

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

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

President Xiong advised public works employee Carol Doran passed away on Sunday and called for, and a Moment of Silence was observed, in her honor.

Robert Hays of Friends Community Church gave the invocation and President Xiong led the Pledge of Allegiance.

**INTRODUCTION OF DELEGATION FROM THE PEOPLES' REPUBLIC OF CHINA - COUNCILMEMBER PEREA**

Introductions made and gifts were presented to the delegation.

**CERTIFICATES OF APPRECIATION TO TIM RIOS OF WELLS FARGO BANK, ERIC JOHNSON OF AT&T, AND AL GALVEZ OF PG&E FOR THEIR SERVICE TO THE COMMUNITY**

Presented.

**PROCLAMATION OF "FRES-YES DAY" HONORING OUTGOING COUNCILMEMBER CALHOUN - MAYOR AND CITY COUNCIL**

The proclamation was read and presented and the District 2 Northwest Implementation and Pinedale Community Committees presented Councilmember Calhoun with plaques and thanked him for his service.

President Xiong acknowledged Councilmember Duncan would also be leaving office and to honor his wishes comments would be reserved for the transition.

-----

**APPROVE MINUTES OF DECEMBER 9, 2008:**

On motion of Councilmember Dages, seconded by Councilmember Caprioglio, duly carried, RESOLVED, the minutes of December 9, 2008, approved as submitted.

-----

**COUNCIL MEMBER REPORTS AND COMMENTS:**

Acting President Sterling **(1)** acknowledged Councilmember Duncan would be honored later but stated she enjoyed working with Councilmember Duncan during her six years on Council and wanted to state publicly that he was the first person to speak on her behalf after she was elected to Council; **(2)** spoke to her attendance at southwest Santa's Village for the arrival of Santa Claus and to the success of the event **(2 - 0)**; **(3)** commended PARCS staff for the successful and well attended Christmas parade and the 2-day "Christmas in the Park" event at Eaton Plaza; and **(4)** extended holiday greetings and wished all city employees, Mayor Autry, the administration, the City Council, and her staff a successful new year.

Councilmember Dages **(1)** noted additional funds were allocated last year for fuel due to the increase in prices and prices had now decreased and upon his question City Manager Souza and ACM Rudd stated the surplus funds were frozen and were in the reserve account and further explained; and **(2)** requested staff look into an electrical problem with the lights at Pilibos Park that can't seem to be resolved.

Due the economy Councilmember Duncan encouraged staff to recommend to the new mayor that any surplus funds be passed on in the form of relief to businesses and citizens such as lowering the cost to enter parks or possibly an economic stimulus for the private sector stating government should do all it can to assist in hard times.

President Xiong **(1)** thanked all who attended the Holiday Open House on December 9th; **(2)** thanked the Tower Theater and all who participated at the Hmong Voice event; and **(3)** wished everyone a Happy New Year and advised the week-long Hmong New Year celebration at the fairgrounds would begin December 26<sup>th</sup> and invited all to attend adding the event was one of the largest in the nation.

-----

#### **APPROVE AGENDA:**

**(3:30 P.M. 'A')** AMEND REDEVELOPMENT AGENCY BY-LAWS TO BE CONSISTENT WITH CITY POLICY REGARDING FIRST YEAR COUNCIL MEMBERS. CHANGE WOULD ALLOW A FIRST YEAR COUNCIL MEMBER TO BE VICE CHAIR OF THE REDEVELOPMENT AGENCY - COUNCILMEMBER DUNCAN

City Clerk Klisch advised an Agency Resolution was associated with the item which had been submitted to Council but was not listed on the agenda. So noted.

**(1-B)** APPROVE AND AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AN INTEROPERABLE COMMUNICATIONS ASSESSMENT SERVICE CONTRACT WITH BEARINGPOINT, INC., IN THE AMOUNT OF \$359,703 FOR A REGIONAL INTEROPERABLE COMMUNICATIONS ASSESSMENT PLAN

Removed from the agenda by staff.

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

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

-----

#### **ADOPT CONSENT CALENDAR:**

Paul Hurlbut, 4701 W. Swift, presented questions on Item **1-G** and requested there be no duplication of features, and spoke to Item **1-K** and on-going software problems.

**(1-A) RESOLUTION NO. 2008-341** - DECLARING THE RESULTS OF THE GENERAL ELECTION HELD WITHIN THE CITY OF FRESNO ON NOVEMBER 4, 2008

**(1-C)** ADOPT RESOLUTION OF INTENTION NO. 1069-D FOR THE VACATION OF W. CALIFORNIA COURT AND THE SOUTH FIVE FEET OF W. CALIFORNIA AVENUE EAST OF W. ATCHISON STREET AND SETTING THE REQUIRED PUBLIC HEARING FOR JANUARY 27, 2009

**(1-D)** ADOPT RESOLUTION OF INTENTION NO. 1070-D FOR THE VACATION OF TWO PARCELS OF PUBLIC STREET RIGHT-OF-WAY ALONG THE SOUTH SIDE OF W. ASHLAN AVENUE EAST OF CORNELIA AVENUES AND SETTING THE REQUIRED PUBLIC HEARING FOR JANUARY 27, 2009

**(1-E) RESOLUTION NO. 2008-342** - AUTHORIZING SUBMISSION OF APPLICATIONS FOR AND ACCEPTANCE OF GRANT FUNDS FROM THE RESOURCES AGENCY ENVIRONMENTAL ENHANCEMENT AND MITIGATION PROGRAM OF THE STREETS AND HIGHWAYS CODE, AND AUTHORIZING THE EXECUTION OF DOCUMENTS BY THE PUBLIC WORKS DIRECTOR OR DESIGNEE

**(1-F)** APPROVE CONTRACT CHANGE ORDER NO. 5 WITH DAVE CHRISTIAN CONSTRUCTION, INC., TO PROVIDE A CONTRACT TIME EXTENSION OF 53 WORKING DAYS FOR THE CONSTRUCTION OF IMPROVEMENTS TO CLOVIS AVENUE FROM KINGS CANYON ROAD TO MCKINLEY AVENUE, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CHANGE ORDER ON BEHALF OF THE CITY

**(1-G)** APPROVE AN AGREEMENT WITH RRM DESIGN GROUP IN THE AMOUNT OF \$349,000 WITH A CONTINGENCY AMOUNT NTE \$43,000 FOR THE DESIGN OF PLANS AND APPLICATION OF THE CUP FOR THE NEW FIRE DEPARTMENT TRAINING CENTER AND VEHICLE MAINTENANCE FACILITIES LOCATED AT 3175 W. BELMONT AVENUE WEST OF MARKS AVENUE, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

**(1-H)** APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH SIMS ARCHITECTS FOR EXTENSION OF TIME TO JANUARY 1, 2010, TO DESIGN STATION RENOVATIONS AND ADDITIONS FOR EXISTING FIRE STATION NOS. 2, 10 AND 14, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE EXTENSION OF TIME ON BEHALF OF THE CITY

**(1-I)** APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH TAYLOR TETER PARTNERSHIP FOR EXTENSION OF TIME TO JANUARY 1, 2010, FOR DESIGN OF STATION RENOVATIONS AND ADDITIONS FOR EXISTING FIRE STATION NOS. 3 AND 4, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE EXTENSION OF TIME ON BEHALF OF THE CITY

**(1-J) RESOLUTION NO. 2008-343** - APPROVING THE FINAL MAP OF TRACT NO. 5710, AND ACCEPTING DEDICATED PUBLIC USES THEREIN, EAST SIDE OF N. BLYTHE AVENUE BETWEEN W. DAKOTA AND W. ASHLAN AVENUES  
1. AUTHORIZE THE PUBLIC WORKS AND PLANNING & DEVELOPMENT DIRECTORS TO EXECUTE THE NECESSARY DOCUMENTS

**(1-K) RESOLUTION NO. 2008-344** - AUTHORIZING THE PURCHASE OF TIBURON FireRECORDS (RECORDS MANAGEMENT SYSTEM [RMS]) AND RELATED SUBSYSTEMS AND WAIVING THE COMPETITIVE BIDDING PROCESS

**(1-L)** AWARD A REQUIREMENTS CONTRACT IN THE AMOUNT OF \$2,089,174 TO FARE LOGISTICS FOR AN AUTOMATED FARE COLLECTION (AFC) SYSTEM FOR FRESNO AREA EXPRESS (FAX)

1. AWARD A CONSULTANT CONTRACT TO AURIGA CORPORATION IN THE AMOUNT OF \$50,000 FOR PROJECT MANAGEMENT OF THE AFC SYSTEM; AND

2. **RESOLUTION NO. 2008-345** - 54<sup>TH</sup> AMENDMENT TO AAR 2008-162 APPROPRIATING \$2,300,000 FOR THE PROCUREMENT AND INSTALLATION OF THE AFC SYSTEM

**(1-M) BILL NO. B-73 - ORDINANCE NO. 2008-74** - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO SKATEBOARD AND BICYCLE PARK REGULATIONS

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

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

----

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

**(‘A’) SCHEDULED COMMUNICATION: APPEARANCE BY KENNETH FICK REGARDING A POLICE INCIDENT**

Not present when called.

**(‘B’) UNSCHEDULED ORAL COMMUNICATIONS:**

Sherry Smith, 4724 W. Swift, extended best wishes to outgoing Councilmembers Calhoun and Duncan and wished everyone a Merry Christmas and blessings.

Mai Lor, Summer Vue, Michael Becker, and Don Adams all thanked city officials for the alternate site for the community garden and for their support for the Hmong gardeners.

----

**(9:15 A.M. “A”) CONSIDER ACTION ON ELEMENTS OF THE ECONOMIC STIMULUS PACKAGE FOR RESIDENTIAL DEVELOPMENT TO ASSIST THE BUILDING INDUSTRY TO PROVIDE HOUSING AND TO SURVIVE THE CURRENT ECONOMIC DOWNTURN AS REQUESTED BY THE BUILDING INDUSTRY ASSOCIATION (BIA) - COUNCILMEMBER DAGES**

- 1. RESOLUTION NO. 2008-346** - ADOPTING A POLICY TO RESTORE THE EXEMPTION FROM PAYMENT OF CERTAIN IMPACT FEES WHEN SAID FEES HAVE BEEN PAID PRIOR TO THE EXPIRATION OF PROTECTION FOR THE FINAL MAP
- 2. RESOLUTION NO. 2008-347** - ADOPTING A POLICY TO FREEZE ALL DEVELOPMENT IMPACT FEES AT THE CURRENT LEVEL UNTIL JANUARY 1, 2011
- 3. RESOLUTION NO. 2008-348** - ADOPTING A POLICY TO DEFER COLLECTION OF ALL DEVELOPMENT IMPACT FEES TO CERTIFICATE OF OCCUPANCY
- 4. RESOLUTION NO. 2008-349** - AMENDING THE IMPLEMENTING POLICIES FOR THE CITYWIDE REGIONAL STREET AND NEW GROWTH AREA MAJOR STREET IMPACT FEES AS PREVIOUSLY ADOPTED BY RESOLUTION NO. 2007-291 AND AS AMENDED BY RESOLUTION NO. 2008-278

Councilmember Dages stated this item was brought to him by Mr. Prandini of the Building Industry Association (BIA), clarified there was no city subsidy involved to developers at all and stated this was about jobs more than anything else, and along with Mike Prandini of the BIA stated a waiver of fees was not being requested -- only a freezing of fees at the current level and a payment deferral, and elaborated on the economic stimulus package, all as contained in Councilmember Dages’ report to Council as submitted. Councilmember Dages made a motion to approve the above resolutions, which motion was seconded by Councilmember Duncan.

Upon question of City Manager Souza Mr. Prandini confirmed the request pertained to vested maps that have expired. Mr. Souza stated Mayor Autry was fully supportive of the principle of an economic stimulus package but he was not sure this was the one; advised the Mayor preferred that he, the mayor-elect and two council members sit down with industry members and representatives of Clovis and Madera to figure out a long term solution; clarified a regional approach where all cities are asked to take this action collectively was preferred; stated how this potentially impacts the regional traffic mitigation fee (RTMF) also needed to be addressed as there were some serious issues relating to Measure C funding; raised the issue of legalities of this action stating this would be a waiver of a *portion* of the fees and explained; and stated he wished staff had been able to flush this matter out in more detail with the BIA before it was brought forth to Council.

Speaking to the issue, impacts of the current economic downturn, and/or in support of the motion were: Terry Fletcher of Richards Plumbing; 447 N. Brawley; Rob Hunter, Select Build framing contractors; **(3 - 0)** Royce Edwards, (business name inaudible); Cary West, contractor; Stephen Russell, BMC West Corporation (building material supplier); Mike Vryhof, Cemex Ready Mix; Mike Prandini, BIA, who clarified it was not the BIA’s intent to affect the RTMF fees and explained; Dominique Haritzalde, Browning Contractors; and Darius Assemi.

Councilmember Calhoun stated there was no one here that was not sympathetic to the problem but he felt this would be precedent-setting if approved as there were others who were also struggling out there, stated he also had a problem with an outgoing mayor and outgoing council members weighing in on this and then having the new mayor and council live with the decision, and stated it had been a long, hard road to get the appropriate fees, the implications of this request were unknown, this needed to be done on a regional basis, and staff needed time to look at the implications and work on this request and made a motion to lay the matter over 90 days for staff to report back, which motion was subsequently changed to 45 days and seconded by President Xiong.

Councilmember Duncan stressed this was a crisis, he was opposed to laying this matter over, and Council had an obligation to address this request this date as people were here asking for hope; stated he would welcome all businesses to come forth and ask for help in these hard times; and stated there was an opportunity here to make a difference and urged Council to reject the delay and give people hope and a job. Mr. Prandini and ACM Rudd responded to questions and comments of Acting President Sterling relative to the RTMF, the projected fee revenues that are already part of the budget, if the BIA had spoken with other jurisdictions yet, why the BIA did not talk with the administration before bringing this before Council, if the BIA had spoken with the mayor-elect, how a 45 day delay would affect the industry, if the BIA could assure jobs would be there if this is approved, support for the original motion even though there had been years of neglect on the fees and lack of aggressive steps, need for the BIA to talk with the new administration and work hand-in-hand to resolve issues in the next two years, and need for Council to make the tough decision this date and support Councilmember Dages' motion. Councilmember Calhoun reiterated Council did not have all the facts from staff and urged support for the delay as it would provide the facts. President Xiong stated this would affect next year's budget which was going to be a tough one, and added staff was only asking for 45 days and encouraged Council to support the delay to get a report back on the overall impacts.

Mr. Souza clarified there would be no increase or change in fees until this issue is resolved, stated it was important for the next Council -- who will absorb this cost -- to have the opportunity to weigh in and further elaborated, stated 45 days was not too much of a request for a major policy decision that will impact the general fund significantly and that the next council will be faced with, and requested staff be allowed the time to present information so Council can make an informed policy decision.

A motion of Councilmember Calhoun, seconded by President Xiong, to lay this matter over until the first meeting in February to allow staff to look into and report back on implications of the BIA's request failed, by the following vote:

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

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2008-346, 2008-347, 2008-348 and 2008-349 hereby adopted, by the following vote:

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

Upon question City Attorney Sanchez clarified this action would go to the Mayor who will have 10 days to consider a veto and if he vetoes it Council would then have 30 days to place an override item on the agenda. President Xiong encouraged the parties to still move forward on the overall impact within that time frame.

----

**RECESS 10:49 A.M. - 10:56 A.M.** Councilmember Perea was absent for the remainder of the meeting.

**(9:15 A.. "B") REPORT TO COUNCIL OUTLINING ISSUES FOR CONSIDERATION BY THE INCOMING MAYOR, COUNCIL AND ADMINISTRATION - COUNCILMEMBER CALHOUN**

Councilmember Calhoun clarified no action was associated with this matter and read the issues he was submitting for consideration into the record **(4 - 0)**, all as contained in his report to Council as submitted. There was no discussion.

**(9:30 A.M. "A") RESOLUTION NO. 2008-350 - 478<sup>TH</sup> AMENDMENT TO MFS RES. 80-420 INCREASING RATES AT CAMP FRESNO AND ESTABLISHING A RESERVATION PRIORITY FOR FRESNO RESIDENTS**

PARCS Director Cooper reviewed the issue, all as contained in the staff report as submitted. Councilmember Duncan stated now was not a good time to raise rates on anything and upon his question City Attorney Sanchez stated the rates and reservation issues could be separated, whereupon Councilmember Duncan made a motion to direct staff to implement the reservation policy only, which was seconded by Councilmember Dages.

Mr. Cooper and ACM Rudd responded to questions of Acting President Sterling and/or clarified issues relative to need and reason for the increased rates, where the increased dollars will go/what they will go towards, if facilities have been affected by any major fires, what improvements will be made to help prevent fires from getting too close to camp facilities, what Camp Fresno's position was on this issue, and which rates would increase/which would remain the same. Councilmember Calhoun stated he did not support the motion and added the city has subsidized Camp Fresno for years, and stated this was still the deal of the century and there was no reason to further starve the facility. Upon questions of Councilmember Duncan, Mr. Cooper stated his department was not an enterprise department, the department was funded by the general fund, and general fund dollars could be allocated to cover any shortfall caused by not increasing the rates. Councilmember Duncan stated the notion that something is a subsidy just because someone uses a service that has general fund dollars attached to it was ridiculous and not fair and stated this was an opportunity to send a message that the city needs to hold the line as people were struggling.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the reservation priority for Fresno residents hereby approved, by the following vote:

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

On motion of Acting President Sterling, seconded by President Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2008-350 hereby adopted, by the following vote:

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

-----  
**(10:00 A.M.#1) PRESENTATION OF THE FY 2008 "STATE OF HISTORIC PRESERVATION ANNUAL REPORT" BY THE HISTORIC PRESERVATION COMMISSION**

**-and-**

**(10:00 A.M. #2) PRESENTATION OF THE 2008 CITY HISTORIC PRESERVATION AWARDS**

Planning Manager Unruh introduced the two historic preservation items; Dr. Don Simmons, Chairperson of the Historic Preservation Commission, gave a brief overview of the annual report as required by the historic preservation ordinance; and Historic Preservation Project Manager Hattersley-Drayton gave a PowerPoint presentation on the ten projects and along with Deputy Mayor Eben presented the awards to the recipients. President Xiong commended the Commission (after Dr. Simmons' report) and Councilmembers Calhoun and Sterling spoke to the importance of preserving history and commended the award winners, the historic preservation commission, and staff for their accomplishments and work **(5 - 0)**. There was no further discussion.

-----  
**(10:15 A.M.) HEARING ON REZONE APPLICATION NO. R-08-30 AND ENVIRONMENTAL FINDINGS, FILED BY THE CITY OF FRESNO, PERTAINING TO 190 PROPERTIES TOTALING APPROXIMATELY 93 ACRES LOCATED AT THE**

SOUTHWEST CORNER OF E. BELMONT AND N. SUNNYSIDE AVENUES

152-195

12/16/08

1. CONSIDER AND ADOPT E.A. NO. R-08-30, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
2. **BILL NO. B-77 - ORDINANCE NO. 2008-75** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE 190 PROPERTIES FROM R-1, R-1-AH , R-2 AND R-3 TO R-1, R-1-B AND R-2

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

Project Manager Barnes gave a PowerPoint presentation which included the Background, the Proactive Annexation Program, Map of the Subject Property, Existing Land Use, Existing and Proposed Zoning, and Recommendation for Approval.

Speaking to the issue and expressing concerns and/or opposition about being annexed were: Terry Slaven, President of the Easterby-Kings Canyon Homeowners Association; Shelly Slaven, Secretary-Treasurer of the E-KCHOA; and Robert Schmidt.

Upon call, no one else wished to be heard and President Xiong closed public testimony.

Mr. Barnes responded to questions/comments/concerns of Councilmember Dages relative to code enforcement, how code issues will be handled, opposition to selective enforcement, if resident's utility rates will decrease, service providers for apartment and condominium areas, wells, notification process, in-home businesses, lack of opposition originally, ability to annex without a protest hearing and if this was the only opportunity people had to protest, and if people could protest at LAFCO. Councilmember Dages stated he would not support this project as he had a concern with the City coming in and changing peoples way of life, and added code enforcement was also a concern to him and people moved to areas for reasons and requested Council oppose this.

At this point proceedings were interrupted for the lunch break and continued to 2:00 p.m.

**LUNCH RECESS - 12:07 P.M. - 2:00 P.M.**

Councilmember Calhoun stated although he has always supported the concept of annexation based on merits he would be consistent and oppose this one as he never supported not allowing people in the area to vote on being annexed, and stated he agreed with staff that people will benefit from this and added code matters would not be an issue as people would be treated fairly. Councilmember Duncan stated this was necessary, it made sense, and the inefficiencies that county islands offer could not continue to occur, and made a motion to approve staff's recommendation. Councilmember Caprioglio seconded the motion stating he agreed with Councilmember Duncan and supported staff.

Interim P&D Director Bergthold, Mr. Barnes and Code Enforcement Manager Lopez responded to numerous questions and/or comments of President Xiong and Acting President Sterling relative to whether the overlay district would apply here, if the area's lifestyle was considered an urban use, if the county provided any input, if island residents could assess themselves for additional services, resident concerns with increased costs and if there would most likely be a cost savings, past mistakes and city growth and this action being necessary, existing RV requirements, future improvements to the area, assessments, if there will be an educational period if this is approved, need for staff to be lenient, if community meetings/outreach efforts are planned to help with compliance, if livestock/small animals will be permitted, if proactive annexation was part of the general plan, and the proper noticing that occurred throughout this long, slow process.

On motion of Councilmember Duncan, seconded by Councilmember Caprioglio, duly carried, RESOLVED, the subject E.A. hereby adopted, and the above entitled Bill No. B-77 adopted as Ordinance No. 2008-75, by the following vote:

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

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

**(‘A’) CITY COUNCIL:** CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAME: DONALD GERHARDT V. COF

**152-196**

**12/16/08**

**(‘B’) JOINT COUNCIL/REDEVELOPMENT AGENCY:** CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAME: HERITAGE FRESNO ET AL., V. REDEVELOPMENT AGENCY, ET AL

The City Council met in regular closed session and jointly with the Redevelopment Agency in Room 2125 at the hour of 2:28 p.m. to consider the above matters and reconvened in regular open session at 2:43 p.m.

-----

**(10:30 A.M.) HEARING TO CONSIDER FORMATION OF A SPECIAL TAX DISTRICT (CFD NO. 9) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX**

- 1. RESOLUTION NO. 2008-351 - AUTHORIZING THE LEVY OF A SPECIAL TAX AND PRELIMINARILY ESTABLISHING AN APPROPRIATION LIMIT FOR CFD NO. 9**
- 2. RESOLUTION NO. 2008-352 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 3. RESOLUTION NO. 2008-353 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-78 - ORDINANCE NO. 2008-76 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2008-2009 AND FUTURE TAX YEARS**
- 5. RESOLUTION NO. 2008-354 - 53<sup>rd</sup> AMENDMENT TO AAR 2008-162 APPROPRIATING \$5,000 FOR THE FORMATION OF CFD NO. 9**

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

Jeff Roberts, on behalf of Granville Homes, stated he concurred with staff's recommendation.

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

On motion of Councilmember Caprioglio, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution Nos. 2008-351, 2008-352, 2008-353 and 2008-354 hereby adopted, and the above entitled Bill No. B-78 adopted as Ordinance No. 2008-76, by the following vote:

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

-----

**(10:45 A.M.) CONTINUED HEARING TO CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. EA-01-052, FOR THE WIDENING OF PEACH AVENUE TO FOUR LANES BETWEEN KINGS CANYON ROAD AND BELMONT AVENUE**

President Xiong announced the time had arrived consider the issue, opened the hearing, and upon his question a planning & development department staff member 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 Xiong closed the hearing.

Staff, ACM Rudd and Assistant PW Director Banuelos responded to questions/comments/concerns of Councilmember Dages relative to when the project would start, if the \$47million allocated under Measure C was available, securing the remaining funds needed to complete the project **(6 - 0)**, and the work necessary before construction starts. Councilmember

Dages made a motion to approve and added this has been a very long and frustrating project and he did not understand how a child/student had not yet been hit by a car as this was the most treacherous mile of road. Councilmember Caprioglio briefly left the meeting at 2:47 p.m. during discussion.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the subject Mitigated Negative Declaration for the widening of Peach Avenue hereby adopted, by the following vote:

152-197

12/16/08

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

-----

**(11:00 A.M.) RESOLUTION NO. 2008-355** - AMENDING RES. 2007-373 AND AUTHORIZING NEGOTIATION AND ENTRY INTO AN AFFORDABLE HOUSING SPECIAL REVENUE FUND PROGRAM GRANT AGREEMENT WITH PYRAMID A-ONE, LLC IN THE AMOUNT OF \$180,000 FOR THE MIXED USE FULTON PLAZA PROJECT IN THE CULTURAL ARTS DISTRICT

Councilmember Caprioglio returned to the meeting at 2:50 p.m. Project Manager Rodrigues reviewed the issue, all as contained in the staff report as submitted.

Jeff Roberts, on behalf of Pyramid A-One, thanked staff and stated he concurred with staff's recommendation.

Acting President Sterling stated this was the first project the 10x10 Committee worked on with the housing trust fund and commended the developer and all involved.

On motion of Acting President Sterling, seconded by Councilmember Caprioglio, duly carried, RESOLVED, the above entitled Resolution No. 2008-355 hereby adopted, by the following vote:

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

-----

**RECESS - 2:57 P.M. - 3:00 P.M.**

**(3:00 P.M.) HEARING ON THE "FRESNO 40 PROJECT" - PLAN AMENDMENT APPLICATION NO. A-08-10, REZONE APPLICATION NO. R-08-14, CONDITIONAL USE PERMIT APPLICATION NO. C-08-157, AND EIR NO. 10142, FILED BY DEWAYNE ZINKIN, PROPERTY LOCATED BETWEEN N. FRIANT ROAD, E. AUDUBON DRIVE, E. COLE AVENUE AND N. FRESNO STREET**

- 1. RESOLUTION NO. 2008-357** - ADOPTING AND CERTIFYING FINAL EIR NO. 10142 PREPARED FOR THE PROJECT
- 2. RESOLUTION NO. 2008-358** - AMENDING THE FRESNO GENERAL PLAN AND WOODWARD PARK COMMUNITY PLAN
- 3. BILL NO. B-81 - ORDINANCE NO. 2008-79** - AMENDING THE OFFICIAL ZONE MAP TO REZONE APPROXIMATELY 16 ACRES OF THE PROPERTY FROM C-P/UGM/cz AND R-P/UGM/cz TO C-2/UGM/cz. THE REZONE ALSO PROPOSES TO CHANGE AN EXISTING CONDITION OF ZONING TO ALLOW FOR TWO VEHICULAR ACCESS POINTS FROM THE PROPERTY TO N. FRIANT ROAD
- 4. RESOLUTION NO. 2008-359** - APPROVING CUP NO. C-08-157 TO ALLOW FOR THE COMMERCIAL OFFICE AND RETAIL DEVELOPMENT AND 24 MULTIPLE FAMILY RESIDENTIAL DWELLING UNITS

President Xiong announced the time had arrived to consider the issue and opened the hearing. Councilmember Calhoun recused himself from the proceedings stating his home was located near the subject property and left the meeting at 3:01 p.m.

Planner Braun gave an in-depth PowerPoint presentation on the "Fresno 40" project which included the Project

Description (CUP/EIR), Vicinity Map/View of the Site/Aerial of Site, Woodward Park Land Use Map, Project Background, Project Issues, Change in Planned Land Use, Summary, and Recommended Conditions of Zoning. Continuing on behalf of staff were Jason Brandman, Vice President of Michael Brandman Associates (MBA), who gave a PowerPoint presentation on the EIR process; Elena Nuno, MBA Air Quality Specialist, who responded to air quality comments contained in a letter submitted by Attorney Richard Harriman representing the Woodward Park Homeowners Association; and Georgeina Vivien, Vice President of VRPA Technologies, who gave a PowerPoint presentation on the Traffic Impact Study and Environmental Document **(7 - 0)**. Mr. Brandman and City Traffic Engineer Jones responded further to Mr. Harriman's letter/comments relative to mitigation measures considered and traffic issues.

152-198

12/16/08

Speaking to the issue were: Joan Heisdorf, Board Officer for the Woodward Park Homeowners Association (WPHOA), who expressed concerns relative to air quality/pollution and pedestrian/traffic safety, submitted written information into the record, and requested this be sent back to staff to mitigate; Janet Mikkelson, concerns/negative impacts/need for more residential/send back to staff; Bob Merrill, WPHOA Vice President, concerns with air quality/traffic issues, submitted written information into the record/send back to staff; and Attorney Richard Harriman, representing the WPHOA, who submitted written comments into the record from John Ennis on traffic/circulation inadequacies, expressed concerns relative to (1) lack of project/document review by a qualified/licensed/registered traffic engineer, (2) outdated/inadequate general plan, and (3) site plan/internal circulation, and requested this be sent back to staff and offered to work with Mr. Zinkin.

Timothy Jones, 2445 Capitol Street, representing applicant Dewayne Zinkin, thanked staff and the consultants for all their work, addressed four issues raised by the Court of Appeals and neighbor comments/concerns, and requested a break be taken to allow him to review any new material submitted this date.

Mr. Harriman submitted into the record (1) his letter dated December 16, 2008, which was faxed to the City Clerk for Council, and (2) a newspaper article from the Modesto Bee.

Upon call, no one else wished to be heard and President Xiong closed public testimony. At this point proceedings were interrupted to address the **3:15** and **3:20 p.m.** items.

-----

**(3:15 P.M.) HEARING ON PLAN AMENDMENT APPLICATION NO. A-08-15, REZONE APPLICATION NO. R-08-25 AND ENVIRONMENTAL FINDINGS, FILED BY JEFFREY T. ROBERTS ON BEHALF OF GRANVILLE HOMES, INC., PROPERTY LOCATED ON THE NORTHWEST CORNER OF N. WILLOW AND E. COPPER AVENUES**

- 1. CONSIDER AND ADOPT E.A. NO. A-08-15/R-08-25, DETERMINATION OF INITIAL STUDY TO FILE A MITIGATED NEGATIVE DECLARATION**
- 2. RESOLUTION NO. 2008-356 - AMENDING THE FRESNO GENERAL PLAN AND WOODWARD PARK COMMUNITY PLAN**
- 3. BILL NO. B-79 - ORDINANCE NO. 2008-77 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM PV TO C-2/UGM**

President Xiong announced the time had arrived to consider the issue and opened the hearing. Councilmember Calhoun returned to the meeting at 4:15 p.m. Upon question, Interim P&D Director Bergthold advised the staff report as submitted was complete and there was no new information to add.

Speaking to the issue were: Jeff Roberts, on behalf of Granville Homes, managing general partner of the Copper River Ranch LLC development, who stated he concurred with staff's recommendation, requested approval, and expanded further on the rezone and plan amendment; Pat Ricchiuti representing his family and PR Farms, who spoke in opposition and expressed concern with the number of plan amendments and approval of this project at this time; and Gary McDonald, Copper River Ranch partner, who stated this was only a realignment/adjustment and explained and requested support.

Upon call, no one else wished to be heard and President Xiong closed public testimony.

Councilmember Duncan requested support **(8 - 0)** and stated staff was diligent in protecting the general plan, and

concurring this was a realignment and made a motion to approve staff's recommendation.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the subject E.A. hereby approved, the above entitled Resolution No. 2008-356 hereby adopted, and the above entitled Bill No. B-79 adopted as Ordinance No. 2008-77, by the following vote:

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

-----

152-199

12/16/08

**(3:20 P.M.)** HEARING TO CONSIDER A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FRESNO AND ASHLAN/HAYES NO. 1 LP, RELATING TO A RESIDENTIAL AND COMMERCIAL DEVELOPMENT AUTHORIZED BY TENTATIVE TRACT MAP NO. 5891/UGM AND CUP NO. C-07-308

1. CONSIDER AND ADOPT ADDENDUM TO ENVIRONMENTAL FINDING OF A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-07-08/R-07-29/C-07-308/T-5891/UGM

2. **BILL NO. B-80 - ORDINANCE NO. 2008-78** - APPROVING THE DEVELOPMENT AGREEMENT WITH ASHLAN/HAYES NO. 1 LP FOR DEVELOPMENT OF PROPERTY AS APPROVED BY T.T. MAP NO. 5891 AND CUP NO. C-07-308

President Xiong announced the time had arrived to consider the issue and opened the hearing. Planner Tackett advised staff and the applicant were now in agreement on all terms that were left outstanding at the planning commission, recommended approval, and noted a final draft copy of the agreement with appropriate changes had been submitted.

Brent McCaffrey thanked staff and the city manager and requested approval.

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

President Xiong thanked staff and the applicant on the agreement reached stating it protected the city and made a motion to approve staff's recommendation.

On motion of President Xiong, seconded by Acting President Sterling, duly carried, RESOLVED, (1) payment of the necessary development agreement processing fee hereby required prior to execution of the subject Development Agreement, (2) the addendum to the environmental finding for the subject E.A. hereby approved, and (3) the above entitled Bill No. B-80 adopted as Ordinance No. 2008-78, by the following vote:

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

-----

**RECESS - 4:27 P.M. - 4:34 P.M.**

**(3:00 P.M.)** HEARING ON THE "FRESNO 40 PROJECT" - PLAN AMENDMENT APPLICATION NO. A-08-10, REZONE APPLICATION NO. R-08-14, CONDITIONAL USE PERMIT APPLICATION NO. C-08-157, AND EIR NO. 10142 FILED BY DEWAYNE ZINKIN, PROPERTY LOCATED BETWEEN N. FRIANT ROAD, E. AUDUBON DRIVE, E. COLE AVENUE AND N. FRESNO STREET ***(Continued from earlier)***

Proceedings continued with Councilmember Calhoun recused.

Timothy Jones, Traffic Engineer Jones (at length), and MBA Air Quality Specialist Nuno addressed neighborhood concerns and oral/written comments of Mr. Harriman and Mr. Ennis, with Ms. Nuno also submitting into the record a copy of an application receipt from the San Joaquin Valley Air Pollution Control District as proof of compliance with Rule 9510.

Councilmember Duncan stated this was essentially the same project Council approved in 2004 and added it was a

good one then and was a better one now, noted some members of a local organization have been very vocal in their opposition to this project yet projects with far more total acreage than this one have been approved in his district since 2004 and he had not heard any opposition from that organization, stated this project has been more studied and talked about environmentally than any other district project during his eight years on council, clarified the opposition expressed and the organization did not represent all the neighbors as he personally spoke with some neighbors that felt this was a fabulous project and they were very pleased with it, stated he was also very satisfied that the two issues raised through the legal process were well addressed, added this was going to be an exceptional project for the entire city and one that everyone will be very proud of and stressed jobs, economic development and good projects were needed to fill in District 6, and stated he was also very proud of staff and commended them for all their work and made a motion to approve, which was seconded by Councilmember Dages.

152-200

12/16/08

Mr. Jones and Traffic Engineer Jones responded briefly to questions relative to the residential component, activity centers, and the site plan and how it will be addressed. Relative to speaker comments made City Attorney Sanchez clarified the existing general plan was a legally valid document and part of the record, the findings included consideration of the new EIR and the statement of overriding considerations which were based on the record, and the request for additional economic cost analyses was not legally required in the project. Upon question of President Xiong Mr. Sanchez stated from staff's analysis this project could be defended in court if approved.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution Nos. 2008-357 and 2008-358 hereby adopted, the above entitled Bill No. B-81 adopted as Ordinance No. 2008-79, subject to the conditions of approval outlined in the staff report, and the above entitled Resolution No. 2008-359 hereby adopted, subject to the four (4) issues outlined in the staff report, by the following vote:

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

-----

**(3:30 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY**

The City Council recessed at 5:01 p.m. and convened in joint session with the Redevelopment Agency.

Chair Duncan thanked members for their work and for an excellent year. Councilmember Calhoun returned to the meeting at 5:02 p.m.

**APPROVE AGENCY MINUTES OF DECEMBER 9, 2008**

On motion of Councilmember Dages, seconded by President Xiong, duly carried, RESOLVED, the Agency minutes of December 9, 2008, approved as submitted.

**(‘A’) AMEND REDEVELOPMENT AGENCY BY-LAWS TO BE CONSISTENT WITH CITY POLICY REGARDING FIRST YEAR COUNCIL MEMBERS. CHANGE WOULD ALLOW A FIRST YEAR COUNCIL MEMBER TO BE VICE CHAIR OF THE REDEVELOPMENT AGENCY - COUNCILMEMBER DUNCAN**

**1. AGENCY RESOLUTION NO. 1734 - RESCINDING PRESENT BY-LAWS AND ADOPTING NEW BY-LAWS (ALLOWING A FIRST YEAR COUNCIL MEMBER TO SERVE AS VICE CHAIR)**

Chair Duncan noted the matter was explained/discussed last week whereupon a motion and second was made to adopt the resolution. Member Calhoun encouraged members to consider the Council President rotation system for Agency Chair next year stating all members were capable and qualified to chair the Agency.

On motion of Vice Chair Dages, seconded by Member Caprioglio, duly carried, RESOLVED, the above entitled Agency Resolution No. 1734 hereby adopted, by the following vote:

Ayes : Calhoun, Caprioglio, Dages, Perea, Sterling, Xiong, Duncan

Noes : None  
Absent : Perea

**(‘B’)** APPROVE AN OWNER PARTICIPATION AGREEMENT (OPA) BETWEEN THE REDEVELOPMENT AGENCY AND GRANVILLE HOMES FOR THE DEVELOPMENT OF A RESIDENTIAL PROJECT AT 1735 AND 1759 FULTON STREET IN THE FULTON REDEVELOPMENT PROJECT AREA **(Agency action)**

Executive Director Murphey introduced Assistant Executive Director John Raymond and spoke briefly to his experience, and reviewed the subject matter, all as contained in the staff report as submitted.

Jeff Roberts of Granville Homes stated they were ready to embark on this development and spoke further to the project.

**152-201**

**12/16/08**

Ms. Murphey, City Attorney Sanchez and City Manager Souza responded to questions of Members Dages and Calhoun and/or clarified issues relative to the property that was torn down by the city or RDA, if there was a debt owed, the lien on the property, if the city was going to lose money, and if city staff was involved in this and supportive.

On motion of Member Sterling, seconded by Member Caprioglio, duly carried, RESOLVED, the subject OPA between the Redevelopment Agency and Granville Homes hereby approved, by the following vote:

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

**(‘C’)** AWARD A CONTRACT TO PANTANO EXCAVATION, INC., FOR DEMOLITION OF BUILDINGS AT 740 W. OLIVE AVENUE **(Council and Agency action)**

Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted. Acting President Sterling spoke briefly in support and made a motion to approve staff’s recommendation.

On motion of Acting President Sterling, seconded by Chair Duncan, duly carried, RESOLVED, a contract in the amount of \$69,650 for demolition of buildings at 740 W. Olive Avenue hereby awarded to Pantano Excavation, Inc., by the following vote:

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

**(‘D’)** AUTHORIZE A ONE YEAR EXTENDED EXCLUSIVE NEGOTIATION AGREEMENT (ENA) BETWEEN THE REDEVELOPMENT AGENCY AND FOREST CITY DEVELOPMENT, INC., FOR THE SOUTH STADIUM PROJECT LOCATED WITHIN THE CONVENTION CENTER, CENTRAL BUSINESS DISTRICT, CHINATOWN EXPANDED, AND SOUTH VAN NESS REDEVELOPMENT PROJECT AREAS **(Agency action)**

Chair Duncan stated he wanted to put on a little pressure and made a motion to authorize the extension, as modified, for six months instead of one year, which motion was seconded by Member Xiong. Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted.

Speaking to the issue were: Susan Smart, Forest City Senior Vice President and project executive, who stated the main reason for the extension request was they were in the application process for Proposition 1C funds and explained; **(9 - 0)** Mr. Lundeen (first name inaudible), area property owner, who spoke to the project being “in limbo” and its affect on surrounding properties; and Joe Moore, 5201 N. Maple, who requested the Agency Board ask Forest City for clarification on

where this project stands and suggested delaying action for the new members.

Ms. Murphey and Chair Duncan responded to questions and comments of Member Calhoun relative to the letter received from Central Transit & Development Corp (CTDC) and what staff knows about CTDC and their alternative plan, if staff was aware of any other company interested in providing a proposal, how long the city has been entertaining Forest City's ideas, and need to delay action this date so the new members can get all the facts and decide whether or not to extend the agreement. Member Calhoun made a motion to lay this matter over to January 13, 2009, upon call the motion died for lack of a second, and Member Calhoun stated he would oppose the motion on the floor.

Member Sterling stated she also had questions originally and had felt the new administration needed to discuss this and upon her question Ms. Smart confirmed funding could be jeopardized if an extension is not approved and explained, and Ms. Smart further clarified issues relative to Forest City's conference call last week and CEO Ratner's comments. Member Sterling stated she was supportive of the extension, some major steps were going to have to be taken to force the issue, and the new mayor and Agency board needed to be brought up to speed on this project due to the current economy. Ms. Smart responded to questions and comments of Vice

152-202

12/16/08

Chair Dages relative to the project cost, lack of a financial commitment from the city, why Forest City had not yet asked the city for a commitment, and concern that Forest City wants to move forward lacking a commitment. Member Xiong stated he was appreciative of Forest City spending money knowing there was some level of uncertainty, clarified the \$100 million number was not a final number but was something to work towards, and stated an extension was appropriate considering what Forest City has done and added it would make a difference at the state level. Chair Duncan stated extending an ENA before today was routine and clarified two were done recently, stated there were implications as the current ENA would expire on December 31<sup>st</sup>, and stated the city had a fiduciary duty to allow a project of this magnitude with the potential for private sector investment to continue to move forward until the Agency reaches the real decision points with real information and elaborated further.

City Manager Souza confirmed no discussions had been held with the mayor-elect, advised she was very aware of this project and was opposed to the initial discussion of a one-year extension, further clarified two of the ENA extensions involved city-owned property which differed from this project, stated staff was comfortable with a six month extension and explained, and stated the mayor and mayor-elect were supportive of where this stood but had some real concerns that would have to be addressed within the six month time frame.

On motion of Chair Duncan, seconded by Member Xiong, duly carried, RESOLVED, a six (6) month extension of the ENA between the Redevelopment Agency and Forest City Development, Inc., hereby authorized, by the following vote:

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

Chair Duncan stated his eight years on Council had been "awesome" and he appreciated his team and everything that had been done for him, and adjourned the joint meeting at 5:44 p.m. President Xiong stated he also had a wonderful time serving as Council President, thanked everyone for their help, and extended happy holiday wishes to all.

----

**ADJOURNMENT**

There being no further business to bring before the City Council, the hour of 5:45 p.m. having arrived and hearing no objection, President Xiong declared the meeting adjourned.

**Approved** on the \_\_\_6<sup>th</sup>\_\_\_ day of \_\_\_January\_\_\_, 2009.

\_\_\_\_\_/s/\_\_\_\_\_/ ATTEST \_\_\_\_\_/s/\_\_\_\_\_

Blong Xiong, Council President

Yolanda Salazar, Assistant City Clerk

**152-203**

**12/16/0  
8**