

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

Father Gosdanian of the Holy Trinity Armenian Church gave the invocation and President Sterling led the Pledge of Allegiance.

PRESENTATION OF THE SPCA PET OF THE MONTH - COUNCILMEMBER BRAND

The pet of the month available for adoption, a two month old female Chihuahua, was presented.

PROCLAMATION OF "FRESNO CITY COLLEGE'S 100TH ANNIVERSARY" - COUNCILMEMBER XIONG

Read and presented.

CERTIFICATE OF RECOGNITION TO CONNIE PROVENCIO OF THE LOWELL NEIGHBORHOOD REVITALIZATION COMMITTEE FOR HER WORK IN THE LOWELL NEIGHBORHOOD - PRESIDENT STERLING

Read and presented.

ADD-ON: PROCLAMATION FOR GRACE SOLIS FOR HER WORK FOR ARTE AMERICAS - PRESIDENT STERLING

Read and presented.

APPROVE CITY COUNCIL MINUTES OF DECEMBER 10, 2009:

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the minutes of December 10, 2009, approved as submitted.

APPROVE JOINT POWERS FINANCING AUTHORITY (JPFA) MINUTES OF DECEMBER 10, 2009:

On motion of Chair Sterling, seconded by Member Xiong, duly carried, RESOLVED, the JPFA minutes of December 10, 2009, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) thanked Bill Kuebler, the Tower marketing group and all the volunteers for their work on the Tower lighting ceremony; (2) thanked Community Church for their help in hosting a community meeting this past Wednesday, (3) reminded all of the upcoming census and spoke to the importance of everyone being counted; and (4) reminded and invited all to the Hmong New Year celebration starting December 26th at the fairgrounds.

Upon question of Councilmember Dages City Manager Souza stated he believed code enforcement was occurring on weekends whereupon Councilmember Dages requested that be confirmed and staff provide him with a phone number to call on weekends.

Councilmember Brand gave an update on the Neighborhood Stabilization Program stating there were currently 79 houses in different stages and the houses were located in all council districts except for Districts 2 and 6, and spoke to the excessive cost of acquiring the houses, especially in the downtown area, stating that would be monitored.

Acting President Westerlund noted this was the last meeting of the year and wished everyone a Merry Christmas and happy holidays; stated this had been a tough year and he was looking forward to a new year; and thanked President Sterling for her work as Council President and his council colleagues and city employees for their work.

President Sterling stated this past year had been a long and interesting one for her as Council President with a lot of ups and downs and thanked City Clerk Klisch and her staff for their assistance this past year, thanked City Attorney Sanchez and his staff for his advice, direction and professionalism, thanked City Manager Souza for his friendship and professionalism and wished him success in his future, thanked ACM Rudd stating he is a good advisor and weathered the storm in a number of issues, thanked her council colleagues stating it was a pleasure working with them and she learned a lot from each one, thanked Council Analyst Jones for coming on board, being neutral, and showing council what a council analyst should be and spoke briefly to his past experience, thanked her office staff, and thanked the citizens of Fresno and her other colleagues -- the city employees -- for giving 100% stating without them she would not be as successful as she is today.

APPROVE AGENDA:

(SPECIAL NOTICE ITEM) APPROVE AN AGREEMENT WITH THE FRESNO COUNTY DEPARTMENT OF EMPLOYMENT & TEMPORARY ASSISTANCE (FCETA) TO PROVIDE SUBSIDIZED EMPLOYMENT AND JOB TRAINING OPPORTUNITIES

1. RESOLUTION - 42ND AMENDMENT TO AAR 2009-149 APPROPRIATING \$738,000 OF FCETA FEDERAL FUNDS AND \$60,200 OF MATCHING FUNDS FROM COUNCIL GENERAL FUND INFRASTRUCTURE CARRYOVER IN THE PARCS DEPARTMENT TO PROVIDE SUBSIDIZED JOB TRAINING OPPORTUNITIES TO ELIGIBLE PARTICIPANTS

City Clerk Klisch stated the item would be the first one heard under General Administration at 9:15 a.m., and corrected the title of the first item to read “*Authorize the City Manager to execute an agreement with the Fresno County Department...*” So noted and corrected.

(1-X) RESOLUTION - APPROVE A SIDE LETTER OF AGREEMENT WITH THE FRESNO CITY EMPLOYEES ASSOCIATION (FCEA), UNIT 3, MITIGATING THE IMPACT OF FURLOUGH AND LAYOFF IN FY10

City Clerk Klisch deleted “RESOLUTION” from the title stating there was no resolution associated with the item. So noted and corrected.

(1-F) ADOPT A CEQA NOTICE OF EXEMPTION, AND AWARD A CONTRACT IN THE AMOUNT OF \$208,485 TO BILL NELSON, G.E.C., INC., FOR THE CORTLAND/DAYTON/GENTRY AVENUE WATER MAIN INSTALLATIONS, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN THE CONTRACT ON BEHALF OF THE CITY

-and-

(1-G) ADOPT FINDING OF A CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES, AND AWARD A CONSTRUCTION CONTRACT TO ROCK BOTTOM, INC., IN THE AMOUNT OF \$537,332.27 FOR THE BASE BID PLUS ADD ALTERNATES 1, 2 AND 3, FOR INSTALLATION OF LANDSCAPING IMPROVEMENTS ALONG THE MCKENZIE TRAIL FROM WILLOW TO CLOVIS AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN AND EXECUTE THE CONTRACT ON BEHALF OF THE CITY

City Clerk Klisch advised staff had changes to announce to the above two items and during “Unscheduled Oral Communications” Assistant Public Works Director Banuelos advised there were two omissions in the staff reports and corrected Item **1-F**, 2nd page, 4th paragraph under “Background”, by adding the following last sentence: “*This project replaces failing water mains and does not expand utility capacity.*”, and corrected Item **1-G**, 1st page, adding to the Recommendation #1 sentence: “*...and 15301(c)*”.

So noted and corrected.

(11:00 A.M. #2) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

City Clerk Klisch advised the joint bodies would recess the 11:00 a.m. joint meeting to the 5:30 p.m. item.

(9:15 A.M. “A”) APPROVE AN AGREEMENT WITH ELIZABETH MOULE & STEFANOS POLYZOIDES, ARCHITECTS AND URBANISTS, FOR THE FULTON CORRIDOR SPECIFIC PLAN AND THE DOWNTOWN NEIGHBORHOODS COMMUNITY PLAN

Councilmember Brand advised he and Councilmembers Westerlund and Borgeas met with D&CR Director Scharton and staff on this matter and stated although they felt these were great programs with a lot of potential they were requesting this matter be tabled to January 28th to give council more time to evaluate the plans to make a more informed decision and made a motion to table, which was seconded by Councilmember Borgeas. Upon questions of President Sterling and Acting President Westerlund City Manager Souza stated this matter would not address the downtown PBID, there was no PBID item on the agenda this date, and there was no timing impact or issues with delaying this item. President Sterling noted people were present this date to address the PBID issue and advised those in attendance that they could speak to the issue under “Unscheduled Oral Communications”.

On motion of Councilmember Brand, seconded by Councilmember Borgeas, duly carried, **RESOLVED**, the above entitled 9:15 a.m. “A” item tabled to January 28, 2010, by the following vote:

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

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

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

ADOPT CONSENT CALENDAR:

Barbara Hunt spoke to Item **1-N** and expressed concerns.

James Watson, Polson Avenue, Clovis, thanked council for Item **1-Y** stating the action will make city employees who serve in the military whole and return balances for some.

Scott Gayman, 4008 Via Rio Ave., Oceanside, CA, President of Pacific Sewer Maintenance, spoke in opposition to Item **1-M** stating he was the only other responsive and fully qualified bidder and his protest of the award was based on several factors and explained.

Councilmember Borgeas recused himself from Item **1-AA** stating his wife was employed at the Workforce Investment Board.

Councilmember Brand pulled Items **1-I** and **1-Y**, Councilmember Dages pulled Item **1-DD**, Councilmember Perea pulled Item **1-A**, and Acting President Westerlund pulled Item **1-D** from the Consent Calendar for separate discussion/action at 11:00 a.m. Councilmember Dages also registered a "No" vote on Item **1-Z**.

(1-B) APPROVE THE SELECTION OF F.I.R.M. ASSOCIATES INC., TO PROVIDE MEDICAL EXAMINATIONS AND RELATED SERVICES TO THE CITY OF FRESNO, AND AUTHORIZE THE PERSONNEL SERVICES DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-C) APPROVE AN AGREEMENT WITH BLAIR, CHURCH AND FLYNN CONSULTING ENGINEERS IN THE AMOUNT OF \$153,700 FOR DESIGN ENGINEERING SERVICES, CONSTRUCTION MANAGEMENT, AND INSPECTION FOR THE FAX BUS STOP INFRASTRUCTURE IMPROVEMENT PROJECT, AND AUTHORIZE THE GENERAL SERVICES DIRECTOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT

(1-E) ADOPT FINDING OF A CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES
1. AWARD A CONTRACT IN THE AMOUNT OF \$239,828 TO PRESTIGE ELECTRIC CORPORATION TO CONSTRUCT THE FIRST AND CLINTON TRAFFIC SIGNAL MODIFICATIONS, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-F) ADOPT A CEQA NOTICE OF EXEMPTION, AS CORRECTED
1. AWARD A CONTRACT IN THE AMOUNT OF \$208,485 TO BILL NELSON, G.E.C., INC., FOR THE CORTLAND/DAYTON/GENTRY AVENUE WATER MAIN INSTALLATIONS, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN THE CONTRACT ON BEHALF OF THE CITY

(1-G) ADOPT FINDING OF A CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES, AS CORRECTED
1. AWARD A CONSTRUCTION CONTRACT TO ROCK BOTTOM, INC., IN THE AMOUNT OF \$537,332.27 FOR THE BASE BID PLUS ADD ALTERNATES 1, 2 AND 3, FOR INSTALLATION OF LANDSCAPING IMPROVEMENTS ALONG THE MCKENZIE TRAIL FROM WILLOW TO CLOVIS AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN AND EXECUTE THE CONTRACT ON BEHALF OF THE CITY

(1-H) ADOPT FINDING OF A CATEGORICAL EXEMPTION PURSUANT TO CEQA
1. AWARD A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$149,000 TO SANTANA CONSTRUCTION & MANAGEMENT FOR THE RELOCATION OF A MODULAR BUILDING, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN THE CONTRACT ON BEHALF OF THE CITY

(1-J) **RESOLUTION NO. 2009-257** - 37TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$842,000 IN AVAILABLE FUNDS FOR SUPPLEMENTAL REFUNDS AND REIMBURSEMENTS TO APPROVED DEVELOPERS

(1-K) AUTHORIZE STAFF TO REQUEST A COOPERATIVE WORK AGREEMENT FROM CALTRANS TO EXTEND THE ENCUMBERED GRANT FUNDS AND ALLOW ALL ELIGIBLE PROJECT COSTS TO BE REIMBURSED FOR THE NORTH FIRST STREET BICYCLE LANE IMPROVEMENT PROJECT, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN THE REQUEST ON BEHALF OF THE CITY

(1-L) APPROVE A PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF \$80,000 WITH URS CORPORATION AMERICAS (URS) FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE COMPLETION OF THE ORGANIC UPGRADE PROJECT AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY, AND AUTHORIZE THE CITY MANAGER, OR DESIGNEE, TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-M) AWARD A ONE-YEAR REQUIREMENTS CONTRACT, WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS, TO DUKE'S ROOT CONTROL, INC., IN THE AMOUNT OF \$105,100 FOR SEWER PIPE ROOT CONTROL SERVICES

(1-N) AWARD A CONTRACT IN THE AMOUNT OF \$2,900,000 TO KAWEAH CONSTRUCTION, INC., FOR CONSTRUCTION OF A FATS, OILS AND GREASE (FOG) RECEIVING FACILITY AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

1. RESOLUTION NO. 2009-258 - 38TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$3,034,000 FOR THE FOG RECEIVING FACILITY

(1-O) AWARD A REQUIREMENTS CONTRACT TO HD SUPPLY WATERWORKS, LTD IN THE AMOUNT OF \$144,040.98 FOR BUTTERFLY VALVES, GATE VALVES AND CHECK VALVES, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES TO EXECUTE A ONE-YEAR CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS

(1-P) RESOLUTION NO. 2009-259 - 22ND AMENDMENT TO AAR 2009-149 APPROPRIATING \$330,500 IN ADDITIONAL UGM 301S WATER SUPPLY FUNDS FOR COMPLETION OF A CAPITAL IMPROVEMENT PREVIOUSLY APPROVED BY COUNCIL (WATER SUPPLY WELL IN NORTHWEST FRESNO)

(1-Q) - REMOVED FROM AGENDA)

(1-R) RESOLUTION NO. 2009-260 - 2ND AMENDMENT TO PAR 2009-150 ADDING EIGHT (8) POSITIONS TO THE WASTEWATER MANAGEMENT AND WATER DIVISIONS OF THE DEPARTMENT OF PUBLIC UTILITIES

(1-S) APPROVE A CONTRACT WITH ONTIRA COMMUNICATIONS OF TORONTO, CANADA IN THE AMOUNT OF \$482,300 FOR TRIP PLANNING SOFTWARE FOR FRESNO AREA EXPRESS (INTEGRATE SERVICE PROVIDED BY FAX, CLOVIS TRANSIT AND THE FRESNO COUNTY RURAL TRANSIT AGENCY

(1-T - REMOVED FROM THE AGENDA)

(1-U) APPROVE A HEALD COLLEGE INTERNSHIP PROGRAM AGREEMENT WITH THE PARCS DEPARTMENT AND AUTHORIZE PARCS TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-V) APPROVE A CONTRACT FOR \$10,000 WITH THE FRESNO COUNTY OFFICE OF EDUCATION FOR THE PARCS DEPARTMENT TO CONDUCT THE FRESNO BEST PROGRAM AT ROOSEVELT HIGH SCHOOL THROUGH JUNE 30, 2010

(1-W) APPROVE AN AGREEMENT WITH THE FRESNO COUNTY SUPERINTENDENT OF SCHOOLS TO ALLOW THE PARCS DEPARTMENT TO RECEIVE UP TO \$23,800 IN FY 2010 TO COVER PERSONNEL AND OPERATING COSTS ASSOCIATED WITH PROVIDING THE INFORMAL SCIENCE PROGRAM AT COOPER MIDDLE SCHOOL THROUGH JUNE 30, 2010

(1-X) APPROVE A SIDE LETTER OF AGREEMENT WITH THE FRESNO CITY EMPLOYEES ASSOCIATION (FCEA), UNIT 3, MITIGATING THE IMPACT OF FURLOUGH AND LAYOFF IN FY10

(1-BB) RESOLUTION NO. 2009-262 - 3RD AMENDMENT TO PAR 2009-150 TRANSFERRING ONE (1) SUPERVISING ENGINEERING TECHNICIAN POSITION FROM THE PUBLIC WORKS DEPARTMENT CAPITAL MANAGEMENT DIVISION TO THE GENERAL SERVICES DEPARTMENT FACILITIES & MAJOR PROJECTS DIVISION

(1-CC) APPROVE THE SECOND AMENDMENT TO THE AGREEMENT WITH DESIGN LAB 252 IN THE AMOUNT OF \$22,410 TO PROVIDE ALTERNATIVES DESIGN TO PROTECT THE CAMPHOR GROVE WITHIN EATON PLAZA PARK, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN THE AMENDMENT ON BEHALF OF THE CITY

(1-EE) BILL NO. B-40 - ORDINANCE NO. 2009-40 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO RE-DETERMINATION AND APPEALS OF TAX LIABILITY

On motion of Councilmember Brand, seconded by Councilmember Dages, 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

(1-AA) APPROVE THE RE-APPOINTMENT OF SARAH VELASQUEZ TO THE UTILITY ADVISORY COMMITTEE, AND APPOINTMENT OF FELY GUZMAN AND RE-APPOINTMENT OF STEVE GEIL TO THE FRESNO REGIONAL WORKFORCE INVESTMENT BOARD AS A PUBLIC SECTOR MEMBERS (PUBLIC SECTOR MEMBERS TO BE CONCURRENTLY APPOINTED BY BOTH THE CITY AND COUNTY OF FRESNO)

On motion of Councilmember Brand, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Item **1-AA** hereby approved, by the following vote:

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

(1-Z) RESOLUTION NO. 2009-261 - 2ND AMENDMENT TO SALARY RES. 2009-152 MODIFYING SALARIES IN EXHIBIT 1, UNIT 1, NON-SUPERVISORY BLUE COLLAR, AND SALARIES IN EXHIBIT 9, UNIT 7, NON-SUPERVISORY GROUPS AND CRAFTS

On motion of Councilmember Brand, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2009-261 hereby adopted, by the following vote:

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

(9:00 A.M.) UNSCHEDULED ORAL COMMUNICATIONS:

(2 - 0) Brunette Harris, POB 12571, HEAT for Southwest Fresno, stated for the incoming year HEAT will object to (1) any block grant dollars used in District 3, and (2) any committees established without any community input, and spoke to the intent of block grant dollars and the importance of community input.

Reyes Garza, "F" Street, spoke to the need to assist the homeless.

CONSENT ITEMS 1-F and 1-G:

At this point proceedings were interrupted and staff read into the record the corrections to Consent Items **1-F** and **1-G** as noted on Pages 154-171 & 154-172 under "APPROVE AGENDA".

Unscheduled Oral Communications continued. Paula Savino, N. Mansionette, spoke to various issues including neighborhood blight, rental responsibilities, senior prescription drug program, Met donors, and the homeless.

Barbara Hunt thanked President Sterling for her service to the city and to her district community over the years, and spoke to the importance of putting people first before government.

Louisa Weyant, N. Erie, spoke to a situation of a crying puppy left out in the cold in her neighborhood and to her calls to the SPCA and police department with no results, and questioned what other options there were to protect animals and address the noise issue. Upon question of President Sterling City Manager Souza stated he would coordinate with the SPCA on how to handle these types of situations and Councilmember Perea stated he would help in the follow-up as he experiences that in his district a lot.

Rick Morse, Robin Morse and Brandon Morse, E. Olive, all spoke to an incident in which the Morse family was threatened and/or physically attacked, stated the police failed to protect them when called, and stated they would defend themselves and their family.

Paul Hurlbut, W. Swift, advised his neighborhood and northwest community advocate Sherry Smith was on her way to Stanford for medical issues and advised in her absence he would continue to represent the community, and expressed concern with how Mrs. Smith was treated by the city administration in her efforts to bring Fire Station 16 back into their community.

Doug Vagim spoke to the PBID issue and expressed numerous concerns including the petition deadline, the unfair private process, inability of property owners to get information, and the assessments, and urged council to get a hold of the process. City Attorney Sanchez and City Manager Souza responded to questions of Councilmember Borgeas on public record requirements and the money expended by the city and stated staff could return with a report. Staff was requested to make the report available to all council members.

“Rusty”, homeless, spoke to buildings and protecting people.

Jan Minami, Downtown Association, spoke to her work with property owners associated with the PBID, clarified issues relative to the public record act and the deadline date and target dates, and stated she would keep council informed as the process continues.

Lori Riley, business owner of property at 755 & 727 Van Ness, spoke to the PBID issue and expressed concern with her proposed assessment stating it was a substantial amount of money for a small business owner, and questioned who will determine how money collected will be spent. President Sterling stated she would follow-up on getting answers for property owners. Acting President Westerlund added despite what Mr. Vagim stated the PBID was not a city-driven program but was a self-assessment of the property owners and a board of owners would determine how the dollars would be spent and elaborated further. Upon the request of City Manager Souza Downtown Revitalization Manager Balch explained the status of the PBID, the process, and the next steps in moving the process forward. Council discussion followed with Acting President Westerlund speaking further to the benefits of PBIDs and expressing his support, Councilmember Xiong requesting communication/outreach be broad, and President Sterling adding she has heard nothing but positive comments with everyone she has spoken with and **(3 - 0)** acknowledging the hard, challenging economic times asked that the process proceed cautiously.

J.P. Sweeney, Tulare Street, referenced Item 9:15 a.m. “C” and spoke to funding for the high-speed rail heavy maintenance facility, and stated it was important to keep the Measure C funds intended for rail consolidation and new transit technology in place.

Ben Berquam, N. Fruit, spoke to item 9:15 a.m. “A” which was removed from the agenda, stating the biggest problems were the city “being in the way” and ambiguous code enforcement, and stated the specific plan needed to be looked at as an investment and expressed his support.

(SPECIAL NOTICE ITEM [9:15 A.M. “AA”]) AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE FRESNO COUNTY DEPARTMENT OF EMPLOYMENT & TEMPORARY ASSISTANCE (FCETA) TO PROVIDE SUBSIDIZED EMPLOYMENT AND JOB TRAINING OPPORTUNITIES

1. RESOLUTION NO. 2009-263 - 42ND AMENDMENT TO AAR 2009-149 APPROPRIATING \$738,000 OF FCETA FEDERAL FUNDS AND \$60,200 OF MATCHING FUNDS FROM COUNCIL GENERAL FUND INFRASTRUCTURE CARRYOVER IN THE PARCS DEPARTMENT TO PROVIDE SUBSIDIZED JOB TRAINING OPPORTUNITIES TO ELIGIBLE PARTICIPANTS

PARCS Director Cooper reviewed the issue, all as contained in the staff report as submitted, and stated this was a solution to the problem of closing the community centers.

Speaking in support were: Steve Geil, EDC, who also expanded further on the program; Carolyn Romersa, Secretary of the Pinedale Community Association; Edmund Maddalena, Lester Ave., Clovis; Joseph Steven Camacho, S. Recreation; Pastor Joseph Perry, N. 6th, Executive Director of Boys-to-Men and Girls-to-Women Foundation; David Rodriguez, W. Alluvial, Pinedale; Barbara Hunt; Trisha Baeza, E. Minarets, co-director of Mosqueda Center Hula Ohana dance group; Dolores Munoz, N. 11th; and Robin (last name inaudible), Hula Ohana dancer. Mr. Geil added/clarified 80/20 was not a youth program and the city’s 20% was an in-kind by providing supervision and urged the administration to utilize the city’s large pool of talent. Kendra Rogers, Executive Director of First Five, and Linda Amparano, N. San Pablo, also spoke in support.

President Sterling thanked Councilmembers Westerlund and Borgeas, PARCS Director Cooper, Mr. Geil, and all others involved in this plan. Acting President Westerlund thanked Mayor Swearengen and spoke to how this idea came about, to how the regulations were loosened and eligible temporary parks employees could now be hired, and to this being very important but it being a band-aid approach for nine months, and thanked all involved and stated the community will be asked to step up more with the shrinking dollars.

Councilmember Borgeas stated he had a duty to represent his constituents and this was an exciting opportunity to keep the community centers open, thanked the administration and all others involved, spoke to the budget cuts and how the city had to be creative in keeping the centers open as they were vital to the community, and encouraged council's support and made a motion to approve staff's recommendation, which motion was seconded by Acting President Westerlund. Councilmember Xiong also thanked the administration and presented questions and comments at length relative to the two different funding pots that are not connected, council infrastructure appropriations (**4 - 0**), his understanding that the \$60K+ would be divided equally among the seven members, if the \$738K was not contingent upon the \$60K+, if the \$738K would pay for all activities/staffing, where exactly the \$60K+ would come from, what will happen if some of the unexpended council infrastructure funds are planned for projects next year, if this request was in addition to the original council salary give backs, this being a tremendous opportunity to keep the centers open, and the two different funding pots and need to vote on them separately for procedure and to keep the process cleaner. ACM Rudd, Acting President Westerlund, City Manager Souza and Budget Director Smith responded throughout to questions and/or clarified issues.

Mr. Rudd noted representatives from the County Employment & Temporary Assistance Department were present and commended them for working with the city very diligently on this program, added the recent changes in the manner in which these dollars can be allocated was the catalyst for this item being here today, and stated Mr. Geil was correct in his comments and advised council would be seeing an item next month as staff believed there were a number of opportunities with this program, such as the median island challenge, and stated staff would continue to work with Fresno County.

Councilmember Brand stated a big portion the carryover funds were from District 6 and credited that to former council member Duncan whom he stated was a very good fiscal manager and added the amount being expended was well justified, thanked Councilmembers Westerlund and Borgeas for their work on this and added Councilmember Xiong has been a long time advocate for parks and recreation, and agreed this was a band-aid solution and there would still be a number of challenges coming forth.

Mr. Souza stated on December 3rd a number of allegations were made and his staff was accused of being asleep at the switch and commended Mr. Rudd for spearheading this action with help from PARCS and Personnel, and stated it was important for the community to know, in spite of the comments that were made, that staff turned over every rock and looked at every way possible to maintain services in these very difficult times and further elaborated.

Councilmember Perea thanked the Pinedale community for being steadfast; stated he was born, raised and currently lived in a low-income community and added whenever there are budget cuts it is the low income communities that get hit first and the hardest; thanked the media for keeping this issue at the forefront and creating a wider community awareness; thanked staff for listening after stating there was no money and added because of the media, the public and the political and public pressure put on City Hall things changed; stated this was a creative solution at least until September; commended Councilmember Xiong for being a fearless leader; and stated today shows that anything is possible and there are opportunities and creative ways to get things done so the inner city is not left behind.

Acting President Westerlund agreed with Mr. Souza stating some cheap shots were taken at staff; spoke to a recent Dan Walters column in the Fresno Bee about cities struggling across the state and the positive statements on how Fresno saw this ahead of time and took prudent steps to lessen the blow that the city is now feeling; and relative to his \$10,000 contribution stated that was his own doing as although he had a lot of plans and things to do with his district infrastructure funds he felt this matter was so important he was willing to forego infrastructure projects so the children of his district have something to do for the next nine months.

Mr. Souza stated he hoped Councilmember Perea's comments were well meaning but clarified never during the budget process did staff state nothing could be done about the parks situation, stated what council had, and still has, was staff's best recommendation based on the situation before them, clarified the opportunity before council today came to fruition after the budget plan was proposed, stated it was known that Pinedale would be impacted just like Melody and El Dorado parks but staff felt these were the least of the impacts, stated to imply that because people yelled and talked to the media the administration woke up and found a solution was not true, and stated this solution was before council because the county and staff stepped up and found alternatives that were not available when the original recommendations were made and this was good fortune and good staff work.

On motion of Councilmember Borgeas, seconded by Acting President Westerlund, duly carried, RESOLVED, the City Manager authorized to execute the subject agreement with the Fresno County Department of Employment & Temporary Assistance, and the above entitled Resolution No. 2009-263 hereby adopted, by the following vote:

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

(9:30 A.M. "A") BILL NO. B-41 - BILL FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO CARD ROOMS (REMOVING THE RESTRICTION ON THE NUMBER OF NO LIMIT TABLES) - COUNCILMEMBER DAGES

Councilmember Dages reviewed the issue, all as contained in his report to Council as submitted, and Kyle Kirkland, President and part owner of Club One Casino, expanded further on the requested amendment, advised these changes were compliant with state law, and stated he would appreciate Council's support. A motion and second was made to introduce the ordinance bill.

Jerome Ireland, Jr., spoke to Club One and the National Basketball Association and his desire to become the Fresno manager.

Mr. Kirkland and City Manager Souza responded to comments and questions of Acting President Westerlund and Councilmember Xiong relative to concern with lifting limits on *all* games, poker and Texas Hold'em limits, problem gamblers, need for the ordinance to be clear that "anything does not go", **(5 - 0)** if staff had any issues or concerns, the increase in southeast Asian gamblers, what education/outreach has been done on programs for problem gamblers, and opposition groups and need to be pro-active and communicate with advocacy groups on the changes. Councilmember Borgeas stated over-regulation bothered him, he did not feel council should get into what is an appropriate limit, if problems arise council would address them, and he wanted to help Club One out, and along with Councilmember Brand presented questions and/or comments relative to whether there was a marked increase in crime or problems in other jurisdictions, if staff felt this would fit in with the overall framework/effort to revitalize downtown, limits at other casinos, and support for the amendment to keep dollars here.

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Bill No. B-41 introduced before the City Council and laid over, by the following vote:

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

(9:30 A.M. "B") SET POLICY TO CONTINUE FULL-TIME OPERATION OF ALL EIGHTEEN (18) NEIGHBORHOOD CENTERS IN THE CITY OF FRESNO PARCS SYSTEM AND TO MAINTAIN ONE (1) COMMUNITY SERVICE OFFICER TO WORK WITH THE PAL AND NEIGHBORHOOD WATCH PROGRAMS - COUNCILMEMBER XIONG

Item withdrawn by Councilmember Xiong due to earlier action on the *Special Notice 9:15 a.m. 'AA'* item.

(9:15 A.M. "C") RESOLUTION NO. 2009-264 - SUPPORTING THE SITING AND FINANCIAL STRATEGIES NEEDED TO ESTABLISH A HIGH-SPEED RAIL HEAVY MAINTENANCE FACILITY IN FRESNO COUNTY

ACM Rudd reviewed the issue, all as contained in the staff report as submitted.

Steve Geil, Economic Development Corp., urged support, advised in the last three months the city, county and various non-profit organizations came together and have moved into a leadership position on this project, stated this facility could change and affect Fresno's economy for many years to come, and stated a lot of exciting things have happened which he could not make known at this time and the proposal was moving forward in a very organized and impressive manner.

At this point council recessed for lunch.

LUNCH RECESS - 12:15 P.M. - 2:06 P.M.

Proceedings continued on Item **9:15 a.m. "C"**. Upon the request of President Sterling Mr. Rudd again reviewed the issue and responded to comments and questions of Acting President Westerlund relative to appreciation of Mr. Rudd's work with the county and stakeholders on this issue, the importance of this project, the huge economic opportunity Fresno lost with the UC campus, Measure "C" being one funding option but not the only option, if Measure "C" had a mechanism in place to deal with amendments to the plan, need to be cognizant of the trust voters put in Measure "C" and obtain their input on shifting of funds, and if a Mello-Roos could be looked at for funding. Acting President Westerlund concluded stating Fresno was one of three central valley competitors and could not let this go by and made a motion to adopt the resolution. Councilmember Borgeas seconded the motion and upon his questions Mr. Rudd clarified a good faith commitment was needed by January 15th, at some point in time (a few months from now) a solid commitment from the region would be asked for, and all submissions/proposals would be confidential. Relative to UC Merced Councilmember Borgeas stated Fresno was better prepared psychologically and financially this time, added if Fresno does not end up getting the facility it will be because Fresno was bested -- not flatfooted, and stated he was excited everyone was at the table and he was very supportive. Upon question of Councilmember Perea Mr. Rudd reiterated there was a process to reallocate Measure "C" funds and explained the public vetting process **(6 - 0)**. Councilmember Perea stated if there was a pot of funding that could be committed he was supportive of including it as part of the package Fresno will submit. Mr. Rudd responded to questions of Councilmember Xiong relative to when details/strategies will be presented to council, if this resolution was just in support of the general concepts, if council will be able to weigh-in on specifics, if this resolution being presented prior to council weighing-in on specifics was a reversal of process, and if supporting this resolution will not leave an impression/perception of a specific funding source or strategy. President Sterling agreed it will be easier for Fresno to stay in step on this project as everyone realizes the importance of this facility to Fresno county.

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, **RESOLVED**, the above entitled Resolution No. 2009-264 hereby adopted, by the following vote:

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

(11:00 A.M. #2) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at the hour of 2:31 p.m. and met in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF NOVEMBER 5, 2009

On motion of Acting President Westerlund, seconded by President Sterling, duly carried, **RESOLVED**, the Agency minutes of November 5, 2009, approved as submitted.

(‘A’) AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS FOR PROPERTY LOCATED AT 237 N. PARK AVENUE OWNED BY VALLEY CAPITAL INVESTMENT, INC. (Agency action)

1. AUTHORIZE THE EXECUTIVE DIRECTOR TO TAKE ALL OTHER ACTIONS NECESSARY AND CONSISTENT WITH AGENCY BOARD APPROVAL. THE SUBJECT PROPERTY IS LOCATED IN THE LOWELL NEIGHBORHOOD WITHIN THE FREEWAY 99 GOLDEN STATE CORRIDOR REDEVELOPMENT PROJECT AREA (Agency action)

Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted. Member Sterling spoke briefly in support of the purchase stating this was the beginning of another neighborhood being revitalized, and upon her question Ms. Murphey stated staff would look to implement green standards.

On motion of Member Sterling, seconded by Vice Chair Brand, duly carried, **RESOLVED**, the Executive Director authorized to **(1)** to enter into a Purchase and Sale Agreement for the purchase of 237 N. Park Avenue within the Lowell Neighborhood; **(2)** take all other actions necessary to close escrow; and **(3)** execute contracts for the acquisition, rehabilitation and resale of the subject property following the same basic procedures required by the Neighborhood Stabilization Program, by the following vote:

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

(‘B’) APPROVE ISSUANCE OF A ‘REQUEST FOR QUALIFICATIONS’ (RFQ) AND CONCEPTUAL PROPOSALS BY THE AGENCY AND THE CITY FOR THE DEVELOPMENT, REDEVELOPMENT, AND/OR RE-USE OF SEVEN (7) DOWNTOWN PARCELS TOTALING 2.52 ACRES IN THE UPTOWN CULTURAL ARTS DISTRICT FOR THE PURPOSE OF DEVELOPING A LIVELY, MIXED-USE ENTERTAINMENT CENTER DEVELOPMENT, MERGER PROJECT AREA #1 (Joint action)

Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted. President Sterling spoke in support stating this will continue to develop the area and bring in a lot of opportunities and jobs and made a motion to approve staff’s recommendation, which motion was seconded by Acting President Westerlund.

Ms. Murphey, City Manager Souza, D&CR Director Scharton, City Attorney Sanchez and Public Works Director Weimiller responded at length to questions of Councilmembers Borgeas, Westerlund, Perea and Brand relative to whether more than one RFQ was being requested, how the Met’s current status bears into the description of the entire facility, if special emphasis should be on opportunities to incorporate the Met building, if the D&CR department and the administration were supportive of the RFQ, project time line and desire to see expressions of interest and qualifications, the current tough market but there being outside interest, marketing efforts, when council originally directed staff to issue an RFQ and reason for the delay, if the city had legal title to all the parcels, when council will receive a report back on the one outstanding parcel, how environmental issues and clean-up costs will be dealt with, property appraisals, parcels eligible for New Market Tax Credits (NMTCs), if additional city assets will have to be collateralized, NMTCs restrictions on uses, the seven year window to buy land, recommendation to take as much time in this process as needed, and time line for the NMTCs.

On motion of President Sterling, seconded by Acting President Westerlund, duly carried, RESOLVED, the issuance of a ‘Request for Qualifications’ and conceptual proposals by the Agency and the City for seven downtown parcels in the Uptown Cultural Arts District hereby approved, by the following vote:

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

(‘C’) AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE THE PURCHASE AND SALE AGREEMENT FOR THE PURCHASE OF 1.17 ACRES LOCATED AT THE SOUTHWEST CORNER OF SHIELDS AND WINERY AVENUES WITHIN THE AIRPORT AREA REVITALIZATION REDEVELOPMENT PROJECT AREA AND TO TAKE THE NECESSARY ACTIONS TO CLOSE ESCROW (Agency action)

Executive Director Murphey gave a brief overview of the issue, all as contained in the staff report as submitted. Member Westerlund expanded further on the issue, expressed his support for the purchase to market the property for an airport-related use stating residential was not an option due to the noise, and made a motion to approve.

On motion of Member Westerlund, seconded by Member Borgeas, duly carried, RESOLVED, the Executive Director authorized to execute the Purchase and Sales Agreement for the purchase of land at the southwest corner of Shields and Winery Avenues within the Airport Area Revitalization Redevelopment Project area, by the following vote:

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

Councilmember Borgeas left the meeting briefly at 2:53 p.m.

(‘D’) APPROVE REQUEST TO TRANSFER TITLE OF FIVE (5) VACANT PARCELS LOCATED ON FLORENCE AVENUE BETWEEN EAST AND RAILROAD AVENUES FROM THE CITY TO THE REDEVELOPMENT AGENCY (Joint action)

Executive Director Murphey gave a brief overview of the issue, all as contained in the staff report as submitted.

On motion of President Sterling, seconded by Acting President Westerlund, duly carried, RESOLVED, the request to transfer title of five vacant parcels on Florence Avenue from the City to the Redevelopment Agency hereby approved, by the following vote:

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

At 2:55 p.m. the joint bodies recessed to 5:30 p.m. Councilmember Borgeas returned to the meeting.

(9:15 A.M. “B”) RESOLUTION NO. 2009-265 - ADOPTING A POLICY TO DEFER PAYMENT OF CITYWIDE DEVELOPMENT IMPACT FEES FOR FIRE, POLICE, PARKS, MAJOR STREETS AND TRAFFIC SIGNALS IN THE DOWNTOWN PRIORITY AREAS

D&CR Director Scharton gave an in-depth overview of the issue, all as contained in the staff report as submitted, and Public Works Director Weimiller stated the deferral of fees was the first in a number of steps staff would be bringing forth to layer out some incentives for development/revitalization in the downtown area and expanded further on the policy resolution.

Extensive council discussion ensued with Mr. Weimiller, ACM Rudd, City Attorney Sanchez and P&D Director Dugan responding to questions/comments of Councilmembers Brand, Westerlund and Perea relative to what percentage of impact fees come from the downtown area, effectiveness of this policy, the possibility of lenders escrowing extra funds to cover the deferred fees, a discount possibly being more effective, the PIPES program and need to resolve the processing timeline issue, creating incentives and lowering costs being the right direction to take, concern with projects stopping/not being completed and the risk of never receiving the impact fees, how non-completed projects will be dealt with, if there will be an application process for the deferrals, if the agreement will include liens placed on properties, **(7 - 0)** changes and record-keeping/tracking, priorities/areas/zones and differences, how the Chinatown block was identified, Mr. Dugan’s past experience with deferrals/incentives, stopped projects/bankruptcies and if there were ways to secure the city’s interests further, support to see the city attorney’s analysis on requiring immediate payment upon bankruptcy, if deferrals would be retroactive, development occurring all over downtown why the entire downtown area is not included, how expansion from the priority area would dilute this effort, and protecting the city’s interest and if a payment acceleration clause could be used for developers who take out permits and do nothing with the building/property.

On motion of Councilmember Brand, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution No. 2009-265 hereby adopted, by the following vote:

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

(9:15 A.M. “D”) PRESENTATION BY CITY-WIDE BLUE TEAM - UPDATE ON 2009 ACTIVITIES IN VARIOUS DEPARTMENTS

Sustainability Manager Oldham gave a PowerPoint presentation on the issue entitled “City-Wide ‘Blue Team’ Update for 2009” which consisted of the History, Team Membership, Context and Water Usage, Strategies for Conservation, Actions Undertaken, Results, and the Future/Efforts of the Team. Upon question of Acting President Westerlund Mr. Oldham stated all city parks, median islands, frontage roads, and city buildings were on water meters and paid metered rates. Acting President Westerlund applauded the Blue Team’s efforts in responding to sprinkler repairs/problems and there was no further discussion.

(11:00 A.M. #1) CONTESTED CONSENT CALENDAR:

(1-D) APPROVE RENEWAL OF A CONSULTANT SERVICES AGREEMENT WITH DAVID ROSEN AND ASSOCIATES (DRA) TO COMPLETE THE HOUSING TRUST FUND SCOPE OF SERVICES UNDER THE 10/21/08 AGREEMENT FOR THE CITY'S AFFORDABLE HOUSING SPECIAL REVENUE FUND PROGRAM

Acting President Westerlund questioned if it made sense to continue down the path of a housing trust fund given the city's financial situation and the small size of the actual trust fund, with City Manager Souza stating at this point in time staff would recommend continuing with the trust fund at least through this year, stated it would continue to be assessed as it goes forward, and added there were also other housing and matching funds that could be looked at as well. Mr. Souza and Project Manager Nunez responded to additional questions/comments of Acting President Westerlund relative to why it has taken so long to get the trust fund launched, what the nature was of the revisions requested by the 10x10 Committee to cause such a delay, the analysis conducted by DRA, if there will be added costs, and concern with the delay and need to complete this process. Councilmember Borgeas left the meeting at 3:47 p.m. during the questioning. President Sterling concurred, as a member of the 10x10 committee, that there have been frustrating moments but stated she was confident something would be before council in January.

On motion of President Sterling, seconded by Councilmember Xiong, duly carried, RESOLVED, renewal of the Consultant Services Agreement with David Rosen and Associates (DRA) as outlined above hereby approved, by the following vote:

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

(1-A) APPROVE AN AGREEMENT WITH THE GORDIAN GROUP, INC., d.b.a. THE MELLON GROUP, IN AN AMOUNT NOT TO EXCEED \$300,000 FOR IMPLEMENTATION OF A JOB ORDER CONTRACTING PROGRAM

Councilmember Perea clarified he was supportive of this and there was a need for the project but questioned if \$300,000 had to be spent on an outside firm to perform the service, and upon furthering questioning General Services Director Nerland stated there was no one in the department or the new major projects group to perform this specialized service, and spoke to the major capital-type projects the group is working on. Councilmember Borgeas returned to the meeting and Acting President Westerlund left at 3:50 p.m. during questioning.

On motion of President Sterling, seconded by Councilmember Brand duly carried, RESOLVED, the subject Agreement with the Gordian Group, Inc., d.b.a The Mellon Group, hereby approved, by the following vote:

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

(1-I) ANNUAL REVIEW AND ACCEPTANCE OF THE FY 2009 IMPACT FEE ANNUAL REPORT AS REQUIRED BY THE CALIFORNIA GOVERNMENT CODE

Councilmember Brand noted impact fees have been dropping due to the lack of activity and stated this will have a huge impact on the city budget and upon his request City Engineer Mozier explained the current status and what type of impact this may have on next year's budget. Upon question City Manager Souza stated there would be no direct added burden on the general fund and the anticipated reimbursements were taken into account when the budget was prepared.

On motion of Councilmember Brand, seconded by President Sterling, duly carried, RESOLVED, the FY 2009 Impact Fee Annual Report hereby accepted, by the following vote:

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

(1-Y) RESOLUTION NO. 2009-266 - AUTHORIZING THE RESTORATION OF CERTAIN LOST LEAVE BALANCES FOR PERMANENT EMPLOYEES DURING MILITARY DEPLOYMENTS IN EXCESS OF THIRTY-ONE (31) DAYS AND PROVIDE COMPARABLE COMPENSATION TO FORMER PERMANENT CITY EMPLOYEES FOR LEAVE LOST AS THE RESULT OF MIDDLE EASTERN MILITARY OPERATIONS SINCE 2002

Councilmember Brand stated he pulled the item at the request of some FCEA members who had concerns about three impacted employees, whereupon City Manager Souza stated what was before council was a policy issue and specific issues with the policy could be discussed but staff would not discuss individual employee situations due to privacy rights/violations. Acting President Westerlund returned to the meeting at 3:58 p.m.

Speaking to the issue were: Jacky Parks, President of FPOA, representing several impacted members and individuals, support for the resolution; Andi Walls, POB 494, Prather, who read a written statement into the record on behalf of Sharon McCamack expressing concerns with increased insurance costs she had to pay and non-receipt of pay differential (**8 - 0**); and city employee James Watson, Polson Avenue, Clovis, who spoke to his use of the City Health & Welfare (H&W) Trust and vacation/sick time to care for his daughter after her surgery, and stated putting back accruals would be greatly appreciated.

Acting President Westerlund stated the Tri-Care system that is provided to everyone in the military, including their families, is a better system than the city's H&W Trust, stated those who elected to use the city's system, whether they were well informed of options or not, have to pay for the services received and further explained, elaborated on the issue of restoring lost leave balances and his position of support, and made a motion to adopt the resolution, which motion was seconded by Councilmember Borgeas.

Upon the request of Councilmember Perea Personnel Director Bond and City Manager Souza addressed the statement read into the record by Ms. Walls and explained how staff determined some employees would not receive the benefits. Ms. Bond and Mr. Souza also responded to questions of Council Xiong and President Sterling relative to the number of employees impacted by the health care decision, if there was a mechanism in place to notify/inform employees of options, how long the notification process has been in place, and if staff had this conversation with Ms. McCamack and request that staff meet again with her on her situation.

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution No. 2009-266 hereby adopted, by the following vote:

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

(1-DD) BILL NO. B-42 - BILL FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO FIREWORKS

Chief Aranaz and City Manager Souza responded to questions/comments/concerns of Councilmember Dages relative to whether the affected non-profits who have fireworks stands were notified of these changes, disagreement with staff that these changes will not affect the non-profits, what the definition was of "substantive policy changes", and need for council and the non-profits to be informed of all changes -- procedural and substantive -- with council making the final decision on all changes.

Acting President Westerlund spoke to the issue and upon his question Mr. Aranaz explained the permit process for the non-profits. Acting President Westerlund expressed his support stating this was a reasonable step and council would still make the big decisions and made a motion to introduce the ordinance bill as recommended, which motion was seconded by President Sterling. Mr. Aranaz responded to questions and/or comments of Councilmember Xiong and President Sterling relative to whether this matter was time sensitive, request for confirmation by tray memo on whether the non-profits were informed of the changes, staff complimented on the 501(c)3 process, request that the tray memo be provided to all council members, and support for the ordinance.

On motion of Acting President Westerlund, seconded by President Sterling, duly carried, RESOLVED, the above entitled Bill No. B-42 introduced before the City Council and laid over, by the following vote:

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

(10:00 A.M.) HEARING TO CONSIDER A RESOLUTION OF PUBLIC USE AND NECESSITY FOR ACQUISITION OF LAND FOR CONSTRUCTION OF IMPROVEMENTS AND WIDENING AND RELATED PURPOSES OF THE HERNDON AVENUE AND GOLDEN STATE BOULEVARD INTERSECTION

1. RESOLUTION - DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF LAND (APN 504-091-01) OWNED BY MILLENNIUM ACQUISITIONS, LLC, FOR HERNDON/GOLDEN STATE IMPROVEMENTS AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS

Brief discussion was held on whether to continue the hearing to January 14th due to the absence of Millennium representative Ty Kharazi and on whether issues had been resolved with the property owner, whereupon Mr. Kharazi arrived at 4:34 p.m.

President Sterling announced the time had arrived to consider the issue and opened the hearing. Senior Real Estate Agent Caldwell gave an in-depth overview of the issue, the findings to be made, the recommendation to approve the resolution based on the findings, and the property owner's objections, all as contained in the staff report as submitted, presenting additional exhibits throughout to illustrate.

Ty Kharazi, on behalf of Millennium Acquisitions, expanded further on their objections and request to have the old Klein's landmark sign put back up for promotional purposes.

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

Councilmember Borgeas presented numerous questions/comments relative to why eminent domain was being used, if the project's federal funds will be jeopardized if the project is not completed, the property owner's request for the old sign, if the sign was in violation of the current sign ordinance, **(9 - 0)** why Millennium believes the city does need the property for this project, if Millennium purchased the property because one of the benefits was the sign, if staff felt there was a deviation of process here that would stall the acquisition through eminent domain, belief that issues can be resolved and not with the drastic measure of eminent domain, if this matter was time sensitive/if continuing the hearing to January would pose a real problem, and if the eminent domain process will cause any problems with the bidding process, with Mr. Caldwell, Planning Manager Sanchez, City Attorney Sanchez and City Engineer Mozier responding throughout and/or clarifying issues. Councilmember Borgeas reiterated he believed issues could be worked out and therefor wanted to continue the hearing to January 14th, added if there is no resolution by that time he will then encourage council to allow eminent domain to proceed, and made a motion to continue the hearing to try to resolve issues, which motion was seconded by Councilmember Brand.

Acting President Westerlund stated although the hearing could be continued he felt this was kind of extortion of the city as the property owner wants to put a sign back up that is non-conforming and is not even anywhere close to the property the city wants to acquire, stated although he appreciated the economic aspect argument it did not hold any water and council would be the one to make the determination as to whether there is sufficient traffic that requires the infrastructure, and stated the intersection was terrible, the city finally had the dollars to improve it, and this was exactly what eminent domain was for and elaborated further. Upon question of President Sterling staff stated the property owner had not been paid for the property yet. President Sterling stated there were ways to do things referencing all the work that went into the East Bay Tire project and suggested Millennium talk to staff about that.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, **RESOLVED**, the subject 10:00 a.m. Hearing relating to the acquisition of land for Herndon/Golden State intersection improvements hereby continued to January 14, 2010, at 2:00 p.m., by the following vote:

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

(10:30 A.M.) CLOSED SESSION:

(‘A’) CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAME: CITY OF FRESNO V. RAPS FRESNO, LLC, ET AL. (ALSO KNOWN AS HOTEL FRESNO)

The City Council met in closed session in Room 2125 at the hour of 5:00 p.m. to consider the above matter and reconvened in regular open session at 6:04 p.m.

The City Council recessed at 6:04 p.m. and reconvened in joint session with the Redevelopment Agency

(5:30 P.M. “A”) ACTIONS RELATING TO THE FRESNO BASEBALL CLUB DOWNTOWN STADIUM LEASE AGREEMENT AND THE BARRETT SPORTS GROUP AGREEMENT

- 1.** APPROVE THE TERM SHEET AMENDING THE FRESNO BASEBALL CLUB STADIUM LEASE AGREEMENT, AND AUTHORIZE THE CITY MANAGER AND CITY ATTORNEY TO COMPLETE AND EXECUTE ALL NECESSARY DOCUMENTS IN SUBSTANTIAL COMPLIANCE WITH THE APPROVED TERM SHEET
- 2.** APPROVE THE SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY AND BARRETT SPORTS GROUP, LLC FOR SERVICES RELATED TO STADIUM LEASE AGREEMENT NEGOTIATIONS

Mayor Swearengin introduced the item, made opening remarks and thanked all involved; Councilmember Brand, as a member of the negotiating team, elaborated on the issue including the background, the negotiation process, and what was accomplished; and City Manager Souza covered the specifics of the deal points, all as contained in the staff report as submitted.

Speaking to the issue were: Mary Savala, representing the League of Women Voters, who presented a question relative to omissions insurance and liability, and stated she was pleased that the Better Business Act was applied in this process; Carolee Boele, support for the lease agreement term sheet; Branch Rickey, President of the Pacific Coast League, Colorado Springs, CO, support; Dennis Plann, E. Robinson, support; Jeff Hartman, Junior Grizzlies players, support; **(10 - 0)** Janet Baker, N. Adoline, support; Jose Lara, N. Archie, support; and Clifford Dorsey, W. Scott, support.

President Sterling thanked all the supporters in attendance and all involved in the negotiations stating she appreciated all the work that was done.

Councilmember Dages commended Mayor Swearengin for her handling of the issue stating she took on quite a bit when she took office and also commended Councilmember Brand for his work to get the best deal possible for the taxpayer; stated no one wanted to be in this situation right now, he had been involved in this since day one, and spoke to the background of the issue and expressed concerns; stated the taxpayer was going to have to pay now but there was no other choice and further elaborated; stated the city needed to support the Grizzlies' owners and asked the owners to do everything in their power to not come back to the city again and to do all they can to keep the stadium alive; and thanked consultant Barrett for all his work.

Councilmember Brand made a motion to approve Items 1 & 2 as outlined above, which motion was seconded by Councilmember Dages.

Councilmember Borgeas spoke briefly to the number of failures that occurred since he came on board; stated one of the worst things for him was having to vote on items where people have silent expectations and silent disappointments and expressed his appreciation for the supporters in attendance stating it showed how much the Grizzlies mean to them and to the community; stated the city could have taken a hard approach and allowed the Grizzlies to fail but found a balanced and reasonable approach as the city wants to see the Grizzlies succeed on multiple levels and explained; stated he was going to support this as there was no alternative and because this was a chance for the city to step up the plate and show support while also holding those that are rightfully accountable to not come back; and stated this had been one amazing year and although it was enriching and he learned a lot it was a year he would choose not to repeat.

Chukchansi Attorney Tom Kokoska and City Attorney Sanchez responded to questions of Councilmember Xiong relative to impact on naming rights and whether the city's issues of concern were resolved. Councilmember Xiong commended council on their decision to have Councilmember Brand represent them in negotiations, Acting President Westerlund in terms of bringing consultant Barrett into this process, and Mr. Barrett for his expertise, knowledge and candor throughout the entire process, and spoke briefly to his passion for baseball and soccer and upon his question Mr. Barrett clarified issues relative to Fuego's use of the stadium and the owner's financial support of Fuego.

Upon the request of Councilmember Perea Mr. Sanchez spoke to the memo he provided to council on the Better Business Act, the process that was followed, and concerns, and responded to questions relative to other entities the Grizzlies ownership operates. Acting President Westerlund concurred this had been a tough year all around for the country, state and city; thanked Mayor Swearingin for being a "steady hand on the rudder", Mr. Barrett for taking council to a high level on the analysis of this deal, Councilmember Brand for his hard work stating he had been the hard head and hard nose for a lot of it, and his council colleagues for allowing the process to work and to negotiate and take some difficult and tough stances; spoke to the background of the issue and expressed concern stating a bill of goods was sold but stated that was water under the bridge; stated this was a tough vote to make as a lot of people are not baseball fans and city taxpayers will have to pay; stated the city looked long and hard at every avenue and scenario and the only thing left was to go through with this deal which he stated made him sick as employees were being laid off; **(11 - 0)** and thanked Chukchansi officials and counsel for talking with him, for their investment, and for their comfort letter. Mr. Kokoska stated it was intended that the City rely upon the comfort letter as evidence of Chukchansi's position that a stock sale, as opposed to an asset sale, would not allow Chukchansi to terminate the Naming Rights Agreement. Councilmember Brand thanked the mayor, the city manager and his council colleagues for all their work and support throughout the year, stated every challenge was met, and also thanked everyone involved in this deal for their efforts.

1. APPROVE THE TERM SHEET AMENDING THE FRESNO BASEBALL CLUB STADIUM LEASE AGREEMENT, AND AUTHORIZE THE CITY MANAGER AND CITY ATTORNEY TO COMPLETE AND EXECUTE ALL NECESSARY DOCUMENTS IN SUBSTANTIAL COMPLIANCE WITH THE APPROVED TERM SHEET

On motion of Councilmember Brand, seconded by Councilmember Dages, duly carried, RESOLVED, the term sheet amending the Fresno Baseball Club stadium lease agreement hereby approved, and the City Manager and City Attorney authorized to complete and execute all necessary documentation in substantial compliance with the approved term sheet, by the following vote:

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

2. APPROVE THE SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF FRESNO AND BARRETT SPORTS GROUP, LLC FOR SERVICES RELATED TO THE STADIUM LEASE AGREEMENT NEGOTIATIONS

On motion of Councilmember Brand, seconded by Councilmember Dages, duly carried, RESOLVED, the Second Amendment to the Agreement between the City and Barrett Sports Group, LLC hereby approved, by the following vote:

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

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 7:19 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the _____ day of _____, 2010.

Cynthia Sterling, Council President
154-186

Yolanda Salazar, Assistant City Clerk
12/17/09