

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  
 Yolanda Salazar, Assistant City Clerk

Pastor Jimmy Farrell of the New Covenant Community Church gave the invocation and President Sterling led the Pledge of Allegiance.

**PROCLAMATION OF “COLLEGE MAKING IT HAPPEN WEEK” - PRESIDENT STERLING**

Read and presented.

**PRESENTATION OF THE “CARL HERNANDEZ AWARD” TO OFFICER MICKEY SMITH - COUNCILMEMBER PEREA**

Presented.

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**APPROVE MINUTES OF FEBRUARY 10, 2009:**

On motion of Acting President Caprioglio, seconded by Councilmember Perea, duly carried, RESOLVED, the minutes of February 10, 2009, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

Councilmember Xiong (1) reported on a Volunteer Commission meeting he attended in Sacramento; (2) commended Teague Elementary School on their Youth Authors Fair and spoke to the Read Across America event; (3) thanked the organizers of the dedication event at Remembrance Plaza; and (4) congratulated/commended all involved in the successful Chinese New Year and Tower District Mardi Gras parades.

Acting President Caprioglio congratulated Coach Prescott and his Bullard Under 11 Boys Soccer Team for making it to the State Cup Championship in Morgan Hill and read the names of team members.

Councilmember Brand (1) requested the Council President make appointments to the Joint Powers Authority for a term of two years, with President Sterling requesting a written request be submitted to her office; and (2) requested the city manager and the CVB begin efforts immediately to get Fresno involved in next year’s Amgen Bicycle Tour adding the deadline was June.

Councilmember Perea thanked PARCS Director Cooper for resolving an issue relating to charging local artists for displaying their art in City Hall.

President Sterling (1) spoke to the Weed & Seed Program boundary change and requested the city manager speak to those responsible for funding to insure a portion of southwest Fresno, that is now a part of the central area, get its fair share of money and added there was a lack of communication; (2) reported on her 'One Voice' trip last week to Washington and spoke to the heroic efforts of Sheriff Mims, Supervisor Case, Supervisor Anderson's assistant and a staff member from Congressman Radanovich's office in saving a life at a subway station; (3) commended all involved in the Day of Remembrance event; and (4) spoke to her participation in the Chinese New Year Parade and the successful Tower District Mardi Gras parade commending all involved.

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**APPROVE AGENDA:**

**(1-G) APPROVE A ONE-YEAR LEASE AGREEMENT WITH MATT HOBE (TENANT) FOR USE OF CITY-OWNED PROPERTY (THE FORMER DENSMORE PROPERTY) LOCATED AT 665 FULTON STREET FOR A HAUNTED HOUSE**

Removed from the agenda by staff.

**(9:00 A.M. #1) PRESENTATION REGARDING THE POLICE DEPARTMENT INTERNAL AFFAIRS (IA) BUREAU - COUNCILMEMBERS BORGEAS AND BRAND**

**-and-**

**(9:15 A.M. "D") STATUS REPORT ON RECENT INCIDENTS INVOLVING THE POLICE DEPARTMENT PERTAINING TO THE NARCOTICS ARRESTS AND THE FEBRUARY 9, 2009, INCIDENT INVOLVING A HOMELESS MAN - COUNCILMEMBER XIONG AND PRESIDENT STERLING**

City Manager Souza requested staff be allowed to present the two items together to better clarify issues that may come up.

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

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

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**ADOPT CONSENT CALENDAR:**

Barbara Hunt spoke in general various Consent items and stated her support.

**(1-A) ADOPT RESOLUTION OF INTENTION NO. 1072-D TO VACATE A PORTION OF THE "M" - "N" ALLEY SOUTHEAST OF LOS ANGELES STREET AND SETTING THE REQUIRED PUBLIC HEARING FOR MARCH 24, 2009**

**(1-B) RESOLUTION NO. 2009-45 - GRANTING AUTHORITY TO THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN MINOR AND ROUTINE AGREEMENTS WITH THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT (FMFCD)**

**(1-C) APPROVE THE TRANSFER OF TITLE OF FOUR (4) VACANT PARCELS LOCATED ON MONO STREET BETWEEN "F" AND "G" STREETS FROM THE CITY OF FRESNO TO THE REDEVELOPMENT AGENCY; FINDING THAT THE NOTICE OF EXEMPTION APPLIES TO THIS CONVEYANCE; AND AUTHORIZING THE CITY MANAGER TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION**

**(1-D) APPROVE THE ACQUISITION OF A WATER WELL SITE ON PROPERTY LOCATED AT THE NORTHEAST CORNER OF E. BUTLER AND S. ARMSTRONG AVENUES FROM LEROY KRUM FOR \$24,750**

**(1-E) REJECT ALL BIDS FOR THE FRUIT AVENUE, MCKINLEY TO ASHLAN, BIKE LANE PROJECT, AND DIRECT STAFF TO RE-BID THE PROJECT WITHIN THIRTY (30) CALENDAR DAYS**

**(1-F) APPROVE ACQUISITION OF A STREET EASEMENT AND USE OF A CONSTRUCTION EASEMENT AT THE**

CORNER OF MARKS AND WEBER AVENUES FROM PROPERTY OWNED BY DEARLD J. HENKEL

**1. AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO ACCEPT THE DEED OF EASEMENT AND CONSTRUCTION EASEMENT, EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, AND COMPLETE THE ACQUISITION THROUGH ESCROW**

**(1-H) RESOLUTION NO. 2009-46 - AUTHORIZING THE DIRECTOR OF PUBLIC UTILITIES OR DESIGNEE TO EXECUTE ALL NECESSARY GRANT APPLICATION DOCUMENTS FOR A CALIFORNIA ENERGY COMMISSION, RENEWABLE-BASED ENERGY SECURE COMMUNITIES (RESCO) GRANT THROUGH THE PUBLIC INTEREST ENERGY RESEARCH (PIER) PROGRAM IN THE AMOUNT OF \$3 MILLION FOR A RENEWABLE ENERGY RESEARCH AND IMPLEMENTATION PROJECT**

**(1-I) RESOLUTION NO. 2009-47 - APPROVING THE REALLOCATION OF \$70,000 OUT OF CONTINGENCY FOR EXPENSES RELATING TO THE RESUMPTION OF AN AGREEMENT WITH CALTRANS FOR HIGHWAY LITTER ABATEMENT**

**(1-J) AUTHORIZE AN AGREEMENT BETWEEN THE POLICE DEPARTMENT AND CALTRANS TO PROVIDE A FREEWAY LITTER CLEAN-UP PROGRAM WITH THE USE OF INMATE LABOR**

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

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**(9:00 A.M. #1) PRESENTATION REGARDING THE POLICE DEPARTMENT INTERNAL AFFAIRS (IA) BUREAU - COUNCILMEMBERS BORGEAS AND BRAND**

Chief Dyer displayed a 'Citizen Complaint Process' flow chart on the overhead and gave an in-depth, detailed explanation of the process. Councilmember Borgeas presented numerous comments and questions at length relative to the need to understand the IA process before debating the IPA, bureau staffing, if the bureau has taken on additional responsibilities since two sergeants were added, the Peace Officers Bill of Rights including disclosure of information to the public, significance of the Bill, and if it was codified law (**2 - 0**), if any special training was required to investigate complaints, reason for the two recent audits, if the investigating sergeant determines the outcome of complaints, if there was a chain of command for review, if multiple mechanisms were in place for a thorough review, if mechanisms were in place for criminal investigations that rise to the chain of command level, if staff was supportive of enhancements in the administrative setting, who has authority to require additional investigations, if four sergeants were able to handle the workload before two additional ones were added, if a process was in place to red-flag an officer that has serial allegations that are different in nature, if any additional training protocols were in place above POST, if any changes have been made to the internal process because of State recommendations, request for a tray memo with recommendations to enhance needed resources and improve the process, the prior request for IA material/the request now being timely/if Council could receive material requested, and if staff would recommend Council review privileged materials in closed session, with Chief Dyer, Lt. Martinez and City Attorney Sanchez responding and/or clarifying issues throughout.

Discussion continued with Lt. Martinez, Chief Dyer, City Clerk Klisch and Mr. Sanchez responding to questions/comments of Councilmembers Dages and Brand relative to number complaints received on an annual basis, main type of complaints received, commendation to officers in the southeast district for their handling of complaints, disappointment that no material was included in Council's binders, the fine job being done by the police department, there always being a "rotten apple in the barrel" no matter what the profession is, appreciation for the detailed explanation of the IA process, the complaint process and if anyone was assigned to community outreach/education, and the separate administrative and criminal investigations including who determines who the outside investigator will be and if a formalized policy is recommended. There was no further discussion.

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A visiting 3<sup>rd</sup> grade class from Mt. View Elementary School was recognized and welcomed.

**(9:15 A.M. "D") STATUS REPORT ON RECENT INCIDENTS INVOLVING THE POLICE DEPARTMENT PERTAINING TO THE NARCOTICS ARREST AND THE FEBRUARY 9, 2009, INCIDENT INVOLVING A HOMELESS MAN -**

COUNCILMEMBER XIONG AND PRESIDENT STERLING

President Sterling clarified this was a status report only, no written material was submitted for that reason, and there would be no public comment at this time, and advised a special meeting would be held this evening to receive public input on an Independent Police Auditor.

Chief Dyer gave detailed reports on the two incidents and the internal investigations that are occurring, advised the District Attorney was pursuing criminal prosecution of the three officers in the narcotics case and because of the complexity of the case he did not have a time line for completion of the investigation, and relative to the video incident advised that investigation should be completed by mid to late March.

Councilmember Xiong thanked Chief Dyer for his expeditious work in mitigating any further issues that might have arisen; clarified scheduling this matter on the agenda was in no way a waiver of support of the officers who continue to serve the community to their utmost ability; stated it was important that Council have this formal update to show that the city is moving in the right direction and doing what it is required to do; and requested staff keep Council updated when completion of the investigations are near or if new information comes forth. President Sterling asked that information requested by a member be submitted to the entire Council and added she would be requesting formal updates periodically.

Chief Dyer thanked Council for giving him the opportunity to provide the updates as well as address concerns; stated he understood and respected the difficult position Council was in as representatives of their constituents; emphasized trust was the very foundation of the police department and added if the community did not trust them they were not effective and further explained; spoke to confidentiality rules that are in place that protect personnel and the need to respect those rules; and stated the department had a desire and an underlying philosophy to be completely transparent as much as it could, transparency and the department doing the right things for the right reasons over a period of time allowed for trust to be built and maintained in the community, and he would not want to ever do anything that would jeopardize that trust or Council's trust. There was no further discussion.

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**(9:00 A.M. #2) SCHEDULED COMMUNICATIONS:**

**1. APPEARANCE BY REVEREND DON LOCKHART OF THE CENTRAL COMMUNITY DEVELOPMENT CENTER (CCDC) TO DISCUSS THE "LAUREL II HOUSING FOR THE HOMELESS" PROJECT**

Appearance made with Reverend Lockhart requesting city assistance in the areas of resources, volunteers and waiver of project fees. President Sterling referred Rev. Lockhart to Homeless Prevention Director Barfield to discuss issues. CCDC Program Director Jean Sharkey, a widowed mother of five children, spoke to her family's experience of being homeless three times in the past twenty years (**3 - 0**), to how Rev. Lockhart and CCDC helped her become a homeowner, and to her support for CCDC and the housing project.

**2. APPEARANCE BY GERALD LOZANO AND DON SCORDINO PRESENTING A LETTER OF APPRECIATION FOR THE CITY'S ASSISTANCE IN CREATING A WORKABLE VACANT BUILDING ORDINANCE AND REGISTRATION OF FORECLOSED PROPERTY ORDINANCE**

Appearances made an thank yous were extended to Council and staff.

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**(9:30 A.M. "C") UPDATE ON THE ENTERPRISE FUND BUDGETS**

Due to timing issues City Manager Souza requested the above item be moved to 2:00 p.m.

**153-50**

**2/24/09**

On a motion of Councilmember Perea, seconded by Councilmember Brand, Item **9:30 a.m. "C"** was moved to 2:00 p.m. by unanimous consent.

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**(9:00 A.M. #3) UNSCHEDULED COMMUNICATIONS:**

Sherry Smith, 4724 W. Swift, spoke to the economy, needed services, and the economic stimulus package, and stated the stimulus funding for a variety of fire related services should be targeted to the poorest neighborhoods.

Paula Savino, 7449 N. Mansionette, spoke to the need to end the neglect of the homeless.

Brunette Harris with HEAT, POB 1257, stated her opposition to Fresno receiving any stimulus funds and spoke to the inadequate type of housing being constructed in southwest Fresno, to the lack of notification to the area on projects, and to the lack of representation.

Barbara Hunt spoke to Black History Month, to her son, former pro football player Ron Cox, being treated unfairly, to the police department deserving to be treated with due process, to enterprise funds, to the Sphere of Influence, and to the former Ombudsman position and police department training.

Paul Hurlbut, 4701 W. Swift, spoke to an incident that occurred with Fire Station 12 involving Chief Bruegman's mother-in-law and her dog, stated there was inequitable service to the city's diverse communities, and spoke to Chief Bruegman's vision and issues of concern relative to Fire Station 16. President Sterling requested Mr. Hurlbut speak with fire department officials in attendance on his concerns, and Councilmember Xiong stated allegations were made and needed to be addressed. ACM Rudd stated this was first he heard of one incident and stated staff would look into the issue and provide Council with a tray memo.

Edward Medina, 1006 Recreation, Sanger, spoke on behalf of the Blajos Family to an issue of concern with Child Protective Services (CPS) wherein CPS took a minor away from her grandmother. President Sterling advised the city of Fresno had no jurisdiction over CPS and referred Mr. Medina to city attorney staff who would place Mr. Medina in contact with the appropriate County officials. Jacquetta Lucero, 1558 N. Brooks #4; Violet Blajos, 302 N. Durant; and Rosemary Blajos, 311 N. Durant, all spoke further to the issue and requested assistance.

Gloria Hernandez, 3232 E. Hedges, spoke to the police department complaint procedure and community outreach, and responded to Chief Dyer's earlier presentation/testimony and spoke to the need for an Independent Police Auditor (IPA).

Attorney Laura Guzman Magill, 1060 Fulton Mall, spoke to Chief Dyer's presentation on the Internal Affairs (IA) complaint process and to her experience with IA stating the process was not followed on her complaint and elaborated.

**(4 - 0)** Ellie Bluestein, 486 W. San Ramon, spoke to the IA Bureau and stated the complaint process was broken down and explained. Councilmember Borgeas requested Ms. Bluestein provide her ideas to him through email on how to improve IA.

Bill Simon, ACLU Chair, 4902 N. Ninth, spoke to Chief Dyer's presentation and to the disclosure of the names of peace officers involved in critical incidents and advised a request would be made in the Beatty incident.

Ray Ensher, 364 W. Vartikian, spoke in support of and need for an IPA.

Jacky Parks, representing the Fresno Police Officer Association (FPOA), spoke to the special meeting this evening on the IPA, submitted emails to Council which he stated helped him make up his mind to *not* attend the meeting, and stated the meeting seemed to be a set up for unnecessary ridicule and explained.

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**(9:15 A.M. "A")** PRESENTATION BY THE SPCA REGARDING ONGOING OPERATIONS AND EXPANSION OF THE ADOPTION CENTER - PRESIDENT STERLING

**153-51**

**2/24/09**

President Sterling introduced the item, Humane Officer/Shelter Supervisor Noah Gomez read the SPCA Mission Statement, and SPCA Education Administrator Beth Caffrey thanked Council and the Mayor for allowing this presentation and also thanked the SPCA Board, the Humane Officers and Executive Director Minson.

\*\* Councilmember Brand recognized his granddaughter's visiting 3<sup>rd</sup> grade class from Mt. View Elementary School and welcomed his granddaughter and his daughter.

Ms. Caffrey gave a Power Point presentation on the issue which consisted of a Staff Photo, Ignite the Community, Work of the SPCA, Shelter Needs, Education and Events/Programs, Need for Action and What the Community Can Do, and Conclusion. President Sterling thanked the SPCA for the presentation and Ms. Caffrey responded briefly to questions of Councilmember Perea

relative to fund-raising, amount raised to date, request the SPCA provide a “wish-list” to see if Council can assist in any way, and if there was a need for a mobile spay/neuter. Councilmember Xiong commended SPCA for doing a great job and there was no further discussion.

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**(9:15 A.M. “B”) RESOLUTION NO. 2009-48 - SUPPORTING AB 241, THE RESPONSIBLE BREEDER ACT OF 2009; AB 242, THE DOG FIGHTING PREVENTION ACT OF 2009; AND AB 243, THE ANIMAL ABUSE PREVENTION ACT OF 2009 - COUNCILMEMBER PEREA**

Councilmember Perea reviewed the issue, all as contained in his report to Council as submitted, requested Council’s support stating this was the right thing to do, and made a motion to adopt the resolution, which motion was seconded by Councilmember Dages.

Barbara Hunt spoke to the issue including the need for notification/outreach to the community.

On motion of Councilmember Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2009-48 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”) CONSIDERATION AND ACTION ON DOCUMENTS PERTAINING TO CHANGING THE CITY COUNCIL MEETING DAY FROM TUESDAY TO THURSDAY**

- 1. RESOLUTION NO. 2009-49 - AMENDING RES. 2003-137 AS AMENDED BY RES. 2005-4 AND 2005-116, RELATING TO THE REGULAR COUNCIL MEETING DATE AND DEADLINE FOR SUBMISSION OF AGENDA MATERIALS**
- 2. BILL NO. B-7 - BILL FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO DEADLINES FOR DELIVERY OF AGENDA MATERIALS**

Acting President Caprioglio stated this was an important procedural change which would give Council and the public two additional business days to review, research and discuss items, and stated this was a great team effort and made a motion to adopt the resolution and introduce the ordinance, which motion was seconded by Councilmember Borgeas.

Susan Good, 2023 E. Palo Alto, suggested keeping the meetings on Tuesday, moving the deadline for posting agendas a full 10 days in advance, and completely eliminate red-tag items. President Sterling advised a letter was received from former council member Jerry Duncan in support of the change. Continued speakers were: Al Smith with the Chamber of Commerce, and Barbara Hunt, who both spoke in support.

**(5 - 0)** ACM Rudd requested, if the day is changed to Thursday, that it be done after March 26<sup>th</sup> to allow time for staff to get used to the change and make the transition as smooth as possible.

Councilmember Perea stated he liked the suggestion to eliminate red-tag items and questioned if the working group thought about that, with Acting President Caprioglio stating it was discussed and that proposed change was included in the staff report. Councilmember Perea stated he preferred to keep the meetings on Tuesday because the community was used to that day and added if the change is made to Thursday that the red-tag issue be resolved.

Councilmembers Brand and Borgeas both spoke in support of the change stating Council’s Tuesday meetings conflicted with the Board of Supervisors, the change was needed and time would determine how this works out, the working group considered time lines and red-tag items and tried their best to balance things out, and this needed to be moved forward.

Councilmember Borgeas and Acting President Caprioglio responded to questions of Councilmember Xiong relative to the working group and who was involved in discussions, if some informal community outreach was conducted, if details will still be brought forth next week even though the resolution is being adopted this date, importance of community outreach, and how the council-adopted meeting schedule and holidays will be impacted. Acting President Caprioglio encouraged anyone who has any input or ideas to communicate with Council so issues can be addressed. President Sterling clarified and elaborated on the issues of red-tag items, holidays and agenda conferences and stated all issues will be addressed. Upon question it was determined to bring the ordinance back on March 3<sup>rd</sup> for adoption.

On motion of Acting President Caprioglio, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution No. 2009-49 hereby adopted, and the above entitled Bill No. B-7 introduced before the City Council and laid over one week, by the following vote:

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

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**(9:30 A.M. "A") RESOLUTION NO. 2009-50 - DENYING CONDITIONAL USE PERMIT (CUP) APPLICATION NO. C-08-076, FILED BY GURMEET SINGH (EL CAMPASINO MEAT MARKET)**

Upon question Planning Manager Fabino advised the staff report was complete and there was no new information to add.

Barbara Hunt spoke in support of businesses.

Upon question of Councilmember Xiong, ACM Rudd confirmed a process was now in place for all constituents who wish to go through this process. Councilmember Xiong stated he would be consistent and vote "no" clarifying his opposition was to the process and not the license Acting President Caprioglio stated he would also maintain his "no" vote because a businessman who wanted to expand his business and be successful and who complied with all the rules/procedures/conditions and received staff's support was being denied. Councilmember Brand stated he also appreciated business but the integrity and safety of the neighborhood was at issue and trumped the business argument, and made a motion to approve the resolution. President Sterling seconded the motion and added there was a high saturation of liquor licenses in this area and clarified this was not putting anyone out of business but was just limiting the expansion on liquor sales that now over-saturate the area.

On motion of Councilmember Brand, seconded by President Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2009-50 hereby adopted, by the following vote:

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

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**(9:30 A.M. "B") APPROVE SIDE LETTERS OF AGREEMENT WITH VARIOUS BARGAINING UNIT REPRESENTATIVES REGARDING THE RESERVE FOR THE FRESNO CITY EMPLOYEES HEALTH AND WELFARE TRUST**

Labor Relations Manager Phillips reviewed the issue, all as contained in the staff report as submitted.

Speaking to the issue were: Barbara Hunt, who spoke to the original reluctance of some employee organizations and members; and Marina Magdaleno, business representative for Local 39, who expanded further on the issue and expressed support.

Councilmembers Brand, Perea, Xiong and President Sterling commended all involved and presented questions and/or comments relative to the savings that will be realized through June 2010, what will happen after that time, what the reserve was currently, appreciation of labor stepping up in these tough times and their full act of faith, need to remember labor's good gesture, need to inform labor of Council's appreciation, and the great team work in these challenging times.

On motion of Councilmember Brand, seconded by Councilmember Perea, duly carried, RESOLVED, the subject Side Letters of Agreement with the various employee organizations guaranteeing minimum funding levels for the Fresno City Employees Health and Welfare Trust reserve through 6/30/10, and setting a minimum level for the Trust reserve thereafter hereby approved, by the following vote:

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

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**LUNCH RECESS - 12:15 P.M. - 2:00 P.M.** Councilmember Dages arrived later.

**(10:50 A.M.)** CONTINUED HEARING TO CONSIDER PUBLIC USE AND NECESSITY FOR THE PARTIAL ACQUISITION OF AN EASEMENT TO CONSTRUCT AN ADA COMPLIANT CURB RAMP ON PROPERTY LOCATED AT THE SOUTHWEST CORNER OF N. PALM AND E. DAKOTA AVENUES

**1. RESOLUTION NO. 2009-51** - DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE THE PARTIAL ACQUISITION OF AN EASEMENT OWNED BY ARMANDO CORREA AS AGRICOR DEVELOPMENT CORPORATION

President Sterling announced the time had arrived to consider the issue and opened the hearing. Senior Real Estate Agent Joaquin reviewed the issue and findings to be made for the acquisition, all as contained in the staff report as submitted.

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

A motion and second was made to approve staff's recommendation, and Mr. Joaquin responded briefly to questions of President Sterling relative what problems were encountered in trying to acquire the easement and if this was an old area where a curb cut was difficult to put in.

On motion of Councilmember Xiong, seconded by Acting President Caprioglio, duly carried, **RESOLVED**, the above entitled Resolution No. 2009-51 hereby adopted, by the following vote:

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

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**(11:00 A.M.)** HEARING ON REZONE APPLICATION NO. R-08-21 AND ENVIRONMENTAL FINDINGS FILED BY THE CITY OF FRESNO, PROPERTY GENERALLY LOCATED ON THE NORTH AND SOUTH SIDES OF E. COPPER AVENUE WEST OF N. WILLOW AVENUE

**1. CONSIDER AND ADOPT E.A. NO. R-05-21, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**

**2. BILL NO. B-8 - ORDINANCE NO. 2009-7** - AMENDING THE OFFICIAL ZONE MAP TO REZONE 12 PARCELS FROM AE-20/UGM AND AL-20 TO R-1/UGM, R-1/UGM/ANX AND C-P/UGM/ANX

President Sterling announced the time had arrived to consider the issue and opened the hearing. Planner Braun reviewed the issue, all as contained in the staff report as submitted, and recommended approval of the rezone to allow for future annexation.

**153-54**

**2/24/09**

Speaking to the issue were: Jeff Roberts, 1396 W. Herndon, on behalf of Copper River Ranch, who expanded further on the issue and requested support; and Pat Ricchiuti, representing Ricchiuti family properties in the area, who stated he was opposed to forced annexation in the future, the family wanted to stay in farming and remain agricultural, and they would not benefit from being annexed. Mr. Ricchiuti also expressed concern with this item being carried over to the afternoon when it was scheduled for 11:00 a.m. stating it was disrespectful to have people and staff wait so long while other "insignificant" issues are being discussed and then postpone it, with President Sterling apologizing for the delay.

Upon call, no one else wished to be heard and President Sterling closed the hearing. **\*NOTE** - at the conclusion of the meeting, Council was advised that Mr. Ken Hoklen of 2545 E. Copper Avenue, who was opposed to the rezone, was present in the city clerk's office and missed the hearing because it was held over to the afternoon. Upon question and the advice of the city attorney, City Clerk Klisch read Mr. Hoklen's name and address into the record along with his opposition.

Councilmember Brand stated this would square off the boundaries and this was a pre-zone which he was a strong advocate of, and upon his questions staff confirmed Mr. Ricchiuti could still appeal to LAFCO and Mr. Ricchiuti stated he wanted to reserve his right in the future, whereupon Councilmember Brand made a motion to approve staff's recommendation.

On motion of Councilmember Brand, seconded by Councilmember Borgeas, duly carried, RESOLVED, the subject E.A. hereby adopted and the above entitled Bill No. B-8 adopted as Ordinance No. 2009-7, by the following vote:

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

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Councilmember Dages arrived at 2:12 p.m.

**(9:30 A.M. "C") UPDATE ON THE ENTERPRISE FUND BUDGETS**

Budget Director Smith stated the difference between the General Fund and the Enterprise Funds was the Enterprise Funds were proprietary in nature and further explained, and gave an PowerPoint presentation on the issue which consisted of Highlights and Operating Revenues & Expenses of the Airports Department (**6 - 0**), the Department of Public Utilities, the Transportation/FAX Department, the Planning & Development Department, the Parking Fund (Deficit Continues to Grow), Special Revenue Funds, and the Conclusion. President Sterling thanked Ms. Smith for the update.

Ms. Smith, P&D Director Bergthold and City Manager Souza responded to questions/comments of Councilmembers Brand, Perea and Xiong relative to carry-overs and deficits, if departments could utilize and/or borrow each others funds, how the departments that are heading into deficits are dealt with, if resources will be worse in FY 2010, request for a list of general fund balances that are in the negative, P&D's plan of action to address the decrease in revenues and what new revenue sources will be explored, what happened to P&D's surplus from two years ago, if these departments will be impacted by the economic stimulus package and if they have been built into these numbers, if shelf-ready projects fall under P&D, and the SEGA including plans, efficiencies and cost reductions, and estimated cost to complete SEGA. There was no further discussion.

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**(2:30 P.M.) HEARING ON REZONE APPLICATION NO. R-08-37 AND ENVIRONMENTAL FINDINGS FILED BY DIRK POESCHEL LAND DEVELOPMENT SERVICES AND DAVID BOWIE, ON BEHALF OF RKME INVESTMENTS, LLC, PROPERTY LOCATED ON THE EASTSIDE OF N. FIGARDEN DRIVE BETWEEN W. BULLARD AND THE BNSF RAILROAD CROSSING (6240 N. FIGARDEN DRIVE)**

- 1. CONSIDER AND ADOPT E.A. NO. R-08-37/C-08-284, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**
- 2. BILL NO. B-9 - ORDINANCE NO. 2009-8 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM C-1/BA-20/UGM/cz AND M-1/BA-20/UGM/cz TO C-1/BA-20/UGM/cz.. R-08-37 IS REQUESTING TO REZONE THE PROPERTY TO ALLOW CAR WASH AS A PERMITTED USE AND TO REMOVE CONDITIONS OF ZONING ON THE PROPERTY PROHIBITING CAR WASHES**

153-55

2/24/09

President Sterling announced the time had arrived to consider the issue and opened the hearing. Planner Tackett reviewed the issue, all as contained in the staff report as submitted, and recommended approval.

Dirk Poeschel, 923 Van Ness, on behalf of the applicant and property owner, expanded further on the background of the issue and project and requested approval.

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

City Manager Souza and Mr. Tackett responded to questions of Councilmember Borgeas relative to Council's discussion a couple of weeks ago on the definition of drive-through car washes, if staff has brought anything forth relative to changing/updating the car wash policy, if staff felt there was a way to update the definition to better reflect the industry, and request that staff not forget about issues brought up in past discussions. A motion and second was made to approve staff's recommendation. Councilmember Dages spoke in opposition stating too many car washes will be "popping up" all over the city, the ordinance was changed for one developer which was wrong, and he did not want to see car wash projects coming forth in his district.

On motion of Councilmember Borgeas, seconded by Acting President Caprioglio, duly carried, RESOLVED, the subject E.A. hereby adopted and the above entitled Bill No. B-9 adopted as Ordinance No. 2009-8, by the following vote:

