

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
	Paul Caprioglio	Acting Council President
	Mike Dages	Councilmember
	Henry Perea	Councilmember
	Blong Xiong	Councilmember
	Cynthia Sterling	Council President

Andy Souza, City Manager
Bruce Rudd, Assistant City Manager
Jim Sanchez, City Attorney
Becky Klisch, City Clerk
Cindy Bruer, Deputy City Clerk

Councilmember Dages gave the invocation and Council President Sterling led the Pledge of Allegiance.

PROCLAMATION OF “NATIONAL MENTORING MONTH” – CITY MANAGER’S OFFICE AND THE POLICE DEPARTMENT

Read and presented. Present were individuals representing M.A.G.E.C., Big Brothers, Big Sisters, Boys and Girls Club, P.A.L. and Fresno Unified School District.

PRESENTATION OF “MAKE A PROMOTION A COMMOTION” – PERSONNEL SERVICES DEPARTMENT

Employees being honored were: Tamara Bogosian, Tina Griffin and Mary Reimer of the City Attorney’s Office, Margaret Bell and Cynthia Rayas of the Finance Department, Lorinda Salvador of the Fire Department, Gregory Barfield of the Planning and Development Department, Luzana Coria, Tami Duneheew and Matthew Shafer of the Police Department, Lee Alcalá, Pedro Chavez, Chad Colby, Todd Eischen, Jerry Flores, Tyler Kamalani, Kevin Kopinski, Bob Martinez and Ryan Ward of the Department of Public Utilities, David Renovato, Jr. of the Public Works Department and Joseph Anderson of the Transportation Department. A reception for the recipients followed the ceremony.

RECESS – 8:58 A.M. – 9:14 A.M.

APPROVE CITY COUNCIL MINUTES OF JANUARY 13, 2009

On motion of Councilmember Perea, seconded by Acting President Caprioglio, duly carried, RESOLVED, the minutes of January 13, 2009, approved as submitted.

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COUNCILMEMBER REPORTS AND COMMENTS

Councilmember Xiong: (1) thanked and commended City staff and all involved for doing a tremendous job with the Extreme Makeover, (2) stated he attended a mentoring conference at Hoover High School, (3) announced the Martin Luther King March was a success, (4) attended the opening of the Census Office and encouraged all citizens to participate in the census, (5) congratulated individuals who received Eagle Awards at the awards dinner with Stone Soup and apologized for not being able to participate, (6) stated the P.A.L. Pride 2009 Kickoff at Kastner Elementary School was a success; and (7) congratulated the City of Fresno Recycling Team for being #1 in recycling.

Councilmember Perea: (1) stated in response to Assembly Bill AB 1234 to disclosed travel expenses, and stated he traveled to Sacramento on January 5, 2009, to meet with the new Chairman of the Latino Legislative Caucus to discuss the State budget and local cities and redevelopment agencies, and (2) advised he traveled to San Francisco on January 9, 2009, and met with other caucuses throughout the League of California Cities

Councilmember Brand: announced this Thursday, January 29, 2009, at 11:00 a.m. the SPCA was opening a new satellite adoption facility at Riverpark Shopping Center.

Councilmember Dages: (1) questioned whether it was possible to use the underground parking level 3 could be opened on the weekends and requested information (2) questioned the status of the Zoo and Environmental Impact Report, (3) expressed concern with individuals standing on street corners with signs and requested information as to whether an ordinance could be drafted with City Attorney Sanchez stating he would follow up with a memo, (4) questioned whether and ordinance could be drafted for Planning and Development Department to notify residents residing within 1,000 feet of a proposed development project rather than 300 feet.

Councilmember Borgeas: announced several appointments he had made to the District 2 Implementation Committee and the Police Chief's Advisory Commission and commended the members for their hard work.

Acting President Caprioglio: attended a new Mayors and Councilmembers League of California Cities Academy last week in Sacramento, adding he received a resource guide and offered the guide to any interested Councilmember.

President Sterling: requested information on all the Boards and Commissions each Councilmember was a member of and their attendance record, and an updated list of the Boards and Commissions.

APPROVE AGENDA:

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

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

ADOPT CONSENT CALENDAR:

Councilmember Perea commended staff for their hard work with the Martin Ray Reilly Park project located in District 7 – **(Item 1F)**.

(1-A) * AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE THE AGREEMENT AND REQUIRED PROGRAM DOCUMENTS WITH THE OFFICE OF EMERGENCY SERVICES AND THE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE MARJAREE MASON CENTER AND THE COUNTY OF FRESNO FOR THE CHILDREN EXPOSED TO DOMESTIC VIOLENCE (CEDV) SPECIALIZED RESPONSE PROGRAM – POLICE DEPT. 1. *RESOLUTION NO. 16 - 64TH AMENDMENT TO AAR NO. 2008-162 APPROPRIATING \$95,000 FOR THE CHILDREN EXPOSED TO DOMESTIC VIOLENCE SPECIALIZED RESPONSE PROGRAM

(1-B) * APPROVE AGREEMENT WITH AQUATIC DESIGN GROUP IN THE AMOUNT OF \$61,500.00 WITH A CONTINGENCY AMOUNT NOT TO EXCEED \$6,800.00 TO PREPARE PLANS AND GENERAL CONSTRUCTION CONTRACT DOCUMENTS FOR THE DESIGN OF AN INTERACTIVE WATER FEATURE AND DECORATIVE FOUNTAIN DESIGN WITHIN THE CITY OF FRESNO'S EATON PLAZA AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR HIS DESIGNEE TO SIGN THE AGREEMENT ON THE CITY'S BEHALF

(1-C) ANNUAL REVIEW AND ACCEPTANCE OF THE FISCAL YEAR 2008 IMPACT FEE ANNUAL REPORT AS REQUIRED BY CALIFORNIA GOVERNMENT CODE – PUBLIC WORKS DEPARTMENT

(1-D) DETERMINE MANUEL ROS., A QUANTA SERVICES COMPANY, IS A NONRESPONSIVE BIDDER AND REJECT ALL BIDS DUE TO LACK OF FUNDING IF THE CITY WAS TO AWARD TO THE SECOND LOWEST BIDDER TO RICHARD A HEAPS ELECTRICAL CONTRACTOR, INC., IN THE AMOUNT OF \$665,845 FOR DOWNTOWN ACTUATES SIGNALS

(1-E)*RESOLUTION NO. 2009-17 – 65TH AMENDMENT TO AAR NO. 2008-162 APPROPRIATING \$1,308,000 FOR REIMBURSEMENT OF DEVELOPER FEES IN THE COPPER RIVER RANCH SUBDIVISION AND ADOPTING A POLICY TO PROVIDE AN EXEMPTION FROM PAYMENT OF CERTAIN IMPACT FEES WHEN SAID FEES HAVE BEEN PAID PRIOR TO THE EXPIRATION OF PROTECTION FOR THE FINAL MAP AND WHEN THE BUILDING PERMIT HAS BEEN PULLED PRIOR TO DECEMBER 31, 2009

(1-F) *APPROVE AND AUTHORIZE THE ACQUISITION OF 11,600+/- SQUARE FEET OR 0.266 ACRES OF PROPERTY OWNED BY MARTIN AND LUCILLE REILLY LOCATED ON CHESTNUT AVENUE AND SOUTH OF FREEWAY 180; AUTHORIZE THE PUBLIC WORKS DIRECTOR OR HIS DESIGNEE TO EXECUTE A DEED FOR THE PROPERTY OWNED BY MARTIN AND LUCILLE REILLY, ACCEPT THE .44 ACRES LAND DONATION AND COMPLETE ALL NECESSARY ACQUISITION DOCUMENTS THE REILLY PROPERTY

1. RESOLUTION NO. 2009-18 - NAMING THE CHESTNUT AND 180 PROPERTY “MARTIN RAY REILLY PARK”

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

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

(9:00 A.M.) PUBLIC COMMENT PERIOD

(‘A’) SCHEDULED COMMUNICATIONS:

1. APPEARANCE BY KENNETH FICK TO DISCUSS AN INCIDENT WITH THE POLICE DEPARTMENT

Appearance made.

2. APPEARANCE BY RORY EKERN TO DISCUSS THE CITY OF FRESNO S.M.A.R.T PROGRAM AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT

Not present when called.

(‘B’) UNSCHEDULED COMMUNICATIONS:

Fred Fuchs, 324 N. Fordham Avenue, stated in 2006, he was diagnosed with hepatic carcinoma, adding prior to using therapeutic cannabis, he was consuming more than 30 pills per day to combat the symptoms of the disease, noting after he later received a prescription for therapeutic cannabis he was currently down to six pills a day, expressing concern with remarks made during a prior Council meeting and requested an apology. Councilmember Brand apologized for any comments he may have made relating to people who were serious medical marijuana users.

(2-0) Sherry Smith, 4724 W. Swift, spoke of the blight occurring at Fire Station No. 16 located in the Ashlan/Cornelia corridor since it became vacant, adding a group had been organized to clean up the area.

Paul Hurlbut, 4701 W. Swift, expressed concern with the performance of the Fire Department, and spoke of proposed modifications.

Rick Morse, 210 E. Olive, spoke in support of medical marijuana.

Brian Calhoun, 289 W. Audobon, stated on April 20, 2001, the City had an Opportunities and Solutions Summit to discuss financial challenges, adding it was very useful, and recommended Council consider scheduling another summit in the near future.

Richard Smith, 4724, W. Swift, thanked City staff for replacing the trees in his neighborhood.

Charlie Waters, 4962 N. 6th, provided an update on the Veterans' Home, stating the Home would provide a 300-bed facility, adding the Veterans would revisit Sacramento to request financing to complete the Veterans' home project, stressing if the State of California did not adopt a budget, the completion of the Veterans' Home would not come to fruition.

(9:15 A.M. 'A') PROVIDE A LETTER FROM THE FRESNO CITY COUNCIL IN SUPPORT OF THE FRESNO AREA HISPANIC FOUNDATION'S APPLICATION TO THE ECONOMIC DEVELOPMENT ADMINISTRATION OF U.S. DEPARTMENT OF COMMERCE FOR FUNDING FOR BUSINESS INCUBATOR LOCATED AT 1444 FULTON STREET – COUNCIL PRESIDENT STERLING

Dora Westerlund, President of the Fresno Area Hispanic Foundation, requested the City Council provide a resolution in support of the above item and gave a brief review of the project. President Sterling advised the City would provide a Minute Resolution and a letter of support and requested City Clerk Klisch explain the process of a Minute Resolution.

A motion was made and acted upon after brief discussion. Councilmember Borgeas spoke in support, stressing the business incubator would provide additional jobs and how Economic Development was a vital aspect to the City.

On motion of Council President Sterling, seconded by Acting President Caprioglio, duly carried, RESOLVED, staff directed to prepare a Minute Resolution of the discussion pertaining to the City Council's support of the Fresno Area Hispanic Foundation's application to the Economic Development Administration of U.S. Department of Commerce for funding for the business incubator located at 1444 Fulton Street, and to provide a letter of support, by the following vote:

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

(9:15 A.M. 'B') CONSIDERATION OF THE MEASURE C TIER 1 URBAN REGIONAL PROGRAM – COUNCILMEMBER XIONG

- 1. RESOLUTION NO. 2009-19** – SUPPORTING THE SHORT TERM REGIONAL TRANSPORTATION PROGRAM LISTING OF PROJECTS AND THE SHORT TERM REGIONAL TRANSPORTATION PROGRAM HANDBOOK
- 2. RESOLUTION NO. 2009-20** – FORMALLY REQUESTING THE COUNCIL OF FRESNO COUNTY GOVERNMENTS (COG) AND THE FRESNO COUNTY TRANSPORTATION AUTHORITY (FCTA) TO EVALUATE AND CONSIDER ALTERNATIVES TO "PAY-AS-YOU-GO" FINANCING INCLUDING THE USE OF BONDING TO ACCELERATE THE DELIVERY OF THE MEASURE C MID-TERM AND LONG-TERM REGIONAL TRANSPORTATION PROGRAM
- 3. RESOLUTION NO. 2009-21** - FORMALLY REQUESTING THAT THE VETERANS BOULEVARD/SR-99 INTERCHANGE PROJECT BE DELIVERED IN ADVANCE OF OR CONCURRENTLY WITH SR-180/SR-168/SR-41 BRAIDED RAMPS PROJECT"

Assistant City Manager Rudd reviewed the issue as contained in his report to Council, stating the focus was on the urban part of the regional program, adding the fee was very important, adding staff would return to Council with a proposed ordinance outlining the collection of the fee, and advised that staff was working with Counsel of Governments (COG) to make a presentation on the fee in the near future to better understand its purpose. Mr. Rudd continued his presentation, stressing the fee must be adopted by all the

cities and the County of Fresno by June, 2009, reviewed the key stakeholders, the structure, how the projects would be funded and the prioritization of projects. Mr. Rudd gave an extensive review of the “pay as you go” approach; the Braided Ramps Project and the Veteran’s Boulevard with each project estimated at a cost of \$100 million; the challenges for both projects; the concerns with the “pay as you go approach”; the current economy; reviewed the draft long term project areas, noting the Braided Ramps Project was given a higher priority, adding CalTrans was concerned with the work on 180 south of Sanger being suspended if the project was delayed beyond the year 2015. Mr. Rudd advised the concern was if construction continued on the freeway further to the east, the increase in traffic volume would exasperate the situation at the 168, Freeway 41 and 180 interchange, noting if the “pay as you go” approach was used to construct the Braided Ramp it would push the Veterans’ Blvd. project to the year 2020. Mr. Rudd stressed the “pay as you go” approach pitted the two projects against each other and staff recommended an alternative financing strategy should be developed and presented to the Fresno County Transportation Authority (FCTA) Board and elaborated.

Charlie Waters, 4962 N. 6th, stressed the importance of completing the Veterans’ Blvd, adding it would be ideal to see veterans march in the Veterans’ Parade in the near future.

Also speaking to the issue were: Feleena Sutton, 6583 W Dogwood Lane, spoke of the congestion of W. Shaw; Jeff Roberts, concurred with prioritizing the Veterans’ Blvd project, adding this could be used as a tool to lobby for extra funding; Al Smith, President of the Chamber of Commerce, 2331 Fresno Street, spoke in support of prioritizing the Veterans’ Blvd. project; **(3-0)** Brian Calhoun, 289 W. Audobon, stated the entire area on the westside including the Veterans’ Blvd. was poorly planned, advising the development should seize in that area and emphasized the importance of completing the Veterans’ Blvd. project; and Darius Assemi, Granville Homes, also spoke in support of the Veterans’ Blvd. project.

City Attorney Sanchez noted each item was a separate legislative act, adding after discussion with Council, it could be voted upon in one motion, and advised if there was any disagreement with the motion, each resolution would need to be voted upon separately.

Mr. Rudd responded to questions of Councilmember Xiong relative to whether other cities had identified some priorities, reasons for supporting short term projects and the possibility of moving more expeditiously on projects.

Councilmember Xiong made a motion to approve staff’s recommendation, which motion was seconded by Councilmember Borgeas and was voted upon after extensive discussion. Councilmember Xiong stated he made the motion due to the staff working closely with the City of Clovis to reach an agreement to move forward, adding the importance of looking at the alternatives and stressed making the Veterans’ Blvd a priority.

Additional questions by Councilmember Dages regarding “pay as you go”, who expressed concern with the interest on the bonds issued, the continued changing of the cost estimates for the Braided Ramp due to Cal Trans not having a fully developed plan, whether the City Council would be included in the final decision, stating his support for alternative financing, stressing the importance of to “pay as you go” rather than with bonds, and adding his concerns with other projects being dropped.

Councilmember Borgeas stressed the importance of seeking alternative funding, adding when the Mayor travels to Washington to present the City’s economic stimulus package, funding from the Federal level should be vigorously promoted, adding he was in support of moving forward to COG and the FCTA to obtain alternatives resources to move forward.

Councilmember Brand stated part of the 2025 General Plan was to push growth in the mentioned area, advising in the year 2004 there were complaints regarding too much growth, adding this was a long-standing problem and spoke in support of prioritizing the Veterans’ Blvd.

Mr. Rudd responded to questions by Council President Sterling relating to if the Veterans’ Blvd. was prioritized, would preclude other projects from being completed, which projects would be completed first and which would be held until the year 2020, questioned the project dealing with Herndon, State Route 99 to DeWolf, whether certain projects were shelf-ready, with Assistant Public Works Director Mozier responding. Questioning continued as to whether the City would have another opportunity to address the issue if the Veterans’ Blvd. project was prioritized with Mr. Rudd stating a workshop could be scheduled to discuss the various issues and alternatives.

On motion of Councilmember Xiong, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution Nos. 2009-19, 2009-20 and 2009-21, hereby adopted, by the following vote:

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

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(9:15 A.M. 'C') APPROVE APPOINTMENT TO THE FRESNO COUNTY TRANSPORTATION AUTHORITY – COUNCILMEMBER XIONG

Councilmember Xiong thanked the previous Council for his temporary appointment to the Fresno County Transportation Authority after Councilmember Westerlund was called to military duty, adding he had another commitment and requested Councilmember Borgeas be appointed.

A motion to appoint Councilmember Borgeas was made and acted upon after brief discussion.

Councilmember Perea advised he would wait to see the results of the above motion, adding his recommendation was to nominate Councilmember Dages, stating he had a long history of the issues and knew the members of the Authority.

On motion of Councilmember Xiong, seconded by Acting President Caprioglio, duly carried, RESOLVED, Councilmember Borgeas hereby appointed to the Fresno County Transportation Authority, by the following vote:

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

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(9:30 A.M. 'A') PRESENTATION OF CLIMATE IMPACT REPORT – HOW CLIMATE CHANGE WILL IMPACT FRESNO – GENERAL SERVICES DEPT./FLEET MGMT.

Interim Sustainability Manager Oldham introduction the four authors of the report, and gave a PowerPoint presentation on the above listed item which included an overview of the foreseeable impacts, gave a brief historical review, advising there would be a 2 to 5 degrees Fahrenheit average temperature rise by the year 2050 that would result in additional extreme hot days; the impacts to Fresno through the year 2050; what the City was doing at the present time; what the City would need to do and how the City can do Go about with the plan.

(4-0) Mr. Oldham and General Services Director Nerland responded to numerous questions by Councilmember Perea relative to green procurement policies, whether there were any type of bonuses provided at the time an RFP was submitted to companies who were green, requested a list be provided of all eligible buildings that could go solar, and to include the square footage of roof space involved, the status of green-roofing within the City and if there was a set policy for the re-roofing, adding the importance of developing a green training program for the purpose of bringing sources together. Councilmember Xiong and Council President Sterling thanked everyone involved in providing the report. Mr. Oldham stated it was a pleasure working with California State University, adding they were regular attendants of the City's Green Team. No action required.

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(9:30 A.M. 'B') DIRECT STAFF TO RETURN ON 2/3/2009 WITH ENABLING DOCUMENTS TO RENAME THE CITY HALL COPY CENTER (ROOM 1087) TO THE "JIM LENNON COPY CENTER"

General Services Director Nerland gave a brief overview of the issue, all as contained in the staff report as submitted.

On motion of Councilmember Perea, seconded by Councilmember Dages, duly carried, RESOLVED, staff directed to return on February 3, 2009, with enabling documents to rename the City Hall Copy Center (Room 1087) to the "Jim Lennon Copy Center," by the following vote:

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

Council President Sterling commended staff for taking the time to honor Jim.

(9:30 A.M. ‘C’) APPROVE THE RENAMING ECONOMIC DEVELOPMENT DEPARTMENT TO DOWNTOWN AND COMMUNITY REVITALIZATION DEPARTMENT – ECONOMIC DEVELOPMENT DEPT.

Mayor Swearingen gave a brief background on the reasoning for the re-naming of the department, advising this was a symbolic act to improve the overall economy and the title reflected the City’s commitment to revitalize downtown, focus on the urban neighborhoods that surround the area, and to ensure the City’s local businesses had a chance for growth, adding the name change focused on the City’s mission and priority, noting the intent was to partner with numerous outside agencies to ensure the improvement of the overall economy.

Economic Development Director Scharton reiterated Mayor Swearingen’s comments, adding staff would return in approximately one month with a list of projects, stressing the need for a community involvement, reviewed several projects, and advised of the changes to revitalize and improve the economy.

Speaking to the issue were: Sonny Bartrum (no address given) spoke of bringing employment to the community; Al Smith, President of the Chamber of Commerce, 2331 Fresno Street, spoke in support of the name change, adding this would stop the duplication of services, noting the name change would also provide clarity.

Councilmember Dages recommended looking into the downtown parking situation, advising his support for Monday through Friday, 6:00 a.m. to 6:00 p.m. metered parking with all other times being free (precluding the garages), adding numerous events take place downtown and expressed concern with people being discouraged due to the parking situation and stressed the importance of the parking issue being a priority. Mr. Scharton stated staff’s vision was to provide more festival activities and big events downtown, noting staff was working on a “play book” so the community would be able to review the projects and provide their input.

Mr. Scharton responded to questions by Council President Sterling pertaining to CDBG areas, what would happen to the acres north of Shaw Avenue, stressed the importance of prioritizing certain poverty areas, the importance of continuing to send delegates to the International Commercial Shopping Center Conference in Las Vegas, adding the conference assisted in establishing a precedence, due to Fresno was not being marketed to the extend of bringing big industry into the area, low-income demographics and questioned the availability of 1,000 acres of shelf-ready land. Council President Sterling requested Council be provided with any and all available information.

City Attorney Sanchez advised the item before Council was for the discussion of the name change only and advised Council they could return at a later time for more discussion. At the hour of 11:49 a.m. Councilmember Xiong left the meeting.

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the re-naming of the Economic Development Department to Downtown and Community Revitalization Department hereby approved to reflect the City’s priorities for the revitalization of the City’s downtown core, the revitalization of the neighborhoods that encircle downtown Fresno and all neighborhoods of concentrated poverty and the need to grow the City’s economy through the support of the City’s locally-owned businesses, by the following vote:

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

(9:30 A.M. 'D') AUTHORIZE THE PURCHASE OF A NEIGHBORHOOD CENTER/GYMNASIUM FROM THE FRESNO COUNTY ECONOMIC OPPORTUNITIES COMMISSION AND EXECUTION OF DOCUMENTS – PARCS

(5-0) At the hour of 11:51 a.m. Councilmember Xiong returned to the meeting.

Parks, After School, Recreation and Community Services Director Cooper gave a brief overview of the issue, all as contained in the staff report as submitted.

Speaking in support of the facility was Mr. Palomino (no address given.). A motion to approve was made and acted upon after brief discussion.

Councilmember Borgeas questioned the funding sources relating to the second, third and fourth phases of the project with Assistant City Manager Rudd and Mr. Cooper responding. Mr. Rudd responded to questions by Councilmember Brand pertaining to the clarification of impact fees.

On motion of Councilmember Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the purchase of the Fresno County Economic Opportunities Commission (EOC) Neighborhood Youth Center/gymnasium and land (NYC) for approximately 2.20 improved acres at California and Elm Avenues in the City of Fresno for a price not to exceed \$3,727,967.63 in substantially the form of the Draft Purchase and Sale Agreement, subject to City Attorney approval to form hereby approved, by the following vote:

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

(10:00 A.M.) HEARING TO CONSIDER ORDERING THE VACATION OF W. CALIFORNIA COURT AND THE SOUTH FIVE FEET OF W. CALIFORNIA AVENUE EAST OF W. ATCHISON STREET (PROPERTY LOCATED IN DISTRICT 3) – PUBLIC WORKS DEPARTMENT

A. * RESOLUTION NO. 2009-22 - ORDERING THE VACATION OF W. CALIFORNIA COURT AND THE SOUTH FIVE FEET OF W. CALIFORNIA AVENUE EAST OF W. ATCHISON STREET

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

Senior Engineering Technician Polsgrove reviewed the issue and recommended approval, all as contained in the staff report as submitted.

Dirk Poeschel spoke in support.

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

On motion of Council President Sterling, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2009-23 hereby adopted, by the following vote:

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

(10:15 A.M.) HEARING TO CONSIDER ORDERING THE VACATION OF TWO (2) PARCELS OF PUBLIC STREET RIGHT-OF-WAY ALONG THE SOUTH SIDE OF ASHLAN AVENUE EAST OF CORNELIA AVENUE

A. *RESOLUTION NO. 2009-23 - ORDERING THE VACATION OF TWO (2) PARCELS OF PUBLIC STREET RIGHT-OF-WAY ALONG THE SOUTH SIDE OF ASHLAN AVENUE EAST OF CORNELIA AVENUE

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

Senior Engineering Technician Polsgrove reviewed the issue and recommended approval, all as contained in the staff report as submitted.

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

Councilmember Xiong commended staff for their work on the project.

On motion of Councilmember Xiong, seconded by Acting President Caprioglio, duly carried, RESOLVED, the above entitled Resolution No. 2009-23 hereby adopted, by the following vote:

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

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(10:20 A.M.) HEARING TO CONSIDER ORDERING THE VACATION OF THE CALIFORNIA ATCHISON ALLEY BETWEEN WALNUT AND PLUMAS AVENUES

A. * RESOLUTION NO. 2009-24 – ORDERING THE VACATION OF THE CALIFORNIA - ATCHISON ALLEY BETWEEN WALNUT AND PLUMAS AVENUES, THE ATCHISON-LORENA ALLEY BETWEEN WALNUT AND PLUMAS AVENUES, EAST ATCHISON BETWEEN WALNUT AND PLUMAS AVENUES, AND A PORTION OF LORENA AVENUE BETWEEN WALNUT AND PLUMAS AVENUES

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

Senior Engineering Technician Polsgrove reviewed the issue and recommended approval, all as contained in the staff report as submitted.

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

On motion of Council President Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2009-24 hereby adopted, by the following vote:

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

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(10:30 A.M.) TEFRA HEARING AS REQUIRED BY SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1986 TO HEAR AND TO CONSIDER INFORMATION CONCERNING THE PROPOSED ISSUANCE FOR TAX-EXEMPT REVENUE BONDS BY THE HOUSING AUTHORITY OF THE CITY OF FRESNO TO FINANCE THE ACQUISITION AND CONSTRUCTION OF PHASE II (215 UNITS) OF A 464-UNIT MULTI-FAMILY RESIDENTIAL RENTAL PROJECT COMMONLY KNOWN AS PARC GROVE COMMONS II - FINANCE DEPARTMENT

A. * RESOLUTION NO. 2009-25 – APPROVING THE ISSUANCE BY THE HOUSING AUTHORITY OF THE CITY OF FRESNO OF REVENUE BONDS IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$28 MILLION

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

Interim City Controller Bradley reviewed the issue and recommended approval, all as contained in the staff report as submitted.

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

On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2009-25 hereby adopted, by the following vote:

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

(10:45 A.M.) RESOLUTION NO. 2009-26 – CONSIDERATION OF PLAN AMENDMENT FOR 2008-2013 CITY OF FRESNO HOUSING ELEMENT AMENDMENT I OF THE 2025 FRESNO GENERAL PLAN AND RELATED ENVIRONMENTAL ASSESSMENT NO. EA-08-12A - PLANNING AND DEVELOPMENT DEPARTMENT

Housing and Community Development Manager Cazares reviewed the issue and recommended approval, all as contained in the staff report as submitted. Councilmember Brand expressed concern with reconciling higher density with Ms. Cazares responding.

On motion of Councilmember Dages, seconded by Acting president Caprioglio, duly carried, RESOLVED, the above entitled Resolution No. 2009-26 hereby adopted, by the following vote:

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

RECESS – 12:07 P.M. - 2:00 P.M.

(2:00 P.M.) CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL:

(‘A) EXISTING LITIGATION: CASE NAME: JOANNE THORNE V. CITY OF FRESNO, ET AL., FRESNO COUNTY SUPERIOR COURT CASE NO. 07CECG03318 DSB

CASE NAME: PHILLIP SANDERS V. IGNACIO RUIZ, ET AL. UNITED STATES DISTRICT COURT CASE NO.: 06-CV-01264-OWW-GSA

CASE NAME: PHILLIP SANDERS V. MARK BISHOP, ET AL. UNITED STATES DISTRICT COURT CASE NO.: 06-CV-01264-OWW-GSA

(‘B) ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: WOODSIDE 05N, LP, ET AL. V. CITY OF FRESNO; CITY OF FRESNO V. SOUA MAI XIONG; CITY OF FRESNO V. SPENCER ENTERPRISES, INC., ET AL.

The City Council met in closed session in Room 2125 at the hour of 2:00 p.m. to consider the above matters and reconvened in regular session at the hour of 2:23 p.m.

(2:15 P.M.) RESOLUTION NO. 2009-27 – APPROVING THE THIRD AND FINAL EXTENSION OF THE TERMS OF THE EXISTING LOAN GUARANTY AND RELATED DOCUMENTS BETWEEN THE CITY OF FRESNO, UNITED SECURITY BANK AND THE MET MUSEUM, AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE AGREEMENTS, AND RELATED DOCUMENTS, AND TAKING ALL NECESSARY ACTION RELATED TO THE TRANSACTIONS, CONSISTENT WITH THE RESOLUTION – CITY MANAGER’S OFFICE

City Manager Souza reviewed the issue, all as contained in the staff report as submitted. Mr. Souza stated in June, 2007, the City of Fresno stood behind the Fresno Metropolitan Museum (Met) to guarantee a \$15 million loan from United Security Bank for the completion of the project, advising the project was complete and back in operation, noting a long term financial structure would provide continued operation of the Met and at the same time would provide a solid financial transaction. Mr. Souza stated the Met had sought a 4-month extension that required the City’s approval, adding staff would return in April or May with a status report.

Bill Stewart, Member of the Fresno Metropolitan Museum, gave a brief history of the Met and the loan and requested the City support the 4-month extension of the existing loan with United Security Bank and responded to questions by Councilmember Dages relative to the mechanics lien in the amount of \$2.1 million. City Attorney Sanchez advised that the mechanics lien was a material impact on the City's security on the property itself and recommended getting very specific responses as to where the money would be coming from to clear the lien and the timelines in term of the repayment of the lien to ensure the City's security for the guarantee was whole. Discussion ensued regarding when the lien was filed with Mr. Souza stating the transaction was between the Met and the contractor, adding there was no action at the present time for the City to act upon and apologized for not notifying Council.

Mr. Stewart advised there was \$700,000 worth of Change Orders the Met was trying to reconcile with Councilmember Brand questioning whether the verbal take out loan had a demand option with brief discussion ensuing. Councilmember Brand commended the Met, adding it was a great asset to the downtown area with Councilmember Borgeas concurring. Councilmember Borgeas requested a review of all the options, adding his interest in keeping informed of the terms of the bond with Mr. Stewart stating options would be provided in April, adding the Met had recently met with bond counsel.

Mr. Woods, Member of the Fresno Metropolitan Museum, stated they had recently met with the Texas Bankers Bank and an agreement was made between the entities for a loan extension with a 5 ¼% interest.

On motion of Councilmember Brand, seconded by Acting President Caprioglio, duly carried, RESOLVED, the above entitled Resolution No. 2009-27 hereby adopted, by the following vote:

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

(2:30 P.M.) HEARING TO CONSIDER AN APPEAL OF THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S CONDITIONAL APPROVAL OF CONDITIONAL USE PERMIT APPLICATION NO. C-08-76, FILED BY GURMEET SINGH, ON BEHALF OF CAMPASINO'S MEAT MARKET, PERTAINING TO APPROXIMATELY 8,000 SQUARE FEET OF COMMERCIAL TENANT SPACE ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF S. TRINITY AND E. WHITES BRIDGE AVENUES (245 E. WHITES BRIDGE AVENUE). THE APPLICANT REQUESTS AUTHORIZATION TO UPGRADE THE CURRENT STATE OF CALIFORNIA ALCOHOLIC BEVERAGE CONTROL LICENSE FROM A TYPE 20 (SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION WHERE SOLD) TO TYPE 21 (SALE OF BEER, WINE, AND DISTILLED SPIRITS FOR OFF-PREMISES CONSUMPTION WHERE SOLD). THE FRESNO CITY PLANNING COMMISSION CONSIDERED THE APPLICATION AT A NOTICE PUBLIC HEARING ON NOVEMBER 19, 2008, AND RECOMMENDED TO UPHOLD THE DIRECTOR'S APPROVAL AND DENY THE APPEAL
A. CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT NO. C-08-76
B. RESOLUTION – DENYING THE APPEAL AND APPROVING CONDITIONAL USE PERMIT APPLICATION NO. C-08-76 AND ENVIRONMENTAL ASSESSMENT NO. C-08-076

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

Planning Manager Fabino reviewed the issue, all as contained in the staff report as submitted, adding the permit application was a request to change a Type 20 Alcohol Beverage Control license to a Type 21 that included the sale of distilled spirits. Mr. Fabino stated two (2) appeals were received, one from Council District 3 and the other from a property owner, both appealing the decision of the Director due to the issues of crime and over saturation. Mr. Fabino stated the Southwest Area Policing Station did some research and determined that from January 1 to April of 2008, there were 37 calls for service, noting none were related to the market itself, and reviewed additional statistics of the Fresno Police Department sector map. Mr. Fabino reviewed the three findings involved and requested Council support staff recommendation.

(6-0) Gurmeet Singh, owner of El Campasino Meat Market and applicant, reviewed his request to upgrade his market to sell distilled spirits, advising the market had a surveillance system, 6 responsible employees, stressed the need to stay competitive and noted the liquor would be located behind the counter.

Speaking in opposition of the Conditional Use Permit (CUP) were: James Hendricks, 4949 N. Crystal, and on behalf of King of Kings Housing Development Corporation, stated one block north of the market the Corporation was in the process of developing 20-units of supportive housing, expressing concern with the sale of distilled spirits being a detriment to the area, adding another issue was over saturation; Debbie Darden, 891 W. Kearney Boulevard, stated there were enough liquor stores in the area, and stated the area needed more businesses to upgrade the surroundings, and Robert Mitchell, 3349 W Madison, reviewed the amount of Type 20 and Type 21 stores in various areas of the census tract within the location, adding the market was less than a block away from an elementary school.

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

Council President Sterling expressed concern with the increase in crime, gang activity and unemployment in District 3, provided statistics of the census tract population to the number of stores selling beer, wine and distilled spirits, stressed the importance of seizing the availability of the various elements would be beneficial to the community, adding there were approximately 15 liquor stores that have Type 20 and Type 21 liquor licenses in the area of Census Tract 11, between the California to Jensen area.

Police District Commander Maroney stated the Police Department signed off on the original application due to there not being any legal justification not to sign the application, described the types of crimes, adding there was an over abundance of availability of alcohol as well as drugs and other legal activities in the area. Mr. Maroney stated, as his opinion and as a citizen, was there were too many outlets in Southwest Fresno for hard liquor and responded to questions by Council President Sterling relative to numerous liquor stores in the vicinity not having a reporting mechanism allowing the City to be informed of when a license had been suspended or sale of alcohol to a minor.

Council President Sterling expressed concern with the market being located in the close proximity to King of Kings, adding people who would reside there would be trying to rehabilitate themselves, adding directly across the street from the market was a 16-unit single family dwelling project that was just completed and made a motion to deny staff's recommendation and to uphold the appeal which motion was voted upon after extensive discussion.

City Attorney Sanchez emphasized the motion needed to show the basis as to the findings having an adverse impact specifically related to the upgrade to the market such as the crime or the neighboring park where children congregate.

Councilmember Xiong questioned the Police Department's signing off on the application, stressing there was no legal basis to deny the application, adding there was an adverse finding that needed to be shown with Captain Maroney responding. Councilmember Xiong expressed concern with denying the application due to an opinion versus a legal basis with Mr. Sanchez stating Captain Maroney would be considered as providing expert testimony. Captain Maroney reiterated his earlier statement, advising there was an over-saturation of availability of hard liquor in an economically depressed portion of the City, adding the end result to combat crime was to get down to the root causes of crime, stating his opinion was by not allowing additional availability or outlets to distilled spirits would make a difference. Mr. Sanchez stated that due to Captain Maroney being the Police Commander in District 3, he had an evidentiary basis to provide expert testimony, adding Captain Maroney indicated there would be a potential adverse affect on the community based on the history and his experience in the community, advising if Council was to decide to make the finding it was at Council's discretion as to how they viewed public health and safety.

Extensive discussion ensued relative to including the affected District's Police Commander's opinion in future requests in the process of approving similar applications and the additional administrative oversight and extra work that would be involved in the process if this additional criteria was added to the upgrading a liquor license. Mr. Fabino emphasized the over-saturation of Type 20 and Type 21 stores were due to the Alcohol Beverage Control of the State of California and not the City. Councilmember Xiong stressed if the information was included in the staff report stating even though there was no legal basis to deny the application, but it was the opinion of the Police Department that it was detrimental to the area would have made the process easier as well as stating this was an "expert opinion for a negative impact". Advising it would be a positive move due to the decision could possibly impact the Planning Commission and Council's decision. Councilmember Xiong emphasized that there was no addition in this project, just a change in the type of liquor license in the census tract.

Captain Maroney responded to questions by Councilmember Perea relative to the ability to provide commander's opinion as to the impact of the approval or disapproval of the application with Captain Maroney stating there was not an opportunity to provide additional comments on the application itself. Councilmember Perea stressed the importance of making sure the process was transparent and fair, possibly adding additional space on the application to ensure the Police Commander in that particular area have

the flexibility to add additional comments, advising that as an elected official, the information was misleading to hear the Police Department state their support, and in turn the District Commander opinion had listed numerous concerns regarding that particular neighborhood and were not included on the application, adding a better process needed to be included to reduce the confusion with brief discussion ensuing.

Council President Sterling thanked all involved, adding her decision was made for the betterment of the community, stressing this project would have an adverse affect on the area and concurred with streamlining the process to make it run more smoothly, adding during the next similar issue that came before Council, she would work closely with ABC to streamline the process, the Police Department, Distrist 3's Police Commander and the Planning and Development Department to ensure everything would run concurrently.

On motion of Council President Sterling, seconded by Councilmember Brand, duly carried, RESOLVED, the appeal upheld and CUP Application No. C-08-076 hereby denied, by the following vote:

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

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(2:45 P.M.) HEARING TO CONSIDER THE "MAROA VILLAGE" CONDOMINIUM CONVERSION APPLICATION AND VESTING TENTATIVE TRACT MAP NO. 5938, FILED BY FINAMORE AND BATTAGLIA, PERTAINING TO 2.0 ACRES OF PROPERTY ZONED R-1 (SINGLE FAMILY RESIDENTIAL) LOCATED ON THE EAST SIDE OF N. MAROA AVENUE, NORTH OF THE NORTHEAST CORNER OF N. MAROA AND W. BARSTOW AVENUES (CONTINUE TO FEBRUARY 3, 2009, AT 10:45 A.M.)

Continued as noted.

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(3:00 P.M.) CONTINUED HEARING TO CONSIDER PLAN AMENDMENT APPLICATION NO. A-08-18, REZONE APPLICATION NO. R-08-28, SITE PLAN REVIEW APPLICATION NO. S-08-103, AND ENVIRONMENTAL FINDINGS, FILED BY MARLETTE ASSOCIATES ON BEHALF OF THE SCHINDLER LAWRENCE LLC, PERTAINING APPROXIMATELY 5.31 ACRES OF PROPERTY LOCATED ON THE SOUTHEAST CORNER OF E. COPPER AND N. CHESTNUT AVENUES (2445 E. COPPER AVENUE)

A. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-08-18/R-08-28/S-08-103

B. RESOLUTION NO. 2009-28- AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WOODWARD PARK COMMUNITY PLAN FROM THE MEDIUM-LOW DENSITY RESIDENTIAL PLANNED LAND USE DESIGNATION TO THE OFFICE COMMERCIAL LAND USE DESIGNATION

C. BILL NO. B-3 – ORDINANCE NO. 2009-3 – AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM THE R-1/UGM (SINGLE FAMILY RESIDENTIAL/URBAN GROWTH MANAGEMENT) ZONE DISTRICT TO THE C-P/UGM (ADMINISTRATIVE AND PROFESSIONAL OFFICE/URBAN GROWTH MANAGEMENT) ZONE DISTRICT

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

Planning Manager Fabino reviewed the issue and recommended approval, all as contained in the staff report as submitted, adding staff had met with surrounding neighbors and had numerous conversations, advising one of the results of the meetings was to add a condition of zoning to the project and elaborated.

Speaking to the issue were: Rod Hacker, 2505 E. Copper, reviewed the agreements he had with staff to include constructing a 6-inch dike on the eastside of Chestnut Avenue around Copper, provide a 25-foot driveway and add sewer and water laterals, and requested being involved in future discussions or changes to the project. Also speaking to the issue was Case Lawrence, applicant, who confirmed Mr. Hacker's comments.

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

Councilmember Brand thanked staff for working out the differences with the neighbors, adding the project would compliment the area and was consistent with the 2025 General Plan.

On motion of Councilmember Brand, seconded by Councilmember Xiong, duly carried, RESOLVED, the subject environmental finding hereby approved, the above entitled Resolution No. 2009-28 hereby adopted, and the above entitled Bill No. B-3 adopted as Ordinance No. 2009-3, contingent upon the condition of zoning applied to the project, by the following vote:

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

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(3:15 P.M.) CONTINUED HEARING TO CONSIDER PLAN AMENDMENT APPLICATION NO. A-08-13, SPHERE OF INFLUENCE AMENDMENT APPLICATION NO. SOI-08-01, AND ENVIRONMENTAL FINDINGS, FILED BY TOM LANG ON BEHALF OF AQUARIUS AQUARIUM INSTITUTE, PERTAINING TO APPROXIMATELY 89 ACRES BOUNDED BY W. HERNDON AVENUE ON THE SOUTH, FREEWAY 99 ON THE EAST, AND THE SAN JOAQUIN RIVER ON THE NORTH

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-08-13/SOI-08-01

2. RESOLUTION NO. 2009-29- AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN FROM THE AGRICULTURAL PLANNED LAND USE (FRESNO COUNTY) TO THE PUBLIC FACILITY LAND USE DESIGNATION FOR THE 10-ACRE AQUARIUM SITE AND FROM THE AGRICULTURAL PLANNED LAND USE (FRESNO COUNTY) TO AGRICULTURE/URBAN RESERVE FOR THE BALANCE OF THE AREA (79 ACRES)

3. RESOLUTION NO. 2009-30 – AMENDING THE CITY OF FRESNO’S SPHERE OF INFLUENCE BOUNDARY TO ADD THE SUBJECT PROPERTY TO THE CITY IN ORDER TO ALLOW FOR CITY SEWER AND WATER SERVICES TO BE EXTENDED TO THE PUBLIC AQUARIUM FACILITY, WHICH WAS PREVIOUSLY APPROVED ON A PORTION OF THE SUBJECT PROPERTY BY FRESNO COUNTY

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

Planning Manager Unruh reviewed the issue and recommended approval, all as contained in the staff report as submitted, advising there was a reference to Exhibits 1 and 2, adding Exhibit 1 included the entire Citywide Sphere of Influence should have been repeated in the second resolution on the Sphere of Influence, stating one depicts the proposed land uses, the public facility, Ag-Open Space and the Sphere of Influence proposal, with City Attorney Sanchez stating, for the record, Exhibit 1 needed to be attached to the second resolution relating to the Sphere of Influence.

Speaking to the issue was Tom Lang, Executive Director of Aquarius Aquarium Institute, 5541 Columbia Drive North, stated during the process people’s life styles had been protected and maintained, adding the only change would be to add a water main with a fire hydrant in order to provide water to the public aquarium project, advising all the staff concerns had been addressed, and reviewed the total 89 acres being included in the application to LAFCO.

Also speaking to the issue were: Melody A. Gonzales, 7662 W. Herndon Avenue, expressed concern relative to annexation of property under the Sphere of Influence and requested staff find another solution, and Dolly Reiner, property owner (no address given), reiterated the importance of finding another option to develop agricultural land without changing the zoning and expressed concern with her property being taken through eminent domain.

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

Councilmember Borgeas thanked the people involved with the project, and read into the record his opinion on the project, to include that it would be a more logical approach to add the proposed acreage into the expansion of the City’s Sphere of Influence; advising the land use designation for the remaining land would remain Agriculture/Open Space, adding the City was not advancing development at this point, and the property would have the Agriculture/Open Space status and elaborated. City Attorney Sanchez

made a clarification regarding the conditions to the resolutions for Council approval, advising, for the record, the two resolutions were amended and could be voted upon in one motion.

On motion of Councilmember Borgeas, seconded by Councilmember Xiong, duly carried, RESOLVED, the environmental finding of a Mitigated Negative Declaration for Environmental Assessment No. A-08-13/SOI-08-01 dated November 21, 2008, hereby approved, the above entitled Resolution Nos. 2009-29 and 2009-30 hereby adopted, as amended to include conditions as elaborated upon in statements listed above, by the following vote:

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

* Subsequent to the meeting, it was determined by staff that the conditions as stated were included in the resolutions.

ADJOURNMENT

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

Approved on the 3rd day of February, 2009.

Cynthia Sterling, Council President

ATTEST

Cindy Bruer, Deputy City Clerk