

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

Present:	Andreas Borgeas	Councilmember
	Lee Brand	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Councilmember
	Larry Westerlund	Acting Council President
	Blong Xiong	Councilmember
	Cynthia Sterling	Council President

Andy Souza, City Manager
 Bruce Rudd, Assistant City Manager
 David Hale, Chief Assistant City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Pastor Tom Sims of the Baptist Temple Church gave the invocation and President Sterling led the Pledge of Allegiance.

PROCLAMATION OF "WHITE CANE DAY" - MAYOR AND CITY COUNCIL

Read and presented.

PRESENTATION OF P.R.I.D.E. TEAM CERTIFICATES FOR THE FALL QUARTER

Commendation Certificates were presented to Meenakshi Singh of the Airports Department; Gregory Barfield of the Mayor/Council/Manager/Call Center/City Clerk Offices; Noemi Schwartz of the City Attorney's Office; Ashley Aouate of the Finance Department; Luis Rhodes, Daniel O'Meara and Darla Scott of the Fire Department; Norm Takeuchi and James Claybaugh of Fresno Area Express; Robert Lacy of the General Services Department; Paul Rentfrow of the Information Services Department; Jim Arietta of the PARCS Department; Lori Tigson of the Personnel Services Department; Brian Analla, Carla Glazebrook, Vicki Dellone, Virginia Reyes and Sharon Sloan of the Police Department; Anthony Cody, Erin Davis, Luis Castellano, Carlos Arganda and Don Wells of the Public Utilities Department; and Abel Orozco and Stacey Woo of the Public Works Department. A reception for the employees was held immediately following the presentation.

RECESS - 9:06 A.M. - 9:19 A.M.

APPROVE MINUTES OF OCTOBER 1, 2009:

On motion of Acting President Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, the minutes of October 1, 2009, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) congratulated PAL and the Fire Chief's Foundation for hosting a fund-raising golf tournament; (2) thanked Dr. Kapoor and his group for hosting the Ghandi birthday event at Fresno State; (3) thanked PAL for working with Pacific Service Credit Union on their 6th annual Child Safety Day event; (4) thanked Councilmember Dages for his work with the Big Fresno Fair; (5) advised he attended the Graduation Summit with Mayor Sweeney and stated he hoped the City would be able to work with Fresno Unified to share and communicate important information with the community; (6) thanked Acting President Westerlund for attending the Fresno Area Taiwanese 20th anniversary event with him; and (7) congratulated the Fresno Junior Hockey Team stating they were ranked 13 out of 73 and still undefeated and urged the community to support them.

Councilmember Dages commended ACM Rudd for his work to provide bus service for seniors at the Senior Citizens Village for Senior Day at the fair.

Councilmember Brand reminded staff to make sure sponsors of the Two Cities Marathon provide proper notification to residents on road closures.

Councilmember Perea (1) reported he attended a news conference in Sacramento on October 9th with the Governor and the Latino Water Coalition to urge legislators to act on getting water for the valley and state; and (2) requested an update on the Safer grant for firefighters that is similar to the COPS grant.

Acting President Westerlund (1) thanked public works and public utilities staff for all their work during the rain storm; and (2) requested staff make a presentation to Council in the next couple of months on the City's sexual harassment policy and training.

President Sterling (1) announced Redevelopment Director Murphey's father passed away and asked that she be kept in prayer; (2) announced Fire Capt. Vernon Jones' mother passed away and funeral services were pending; and (3) advised she attended the Kerman City Hall Open House, spoke at the High Speed Rail Conference on October 2nd, attended the annual Cultural Arts luncheon, hosted a clean-up in her district at Freeway 180 and Fulton Street, attended the ordination of PARCS employee Darryl Du'chene, attended World Habitat Day along with the Mayor, welcomed the 2nd Citizens Academy class, attended opening day ceremonies for the Big Fresno Fair, attended the Fresno Sister Cities Exchange reception, presented a proclamation to the new Mexican Consulate, attended the FLYP Awards Banquet, attended the Fresno Rescue Mission reception, and attended the EDC Economic Profile and Annual Report luncheon on water and energy efficiency.

Acting President Westerlund (1) noted ten intersections along Shaw Avenue were being redone and thanked staff for work hours and being considerate of traffic and businesses; and (2) questioned if there was a requirement for the Council President to advise of all functions attended, with President Sterling stating she was not required to do so and she reports just to let the public know what she is doing. (*During "APPROVE AGENDA" Chief Assistant City Attorney Hale spoke further to reporting requirements.)

APPROVE AGENDA:

(10:15 A.M.) CONTINUED HEARING ON APPEAL FILED BY GARY McDONALD AND FORMER COUNCILMEMBER JERRY DUNCAN APPEALING THE PLANNING COMMISSION'S DENIAL OF VESTING TENTATIVE TRACT MAP NO. 5933, CUP NO. C-08-59 (*Continued to October 29, 2009, at 10:45 a.m.*)

Continued as noted.

(10:30 A.M.) CONTINUED HEARING ON PROPOSED DEVELOPMENT AGREEMENT WITH FANCHER CREEK PROPERTIES, LLC, AND REPEAL OF THE TULARE STREET OFFICIAL PLAN LINE (OPL) BETWEEN CLOVIS AVENUE EASTERLY WITH THE PROJECT AREA (*Continue to October 29, 2009, at 10:50 a.m.*)

Continued as noted.

(1-A) AFFIRM APPOINTMENT OF DR. A.P. SIDHU TO THE COUNCIL DISTRICT 6 PLAN IMPLEMENTATION COMMITTEE - COUNCILMEMBER BRAND; RE-APPOINTMENT OF MOLLY SMITH TO THE HISTORIC PRESERVATION - MAYOR'S OFFICE, AND APPOINTMENT OF ARIC OLSON TO THE FRESNO REGIONAL WORKFORCE INVESTMENT BOARD - MAYOR'S OFFICE

City Clerk Klisch advised the Aric Olson appointment was being removed from the item and the other two were going forth. So noted.

(1-E) BILL - BILL FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE REQUIRING INSTALLATION OF PHOTO LUMINESCENT EXIT PATH STAIRWELL MARKINGS, SAFE AND SANE FIREWORKS EXCEPTIONS, AND SALE OF SAFE AND SANE FIREWORKS

Removed from the agenda by staff. Councilmember Dages stated he had a lot of questions on the issue and wanted to speak with staff before the item is rescheduled, with City Manager Souza stating staff would contact him.

*Relative to Acting President Westerlund's earlier question Chief Assistant City Attorney Hale advised pursuant to Ordinance No. 2006-14 council members were required to provide brief reports at the next regular council meeting only on meetings attended at the public's expense.

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

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

ADOPT CONSENT CALENDAR:

(1-A) AFFIRM APPOINTMENT OF DR. A.P. SIDHU TO THE COUNCIL DISTRICT 6 PLAN IMPLEMENTATION COMMITTEE - COUNCILMEMBER BRAND; AND THE RE-APPOINTMENT OF MOLLY SMITH TO THE HISTORIC PRESERVATION - MAYOR'S OFFICE

(1-B) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO A CONTRACT, SUBJECT TO APPROVAL AS TO FORM BY THE CITY ATTORNEY'S OFFICE, WITH RCC CONSULTANTS, INC., IN THE AMOUNT OF \$399,845, FOR THE CALIFORNIA STATEWIDE INTEROPERABILITY EXECUTIVE COMMITTEE CENTRAL PLANNING AREA REGIONAL INTEROPERABILITY PROGRAM

(1-C) **RESOLUTION NO. 2009-211** - 10TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$266,600 INTO THE FY 2010 BUDGET FOR THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING (COPS), FOR THE TECHNOLOGY 2008 GRANT PROGRAM

(1-D) AWARD A ONE-YEAR REQUIREMENTS CONTRACT, WITH PROVISIONS FOR THREE (3) ONE-YEAR EXTENSIONS, TO WEST VALLEY CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$559,820 FOR WATER SERVICE TRANSFERS

(2 - 0) On motion of Councilmember Dages, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

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

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

(A') SCHEDULED COMMUNICATION: APPEARANCE BY KENNETH FICK TO DISCUSS VARIOUS ISSUES

Appearance made.

(B') UNSCHEDULED COMMUNICATIONS:

Sarah Robinson, FCC student and Campus Coordinator for California Student Public Interest Group (CALPIRG), invited Council to attend and/or participate in a CALPIRG press conference on October 20th on financial aid options and process to continue college education and advised she would follow-up with each council office.

Rick Morse, 210 E. Olive, medical marijuana advocate, submitted written material into the record and expressed concerns with the city's ordinance and federal law.

Reyes Garza, 412 "F" Street, spoke to the need to help the homeless and mentally ill.

Paula Savino spoke to the need for an ombudsman for local citizens.

Barbara Hunt spoke to various issues including people's rights and city policies and appointments.

Robert Williams, Beverly Avenue, Clovis, spoke to the issue of deadly chemtrails and submitted written material into the record.

Paul Hurlbut, 4701 W. Swift, spoke to the growth in the northwest area and the need for upgraded infrastructure and a fire station in the area, preferably at Gettysburg and Barcus Avenues.

Brian Calhoun, E. Audubon, FAX rider, spoke to the need for service improvements/amenities including shorter trip times, newer buses, on-time buses, express buses during peak rush hours, additional bike racks, and additional riders, and stated he hoped the city was taking advantage of federal stimulus dollars.

(9:30 A.M. #1-A) RESOLUTION NO. 2009-212 - AMENDING RES. 2008-243 REGARDING THE RETENTION OF AUDIO AND VIDEO TAPES OF CITY COUNCIL MEETINGS AND SUBCOMMITTEES SET FORTH IN THE CITY OF FRESNO RECORDS RETENTION SCHEDULE, AS AMENDED - ACTING PRESIDENT WESTERLUND

Acting President Westerlund noted a letter to the Fresno Bee editor expressing the desire to revisit this issue was prepared and signed by himself along with Councilmembers Brand and Borgeas, spoke to the background of the issue, advised audio tapes are now kept for one year and three months and he felt the audio tapes, video, or both should be kept for an indefinite period of time, spoke to the records retention schedule and stated without any ill intent a policy was passed and the audio tapes were destroyed, pointed out the tapes will eventually degrade and when they do they would then be gone, added he would like discussions opened up with the Historical Society or Fresno State on whether they would like to receive copies for their archives, stated many events take place during meetings that shape the history of the city and although the minutes are the official documents for legal purposes they can not absorb the true intent that takes place, and made a motion to adopt a policy to store and keep the audio/video recordings of city council proceedings, including official sub-committee meetings, indefinitely, by adoption of the subject resolution, which motion was seconded by Councilmember Brand and subsequently amended.

Councilmember Borgeas stated the co-authored letter to the editor framed the argument in the most accurate way, concurred it was import to maintain Fresno's history and keep track of council proceedings indefinitely and added the decision back in 2008 was one of procedure rather than ill intent by staff, and spoke to the "official sub-committee" portion of the motion stating he had some reservation with that and questioned if that would be adding another layer of procedure and formality. Acting President Westerlund clarified the policy would not apply to ad-hoc committees, it would only apply to permanent sub-committees, and advised currently there was only one permanent sub-committee -- the Finance and Audit Committee -- which were published meetings pursuant to Brown Act requirements with official minutes and tape recordings. Upon question, Chief Assistant City Attorney Hale confirmed the policy would only apply to standing committees that are appointed by the City Council and subject to the Brown Act. Acting President Westerlund stated he did not see that language in the policy and made an amendment to his motion to include that language clarification. Upon further question of Councilmember Borgeas Mr. Hale stated it was his recollection that committees created by the mayor were not subject to the Brown Act and the only exception to that was if there was a specific federal or state statute. Councilmember Borgeas requested Acting President Westerlund further modify the policy to call for a review/vetting by the city attorney's office anytime there is a mayoral-appointed subcommittee to make certain tape-recording are not required, whereupon Acting President Westerlund stated informally that would probably happen but he felt that was going beyond what was at issue here, added there was no legal requirement to keep tapes at all but the policy adopted last year was to keep them for one year plus three months, and stated the issue here was to keep tapes and official acts of this legislative body indefinitely and this was not about

committees or bodies appointed by the mayor. Councilmember Borgeas concurred the vetting could occur informally and expressed his support for the policy stating it was needed and was good policy.

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Lengthy discussion ensued. Councilmember Brand spoke to how council proceedings are condensed in the minutes and a lot of emotion/conversation is lost, added it was real important for history's sake to have an archive and concurred the Historical Society or Maddy Institute should also have the audio tapes, concurred there was no ill intent on the tape destruction, stated he had also had some reservation on the official sub-committees and upon his questions Acting President Westerlund explained he felt sub-committee proceedings will be important in the future when the City Council expands to nine members and more work is done by council sub-committees on the more in-depth issues, and further clarified mayoral and council ad hoc committees would be excepted from this policy. **(3 - 0)** Councilmember Brand cautioned council about over-encumbering themselves with sub-committees and records, concurred anything subject to the Brown Act should be taped, and stated he would support the motion with the official sub-committee amendment. Acting President Westerlund responded to questions/comments of Councilmember Xiong relative to the records retention schedule, the process, if there were sufficient checks and balances, if what is to be kept and destroyed was sufficient, keeping both audio and video and if some proceedings would be missed on the video, concern with redundancy/increased cost, retaining analog vs. digital recordings, and minutes and verbatim transcripts.

Councilmember Perea stated the resolution called for permanent retainment of records, relative to media physically breaking down noted the City Clerk was not being required to transfer the audio/video to another storage media, and upon his questions Acting President Westerlund confirmed when the record physically breaks down it would no longer exist and the record of meetings would be lost. Councilmember Perea stated losing the record after it breaks down would be counter-productive to this policy and upon his question Mr. Hale confirmed the resolution would be the authority to keep the media permanently and based on how the resolution reads there was no obligation on the City Clerk to do anything with the media and should part of the data on the tape break down it would still be kept permanently. Councilmember Perea stated he wanted to see the information transferred to keep things pure, and made an amendment to require the City Clerk to transfer all audio and video, with age as the criteria, to retain the records permanently, which amendment was seconded by Councilmember Dages. Councilmember Brand suggested Acting President Westerlund make that amendment to his motion as the intent was to retain records and added he did not see the transfer of information as a labor-intensive process adding if something is going to be done it needed to be done right. City Clerk Klisch advised the video recordings were kept on a server and backed up daily therefor only the audio tapes would be at issue.

Acting President Westerlund stated he appreciated the idea of being pure but stated it was smart to be cost effective and efficient, advised the tapes would last 15-16 years and probably longer, stated having a re-burning process would add a level of burden that did not exist until this came up, and stated he did not want this policy to require the City to expend more money and he felt the right policy was to just keep the tapes for as long as they continue to hold up and go forward. Councilmember Xiong stated he was not interested in keeping both the audio and audio/video tapes as there would be an added cost and just one would suffice and requested the City Clerk make the decision and define the quality of which is the best to keep. Councilmember Brand questioned the need to have audio tapes at all since there was video and requested the City Clerk return with cost information to convert to a digital system. Acting President Westerlund and ACM Rudd responded to questions and clarified issues presented by President Sterling relative to increased cost, intent of the policy, if efforts are being duplicated, if there was no audio for the last 16 years, and funding source for any additional cost to convert the media.

On motion of Councilmember Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the policy hereby amended to require the City Clerk to transfer audio/video tapes, with age as the criteria, to retain records permanently, by the following vote:

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

On motion of Acting President Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2009-212 hereby adopted, *as amended*, adding language that the policy shall apply only to standing committees that are appointed by the City Council and subject to the Brown Act, by the following vote:

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

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(9:30 A.M. #1-B) REQUEST STAFF WORK WITH THE COUNCIL WATER TASK FORCE ON A MODEL WATER EFFICIENT LANDSCAPE ORDINANCE ENABLED BY ASSEMBLY BILLS (ABs) 325, 2717 AND 1881, AND PREPARE FOR A WORKSHOP ON THE MODEL ORDINANCE FOR A LATER DATE - COUNCILMEMBER BORGEAS

Councilmember Borgeas reviewed the issue, all as contained in his report to Council as submitted, and made a motion to approve the request to staff as outlined, which motion was seconded by Councilmember Brand. Councilmember Perea questioned why council action was needed stating anytime a task force is established by council the expectation is that staff will work with the task force. Councilmember Borgeas stated he brought this forth due to the complexity of this type of ordinance, to get ahead of the curve, and to inform council and the public on what the task force was doing. Councilmember Perea suggested, in the future, that task forces just go ahead and do their work and move forth on issues as council agendas are typically pretty full and that is why committees/task forces are formed. Councilmember Borgeas stated usually he would not do this and he did not think there would be too many situations like this with the complexity and far-reaching impact but noted three major Bills were attached and he felt it was best to let the public know of Council's intentions.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, staff requested to work with the Council Water Task Force on a model water efficient landscape ordinance enabled by ABs 325, 2717 and 1881, and prepare a workshop on the model ordinance for a later date, by the following vote:

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

(9:30 A.M. #2) CITY COUNCIL MONTHLY REPORTS ON BOARDS AND COMMITTEE ACTIVITIES

President Sterling gave brief updates on the Council Sub-Committee Task Force for Water, the Fresno Area Workforce Investment Board Corporation, the Fresno-Madera Area Agency on Aging, the Joint Powers Financing Authority, the Leadership Council to End Homelessness, the Public Safety JPA, the Association for the Beautification of Highway 99, and the Convention & Visitor's Bureau. Councilmember Borgeas reported on the Fresno County Transportation Authority and Veteran's Boulevard funding. Acting President Westerlund stated he had nothing significant to report but requested, in the future, that the complete list of committees and members be included on the agenda as was done the last time stating it was important and helpful. Councilmember Xiong reported briefly on the Rail Subcommittee, the Finance/Audit Committee, and COG.

(9:40 A.M.) ACTIONS RELATING TO THE COUNCIL OF FRESNO COUNTY GOVERNMENTS (COG) 2009 CONGESTION MITIGATION AND AIR QUALITY (CMAQ) IMPROVEMENT PROGRAM AND 2009 REGIONAL SURFACE TRANSPORTATION PROGRAM (RSTP) "CALL FOR PROJECTS"

1. RESOLUTION NO. 2009-213 - AUTHORIZING THE SUBMISSION OF APPLICATIONS FOR AND ACCEPTANCE OF FUNDS FROM COG'S CMAQ "CALL FOR PROJECTS", AND AUTHORIZING THE EXECUTION OF DOCUMENTS BY THE PUBLIC WORKS, TRANSPORTATION, AND GENERAL SERVICES DIRECTORS OR DESIGNEES

2. RESOLUTION NO. 2009-214 - AUTHORIZING THE SUBMISSION OF APPLICATIONS FOR AND ACCEPTANCE OF FUNDS FROM COG'S RSTP "CALL FOR PROJECTS", AND AUTHORIZING THE EXECUTION OF DOCUMENTS BY THE PUBLIC WORKS, TRANSPORTATION, AND GENERAL SERVICES DIRECTORS OR DESIGNEES, as amended, adding Shaw/Freeway 41 off-ramp widening to the Project List

Assistant Public Works Director Mozier gave a PowerPoint presentation on the issue entitled Fresno Council of Governments Call for Projects which consisted of 2009 Call for Projects, CMAQ Regional Bid (4 - 0), RSTP Regional Bid, Intelligent Transportation System Map, RSTP and CMAQ Lifeline Funding, Urban Core Emphasis, and Future Council Actions.

Russell Appling spoke to the issue.

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Mr. Mozier responded to questions and comments of Acting President Westerlund relative to process to add projects to the list, Park-n-Ride facilities, and if there was preliminary work on the widening the Freeway 41/Shaw off-ramp. Acting President Westerlund made a motion to approve the resolutions, including the addition of Freeway 41/Shaw off-ramp widening to the Project List, which motion was seconded by Councilmember Xiong. Mr. Mozier, Transportation Director Hamm and ACM Rudd responded to questions, comments and/or request of Councilmembers Perea and Brand relative to the emphasis on the urban core, the bus shelter projects and if these would be new shelters or rehabilitation of existing shelters, what the process/determination was to focus on downtown bus shelters, the need for shelters in other areas such as the inner city, central and southeast Fresno, request for information/details on rankings for projects and the list of sites getting infrastructure upgrades and shelters, the local match requirement, and if proposed funding from future capital budgets will be problematic. President Sterling stated she also had questions similar to those of Councilmember Perea and she would wait for the information requested.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2009-213 hereby adopted, and 2009-214 adopted, as amended, adding Shaw/Freeway 41 off-ramp widening to the Project List, by the following vote:

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

(10:00 A.M.) HEARING ON THE EL DORADO NEIGHBORHOOD PLAN - PLAN AMENDMENT APPLICATION NO. A-09-001 AND ENVIRONMENTAL FINDINGS FILED BY THE PLANNING & DEVELOPMENT DIRECTOR, PROPERTY GENERALLY BOUND BY E BARSTOW, N. FOURTH STREET, THE REAR PROPERTY LINES OF PROPERTIES ALONG THE EAST SIDE OF N. SIXTH STREET, AND THE REAR PROPERTY LINES OF PROPERTIES ALONG THE SOUTH SIDE OF E. BULLDOG LANE

1. CONSIDER AND ADOPT FINDING OF A MITIGATED NEGATIVE DECLARATION PREPARED FOR E.A. NO. A-09-001
2. BILL NO. B-36 - BILL FOR INTRODUCTION AMENDING THE HOOVER COMMUNITY PLAN AND 2025 FRESNO GENERAL PLAN BY INCORPORATING THE EL DORADO PARK NEIGHBORHOOD PLAN INTO THE HOOVER COMMUNITY PLAN AND AMENDING TABLE 4 OF THE GENERAL PLAN, as amended, adding condition 'd' relative to Open Space (rewording on Page 37 of the Plan, Policy #1)

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

Planner Pagoulatos gave a PowerPoint presentation on the issue which consisted of an Aerial Photo of the El Dorado Neighborhood Plan, General Plan Planned land Use Map, El Dorado Neighborhood Plan Proposed Land Use Map, Photos of Existing Conditions, Partners, Neighborhood Plan Process, Guiding Principles of the Plan, Plan Components, Stakeholder Concerns, Illustrative Plan, Mitigated Negative Declaration Finding, and Recommendations, with an amendment rewording Policy 1 on Page 37 of the Plan relative to Open Space.

Plan Consultant Mark Steele expanded on the area's crime issue, findings and work with the community and requested support. Continued speakers in support were: Vickie Healy, Pastor of Wesley United Methodist Church; Cynthia Matson, CSUF Vice President for Administration; Rollie Smith, HUD Field Office Director; Lorraine Cook, N. Sixth St.; (5 - 0) Susan Manfredo Renn, N. Millbrook, sorority/fraternity representative; Christina Cardenas, neighborhood resident; Mr. Andrade, Brentwood, CA, San

Bruno Ave. property owner; and Robin Ford, N. Cedar Avenue, who also spoke to the area's crime problem and need for jobs.

Upon call no one else wished to be heard, President Sterling closed the public hearing, and Council recessed for lunch.

LUNCH RECESS - 12:03 P.M. - 1:32 P.M.

Acting President Westerlund thanked staff for the presentation and commended all involved for all their time and work, especially the stakeholders and neighborhood residents; spoke to the history of the area including crime and poverty concentration; stated the plan was a workable document and a great start and he was supportive and grateful for it; stated he hoped the next step would be making the community part of a redevelopment project area to receive benefits; spoke briefly to moving forward and authority of area property owners; and made a motion to adopt the environmental finding and introduce the Ordinance Bill as amended by staff, which motion was seconded by Councilmember Xiong.

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Councilmember Brand commented on the history of the area including housing construction, residents, and code enforcement, stated he was supportive of the plan but emphasized this was going to take a lot of effort, added from his experience the plan can not be incrementally done and to be successful the entire area would almost have to be bulldozed to start anew, and added a private developer in conjunction with a major stakeholder would be helpful. President Sterling thanked Acting President Westerlund for his involvement, spoke to her knowledge of the area as "Sin City" and to the problem of low-quality projects, and concurred with the need to make the area part of a redevelopment project area to open up funding to get the plan done and thanked all involved.

On motion of Acting President Westerlund, seconded by Councilmember Xiong, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, and the above entitled Bill No. B-36 introduced and laid over, as amended, by the following vote:

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

(10:20 A.M.) HEARING ON TEXT AMENDMENT APPLICATION NO. TA-09-03 AND ENVIRONMENTAL FINDINGS, INITIATED BY THE PLANNING AND DEVELOPMENT INTERIM DIRECTOR, RELATING TO RESTAURANTS WITH ALCOHOL SALES, TAVERNS AND NIGHTCLUB IN THE FMC ZONING ORDINANCE CITYWIDE. THE PROPOSED TEXT AMENDMENT PROPOSES NEW DEFINITIONS AND CONSOLIDATES AND PROPOSES NEW REGULATIONS RELATED TO DANCING, HOURS OF OPERATION, SETBACKS, AND THE GRANTING AUTHORITY FOR ALL THREE TYPES OF USES. IN ADDITION, THE AMENDMENT WOULD PERMIT TAVERNS (i.e. BARS, PUBS, LOUNGES) IN ALL ZONE DISTRICTS THAT HAVE HISTORICALLY PROHIBITED SUCH USES WHILE THE HOURS OF DANCING WOULD BE MODIFIED CITYWIDE AS WOULD THE DANCE PERMIT APPLICATION PROCESS

- 1. CONSIDER AND ADOPT A FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MEIR PREPARED FOR E.A. NO. TA-09-03**
- 2. BILL NO. B-37 - BILL FOR INTRODUCTION - ADOPTION OF TEXT AMENDMENT NO. TA-09-03 AND ENVIRONMENTAL FINDINGS AS RECOMMENDED BY THE PLANNING COMMISSION, WITH SEVERAL MINOR MODIFICATIONS, as amended**

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

Interim Planning Manger Rodriguez gave a PowerPoint presentation on the issue which consisted of Public Outreach, Purpose of the Ordinance, Existing Permits/Nonconforming, Existing Regulations, New Definitions, Overview of Regulations, Restaurants with Alcohol Sales, Taverns an Nightclubs, Hours of Dancing, Proposed Regulations, Exceptions, New Parking Standards, Special Conditions for Uses, and Loss of Nonconforming Status. Planner Rodriguez advised the Ordinance Bill was for introduction and recommended the environmental finding be adopted and the Ordinance introduced, with two amendments: (1) on Page 39/Section E, making a language change relative to conflict with standards, and (2) authority to designate "special days of celebration" (other than Cinco de Mayo, St. Patrick's Day, etc.)

Speaking to the issue were: former council member Jerry Duncan, E. Waterford, who spoke to the background of the issue and in support **(6 - 0)**; Michael Mahowie, W. Bullard, northwest Fresno restaurant/bar/lounge owner, who spoke to the lack of consistency and fairness with closing times and to the need for consistency and city support of businesses; and Bill Robinson, Sol Development Associates, support.

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

Councilmember Borgeas thanked staff and former council member Duncan for their work and leadership and added the community outreach was great, and presented questions relative to public noticing requirements, what the recourse was for opposing residents living within 500' of an establishment, hours of operation and mitigation process, troubled areas/number of calls for police service/viability of those establishments, and if proper mechanisms were in place to mitigate problems, with Mr. Rodriguez responding throughout. Councilmember Borgeas expressed his support stating this was a good and balanced ordinance and added it would bring quality of life and economic development to the city, especially the downtown core area, by allowing after-hours gatherings.

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Councilmember Brand also thanked Mr. Duncan for his work and commented briefly on the importance of applying standards consistently across the board irrespective of location, and Mr. Rodriguez responded to his questions relative to how these regulations compare to other cities, if some cities use state ABC regulations versus local planning standards, if staff worked closely with the police department on this issue, how restaurant and patio setbacks were determined, and Yosemite Ranch Restaurant's struggle and if this ordinance would allow them to go beyond midnight servings. Councilmember Brand thanked staff for all their work and stated this was a much better and fairer policy for the city.

Mr. Rodriguez responded to questions of Councilmember Perea relative to hours of operation, why alcohol can not be served in restaurants until 2 a.m., what restaurants need to do to serve food and alcohol till 2 a.m., security plans and process, planning director and planning commission decisions, and dancing regulations for restaurants. Councilmember Perea stated he would support this today but would reserve final support until he runs this ordinance by a few restaurant owners who have experienced problems with the city previously. Acting President Westerlund stated he also would be supportive today but reserve the right to withdraw that support, and upon his questions Mr. Rodriguez confirmed if the ordinance is adopted nothing would change at all restaurant-wide unless there is a request to intensify the use and there would be an opportunity for establishments to stay open later by following the process. Acting President Westerlund spoke to the past issue of Porky's Restaurant at Barstow & First with non-permitted dancing and loud music close to residential and presented additional questions and comments relative to how the Porky's situation would work under this proposal, CUPs and director/planning commission decisions and authority, importance of and support for a review of the ordinance in one year, what the provisions are for non-profits and establishments that do not serve alcohol, and the parking changes including concern with cars moving to residential areas and if regulations would apply to strip mall shopping centers, with Mr. Rodriguez responding throughout. President Sterling stated she would talk with staff on her issues/questions.

(7 - 0) On motion of Councilmember Xiong, seconded by Councilmember Borgeas, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby adopted, and the above entitled Bill No. B-37 introduced before the City Council and laid over, as amended, by the following vote:

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

(10:45 A.M.) HEARING ON REZONE APPLICATION NO. R-09-004 FILED BY SOL DEVELOPMENT ASSOCIATES, LLC, ON BEHALF OF WG ENTERPRISES, PROPERTY LOCATED ON THE WEST SIDE OF N. MILBURN BETWEEN W. PALO ALTO AND W. HERNDON AVENUES

- 1. CONSIDER AND ADOPT A FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MEIR**
- 2. BILL NO. B-38 - ORDINANCE NO. 2009-36 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM M - 1/EA/BA-15/UGM TO C-M/BA-15/UGM**

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

Bill Robinson, Sol Development Associates, on behalf of the owners, stated they concurred with staff's recommendation and requested approval.

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

Councilmember Borgeas noted this application went through the implementation committee and planning commission and was approved by both, and upon his question Mr. Robinson confirmed it also went through the Airport Land Use Commission who voted in favor as density and height were not issues. A motion and second was made to approve staff's recommendation. Ms. Salinas and Mr. Robinson responded to questions and comments of Acting President Westerlund relative to the zoning change and difference, what type of retail uses are not allowed in the M - 1 district, adjacent properties and zoning, the Herndon expressway and restricted access, challenge and plan for the remaining vacant M - 1 parcel, and concern with rezones and need for justification.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, the finding of conformity of E.A. No. R-09-004/C-09-112 hereby adopted, and the above entitled Bill No. B-38 adopted as Ordinance No. 2009-36, by the following vote:

154-100

10/15/09

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

CLOSED SESSION:

(‘A’) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATION: INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753, BASIC UNIT

The City Council met in closed session in Room 2125 at the hour of 3:13 p.m. to consider the above matter and the meeting was adjourned thereafter.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 4:05 p.m. having arrived and hearing no objection, President Sterling declared the meeting adjourned.

Approved on the 22nd day of October, 2009.

_____/s/_____
Cynthia Sterling, Council President

ATTEST

_____/s/_____
Yolanda Salazar, Assistant City Clerk

154-101

10/15/09