

OFFICIAL COPY

Fresno, California

May 20, 2008

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
	Blong Xiong	Council President

Absent:	Cynthia Sterling	Acting Council President
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Bruce Rudd, Assistant City Manager
James Sanchez, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Pastor Charlie Avila of Clovis Christian Center gave the invocation and President Xiong led the Pledge of Allegiance.

ADMINISTRATION OF OATH OF OFFICE TO COUNCILMEMBER PAUL CAPRIOGLIO

The Oath of Office was administered by City Clerk Klisch. Councilmember Caprioglio expressed his appreciation for the opportunity to serve all citizens and thanked the City Council, city staff, his family, and the community for all their support, and recognized and acknowledged 5th grade students from St. Anthony's school.

Council recessed to attend a reception to welcome Councilmember Caprioglio.

RECESS - 8:45 A.M. - 9:00 A.M.

PRESENTATION OF DISTRICT 7 STUDENT RECOGNITION AWARDS - COUNCILMEMBER PEREA

Presented.

PROCLAMATION OF "NATIONAL PUBLIC WORKS WEEK"

PROCLAMATION OF "BARBARA GOODWIN DAY" IN HONOR OF HER RETIREMENT

PROCLAMATION OF "SCOTT MOZIER DAY" FOR HIS BEING SELECTED OUTSTANDING CIVIL ENGINEER IN PUBLIC PRACTICE FOR 2008

The above proclamations were read and presented.

APPROVE MINUTES OF MAY 13, 2008

On motion of Councilmember Duncan, seconded by Councilmember Caprioglio, duly carried, RESOLVED, the minutes of May 13, 2008, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

COUNCILMEMBER CALHOUN: Commendations to Pacific Service Credit Union for providing a child database program/service to the community, and Kastner Middle School and Special Education Teacher Richard Cook on their outdoor competition event involving Kastner students helping kids with special problems.

COUNCILMEMBER DUNCAN: Policy prohibiting amplified music in Woodward Park on Sundays and concern with Punjabi Festival event held last Sunday outside of the amphitheater that had loud amplified music that faced nearby residents and request staff provide a written public apology to the residents for that policy violation.

PRESIDENT XIONG: Report on attendance last Thursday at the California Volunteer Board meeting in Sacramento and a meeting with the Workforce Investment Board; thank you to staff for working with his office to provide tours of City Hall for students; congratulations to all recent graduates of the MESA Program; and thank you to Pastor Chamberlain on the successful United Christian Church block party.

APPROVE AGENDA:

(10:10 A.M.) HEARING ON CONDITIONAL USE PERMIT (CUP) APPLICATION NO. C-07-368 FILED BY SCOTT VINCENT AIA ON BEHALF OF ESTES INVESTMENT LLC, PROPERTY LOCATED ON THE NORTHEAST CORNER OF N. POLK AND W. PALO ALTO AVENUES (5430 W. PALO ALTO AVENUE)

1. CONSIDER AND ADOPT E.A. NO. C-07-368, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
2. RESOLUTION - ADOPTING THE FINDING OF CONFORMITY WITH THE MEIR AND APPROVING CUP NO. C-07-368

Councilmember Calhoun stated he needed more time to speak with the developer on the project and upon his request and with Council consensus the subject hearing was continued to June 3rd at 10:10 a.m.

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

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

ADOPT CONSENT CALENDAR:

(1-A) RESOLUTION NO. 2008-114 - ACCEPTING A PORTION OF S. ARTHUR AVENUE AS AN EASEMENT AND RIGHT-OF-WAY FOR PUBLIC STREET PURPOSES

(1-B) AWARD A CONTRACT IN THE AMOUNT OF \$957,061 TO AMERICAN PAVING CO. FOR CONSTRUCTION OF INTERSECTION IMPROVEMENTS AT CEDAR AND SHAW AVENUES

(1-C) AWARD A CONTRACT IN THE AMOUNT OF \$507,411.36 TO JWT GENERAL ENGINEERING FOR THE CONSTRUCTION OF INTERSECTION IMPROVEMENTS AT CLINTON AND WEST AVENUES

(1-D) RESOLUTION NO. 2008-115 - INTENT TO ANNEX FINAL TRACT NO. 5600 AS ANNEXATION NO. 30 TO CFD NO. 11, AND SETTING THE PUBLIC HEARING FOR JUNE 3, 2008

(1-E) AWARD A CONTRACT IN THE AMOUNT OF \$231,591.40 TO HD SUPPLY WATERWORKS LTD., TO SUPPLY 2,060 FEET OF 36" C905 PVC PIPE AND FITTINGS FOR THE WASTEWATER TREATMENT PLANT

(1-G) AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PLANNING RESOURCE ASSOCIATES, INC. (PRA) TO ALLOW PRA TO RECUSE ITSELF FROM REVIEWING CITY ENTITLEMENT APPLICATIONS TO THE EXTENT THAT IT DOES NOT CONFLICT WITH THE PURPOSES OF THE AGREEMENT AND COMPLIANCE WITH LAWS

(1-H) APPROVE PLAN AMENDMENT APPLICATION NO. A-07-08 (AS AMENDED ON MAY 13, 2008), REZONE APPLICATION NO. R-07-29, AND THE CANCELLATION OF TWO AGRICULTURAL LAND CONSERVATION CONTRACTS (ALCCs), OR "WILLIAMSON ACT" CONTRACTS (TRACT MAP NO. 5891/UGM AND CUP NO. C-07-308), FILED BY DIRK POESCHEL LAND DEVELOPMENT SERVICES, INC., ON BEHALF OF THE MCCAFFREY GROUP, PROPERTY LOCATED BETWEEN W. ASHLAN AND THE W. GETTYSBURG AVENUE ALIGNMENT, AND BETWEEN N. BRYAN AND N. HAYES AVENUES

1. CONSIDER AND ADOPT E.A. NO. A-07-08/R-07-29/C-07-308/T-5891, DETERMINATION OF INITIAL STUDY TO FILE A MITIGATED NEGATIVE DECLARATION

2. **RESOLUTION NO. 2008-116** - CERTIFYING TO THE FRESNO COUNTY AUDITOR THE AMOUNT OF THE "CANCELLATION VALUATION FEE" AS NOTED IN THE MEMORANDA OF THE FRESNO COUNTY ASSESSOR DATED 2/25/08 AND 2/28/08

3. **RESOLUTION NO. 2008-117** - APPROVING THE TENTATIVE CANCELLATION OF ALCC NOS. AP-1250 AND AP-1251 SUBJECT TO PAYMENT OF THE "CANCELLATION VALUATION FEE"

4. **RESOLUTION NO. 2008-118** - AMENDING THE FRESNO GENERAL PLAN, THE WEST AREA COMMUNITY PLAN, AND THE GENERAL PLAN MULTI-PURPOSE TRAIL PLAN

5. **BILL NO. B-34 - ORDINANCE NO. 2008-32** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM RR TO R-1/UGM, R-2/UGM AND C-1/UGM/cz

(1-J) BILL NO. B-30 - ORDINANCE NO. 2008-33 - REPEALING, AMENDING AND ADDING SECTIONS TO THE FRESNO MUNICIPAL CODE RELATING TO FATS, OIL AND GREASE (FOG), AND OTHER CLEAN UP CHANGES TO THE SEWAGE AND WATER DISPOSAL PROVISIONS

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

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

CONTESTED CONSENT CALENDAR:

(1-F) RESOLUTION NO. 2008-119 - AUTHORIZING THE CITY MANAGER AND/OR DIRECTOR OF TRANSPORTATION TO FILE ANNUAL GRANT APPLICATIONS WITH THE STATE OF CALIFORNIA FOR PROPOSITION 1B TRANSIT FUNDS, AND EXECUTE AND FILE ALL NECESSARY GRANT APPLICATION DOCUMENTS ON BEHALF OF THE CITY

Councilmember Calhoun stated his concern was the lack of specifics in staff's report in terms of the projects staff wanted to submit and presented questions relative to what projects were being proposed, if they were priority projects, if there were other options, and why staff neglected to include specifics in their report **(2 - 0)**, with Transportation Director responding and explaining issues throughout. A motion and second was made to approve staff's recommendation.

Barbara Hunt spoke in support of the issue.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2008-119 hereby adopted, by the following vote:

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

(1-I) AUTHORIZE THE CHIEF INFORMATION OFFICER TO NEGOTIATE AND ENTER INTO A CONTRACT WITH DIGITAL MAPPING, INC., IN AN AMOUNT NOT TO EXCEED \$80,000, FOR AERIAL PHOTOGRAPHY UPDATES

Councilmember Calhoun expanded on the issue including the background and presented questions/comments/concerns at length relative to the amount budgeted for the service, awarding the contract to the least expensive possibly not being the best decision, concern with the evaluation committee being made up solely of ISD staff, why users from other departments were not included, service needed/proposals submitted, difference between 3", 4" and 6" photos, if there was any concern that actual users were not involved in reviewing the proposals, and if staff was happy with the process, with Chief Information Officer Hogg, Systems Applications Manager Hughes and ACM Rudd responding and explaining issues throughout.

Councilmember Duncan stated he was opposed to this because of the city's budget condition, expressed concern with spending \$80,000 without staff making any effort/study or looking into partnering/integrating with available resources such as Micro Soft Virtual Earth or Google Earth, and stated this could have been an opportunity to step back and think about doing things differently and smarter and elaborated further.

Barbara Hunt concurred with Councilmember Duncan and further expressed her opposition.

Public Works Director Weimiller, as a frequent user of the photography on a daily basis, stated his department was looking forward to the increased resolution and elaborated further and responded to issues/comments/concerns expressed.

Councilmember Calhoun stated he would support this even though he had a real concern with process that was engaged in, reiterated the heaviest users should have been and should be involved in the process, added he was also not happy with the red tag information, and made a motion to approve.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the Chief Information Officer authorized to negotiate and enter into a contract with Digital Mapping, Inc., in an amount not to exceed \$80,000, for aerial photography updates, by the following vote:

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

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

Daniel Manasselian, 4904 E. Nevada, advised of a code enforcement issue with his fence, the process he engaged in with staff, and the code violation administrative fee of \$85.00, with Assistant City Manager Rudd advising staff would contact him this date.

Barbara Hunt spoke to (1) the Housing Element, and (2) her opposition to providing funds to private enterprise.

Sherry Smith spoke to the closure of Fire Station 16 and the reduction in fire safety services to the Ashlan/Cornelia community.

Diko Chekian, 736 S. Bliss, spoke to the Grand Armenian Festival event and requested the City's assistance/participation/support in providing tables and chairs for the event.

Paula Savino spoke to the homeless and destruction of their possessions/property.

(9:15 A.M. "A") APPROVE APPOINTMENT OF PRESIDENT XIONG TO THE FRESNO COUNTY TRANSPORTATION AUTHORITY

President Xiong stated as of this date no interest had been expressed by any other member to serve, stated the city would be facing many challenges with its' growing population and transportation needs and he was very interested in serving on the board, and requested Council's support in the appointment. A motion and second was made to approve the appointment.

Councilmember Calhoun stated he was very supportive of the appointment, spoke to need for discussion on bonding against Measure "C" dollars for needed projects and to his concern with the "pay as you go" option, and upon his questions President Xiong stated bonding was a legitimate issue, he was open to looking at bonding as an option and would make a decision on it after speaking with those involved in the process, and he would report back to Council regularly to keep Council updated on the issue.

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

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

(9:15 A.M. "B") REQUEST STAFF PREPARE ENABLING DOCUMENTS TO REPEAL FMC SECTION 4-403 WHICH REQUIRES THE PAYING OF PREVAILING WAGE ON CITY-FUNDED PROJECTS - COUNCILMEMBER DUNCAN

Councilmember Duncan stated he recently became aware that as a Charter city Fresno did not have to pay prevailing wage as long as a construction project was 100% city funded; spoke to needed public safety building projects that are not moving forward because of the excess cost of construction caused by this ordinance, to the over \$300 million of public utilities capital projects that will be completed but at a higher cost to the rate payer, to the potential savings of \$175 million for all projects if this ordinance is repealed, and to how the prevailing wage is applied across the region oftentimes above the local going rate, all as contained in his report to Council as submitted; and stated repealing the ordinance made common sense, requested Council's support to send this to staff to further analyze the impact, prepare the necessary documents, and return with more solid data, and added the Chamber of Commerce, mayor and city manager were all supportive of this because they understood the challenges in trying to find a way to build critically needed projects.

Speaking to the issue were: Bill Jenkins, Labor Compliance Investigator with Northern California Carpenters Regional Council and member of Carpenters Local 701, opposed to the repeal **(3 - 0)** and submitted into the record copies of four studies supporting his comments, on file in the office of the City Clerk; Tim Mudge, opposed to the repeal; Alex Lantsberg, on behalf of Carpenters Local 701, opposed; Dean Atturo, District representative for Operating Engineers Local 3, 4856 N. Cedar, opposed; Thomas Aja, Political Director and union representative of Operating Engineers, opposed; John Hutson, opposed; Kevin Dayton, Associated Builders & Contractors, support for the issue; Mike Prandini, Building Industry Association, support; Nicole Goehring, Associated Builders & Contractors, support; Jared Gordon, Greater Fresno Chamber of Commerce, support; Bob Jennings, opposed; Ken Lavinder, Carpenters union, opposed; Tony Canales, opposed; Eddie Clement, opposed; William Hughes, 1434 W. Clinton, opposed; Mario Delgado of Los Banos, representative for Bricklayers Local 3, opposed; and Kayla Franklin, union carpenter, opposed.

Councilmember Calhoun stated his concern was a legal one and he felt this matter was premature, advised of the city of Vista's prevailing wage case that was currently before the California Supreme Court and stated he preferred that Vista be the guinea pig and that Council delay taking action, allow the court system to move forward, look at the detailed pros and cons of the Vista case, and then bring this matter back for discussion, stated Fresno would definitely be sued if it followed the Vista route and further elaborated **(4 - 0)**, and upon his request City Attorney Sanchez explained the current law and expanded further on the Vista case and how Fresno could be affected if the same path is followed without a court decision being rendered.

Councilmember Duncan spoke further to the Vista case and with responses from the city attorney clarified it could take up to three years before the court makes a decision on that case, stated if Fresno were to repeal its' ordinance it would have a three year window of opportunity to move forward on projects as the law would be on the city's side and if the court were to rule against Vista Fresno's projects would already be constructed, reiterated his intent was for the city attorney and city staff come back with additional information on the impact and cost savings along with a formal recommendation, stated he appreciated the input from speakers, responded to some of the comments made, and stated this was about common sense and further elaborated, and made a motion to request staff to prepare enabling documents to repeal FMC Section 4-403. Upon call the motion died for lack of a second and there was no further discussion.

(9:30 A.M. "A") APPROVE RESPONSES TO THE INTERIM 2007-2008 GRAND JURY REPORT

151-159

5/20/08

Deputy City Manager Watahira gave a brief overview, all as contained in the staff report as submitted. A motion and second was made to approve staff's recommendation. City Attorney Sanchez noted for the record the agenda title/staff report stated "interim" report but the final Grand Jury Report itself was attached to the staff report and was identified as the "Final Report".

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, the responses to the 2007-08 Grand Jury Report hereby approved, by the following vote:

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

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 11:31 a.m. having arrived and hearing no objection, President Xiong declared the meeting adjourned.

Approved on the 3rd day of June , 2008.

_____/s/_____/ ATTEST: _____/s/_____

Blong Xiong, Council President

Yolanda Salazar, Assistant City Clerk

151-160

5/20/08