

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

Present:	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Blong Xiong	Acting Council
	Henry Perea	Council President

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

Pastor Jeff Lee of The Rock gave the invocation, and President Perea led the Pledge of Allegiance.

PROCLAMATION OF "ALLAN TATARIAN DAY" - COUNCILMEMBER CALHOUN

Read and presented.

PRESENTATION OF DRIVER APPRECIATION CERTIFICATES TO FAX AND HANDYRIDE DRIVERS

Presented.

3RD QUARTER "MAKE A PROMOTION A COMMOTION" CEREMONY

Certificates were presented and a reception was held immediately following the ceremony to honor the employees.

RECESS - 9:03 A.M. - 9:11 A.M.

APPROVE MINUTES OF OCTOBER 2, 1007

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of October 2, 2007, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

ACTING PRESIDENT XIONG: (1) Pursuant to AB 1234 report on trips to Chico and Oroville to participate in Hmong New Year, and participation this past weekend in recognizing a community member at the Christian Community Church; and (2) letter received from Pan Valley Institute relating to several displayed art pieces being damaged in the process, with City Manager Souza advising there was a formal process to deal with that and requested a copy of the letter.

COUNCILMEMBER CALHOUN: Concern expressed concern with the length of time taken to bring forth the Fulton Mall study project and direction to staff to schedule the matter before Council due to the long delay and amount of community participation/input/work.

COUNCILMEMBER DAGES: Commendation to Traffic Engineer Jones for addressing Olmos School traffic issues and neighborhood-requested conditions.

COUNCILMEMBER DUNCAN: Comments received from the development community on length of time it takes to get projects processed, need for additional staffing, and request for tray memo on what can be done to address the bottleneck.

COUNCILMEMBER WESTERLUND: (1) Pursuant to AB 1234 report on attendance at the Great Valley Leadership Conference at Tenaya Lodge; and (2) question on whether the American Public Works Association self assessment certifications are wise if the City moves towards a Municipal Water District, with City Manager Souza stating staff would look into the issue.

PRESIDENT PEREA: Request for update on the Green strategy.

APPROVE AGENDA:

(10:30 A.M.) CONTINUED HEARING TO CONSIDER ADOPTION OF EA-07-31 FILED BY THE DEPARTMENT OF PUBLIC UTILITIES (*Continue to October 23, 2007, at 2:30 p.m.*)

Continued as noted.

On motion of Councilmember Dages, seconded by President Perea, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

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

ADOPT CONSENT CALENDAR:

Marina Magdeleno, 839 N. Fulton, representing Local 39, spoke to Item **1-D** stating these were the best negotiations ever, and thanked the City bargaining team.

Councilmember Calhoun pulled Item **1-J** from the Consent Calendar for discussion/action at 2:00 p.m.

Councilmember Dages registered a "no" vote on Item **1-D**.

(1-A) RESOLUTION NO. 2007-329 - AUTHORIZING THE SUBMISSION OF APPLICATION TO THE CALIFORNIA HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT FOR AN ENTERPRISE ZONE TARGETED EMPLOYMENT AREA DESIGNATION

(1-B) APPROVE THE ADDITION OF PAVED RAMP SPACE TO SKYWEST AIRLINES' LEASE OF HANGAR P-3 AT FRESNO YOSEMITE INTERNATIONAL AIRPORT EFFECTIVE NOVEMBER 1, 2007, AT THE INITIAL RENTAL RATE OF \$0.034117 PER SQUARE FOOT PER MONTH SUBJECT TO ADJUSTMENT ON NOVEMBER 1, 2009, AND EVERY NOVEMBER 1ST THEREAFTER IN ACCORDANCE WITH THE COST OF LIVING TYPE FORMULA INCLUDED IN THE CURRENT LEASE

(1-C) AWARD A CONTRACT TO TRON CONSTRUCTION, INC., FOR ACOUSTICAL TREATMENT OF 30 HOMES AROUND THE FRESNO YOSEMITE INTERNATIONAL AIRPORT FOR THE AMOUNT OF \$692,000

(1-E) AWARD CONTRACT IN THE AMOUNT OF \$103,855.97 TO M&M LIFTS FOR 3 TRUCK MOUNTED AERIAL LIFT DEVICES

(1-F) AUTHORIZE THE GENERAL SERVICES DIRECTOR TO ENTER INTO AN AGREEMENT TO RECEIVE UP TO \$190,119 IN GRANT FUNDING FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT EMISSION REDUCTION INCENTIVE PROGRAM FOR THE PURCHASE AND INSTALLATION OF LOW EMISSION REPLACEMENT ENGINES IN 3 PIECES OF CONSTRUCTION EQUIPMENT USED BY THE DEPARTMENT OF PUBLIC UTILITIES

(1-G) AWARD A CONSTRUCTION CONTRACT TO ELITE LANDSCAPING IN THE AMOUNT OF 489,648 FOR THE EATON TRAIL IMPROVEMENTS RE-BID, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CONTRACT ON BEHALF OF THE CITY

(1-H) RESOLUTION NO. 2007-331 - 34TH AMENDMENT TO THE AAR APPROPRIATING \$100,000 FOR CONSTRUCTION OF TENANT IMPROVEMENTS AT THE SANTA FE DEPOT

1. AWARD A CONTRACT IN THE AMOUNT OF \$571,540.08 TO APPLGATE JOHNSTON, INC., FOR THE PROJECT

(1-I) REJECT ALL BIDS FOR THE TRAFFIC SIGNAL MODIFICATION PROJECT AT THE MCKINLEY AND WEST AVENUES INTERSECTION

(1-K) APPROVE AN AGREEMENT WITH TAYLOR TETER PARTNERSHIP IN THE AMOUNT OF \$322,350 WITH A CONTINGENCY OF \$15,500 TO DESIGN THE STATION RENOVATIONS AND ADDITIONS FOR EXISTING FIRE STATIONS NO. 3 AND 4 AND THE FUTURE FIRE STATION AT BROADWAY AND ELIZABETH

(1-L) RESOLUTION NO. 2007-332 - APPROVING THE FINAL MAP OF TRACT NO. 5649 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, N. FIGARDEN DRIVE BETWEEN N. SALINAS AND N. GATES AVENUES

1. AUTHORIZE THE PUBLIC WORKS, PUBLIC UTILITIES, AND PLANNING & DEVELOPMENT DIRECTORS TO EXECUTE THE ASSOCIATED DOCUMENTS

(1-M) APPROVE RE-APPOINTMENT OF REUBEN SCOTT TO THE HOUSING AUTHORITY BOARD OF COMMISSIONERS - MAYOR AUTRY

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

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

(1-D) ADOPT A MEMORANDUM OF UNDERSTANDING WITH THE INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS, LOCAL 39 - UNIT 1, COVERING THE PERIOD JULY 1, 2007, THROUGH JUNE 30, 2011

1. RESOLUTION NO. 2007-330 - 4TH AMENDMENT TO SALARY RES. 07-217 AMENDING EXHIBIT 1, NON-SUPERVISORY BLUE COLLAR (LOCAL 39)

On motion of Councilmember Sterling, seconded by President Perea, duly carried, RESOLVED, the above entitled MOU and Resolution No. 2007-330 hereby adopted, by the following vote:

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

(9:00 A.M.) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:

(1) D. Margaret Coppernall, and (2) Real Estate Broker Joyce Scampa of Pacific Grove, CA, commented in general on the Running Horse project **(2 - 0)**.

Ann Williams spoke to murders that occurred in West Fresno and lack of action, and presented a letter to the City Attorney.

Gloria Marshall commented in general on the Running Horse project.

Paula Savino spoke to the homeless issue and animal abuse.

Sherry Smith spoke to issues relative to Fire Stations 16 and 21.

(1) Gloria Ponce Rodriguez, and (2) Rose Marie Joyce, unsecured creditor, commented in general on the Running Horse project

(9:15 A.M.) CITY COUNCIL:

(‘A’) RESOLUTION NO. 2007-333 - URGING BLUE CROSS OF CALIFORNIA AND CHILDRENS’ HOSPITAL OF CENTRAL CALIFORNIA TO CONTINUE THEIR NEGOTIATIONS AND EXERT ALL EFFORTS TO REACH AN AGREEMENT WITHOUT FURTHER DELAY - ACTING PRESIDENT XIONG

Acting President Xiong stated the resolution was self-explanatory, clarified no sides were being taken, and stressed children were the important issue here and the intent of the resolution was to get out an important message for the two parties to get past their impasse.

Speaking to the issue were: Micheline Golden and Tim Curley of Childrens’ Hospital, who stated they were currently in discussions with Blue Cross, gave an update, and requested the City help them reach out to the State to resolve the issue; and Chris Schneider, Central California Legal Services, who spoke to the need for the parties to reach agreement as families were losing access to health care.

Councilmember Duncan stated this was difficult for Council as this was an issue between two admirable parties, stated the Medi-Cal program was the real source of the issues and explained, and stated he would not support the resolution and requested it be removed from the agenda and rewritten to address the fundamental problem which is the inadequacy of Medi-Cal reimbursement. Councilmember Calhoun stated when you get into other people’s business you run some risks and referenced another health care issue that involved Fresno County and Community Hospitals wherein Council did not get involved; stated there were two sides to every story and all the issues were not known here; acknowledged the issue was children but questioned why Council would get involved and what this would accomplish and added this was a feel good resolution that had no teeth to it; and stated although he was troubled as Council was here to make decisions that make a difference he would support the resolution.

Acting President Xiong emphasized children were being affected and this resolution was just asking the parties to have some serious discussions, and stated the resolution had moral teeth and made a motion to adopt, which was seconded by Councilmember Dages. President Perea stated he was comfortable supporting the resolution as it did not pass judgement and added it should go to Blue Cross and anyone else who has a stake in this issue, and stated it was a shame cities do not get into health care debates as Council represented a lot of people who cannot speak for themselves.

On motion of Acting President Xiong, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2007-333 hereby adopted, by the following vote:

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

** Visiting students from Maple Creek Elementary School were recognized and welcomed.

(‘B’) DISCUSSION AND DIRECTION REGARDING USE OF MEASURE “C” RE-AUTHORIZATION FUNDS FOR PROJECTS NOT SPECIFIED DURING THE PLANNING AND APPROVAL OF THE BALLOT MEASURE - COUNCILMEMBER CALHOUN

Councilmember Calhoun reviewed the issue, all as contained in his report to Council as submitted; commented at length, specifically on the “Fulton Street Car” proposal and the City’s request to COG for funding stating there had been no Council discussion or request for input and expressed his concern; and questioned how the process worked and if the process was being followed correctly, with Barbara Goodwin, COG Executive Director, responding to questions/comments/concerns and clarifying issues at length **(3 - 0)**. Councilmember Calhoun expressed additional concern with the lack of communication, stated all the infrastructure plans had not resulted in anything, added he had no idea what was planned for downtown and he was prepared to bring something to Council to “kill the trolley” unless he gets better clarification on what is going on, and stated the entire process was out of control and he was very unhappy.

Councilmember Duncan stated he also did not support moving forward with the trolley at this time, things had to be done right for downtown, he was very disappointed with the City’s request for a huge amount of money without first conducting a study on what is needed for the entire downtown area or knowing what the implications/alternatives were, staff had the right to ask COG for money and he had the right to say “no thank you, you’re wasting taxpayer money”, he was not supportive of the request to COG and asked COG to delay and get back on track with the proper study, and spoke additionally to the street car issue and the scarcity of transportation dollars.

Councilmember Dages stated he also did not support the street car and did not understand why the Administration did not bring the funding request to Council first, referenced Measure C Citizen Oversight Committee meeting minutes and spoke to comments made on the street car project, and stated the agenda title allowed for action to be taken this date and with the assistance of City Attorney Sanchez made a motion to direct staff to draft and return next week with a policy resolution to immediately cease expenditure of Measure C funds on the street car proposal, which motion was seconded by Councilmember Calhoun.

Lengthy discussion continued. Upon the request of Acting President Xiong, City Manager Souza spoke to comments made, advised of staff's position, and clarified the request for funding for the study was so staff could come back to Council upon completion of the study with the project's financial specifics. Acting President Xiong presented questions and comments relative to Phase 2 funding, funding commitments, study cost, funding sources and when direction was given, if the street car proposal went through the Citizen Committee and through an in-depth process, the project seeming to fit in the scope of Measure C, and support for staff's request as it was for a study only and the proposal would come back to Council. Councilmember Westerlund stated COG was in the middle of this and elaborated on the little communication between the Council and Mayor, spoke to the background of the street car issue and clarified only the vision for downtown was presented, expressed his frustration with staff asking for study funds without Council approval and making presentations but not asking Council "should we do this?", and stated leadership was sharing a vision and concurred that this was not the way to go or the right way to do something. Councilmember Dages concurred with Councilmember Westerlund and apologized for his earlier "Street Car Named Autry" comment stating it was inappropriate. City Attorney Sanchez responded to questions of President Perea and clarified issues relative to the motion and how the resolution would affect the Administration's right/ability to make policy recommendations/present ideas to Council for consideration. President Perea stated to legislatively micro-manage was not the way to go, it would be a disservice to the community to not discuss the merits of the street car project, this was the wrong direction for downtown, and Council should allow the Administration to move forward and "have their day in court". Ms. Goodwin and Mr. Rudd responded to questions and comments of Councilmembers Sterling and Duncan relative to the \$60 million for the street car project, what the purpose was of the trip to Portland, proposed funding source for the project, what the concept was for the cost to come from Public Transportation Infrastructure Study (PTIS) funds, if any other city could have brought a project forth and asked for consistency within the PTIS (4 - 0), a policy resolution being premature and need for further discussion, need for COG to be structured to accommodate a city with a Strong Mayor form of government, number of people anticipated to be living downtown in 10 to 15 years, where residential areas will be, and where the city's business centers will be located. Councilmember Duncan stated with due respect to staff the resolution needed to be moved forward because where downtown and the people will be in the future were just guesses and those issues needed to be known before a fixed line rail system is fast-tracked, added alternatives needed to be looked at as the city's public transportation system was inadequate and needed to be significantly improved, and elaborated further. Councilmember Westerlund stated this was not micro-management but a request for a concept so a vote could be taken on it, and added maybe Council needed to rethink how to do its job differently and be involved in setting the agenda of doing the city's business and explained.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, staff directed to draft and return next week with a policy resolution to immediately cease expenditure of Measure C funds on the street car proposal, by the following vote:

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

Mr. Sanchez clarified the action just taken was a process step and not subject to the Mayor's veto but next week's resolution would be.

(9:30 A.M.) GENERAL ADMINISTRATION:

(A) APPROVE AN EXCLUSIVE NEGOTIATION AGREEMENT (ENA) WITH ROEM DEVELOPMENT CORPORATION TO PROVIDE FOR A 120-DAY NEGOTIATION PERIOD FOR DEVELOPMENT OF A DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) FOR THE CITY-SPONSORED TRANSIT VILLAGE PROJECT ON KINGS CANYON ROAD

HCD Manager Sigala reviewed the issue, all as contained in the staff report as submitted, requested approval, noted this had been a city-wide, multi-departmental process and acknowledged and commended all those involved, and stated staff was very comfortable with the selection of ROEM Development to move forward on this project which he called a very exciting and exemplary project.

ROEM Director of Finance Marcus Griffin and Project Manger Tran spoke to the background of their company, to the development team, and to the vision for the project, and gave an in-depth PowerPoint presentation on the project.

Councilmember Dages commended staff and ROEM for all their work, and spoke in support of the project and made a motion to approve staff's recommendation.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, an ENA with ROEM Development Corporation to provide for a 120-day negotiation period for development of a DDA hereby approved, and the Planning & Development Director authorized to execute the ENA, subject to approval by the City Attorney, by the following vote:

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

(‘B’) AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO ENTER INTO A \$175,000 PROFESSIONAL SERVICES AGREEMENT WITH VRPA TECHNOLOGIES, INC., TO PROVIDE TRANSPORTATION PLANNING SERVICES FOR THE METRO RURAL LOOP CORRIDOR PRESERVATION FEASIBILITY STUDY

Assistant Planning & Development Director Bergthold reviewed the issue, all as contained in the staff report as submitted.

Councilmember Calhoun stated this was a very exciting concept and he had no problem at all with VRPA but his concern had to do with single-source contracts and explained, and questioned how one firm who keeps getting contracts due to projects going on for years and years and the firm having all the information can be prevented and if staff cared about competitiveness, with Mr. Bergthold responding and clarifying issues.

On motion of Councilmember Calhoun, seconded by Councilmember Westerlund, duly carried, RESOLVED, the Planning & Development Director authorized to enter into a professional services contract not to exceed \$175,000 with VRPA Technologies Inc., by the following vote:

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

(10:00 A.M.) HEARING ON CFD NO. 11, ANNEXATION NO. 22, TRACT NO. 5511

- 1. RESOLUTION NO. 2007-334 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF TAXES**
- 2. RESOLUTION NO. 2007-335 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 3. RESOLUTION NO. 2007-336 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-78 - ORDINANCE NO. 2007-76 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2007-08 AND FUTURE TAX YEARS**

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

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

On motion of Councilmember Calhoun, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution Nos. 2007-334, 2007-335 and 2007-336 hereby adopted, and the above entitled Bill No. B-78 adopted as Ordinance No. 2007-76, by the following vote:

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

(10:15 A.M.) CONTINUED HEARING TO CONSIDER AN APPEAL OF THE DIRECTOR'S ACTION REGARDING CUP APPLICATION NO. C-06-229 AND ENVIRONMENTAL FINDING FOR E.A. NO. C-06-229, FILED BY OMNIPOINT COMMUNICATIONS, INC., PROPERTY LOCATED ON THE NORTHEAST CORNER OF N. CEDAR AND E. SHIELDS AVENUES (4205 E. SHIELDS), REQUESTING CONSTRUCTION AND OPERATION OF A WIRELESS COMMUNICATIONS FACILITY

1. RESOLUTION - APPROVING CUP APPLICATION NO. C-06-229 WITH CONDITIONS AND E.A. NO. C-06-229

2. CONSIDER AND ADOPT THE FINDING OF CATEGORICAL EXEMPTION UNDER CEQA GUIDELINES AS IN-FILL DEVELOPMENT

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

Planner Fabino gave an in-depth PowerPoint presentation on the issue and recommended approval, all as contained in the staff report as submitted.

Speaking in opposition to the location of the cell tower and/or the tower were: Mark Topoozian, 5731 N. Fresno Street, representing his father, Harry Topoozian, owner of the Cedar/Shields northeast shopping center (excluding the gas station) **(5 - 0)**; Paul (last name inaudible), lessee at 3320 N. Cedar; A.J. (last name inaudible), tenant; and Luis Jovell, 3312 E. Balch. Councilmember Calhoun left the meeting at 12:01 p.m.

Nate Holderbine of Braun Communications, representing Omnipoint Communications and T-Mobile, spoke to the appeal, to his meeting with the appellant, and to concerns expressed by the speakers.

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

Councilmember Westerlund thanked staff and everyone for their input, stated he appealed this project as he wanted Council to make a decision, added the appellants made some strong arguments in terms of vision/eyesore and spoke to the renaissance of the area, stated this would be a prime area for an underground utility district in the future and this project would be contrary to under-grounding utilities, and made a motion to approve the appeal and deny the CUP. Councilmember Sterling seconded the motion for the same reasons verbalized by Councilmember Westerlund and added she has had to face this issue many times in her district. Councilmember Dages also spoke in support of the motion and to a problem with a tower in front of a business in his district, and added these older neighborhoods were not designed for cell towers and created a problem. Councilmember Westerlund clarified he also would not support moving the tower behind the shopping center nor in front of the church. Mr. Holderbine, Mr. Fabino and City Attorney Sanchez responded to questions of Acting President Xiong and Councilmember Duncan relative to noticing/outreach to businesses, if the City had the responsibility to provide noticing, and if the process of approving/not approving cell towers fell under unique legal issues.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the appeal upheld and CUP Application No. C-06-229 hereby denied, by the following vote:

Ayes : Dages, Sterling, Westerlund, Xiong, Perea
Noes : Duncan
Absent : Calhoun

LUNCH RECESS - 12:14 P.M. - 2:00 P.M.

(9:15 A.M. 'C') DIRECTION AND CONSIDERATION OF ADOPTING A POLICY REQUIRING PRIOR COUNCIL APPROVAL OF SINGLE EXPENDITURES IN EXCESS OF \$50,000 FOR(1) A PURPOSE OTHER THAN THAT ORIGINALLY BUDGETED, OR (2) THOSE FUND ACCOUNTS THAT ARE NOT DESIGNATED FOR SPECIFIC PROJECTS - COUNCILMEMBER DAGES

Councilmember Dages stated this was not an attack on the Mayor but was an issue of process of a procedure, noted if any department wants to spend more than \$50,000 the request has to come to Council for approval, spoke to the Poverello issue two weeks ago, acknowledged this was a separate issue but spoke to his concern with the wooden sheds for the homeless stating they were in violation of the code, and stated this issue would put everyone on the same level, added no one elected official should have the ability to spend \$600,000 without Council approval, and made a motion to approve as outlined above, which motion was seconded by Councilmember Sterling. (*Note - City Attorney Sanchez subsequently clarified staff would draft the policy and bring it back to Council for consideration).

City Manager Souza stated he felt what was being requested was already in place, clarified issues relative to the Poverello funding source request and subsequent actions, and stated although he appreciated what was being sought here he believed the check and balance of the \$50,000 threshold already existed.

Lengthy discussion ensued. Councilmember Sterling noted there were existing housing plans out there for the homeless and stated the \$600,000 could have gone to start renovating an actual facility, and added she did not support the sheds two weeks ago and would not support a way to approve them now. Councilmember Duncan clarified the issue before Council had nothing to do with the joint meeting, the homeless, or the Poverello issue adding that matter was followed properly with the administration taking their discretion to use money already budgeted to fill that need, stressed at issue was establishment of a policy he felt would be very detrimental to the City moving forward and added if approved Council would end up with numerous items on the agenda they probably would want nothing to do with and explained, and stated if the motivation for this item was funding for homeless facilities then something should be placed on the agenda to stop that funding and not establish a policy that is far-reaching beyond that one issue. Councilmember Dages clarified this was strictly a policy issue, the homeless issue was used as an example and created the situation for him to follow up on, the Mayor and administration did what they did and he could not change that, and this would be for the future. Councilmember Calhoun spoke to the issue and presented questions at length relative need to leave the process as is if these transfers are the exception, need to support the motion and consider the policy if the process is used to get around the policy role of Council, if the policy would come back to Council for consideration if the motion passes, if the City Attorney understood the thrust of the motion, and support for the motion and looking closely at what staff brings back, with Mr. Sanchez and Mr. Souza responding throughout. Councilmember Westerlund stated if Council attempts to do this it will take out the latitude that the budget division needs to do its work with and needs to move dollars around within funds, concurred Council would end up being inundated with items that are completely routine, clarified \$1 million was approved in the budget for housing for the homeless and stated unless specific amounts are designated for specific items flexibility was needed within the system, and stated he understood the impulse but he could not support the motion at this point. Acting President Xiong presented questions relative to whether staff's report would include the downside/impacts/implications of the policy, if Council approval would be required on specific Council district requests, and if the current \$50,000 limitation was used more with other local entities, with Mr. Sanchez responding. Acting President Xiong stated he was unclear with how the policy would work out and was concerned with the overall impact. Mr. Souza added the Fresno Bee article statement that the Mayor's administration had about \$600,000 budgeted that it could spend without Council's OK was not a completely accurate statement and explained **(6 - 0)**.

A motion of Councilmember Dages, seconded by Councilmember Sterling, to direct staff to return with a policy requiring Council approval of single expenditures in excess of \$50,000 for (1) a purpose other than that originally budgeted, or (2) those fund accounts that are not designated for specific projects failed, by the following vote:

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

ACM Rudd announced the birth of his grandson, Trace, and was congratulated by Council.

(10:45 A.M.) HEARING ON PROPOSED BILL RELATING TO ALTERNATIVE BUILDING STANDARDS AND ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT - ALTERNATIVE BUILDING STANDARDS TO CHANGE CEQA FINDINGS

1. BILL NO. B-79 - ADDING DIVISION 5 TO ARTICLE 1 OF CHAPTER 11 OF THE FRESNO MUNICIPAL CODE RELATING TO ALTERNATIVE BUILDING STANDARDS FOR JOINT LIVING AND WORK QUARTERS

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

Planner Fabino reviewed the issue, all as contained in the staff report as submitted.

Architect Chris Johnson, 942 E. Olive, AIA board member, stated he just became aware of this item two weeks ago and requested in the future that the design community be included in the process of changing building and planning codes at the start.

Councilmember Calhoun stated this had been a long process and thanked all involved; shared some facts that were included in the request presented to Council last year relative to inventory/vacant space/what other cities have done; and stated he valued citizen's opinions and questioned if Mr. Johnson had a concern or was supportive, with Mr. Johnson stating it would be difficult to give an opinion at this point out of respect for the process/amount of time/work expended on the item, and added stated he did see some good things but impacts would have to wait to be seen.

Mr. Fabino spoke to the process undertaken, to staff's efforts to solicit comments, and to their noticing through the CEQA process, whereupon Councilmember Calhoun stated although he pushed hard to get this item here he would feel bad if it did not get outside input because of that. Planning & Development Director Yovino added the ordinance was intended to address a number of concerns that have been brought up by the architectural and engineering community over many years about the need for more flexibility with older buildings, and added he also would not want to bring something forth that the architectural/engineering community wanted to review and he had no problem with delaying this two weeks. Councilmember Calhoun stated he wanted to make sure everyone was included in the process and had no problem with postponing the matter for up to one month. Because of the timing process, City Manager Souza requested the ordinance be introduced this date and be brought back in 30 days for adoption adding if there are substantive changes at that time it would then have to be re-introduced but time would not be lost if no changes are made. Councilmember Westerlund commented on the issue, questioned if this was modeled the city of Los Angeles, stated the wheel did not have to be reinvented and explained, and concurred the only way to see how this plays out is to see some things built, with Mr. Fabino responding to questions.

On motion of President Perea, seconded by Councilmember Calhoun, duly carried, RESOLVED, (1) the above entitled Bill No. B-79 introduced before the City Council and laid over up to 30 days, and (2) the environmental finding for Environmental Assessment - Alternative Building Standards, dated July 11, 2007, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, by the following vote:

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

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The City Council recessed at 2:55 p.m. and convened in joint session with the Redevelopment Agency.

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

APPROVE AGENCY MINUTES OF OCTOBER 2, 2007

By a unanimous vote, the Agency minutes of October 2, 2007, were approved as submitted.

(“A”) JOINT RESOLUTION NO. 2007-337/1710 - APPROVING MATERIAL TERMS OF A DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) WITH LREG PARTNERS, L.P. (DEVELOPER) TO DEVELOP A MIXED-USE PROJECT ON THE PARKING LOT EAST OF THE SELLAND ARENA; AUTHORIZING CITY AND AGENCY OFFICIALS TO COMPLETE AN AGREEMENT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE AGREEMENT AND RELATED DOCUMENTS, AND TAKING ALL NECESSARY ACTION RELATED TO THE TRANSACTION

City Manager Souza reviewed the issue, all as contained in the staff report as submitted.

Developers Brian Glover and Chris Cummings, 1800 Tulare Street, advised they were available to answer any questions.

Executive Director Murphey spoke briefly to the terms and project, and a motion and second was made to approve staff's recommendation. Upon question of Councilmember Duncan, Mr. Souza stated there would be financial assistance and explained. Councilmember Duncan, President Perea and Councilmember Westerlund spoke briefly to the project, expressed their support and commended the developers for their investment, stated this project and the vision fit into the vision for downtown, and stated they looked forward to ground-breaking.

Councilmember Dages stated he had a problem with the parking and presented questions/comments /concerns at length relative to the 300 parking spaces eliminated for the \$26 million parking garage with 1,500 spaces, the plan to now eliminate 900 spaces and create another 89 for the apartment complex, why \$26 million was spent when 1,500 spaces were not needed, land value, agreement that the land needs to be utilized, need for adequate parking for the taxpayer, concern with patrons getting parking tickets, and concern with the loss of parking and business at the convention center complex, with Traffic Engineer Jones, Mr. Souza, Mr. Glover and Mr. Cummings responding and clarifying issues throughout. Councilmember Westerlund spoke additionally to the issue and Chair Sterling commended everyone involved **(7 - 0)**.

On motion of Councilmember Duncan, seconded by Acting President Xiong, duly carried, RESOLVED, the above entitled Joint Resolution No. 2007-337/1710 hereby adopted, by the following vote:

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

(“B”) RESOLUTION NO. 2007-338 - APPROVING THE MATERIAL TERMS OF A GROUND LEASE BETWEEN THE CITY AND LREG PARTNERS, L.P. (DEVELOPER) TO DEVELOP A MIXED-USE PROJECT ON THE PARKING LOT EAST OF THE SELLAND ARENA; AUTHORIZING CITY OFFICIALS TO COMPLETE THE LEASE; AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE LEASE AND RELATED DOCUMENTS, AND TAKING ALL NECESSARY ACTION RELATED TO THE TRANSACTION

President Perea announced the item and upon call no one wished to be heard.

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2007-338 hereby adopted, by the following vote:

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

The joint meeting was adjourned at 3:21 p.m. and the City Council convened in regular session.

(2:00 P.M.) CONTESTED CONSENT CALENDAR ITEMS:

(1-J) APPROVE A CONTACT WITH ALL COMMERCIAL LANDSCAPE SERVICES IN THE AMOUNT OF \$96,933.62 TO PROVIDE LANDSCAPE MAINTENANCE AT GRANTLAND AND BULLARD AVENUES FOR CFD NO. 2, TRACT NOS. 5247, 5396, 5457 AND 5395

Councilmember Calhoun noted this will be the first time a CFD will be fully paid for and spoke to the history of CFDs and presented questions and comments relative to how staff determined the amount of revenue that would be coming in, how the contractor’s bid amount was arrived at, if the contractor’s bid was a conservative estimate or as high as it could get, if this model will be used for new CFDs or if city crews/LCC will be used, it being unknown that this was a “pilot” project for District 2, and request that staff inform Council members in the future what they are doing in their districts, with Public Works Director Weimiller responding/explaining issues throughout.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled contract with All Commercial Landscape Services hereby awarded as recommended, by the following vote:

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

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

(‘A’) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: RUNNING HORSE, LLC (UNITED STATED BANKRUPTCY COURT)

(‘B’) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAME: RUNNING HORSE, LLC (SEVERAL LIEN CLAIMANTS)

(‘C’) CONFERENCE WITH REAL PROPERTY NEGOTIATOR UNDER NEGOTIATION: PURCHASE OF SUBJECT PROPERTY PROPERTIES:

1. STATE OF CALIFORNIA, 2855 W. WHITES BRIDGE
2. COMP. ALCOHOL PROGRAM, 2445 W. WHITES BRIDGE
3. FRESNO IRRIGATION DISTRICT
4. HAIG ATAMIAN, 2343 W. KEARNEY
5. ANTHONY MELLO, 2820 W. CALIFORNIA
6. RAY SCOTT, 2105 W. CALIFORNIA
7. HENH HO, 2394 S. HUGHES
8. SHIGEO HAYASHI, 1348 S. MARKS

The City Council met in closed session in Room 2125 at the hour of 3:37 p.m. to consider the above matters and convened in regular open session at 4:37 p.m. No announcements were made.

(2:30 P.M.) COUNCIL DETERMINATION OF CONSISTENCY WITH THE FRESNO YOSEMITE INTERNATIONAL AIRPORT ENVIRONS PLAN AS RELATED TO RESIDENTIAL DEVELOPMENT LOCATED WITHIN THE ADOPTED 65 dBA (DECIBELS) COMMUNITY NOISE EQUIVALENT LEVEL (CNEL), PROPERTY LOCATED ON THE SOUTH SIDE OF E. HOLLAND BETWEEN N. CHESTNUT AND N. SIERRA VISTA AVENUE ALIGNMENT

Planner Rodriguez advised some issues came up that needed to be resolved and requested the item be continued to November 27th.

On motion of President Perea, seconded by Acting President Xiong, duly carried, RESOLVED, the above entitled 2:30 p.m item continued to November 27, 2007, at 10:15 a.m., by the following vote:

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

(2:35 P.M.) HEARING ON REZONE APPLICATION NO. R-06-57 AND ENVIRONMENTAL FINDINGS FILED BY YAMABE AND HORN ENGINEERING, INC., ON BEHALF OF MCKINLEY VENTURE IV, PROPERTY LOCATED ON THE NORTH SIDE OF W. OLIVE BETWEEN N. BRAWLEY AND N. BLYTHE AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-06-7/T-5768/C-06-20, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
2. **BILL NO. B-80 - ORDINANCE NO. 2007-77 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-R (COUNTY) TO R-1/UGM**

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Rodriguez advised the staff report as submitted was complete and there was no new information to add.

Applicant representative Dustin Hammell, 2972 Larkin, Clovis, CA, advised they accepted all the conditions and advised of the block walls that would be constructed.

Carlos Rodriguez, 4205 W. McKinley, expressed concern with existing and future traffic congestion at McKinley and Brawley and questioned what the plans were for signalization, with Traffic Manager Jones advising the intersection did not meet signal warrants at this time and that impact fees were being paid and a signal was planned for that intersection in the future.

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

Mr. Jones responded to comments and questions of Councilmember Sterling relative to median island improvements on McKinley, existing congestion at the McKinley/Brawley intersection, if the developer was responsible to put in traffic signals, and if the developer was paying into the traffic mitigation impact program. Councilmember Sterling stated this was a good project and advised she would keep an eye on the McKinley/Brawley traffic issue. Mr. Hammell responded to questions of Councilmember Westerlund relative to the large map size and if the developer was intending to develop or put it back on the market, if this was contingent upon annexation, and if sprinklers would be included in all homes.

On motion of Councilmember Sterling, seconded by President Perea, duly carried, RESOLVED, the above entitled E.A. hereby adopted, and the above entitled Bill No. B-80 adopted as Ordinance No. 2007-77, by the following vote:

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

(2:40 P.M.) HEARING ON REZONE APPLICATION NO. R-07-44 AND ENVIRONMENTAL FINDINGS, FILED BY THE CITY OF FRESNO, PROPERTY LOCATED ON THE SOUTHWEST CORNER OF S. WILLOW AND E. BYRD AVENUES
1. CONSIDER AND ADOPT E.A. NO. R-07-44, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-81 - ORDINANCE NO. 2007-78 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/UGM

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Salinas advised the staff report as submitted was complete and there was no new information to add.

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

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled E.A. hereby adopted and the above entitled Bill No. B-81 adopted as Ordinance No. 2007-78, by the following vote:

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

(2:45 P.M.) DISCUSSION OF COUNCIL APPOINTMENT FOR THE MAJOR STREET FEES APPEALS BOARD

Public Works Director Weimiller introduced the item along with the item and resolutions in Council's packet relating to the Appeals Board rules and regulations and the implementing policies, requested Council consider their appointment and advised because of the agenda title staff would bring back the resolutions next week, and spoke to further to the Appeals Board issue and board make-up. Upon question of President Perea Mr. Weimiller stated other appointments were still needed besides the Council appointment. Councilmember Westerlund requested language be added to the rules relative to (1) Conflict of Interest and requirement for disclosure of principals, and (2) Letter of Agency and explained, and made a motion to approve as amended. City Attorney Sanchez clarified there was no agenda item for the rules as mentioned by Mr. Weimiller so no action could be taken, and further clarified the rules would be brought back with the Council appointment item next week. President Perea stated he wanted to get moving on the appointment on October 23rd but no later than October 30th and requested Council members provide their recommended names to him. There was no further discussion.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 4:56 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

Approved on the ____ 23rd ____ day of ____ October _____, 2007.

_____/s/_____
Henry T. Perea, Council President

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