF AN APPLICATION FOR THE 2009 RECOVERY ACT, BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM, FOR FEDERAL FUNDING OF \$2,333,675, FROM THE 2009 RECOVERY ACT, EDWARD BYRNE MEMORIAL JAG FORMULA PROGRAM

(1-K) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AN AGREEMENT WITH THE FRESNO UNIFIED SCHOOL DISTRICT (FUSD) FOR A LIFESKILLS INSTRUCTOR AND YOUTH ACTIVITIES AT THREE SOUTHWEST FRESNO ELEMENTARY SCHOOLS

1. RESOLUTION NO. 2009-87 - 74TH AMENDMENT TO AAR 2008-162 APPROPRIATING \$73,800 IN THE POLICE DEPARTMENT FOR A LIFESKILLS INSTRUCTOR AND STRUCTURED YOUTH ACTIVITIES FOR THE FUSD(1-L) RESOLUTION NO. 2009-88 - 75TH AMENDMENT TO AAR 2008-162 REALLOCATING FY 09 CAPITAL PROJECT APPROPRIATIONS FOR POLICE CAPITAL PROJECTS IN ORDER TO FACILITATE BETTER PROJECT TRACKING

(1-M) DECLARING FERGUSON ENTERPRISES, INC., NON-RESPONSIVE TO THE SPECIFICATIONS AND REJECTING THEIR BID PROPOSAL, AND AUTHORIZING THE DIRECTOR OF PUBLIC UTILITIES TO EXECUTE A ONE-YEAR REQUIREMENTS CONTRACT, WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS, TO METRON FARNIER LLC, IN THE AMOUNT OF \$150,659.68, FOR SINGLE JET WATER METERS

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

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

CONTESTED CONSENT CALENDAR:

(1-G) RESOLUTION NO. 2009-89 - 77TH AMENDMENT TO AAR 2008-162 APPROPRIATING \$200,000 FROM THE CITY'S RISK REIMBURSEMENT FUND TO THE PUBLIC WORKS STREETLIGHT SECTION TO REPLACE COPPER WIRE STOLEN FROM CITY STREETLIGHTS

Public Works Director Wiemiller responded to questions of Acting President Westerlund relative to the status of the issue, backlog/number of lights waiting for repairs, and if it would possible to post on the website those lights/locations that have been reported to prevent duplicate reports. A motion and second was made to adopt the resolution. Upon question of Councilmember Borgeas, Mr. Wiemiller spoke to and explained the mechanisms that are in place to deter thefts.

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2009-89 hereby adopted, by the following vote:

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

(9:00 A.M. #1-A) SCHEDULED ORAL COMMUNICATIONS:

(1) APPEARANCE BY REV. RUSSELL APPLING TO DISCUSS THE CITY'S BUDGET CRISIS

Appearance made.

(2) APPEARANCE BY WARREN ZIMMERLY TO DISCUSS VARIOUS LAW ENFORCEMENT ISSUES

Appearance made.

(9:00 A.M. #1-B) UNSCHEDULED ORAL COMMUNICATIONS:

David Allen spoke to the danger of green pools that are not being abated, to the city's enforcement program, and to his green pool abatement program he presented to city officials, and stated during the city's review of his program the intent and content was changed and requested the city attorney and city manager meet with him to discuss details.

Reyes Garza spoke to the needs of the homeless and the economy.

Paula Savino spoke to the homeless.

Barbara Hunt spoke to southwest Fresno issues and needs **(3 - 0)**.

Paul Hurlbut, 4701 W. Swift, spoke to issues and concerns with the Fresno Fire Chief's Foundation.

Sherry Smith, 4724 W. Swift, spoke to the issue of fear.

Russell Appling spoke to video policing cameras.

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(9:15 A.M. "A") ESTABLISH A POLICY WHEREIN THE ACTING COUNCIL PRESIDENT WILL SERVE AS THE ALTERNATE IN THE ABSENCE OF THE COUNCIL PRESIDENT ON ALL JOINT POWERS AUTHORITIES (JPAs), INCLUDING SIMILAR BOARDS, COMMISSIONS, AND STANDING COMMITTEES - PRESIDENT STERLING

President Sterling reviewed the issue stating she felt the Acting President (AP), as the next person in line, should be designated alternate in order for the city to have voting rights and also receive needed training for when the AP serves as Council President (CP) the following year, clarified sufficient time/notice would be given to fill in, other than in an emergency situation, and made a motion to approve establishment of a policy, which motion was seconded by Councilmember Dages.

Barbara Hunt, 2475 S. Walnut, spoke to conflicts with council members wearing different hats.

Councilmember Xiong spoke to the issue including the number of committees members serve on outside of JPAs, complexities, training, and over-burdening the CP and AP stating those were important issues to look at, with President Sterling responding. Acting President Westerlund stated this matter had a lot of merit along with some important things to consider, stated while serving on council it was his perception that the AP's job does not involve much of anything and he was willing to look at the AP taking on more responsibility to assist the CP when required, and stated some issues of concern to him were (1) possible abuse should the CP not want to sit on a board and (2) the AP not being given enough time to react, explaining throughout. Councilmember Borgeas stated this matter was more complicated that it appears at first glance and spoke to complexities of some boards, to the need for sufficient time to develop expertise, to the possibility of having two year terms, and concurrence with the need for a policy. Councilmember Brand stated he concurred with his colleagues' comments and the suggestion of longer terms, stated every member brings a given background and personal interest and he would like to see a process wherein members can express their interest in serving on certain boards -- not by automatic succession of district number or title (CP and AP), and stated maybe a separate discussion was needed in the future on the bigger issue of committees, members and assignments. Acting President Westerlund added it is usually the other entity who designates the CP to serve and suggested Council consider asking the entities to change their by-laws to provide for Council appointments. Councilmember Xiong commented additionally and suggested a Council committee be formed to look at all the issues/concerns discussed and report back with the framework and recommendations adding this was not a simple matter.

Relative to comments on appointments City Manager Souza clarified the Public Safety Consolidation JPA by-laws specifically established the Mayor and the Council President as members. President Sterling concurred not all appointments were mayoral appointments as many were committees set up by other entities; clarified she was not burdened by her responsibilities and she would never consider asking another to attend a meeting if there was not enough time, other than in an actual emergency; stated she brought this matter forth as after she started attending meetings she saw the importance of boards/commissions and how the city is affected by decisions made, wondered what would happen should she or the mayor not be able to serve, and requests for an alternate was an issue that kept coming up; and made another motion to table this item to allow time for further discussion and reiterated reasons for bringing this matter forth.

On motion of President Sterling, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled 9:15 a.m. "A" item hereby tabled, by the following vote:

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

(9:30 A.M. "A") PRESENTATION OF THE 93706 COMMUNITY ASSET MAP BY THE FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT (FWCED) AND THE RAMSAY GROUP

D&CR Director Scharton introduced the item and gave a brief overview of the issue, and Daniel Guerra, FWCED Program Development Manager, gave a PowerPoint presentation entitled "West Fresno Asset Map" which consisted of Community Asset Mapping, The 5-Step Approach, Maps Reviewed by the Community, Key Highlights, 5-Year Community Plan, and Anticipated Outcome. Vita Ramsay Stamps, 9447 N. Ft. Washington, thanked Council for their support and all who participated in the information-gathering and added the FWCED was already moving forward on some implementation.

Speaking in support of the report and/or further to the issue were: Alicia Vasquez, 3801 E. McKenzie; Gloria Ponce-Rodriguez, 2209 E. Christopher; Barbara Hunt; and Ben (last name inaudible) **(4 - 0)**.

President Sterling thanked all involved stating the report will be of great benefit to the city and made a motion to accept it.

On motion of President Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the "93706 Community Asset Map" report hereby accepted, by the following vote:

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

(9:30 A.M. "B") ACCEPT THE CITY OF FRESNO COMPREHENSIVE ANNUAL FINANCIAL REPORT ("CAFR") FOR FY 2008

Interim Controller Bradley reviewed the issue, all as contained in the staff report as submitted.

Barbara Hunt spoke to the need to combine all of the city's money.

Ms. Bradley responded to questions of Councilmembers Brand and Westerlund and/or clarified issues relative to whether there were any problems with cash management/meeting financial obligations/collections, reserve projection, assets, bond rating projection, management letter/significant deficiencies/falling behind on bank reconciliation, the numerous payroll systems/if there was an effort to consolidate software/if the police department was unique in their operation, wire transfers, disparities in fixed assets caused by personnel changes, HTE and PeopleSoft systems, the independent outside audit, desire to meet with outside auditors, how the new auditor worked out, and GASB disclosures.

On motion of Councilmember Brand, seconded by Councilmember Xiong, duly carried, RESOLVED, the City of Fresno "CAFR" for FY 2008 hereby accepted, by the following vote:

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

(9:30 A.M. "C") RESOLUTION - DECLARING ITS OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF INDEBTEDNESS FOR EXPENSES INCURRED RELATED TO WATER ENTERPRISE CAPITAL PROJECTS

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

Barbara Hunt, 2475 S. Walnut, expressed concerns.

Acting President Westerlund commented at length on the issue including the past bonding for parks/fire/police projects, his concern at that time with no choice but to bond, acknowledgment that this was different due to an enterprise fund being involved, concern with the credit market and the city potentially being tens of millions of dollars into contracts or property purchases with no recourse due to debt already incurred, the intent of reimbursement resolutions being to hire bond counsel and not start an actual project, staff's recommendation to go to market in August/September and concern with unknown market conditions and Council having their hands tied due to debt/obligations incurred, and his desire to limit the dollar amount this date so a lot of debt will not be incurred. Acting President Westerlund continued and presented questions relative to how much cash was currently set aside in the bank for projects and what the contract amount was for the July meter component project (with Mr. Martin responding); clarified he was supportive of the projects as they were anticipated but he wanted the bonds to come back to Council within a reasonable time before incurring \$48 million worth of debt; stated he wanted to adopt the resolution but with a cap of \$8 million adding if necessary staff could come back later with another request for Council's consideration; and upon his further questions City Attorney Sanchez confirmed Council could place reasonable conditions on the resolution and a cap on expenditures that would be reimbursable was something Council could consider. Mr. Sanchez further advised an additional issue to consider is if the department already set aside appropriations that were approved in the budget they had the authority independent of this resolution to engage in those expenditures. Interim Controller Bradley added Treasury regulations required the spending resolution to state the entire amount in the bond issuance otherwise there would be some prohibitions with the ability of the city to reimburse itself.

Acting President Westerlund made a motion to adopt the Resolution with the statement that the intent is for \$150 million but should obligations exceed \$8 million prior to going to market the matter must come back to Council for a determination, which motion was seconded by Councilmember Brand. City Manager Souza stated he appreciated concerns raised but clarified staff can not spend any money without Council appropriating the funds, the argument that this resolution binds the city to bonding was not valid, this resolution simply states that if costs are incurred prior to the issuance of bonds they can be reimbursed, and the issuance of the contract in July is what would commit the city to bonding, explaining throughout, and cautioned Council about limiting the amount to a specific number. Upon questions of Councilmember Xiong, Acting President Westerlund clarified he wanted the airport's bond model -- not the parks model and explained, and he did not anticipate this motion impacting any time frames as the issue was how much to spend before going to market, elaborating throughout. **(5 - 0)** Councilmember Xiong stated he wanted to hear from staff and upon his request Public Utilities Director Ramirez and Ms. Bradley spoke to the history of the issue, explained issues, stated there would be timing issues if a different approach is taken, and it was unfortunate the parks bonding became the poster child as that was a unique situation and explained.

Councilmember Brand stated in a normal market this debate would not be occurring but these were uncertain times, and questioned if smaller, incremental steps would be prohibitive, with PUD Director Martin stating several bond issuances in smaller packages could be costly and there would also be timing issues. Councilmember Brand stated since this was such a crucial part with the water shortage and mandate this matter needed to be moved forward but added in the future staff should come back with some alternatives that would make everyone feel more comfortable with this entire process. Acting President Westerlund clarified he was not advocating an incremental approach concurring it was too expensive but was suggesting the incremental authority to deficit spend on the reimbursement resolution and further explained, with Mr. Souza stating what Acting President Westerlund was asking for was already in place but in a different manner and explained. Acting President Westerlund stated he disagreed, added in his research it was his finding that reimbursement resolutions were established to hire bond counsel, stated his motion on the floor stood, and added if it was the will of the Council he would support continuing the matter one week. Councilmember Borgeas stated meaningful dialog occurred and he would not be adverse to having more time to understand all the issues and questioned if there was any disadvantage to a one week delay, with Mr. Martin advising next week staff was bringing an item forth to purchase property for the Southeast Surface Water Treatment Facility and this resolution would need to be considered/acted on before that item.

A motion of Acting President Westerlund, seconded by Councilmember Borgeas, to continue the subject Resolution one week failed, due to the following tie vote:

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

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, (1) the above entitled Resolution continued to April 30, 2009, and (2) staff directed to schedule the Resolution *prior* to the property purchase for the Southeast Surface Water Treatment Facility, by the following vote:

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

(9:30 A.M. "D") REAFFIRM THE AWARD OF A CONTRACT IN THE AMOUNT OF \$1,347,200 TO PROTECH SERVICES, LLC, FOR THE REPAIR AND OVERHAUL OF TWO 3.37 MEGAWATT GAS TURBINE ENGINES USED FOR THE GENERATION OF ELECTRICITY AND STEAM LOCATED AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

Assistant PUD Director Hogg reviewed the issue and staff's recommendation, all as contained in the staff report as submitted, and added with both engines down there was some sense of urgency in getting this project completed.

Barbara Hunt spoke to the issue and expressed concerns.

Upon questions of Acting President Westerlund Mr. Hogg expanded on the vendor's willingness to pursue the second bond to cover the second turbine and City Attorney Sanchez stated the vendor's willingness to pursue the bond did address one of the more significant flags his office raised. Mr. Sanchez added there were some other liability issues remained and it was a council policy call on whether to accept the remaining risks after balancing the operational needs/benefits. Acting President Westerlund stated with the bond issue resolved and the risks on the other items being more minor he was willing to move this matter forward and made a motion to approve staff's recommendation, contingent upon the vendor pursuing the second bond, which motion was seconded by Councilmember Xiong.

Councilmember Borgeas commented on the issue including the time sensitivity, the significant cost to delay, and liabilities, and upon his question Mr. Sanchez clarified his office concluded this action would not violate the Charter or code and Council had the authority to move forward on the motion this date. Councilmember Borgeas stated due to the need to get the engines repaired and running and also avoid the extra immediate cost should this extend past the July deadline he would support this begrudgingly, and added this was a situation that everyone could learn from and not repeat. Mr. Hogg responded to questions and comments of Councilmember Brand relative why it took so long to make repairs and if it was a fact that the lack of maintenance/deferred maintenance was *not* the problem, whereupon Councilmember Brand stated he also would support this matter given the gravity of the situation.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the award of the subject contract to Protech Services, LLC, hereby reaffirmed, contingent upon the vendor pursuing the second bond, by the following vote:

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

LUNCH RECESS - 12:14 P.M. - 2:02 P.M.

(9:30 A.M. "E") AUTHORIZE THE DEPARTMENT OF PUBLIC UTILITIES TO SHIFT FROM CURRENT STAGE 1 VOLUNTARY 10% WATER USE REDUCTION TO A MODIFIED STATE 1 VOLUNTARY 20% WATER USE REDUCTION AS REQUESTED BY THE GOVERNOR IN THE CALIFORNIA DROUGHT STATE OF EMERGENCY

Assistant PUD Director Martin reviewed the issue and recommendations, all as contained in the staff report as submitted. Public Works Director Wiemiller added his department was supportive of the recommendations and was taking steps for a portion of their operations which included landscape maintenance. A motion and second was made to approve staff's recommendation. Mr. Martin responded to questions of Acting President Westerlund relative to the fiscal impact, if less pumping will drive the reduction in revenue, if there was an offset for using less electricity, the 5-year rate plan **(6 - 0)**, a drought fee, and what the next step will be if we have another drought year.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, (1) the Department of Public Utilities authorized to shift from the current Stage 1 voluntary 10% water use reduction to a modified Stage 1 voluntary 20% water use reduction as requested by the Governor as part of the California Drought State of Emergency; (2) the Public Utilities Department authorized to ramp up public education efforts, increase the use of written and visual media to help deliver drought information to customers, modify the outdoor watering schedule, increase water waste patrolling efforts and implement other measures necessary to reduce water consumption by 20%; and (3) all City departments directed to implement operational measures to reduce their water consumption by 20% and take expedient action to fix and remediate broken and/or leaking irrigation or plumbing infrastructure, by the following vote:

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

(9:30 A.M. "F") RESOLUTION NO. 2009-90 - 80TH AMENDMENT TO AAR 2008-162 APPROPRIATING \$3,769,200 IN MEASURE C TIER 1 FUNDS AND REALLOCATING \$1,196,900 IN PROPOSITION 1B CAPITAL FUNDING FOR THE COMPLETION OF OPERATING AND CAPITAL PROJECTS

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

On motion of Councilmember Borgeas, seconded by Councilmember Xiong, duly carried, RESOLVED, (1) the above entitled Resolution No. 2009-90 hereby adopted, and (2) a revised Proposition 1B Spending Plan for the 2007-08 Local Streets & Roads allocation approved, by the following vote:

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

(9:30 A.M. "H") AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE A CONTRACT NTE \$550,000 WITH THE HOUSING AUTHORITY TO PROVIDE TEMPORARY HOUSING SERVICES

Homeless Prevention & Policy Manager Barfield reviewed the issue, all as contained in the staff report as submitted.

Preston Prince, Executive Director of the Housing Authority, spoke in support.

Mr. Barfield and ACM Rudd responded to questions and/or comments of Councilmembers Xiong and Brand and/or clarified issues relative to how these funds were being leveraged, other partners, what other agencies were contributing, Housing First and funding sources, if these funds were separate from Storyland Inn funds, funding source for last year's allocation, if the goal was to close down homeless encampments, time line to close the encampments, homeless population estimate, and transition funding and need for a long-term solution. Acting President Westerlund left the meeting briefly during questioning at 2:32 p.m. President Sterling commented briefly in support stating this was a great project.

On motion of President Sterling, seconded by Councilmember Xiong, duly carried, RESOLVED, the City Manager or designee authorized and directed to execute all contracts and activities relating to providing housing to those in the encampments south of Ventura Avenue around the Monterey Street Bridge based on the completed triage assessments, by the following vote:

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

(9:30 A.M. “T”) CONDITIONALLY AUTHORIZE THE PURCHASE OF PROPERTY ON THE WEST SIDE OF “H” STREET NORTH OF MONTEREY STREET OWNED BY UNION PACIFIC RAILROAD, WITH A RETURN TO COUNCIL FOR FINAL APPROVAL, TO ACQUIRE AND CLOSE ESCROW BY NO LATER THAN AUGUST 17, 2009, AND AUTHORIZE EXECUTION OF DOCUMENTS SUBJECT TO CITY ATTORNEY APPROVAL AS TO FORM

Assistant PUD Director Martin reviewed the issue, all as contained in the staff report as submitted, and recommended approval. Acting President Westerlund returned to the meeting at 2:38 p.m.

Bill Simon, 4902 N. Ninth, stated he found it ironic and it added to his cynicism to see the previous item supplying temporary housing for the H Street encampment immediately followed by an item to purchase the encampment and install a water tank wherein water will be piped in from west Fresno and added that was one more thing west Fresno was contributing without getting much back.

Acting President Westerlund responded to Mr. Simon’s comments and clarified this purchase had been talked about for some time, the water tank was needed for downtown, and steps were finally being taken to address the homeless issue, and stated this was an item that needed to be moved forward and made a motion to approve staff’s recommendation. President Sterling concurred with Acting President Westerlund and also spoke to the homeless problem and the importance of moving forward and putting people in better living conditions.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the Public Utilities Director or designee granted conditional authorization to enter into a Purchase & Sale Agreement for the purchase of APNs 405-050-16U and 467-020-28U and a portion of 467-020-40U, and take necessary actions to close escrow, by the following vote:

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

(9:30 A.M. “J”) REPORT ON THE CITY OF FRESNO COMMUNICATIONS PLAN RELATING TO CITY UTILIZATION OF AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) AND NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDING

Public Affairs Officer Reed reviewed the issue, all as contained in the staff report as submitted, and corrected the website address in the report to www.recovery.fresno.gov. Councilmember Xiong and President Sterling thanked Councilmember Brand for taking a leadership role in this matter.

On motion of Councilmember Brand, seconded by Councilmember Xiong, duly carried, RESOLVED, the City of Fresno American Recovery and Reinvestment Act (ARRA) and Neighborhood Stabilization Program (NSP) Communications Plan hereby accepted, by the following vote:

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

- (10:00 A.M.) HEARING TO CONSIDER CHANGING THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR ANNEXATION NO. 24, FINAL TRACT 5603 OF CFD NO. 11**
- 1. RESOLUTION NO. 2009-91 - CHANGING THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX**
 - 2. RESOLUTION NO. 2009-92 - CALLING A SPECIAL MAILED BALLOT ELECTION**
 - 3. RESOLUTION NO. 2009-93 - DECLARING ELECTION RESULTS**
 - 4. BILL NO. B-17 - ORDINANCE NO. 2009-17 - LEVYING A CHANGED MAXIMUM SPECIAL TAX FOR PROPERTY TAX YEAR 2008-09 AND FUTURE TAX YEARS**
 - 5. RESOLUTION NO. 2009-94 - APPROVING THE FINAL MAP OF TRACT NO. 5603, ACCEPTING DEDICATED PUBLIC USES THEREIN, AND AUTHORIZING THE PUBLIC WORKS, PUBLIC UTILITIES, AND PLANNING & DEVELOPMENT DIRECTORS TO EXECUTE THE NECESSARY DOCUMENTS**

President Sterling announced the time had arrived to consider the issue and opened the hearing. City Engineer Mozier advised two typographical errors were corrected changing the hearing date from April 21st to April 23rd due to the meeting day change, and gave a brief overview of the issue, all as contained in the staff report as submitted.

Upon call, no one wished to be heard and President Sterling closed the hearing, spoke briefly in support and thanked staff and Habitat for Humanity, and made a motion to approve.

On motion of President Sterling, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution Nos. 2009-91, 2009-92, 2009-93 and 2009-94 hereby adopted, and the above entitled Bill No. B-17 adopted as Ordinance No. 2009-17, by the following vote:

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

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

(A) EXISTING LITIGATION - CASE NAMES:

1. STRIBLING, STEPHANIE 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. COF V. FRESNO METROPOLITAN MUSEUM OF ART AND SCIENCE, ET AL., DOES 1 - 100
2. COF V. THE ZONE SPORTS CENTER LLC, GRANITE PARK KIDS FOUNDATION, ET AL., DOES 1 - 100

The City Council met in closed session in Room 2125 at the hour of 2:54 p.m. to consider the above matters and the meeting was adjourned thereafter.

ADJOURNMENT

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

Approved on the ___30th___ day of _____ April _____, 2009.

_____/s/_____/s/ ATTEST _____/s/_____

 Cynthia Sterling, Council President

 Yolanda Salazar, Assistant City Clerk