

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

Vickie Healy of Wesley United Methodist Church gave the invocation, and President Xiong led the Pledge of Allegiance.

PRESENTATION OF THE SPCA PET OF THE MONTH - PRESIDENT XIONG

The pet available for adoption, a 3-month old German Shepherd mix, was presented.

PRESENTATION OF DISTRICT 7 STUDENT RECOGNITION AWARDS

Presented.

PRESENTATION OF THE MAYOR'S RECYCLING BUSINESS AWARDS

Presented.

INTRODUCTION OF DISABILITY ADVISORY COMMITTEE MEMBERS

Removed from the agenda.

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**APPROVE MINUTES OF DECEMBER 2, 2008:**

On motion of Caprioglio, seconded by Acting President Sterling, duly carried, RESOLVED, the minutes of December 2, 2008, approved as submitted.

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**APPROVE JOINT POWERS FINANCING AUTHORITY (JPFA) MINUTES OF DECEMBER 2, 2008:**

On motion of Member Duncan, seconded by Chair Xiong, duly carried, RESOLVED, the JPFA minutes of December 2, 2008, approved as submitted.

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Councilmember Duncan (1) congratulated the Clovis West Golden Eagles football team for winning the valley championship by beating Clovis East; and (2) thanked PARCS Director Cooper and his staff for partnering with the Central Valley Sportsman’s Club and the Department of Fish and Game to stock the lower lakes at Woodward Park with trout to provide fishing for the community and spoke to Saturday’s successful fishing event.

Councilmember Calhoun advised Fresno City College’s Annual President’s reception was held at the Fresno Art Museum and stated the museum was a community jewel and a great asset and he was very appreciative of the agenda item this date (1-L) to repair the museum’s roof.

Acting President Sterling (1) reiterated a previous request to staff for a list of maintenance needs at parks facilities; (2) announced Santa’s Village at the southwest policing station at Kearney Palms Shopping Center would open on Wednesday and invited all to participate; (3) announced the annual Christmas Parade this coming Saturday; and (4) congratulated the southwest policing district’s Christmas party and advised of the central policing district holiday party on December 11<sup>th</sup>.

President Xiong (1) congratulated the police department and Mayor’s office for hosting another successful statewide gang prevention and intervention summit on December 1-2; (2) thanked all who came together on December 3<sup>rd</sup> for the press conference on the Mumbai terrorist attacks; (3) thanked Assemblyman Juan Arambula for the invitation to the 5<sup>th</sup> annual holiday open house; (4) commended all involved in the successful City Hall Christmas tree lighting event; and (5) on behalf of the Mayor and Council President Offices invited all city employees to the annual open house celebration this date.

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**APPROVE AGENDA:**

**(9:15 a.m. ‘C’) BILL - REPEALING SECTION OF THE FRESNO MUNICIPAL CODE RELATING TO THE PROHIBITION OF ANY REQUIREMENTS FOR PROJECT LABOR AGREEMENTS - PRESIDENT XIONG**

Councilmember Perea requested Council consider removing the item from the agenda stating past discussions around this issue have been very divisive and controversial, stated it would behoove Council to sit down and have a greater and more thoughtful discussion with the business community and organized labor, and made a motion to table the item.

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, Item **9:15 a.m. ‘C’** hereby tabled, by the following vote:

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

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

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**ADOPT CONSENT CALENDAR:**

Acting President Sterling pulled Item **1-D** and Councilmember Dages pulled item **1-F** from the Consent Calendar for separate discussion and action.

**(1-A) RESOLUTION NO. 2008-335 - 50<sup>TH</sup>** AMENDMENT TO AAR 2008-162 APPROPRIATING \$500 IN THE PARCS DEPARTMENT FROM A NATIONAL ALLIANCE FOR THE DEVELOPMENT OF ARCHERY GRANT TO PURCHASE SUPPLIES AND PROVIDE TRAINING FOR AN ARCHERY PROGRAM

**(1-B)** APPROVE A CONTRACT WITH THE FRESNO COUNTY OFFICE OF EDUCATION TO PROVIDE UP TO \$7,112.64 FOR THE PARCS DEPARTMENT TO CONDUCT A COLLABORATIVE INFORMAL SCIENCE PROGRAM AT KING ELEMENTARY SCHOOL RUNNING THROUGH JUNE 30, 2009, AND AUTHORIZE THE PARCS DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

**(1-C)** APPROVE A ONE-YEAR AGREEMENT WITH THE FRESNO COUNTY OFFICE OF EDUCATION FOR THE PARCS DEPARTMENT TO CONDUCT THE FRESNO BEST PROGRAM AT ROOSEVELT HIGH SCHOOL RUNNING THROUGH JUNE 30, 2009

**1. RESOLUTION NO. 2008-336 - 51<sup>ST</sup>** AMENDMENT TO AAR 2008-162 APPROPRIATING \$10,000 IN THE PARCS DEPARTMENT TO COVER PERSONNEL AND OPERATING COSTS TO CONDUCT THE PROGRAM

**(1-E)** APPROVE A RENEWAL AGREEMENT WITH THE FRESNO COUNTY INTERAGENCY COUNCIL FOR CHILDREN AND FAMILIES FOR FY 2009 AND \$9,000 FOR THE CITY'S SHARE AS A SPONSORING MEMBER, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT

**(1-G)** APPROVE A LEASE WITH COFFEE BREAK SERVICES FOR SPACE UNDER THE TUOLUMNE STREET OVERPASS AT "H" STREET FOR EMPLOYEE AND VISITOR PARKING PURPOSES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE LEASE ON BEHALF OF THE CITY

**(1-H)** ADOPT FINDING OF CATEGORICAL EXEMPTION, CLASS I, FOR THE INSTALLATION OF A TRAFFIC DETECTION LOOP AT THE S. CHESTNUT/E. BALCH AVENUES INTERSECTION; APPROVE THE ACQUISITION OF A PUBLIC STREET EASEMENT NECESSARY FOR THE SIGNALIZATION PROJECT FROM PROPERTY OWNER SILVIA GUTIERREZ FOR THE APPRAISED VALUE OF \$1,500; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

**(1-I)** ADOPT A NEGATIVE DECLARATION FOR THE ACQUISITION OF THE FORMER DENSMORE BUILDING AT 665 FULTON STREET FROM PROPERTY OWNER TAVIE DEVELOPMENT, AND AUTHORIZE THE ASSISTANT CITY MANAGER OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

**(1-J)** AUTHORIZE STAFF TO REQUEST AN EXTENSION OF UNSPENT ENCUMBERED BUDGET FOR CLOVIS AVENUE FROM MCKINLEY TO KINGS CANYON AND ALSO THE MARKS/WEBER AVENUES INTERSECTION TRAFFIC SIGNAL PROJECT, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE REQUEST ON BEHALF OF THE CITY

**(1-K)** APPROVE EXTENSION OF THE TOWNSEND PUBLIC AFFAIRS CONTRACT FOR LOBBYIST SERVICES TO JUNE 30, 2009

**(1-L) RESOLUTION NO. 2008-337 - 52<sup>ND</sup>** AMENDMENT TO AAR 2008-162 APPROPRIATING \$800,000 IN THE GENERAL SERVICES DEPARTMENT TO REPLACE THE ROOFS OF THE FRESNO ART MUSEUM AND ROMAN NEIGHBORHOOD CENTER

**(1-M)** APPROVE AGREEMENT WITH CEN CAL BUSINESS FINANCE GROUP FOR THE ADMINISTRATION OF THE CITY OF FRESNO REVOLVING LOAN FUND FOR A PERIOD OF TEN (10) YEARS

**(1-N) BILL NO. B-71 - ORDINANCE NO. 2008-70 -** REPEALING AND ADDING SECTIONS TO THE FRESNO MUNICIPAL CODE RELATING TO FIREWORKS (TO COMPLY WITH STATE LAW REQUIREMENTS REGARDING LOCAL FIREWORKS ORDINANCES)

On motion of Acting President Sterling, seconded by Councilmember Caprioglio, 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

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**CONTESTED CONSENT CALENDAR:**

**(1-D) RESOLUTION NO. 2008-338 - 49<sup>TH</sup> AMENDMENT TO AAR 2008-162 APPROPRIATING \$11,000 IN THE PARCS DEPARTMENT FOR THE SECOND ANNUAL ‘CHRISTMAS IN THE PARK’ EVENT AT EATON PLAZA**

**(2 - 0)** PARCS Director Cooper responded briefly to questions of Acting President Sterling relative donations received to date, funds needed for the event, and what was at issue this date.

On motion of Acting President Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2008-338 hereby adopted, by the following vote:

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

**(1-F) APPROVE THE FIRST AMENDMENT TO THE MOU BETWEEN THE CITY, ROEDING PARK PLAYLAND, FRESNO STORYLAND AND FRESNO’S CHAFFEE ZOO CORPORATION FOR PRELIMINARY ROEDING PARK MASTER USE, ENVIRONMENTAL, AND DEVELOPMENT PLANNING (SURVEY OF TREES, HISTORICAL RESOURCE ASSESSMENT, AND PEACH AVENUE PROPERTY EVALUATION)**

President Dages pointed out the staff report stated the City’s obligations “shall be limited to allocated and available funds in *each* fiscal year” and upon his question Assistant PARCS Director Haynes clarified this was for only one fiscal year. A motion and second was made to approve staff’s recommendation.

John Fletcher, Fresno Urban Alliance, stated discussions were about taking away green space for parking lots and people did not know what was going on, and requested the community be informed so discussions can occur on better uses/alternatives.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled First Amendment to the MOU hereby approved, by the following vote:

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

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**(9:00 A.M.) UNSCHEDULED COMMUNICATION:**

Paula Savino spoke to the plight of the homeless.

Paul Hurlbut spoke to, and expressed concerns with, the Fresno Fire Chiefs Foundation.

Sherry Smith, 4724 W. Swift, spoke to polarization, the Ashlan Cornelia Corridor being deprived of fire service, and to need for a hospital in the west area.

Mike Prandini with the Building Industry Association advised the BIA was proposing four items for Council consideration, two of which were to have been on the agenda this date but were not due to mis-communication, and requested all four items be scheduled on December 16<sup>th</sup>, and added letters on the issue were faxed yesterday to Council and staff and hand-delivered this date.

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**(9:15 A.M. #1) JOINT MEETING WITH THE REDEVELOPMENT AGENCY**

The City Council recessed at 9:36 a.m. and convened in joint session with the Redevelopment Agency.

**APPROVE AGENCY MINUTES OF DECEMBER 2, 2008**

On motion of Councilmember Perea, seconded by Councilmember Caprioglio, duly carried, RESOLVED, the Agency minutes of December 2, 2008, approved as submitted.

**(“A”) AUTHORIZE A ONE-YEAR EXTENSION AMENDMENT OF THE EXCLUSIVE NEGOTIATION AGREEMENT (ENA) BETWEEN THE AGENCY, THE CITY, AND FRESNO CONVENTION CENTER HOTEL PROPERTIES, LP, FOR PROPERTY AT 800-808 “M” STREET (Joint action)**

Economic Coordinator Riddle submitted into the record an amendment (revised schedule) to Exhibit A and also copies of the PowerPoint presentation, and gave an overview of the issue, all as contained in the staff report as submitted.

Developers Tom Richard and Brian Glover gave a PowerPoint presentation on the “Fresno Convention Center Hotel” project which included an Overview of Phelps Development, Phelps Corporate Recap, Phelps Hotel Development Experience, Hotel Operator Discussion Status, Hilton Corporate Overview, Hilton Brand Overview, Marriott Hotels, Starwood Corporate Overview, Starwood Sheraton Hotel Brand Overview, Hyatt Hotels Overview, Projected Sales Tax Proceeds from Hotel Operators, and Next Steps.

On motion of Councilmember Dages, seconded by Acting President Sterling, duly carried, RESOLVED, a one year extension amendment of the subject ENA hereby authorized, and provided the Developer is not then in default the ENA may be further extended by prior written notice of the City Manager and Agency Executive Director for up to an additional twelve months, for development of a 3 or 4 star hotel on the city-owned property at 800-808 “M” Street, by the following vote:

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

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The joint bodies recessed at 9:48 a.m. to later in the meeting and the City Council reconvened in regular session.

**(9:15 A.M. #2) CITY COUNCIL:**

**(9:15 a.m. ‘A’) DIRECT STAFF TO WORK WITH PG&E TO DETERMINE THE FEASIBILITY OF ESTABLISHING A PILOT PLAN IN THE CITY SIMILAR TO DUKE ENERGY’S SOLAR DISTRIBUTED GENERATION PROGRAM - COUNCILMEMBER CALHOUN**

Councilmember Calhoun gave an in-depth overview of the issue, all as contained in his report to Council as submitted, and made a motion to direct staff to (1) work with PG&E to determine the feasibility of establishing a plan similar to Duke Energy’s North Carolina Solar Distributed Generation Program, to be piloted in the city of Fresno, and (2) return to Council with the feasibility report, which motion was seconded by Acting President Sterling.

Upon question of Councilmember Perea Councilmember Calhoun stated he had not spoken with PG&E on this matter. Councilmember Perea stated he would support the motion and spoke briefly to state legislation passed last year allowing neighborhoods to set up assessment districts for solar energy projects which he stated could provide something similar to this request. Upon question of Acting President Sterling Councilmember Calhoun stated he had not spoken with anyone from Duke Energy but his staff gathered information from them, and added city staff had the time and expertise to ask the necessary questions which was why he had not done so. Acting President Sterling expressed her support stating this was a great idea.

On motion of Councilmember Calhoun, seconded by Acting President Sterling, duly carried, RESOLVED, staff directed to work with PG&E to determine the feasibility of establishing a plan similar to Duke Energy's North Carolina Solar Distributed Generation Program, to be piloted in the city of Fresno, and return to Council with the feasibility report, by the following vote:

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12/9/08

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

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**(9:15 a.m. 'B')** DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE RELATING TO LOCAL HIRING FOR CITY PUBLIC WORKS PROJECTS THAT DO NOT INCLUDE STATE OR FEDERAL FUNDING - COUNCILMEMBER DAGES

Councilmember Dages stated he was following up on the public safety bond Council approved last week wherein staff advised an ordinance for local hire could be adopted provided there were no federal or state funds involved, and spoke briefly to the unemployment rate and stated this would help the local economy and made a motion to direct staff as outlined.

Councilmember Dages, City Manager Souza, City Attorney Sanchez and ACM Rudd responded to numerous questions and/or comments of Councilmembers Calhoun and Duncan relative to Council's previous actions on local preference, if this was similar, how this would impact competitive bidding, how this would affect projects/bidders such as the recent Fig Garden Loop park project, what the legalities were of this item **(3 - 0)**, how the local percentage number would be determined, what would happen if only one company in town had the skill required, support for local hire but concern with how this would be enforced, if in-house staff would conduct investigations, concern that this matter has not been vetted enough to adopt an ordinance, and suggestion to postpone action and have an informational workshop and get feedback from those affected.

At this point proceedings were interrupted to hear the **10:15 a.m.** scheduled hearing.

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**(10:15 A.M.)** HEARING TO CONSIDER APPEALS FILED BY GARY MCDONALD ON THE TRACT MAP AND COUNCILMEMBER DUNCAN ON THE CUP APPLICATION, APPEALING THE PLANNING COMMISSION'S DENIAL OF VESTING TENTATIVE TRACT MAP NO. 5933/UGM, CUP APPLICATION NO. C-08-59, AND ENVIRONMENTAL FINDINGS FILED BY GARY G. GIANNETTA ON BEHALF OF GARY MCDONALD HOMES, PROPERTY ZONED R-1/UGM LOCATED BETWEEN N. FRIANT ROAD AND E. COPPER AVENUE WITHIN THE COPPER RIVER RANCH MASTER PLANNED COMMUNITY

1. CONSIDER AND ADOPT ADDENDUM TO MITIGATED NEGATIVE DECLARATION FOR E.A. NO. T-5205/C-04-153 DATED 9/29/04
2. RESOLUTION - APPROVING VESTING T.T. MAP NO. 5933/UGM
3. RESOLUTION - APPROVING CUP APPLICATION NO. C-08-59

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

Planner Unruh gave an extensive review of the issue, all as contained in the staff report as submitted, and recommended the appeal be upheld, the CUP and Tract Map be approved subject to the Conditions of Approval and including sidewalks, and affirm the Negative Declaration.

Speaking to the issue were: Annette Carter, need for sidewalks on both sides of the street for developments; David Powell (through a Signer), need for sidewalks; Janet Drane (through a Signer), need for sidewalks/need to improve existing sidewalks; Ed Eames, Chair of the ADA Advisory Committee, need for sidewalks/need to enforce existing city policy; Mary Savala, League of Women Voters, support for staff's recommendation; Carol Zaun, Senior Citizens Village, need for sidewalks; and Mary Beth Randall, Commission on Disabilities, need for sidewalks.

Gary Giannetta, Project Engineer representing the applicant, stated they were developing according to a previous approval for

the development, the approved design standards for a gated community with private streets within a subdivision did not require sidewalks, and changing the standards in the middle of the project would have a negative effect on the project and on the completion of the entire master planned community.

Irene Soto spoke in support of, and to the need for, sidewalks.

152-182

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**(4 - 0)** Applicant Gary McDonald stated this project was planned as a result of the overall Copper River project and sidewalks could not be put in as the plans and all the work done to date would have to be scrapped and he would have to start over, and requested Council be consistent with past approvals. Jeff Roberts with Granville Homes, managing partner of the Copper River Ranch development, spoke to the history/background of Copper River, efforts to make Copper River a walkable community, and the differences in homes/communities and need to let buyers choose the appropriate place for them to live.

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

Councilmember Duncan stated this was not an unusual situation and upon his questions Mr. Unruh confirmed there were other projects/areas that had similar policies adopted not requiring sidewalks, staff reviewed the alternative pathways/walking accommodations for this project and found them to be appropriate, and the appeal was unique and a site specific consideration. Councilmember Duncan emphasized this was a site specific situation that went through a thorough review, the existing sidewalk policy was not going to be abandoned, this was private property and not a public street, and this was a good project and not unique and commended the developer, and made a motion to uphold the appeal on the tract map and the CUP, which motion was seconded by Councilmember Caprioglio. City Attorney Sanchez clarified while the appeal is site specific the gating of the private street--as opposed to a public street--was a unique situation, and added if the motion passes it would set precedence with regard to future similar situations but would not be a general plan requirement mandating sidewalks for private streets.

Extensive discussion ensued with Mr. Unruh, City Manager Souza and Traffic Engineering Manager Jones responding to numerous questions, comments and/or concerns of Councilmembers Dages, Calhoun and Perea relative to what the current sidewalk policy was for subdivisions, if staff would allow options for private gated communities, if sidewalks on both sides of the street was an approved policy in the general plan, the city's efforts to go green/improve air and concern with encouraging people to walk yet forcing them out onto streets, need to stick with the policy and general plan, developers being aware of rules when starting a project, why a policy should be in place if it is not going to be adhered to, if other gated communities within Copper River did not have sidewalks, why the line was being drawn here/why staff was recommending sidewalks, if other gated communities coming forth would be looked at on a case-by-case basis or if sidewalks would be required, if Council ever approved a gated community without sidewalks on both sides, support for walkable communities and embarrassment if an exception was ever made for no sidewalks, there being no reason for exceptions and opposition to the motion, people being unable to compete with cars, what the city attorney's take was on a condition in a lawsuit that the City talk to the League of Women Voters prior to making any major changes, how staff came to their recommendation if the city has a 50/50 chance to either win or lose if sued, and opposition to the motion due to the chance for litigation, efforts to go green, SEGA and walkability, and the NNLB bond to install needed sidewalks.

Councilmember Caprioglio stated this was an interesting issue and thanked everyone for their testimony, stated he learned a lot this date and felt from this point forward strict enforcement of the policy would be appropriate but he would support the motion because policy exceptions were appropriate depending on the needs of the community and overall benefit, this was site specific, and this project went through extensive consideration on both sides, and added to now take a sideways step would not be fair.

Mr. Unruh, Mr. Sanchez, Mr. Roberts and Ms. Savala responded to questions of President Xiong and/or clarified issues relative to whether staff supported sidewalks, if allowing no sidewalks would or would not be precedent-setting, if Council ever had discussions on the sidewalk issue since 2006, if the city was headed in the direction of mandating sidewalks on both sides for all developments, the standard allowing no sidewalks here being a standard in the Master CUP approved 11/4/04, by the planning commission, Granville Homes and Copper River Ranch setting new standards for walkability, and the settlement agreements and mitigation measures that were made.

Mr. McDonald stated he believed his project was in conformity to the CUP when it was submitted, added it sounded like Council was trying to make this project the lightning rod to decide whether or not there will be sidewalks in gated communities, and

stated he would either withdraw his application at this point or request that it be continued so Council could make up its mind on this policy issue on its own. Upon question Mr. Sanchez clarified there was a motion on the floor and recommended Council ask the motion-maker if he wanted to withdraw it and continue the matter so Council could further discuss the policy issue. Councilmember Duncan stated in 2004 the City approved the master CUP which provided for this type of development, along with other projects that allowed this; stated his concern was now out of the blue a radical change was going to be made to a previously-approved CUP which he stated was not appropriate; stated he respected the developer's desire for more discussion and he would support a continuance; continued stating what matters in the world of business is predictability and integrity and it was imperative that whoever is making an investment in the city

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be able to rely on the city's word; and withdrew his motion on the floor and made a new motion to continue the matter 60 days, which was seconded by Councilmember Caprioglio. Upon question of Mr. Sanchez, Mr. McDonald stated he was agreeable to the continuance time line and would waive any legal requirements he would otherwise be entitled to. President Xiong stated he would love to see this project get done but clarified he and the Council majority wanted to see something resolved on the sidewalk issue.

Upon question of Ms. Carter Mr. Sanchez clarified public input was closed on this project but **(5 - 0)** would be allowed on any new policy.

Councilmember Calhoun stated he wanted to vote on this and noting he would not be here for the next vote reiterated his strong support for sidewalks and added he hoped the new Council would move the city forward in that direction; stated he did not feel Council would be renegeing on anything that was approved in terms of Copper River, if this question had come up when Copper River was before Council he would not have approved it, and he was not aware of the implications of approving this vast development and making some exceptions; spoke briefly to gated communities stating he did not like them as they kept people out; and stated he would support the continuance as he felt the developer had the best plans in mind and felt issues could be worked out for the betterment of all.

Mr. Souza referenced the comment made about consistency/integrity and upon his request Interim P&D Director Bergthold advised documents staff had for CUP C-04-153 that involved vesting map 5205/UGM in this area indicated there would be local streets with all curbs, gutters, and sidewalks constructed on both sides, and stated he needed to conduct some research to tie these two together to provide Council with a clear record.

On motion of Councilmember Duncan, seconded by Councilmember Caprioglio, duly carried, RESOLVED, the subject **10:15 a.m.** Hearing continued to February 10, 2009, at 10:00 a.m., by the following vote:

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

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**(9:15 a.m. 'B')** DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE RELATING TO LOCAL HIRING FOR CITY PUBLIC WORKS PROJECTS THAT DO NOT INCLUDE STATE OR FEDERAL FUNDING - COUNCILMEMBER DAGES  
**(Continued from earlier)**

Proceedings continued. Upon Councilmember Duncan's earlier question as to what would happen if only one company in town had the required skill Councilmember Dages clarified there would not be a 100% provision for local hire so the percentage (to be determined) would allow a contractor to hire a non-local company. Councilmember Calhoun stated he would support this but asked that instead of staff just bringing back an ordinance that they check with other cities that have similar ordinances in place to see how they are working. City Attorney Sanchez and City Manager Souza responded to questions of President Xiong and/or clarified issues relative to whether this was direction only, the information gathering process and if staff would talk with businesses who will be affected, if any new trends were being set here, if there was existing information out there, findings that would have to be made, and if evaluations/alternatives would be provided to Council.

On motion of Councilmember Dages, seconded by Councilmember Perea, duly carried, RESOLVED, the City Attorney directed to prepare an ordinance relating to local hiring for city public works projects that do not include State or Federal funding, by

the following vote:

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

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**LUNCH RECESS - 11:52 A.M. - 2:00 P.M.**

**152-184**

**12/9/08**

**(9:15 a.m. 'D')** DIRECT CITY AND RDA STAFF TO INITIATE A REQUEST FOR QUALIFICATIONS (RFQ) FOR THE PURPOSE OF CONTRACTING WITH OUTSIDE EXPERTS IN PREPARING A DOWNTOWN INFRASTRUCTURE EVALUATION THAT WILL DETERMINE THE NEEDED INFRASTRUCTURE AND COST TO SUPPORT THE GOALS OF THE 2025 GENERAL PLAN, WITH THE RFQ TO BE ISSUED NO LATER THAN 60 DAYS - COUNCILMEMBER DUNCAN

Councilmember Duncan stated initiation of this process was critical for downtown's future, noted a lot of good things were in the works but there had been some issues recently with water availability, stated doing this would help the city better understand what is needed to make downtown grow and it would also provide confidence to investors, stated the independence of an outside review was critical in establishing the objectivity of the report and to do a comprehensive review of downtown's infrastructure, advised of the questions that would be answered, clarified this was not a criticism of what has/what has not been done but was for clarity to know what needs to be done to go forward, and advised Mayor-elect Swearingin supported this.

Deputy Mayor Eben stated the Mayor's office agreed with Councilmember Duncan and felt downtown has had some great success and studying the infrastructure was the place to be, advised of the project that city-wide staff has been working on since July which included an infrastructure study and vision for downtown, further advised staff anticipated having a report with details on department projects to Council in mid-January, reiterated staff's intent was the same as this request and requested Council hold off on a consultant until their report is submitted, and added Mayor-elect Swearingin was aware of the project and was waiting to see it completed. ACM Rudd added what Councilmember Duncan was talking about was the same thing staff was talking about in July, citing Councilmember Calhoun's comments about the numerous downtown studies/reports added staff also looked at developing a strategic plan for some of the recommendations and spoke to some of the short-term deliverables that have been implemented, and expanded further on the project, studies, exercises engaged in, and infrastructure issues.

Assistant Public Utilities Director Andersen responded to questions and comments of Councilmember Duncan relative to whether staff's project had determined what the current carrying capacity was of basic water/sewer/electrical infrastructure, what the current infrastructure was in terms of people and projects, if future problems had been calculated, if it was known what the infrastructure shortfall/costs were to fulfill the current projects planned and the population in the 2025 general plan, this not being fringe development where costs can be passed on, what an impact fee for the downtown core area would cover, and if staff has talked with any developers about the proposed fees and costs. Councilmember Duncan stated he appreciated what staff was doing but he did not feel what was being done was what he was proposing, stated Council needed to look at hard core engineering dollars and cents for clarity, agreed staff, stakeholders and current investors needed to be involved, stressed this was a piece that was needed to have clear understanding of the cost structure of rebuilding downtown adding the last thing needed was a surprise, and stated the city of Tucson used a team of three which worked well in putting their plan together and made a motion to direct staff as outlined above, which motion was seconded by Councilmember Perea.

Councilmember Calhoun stated he liked what staff was doing although he wished they had done this project sooner and had shared what they were doing with Council earlier, stated he understood the frustration with the gap in knowledge but he felt it was premature to hire a firm to re-look at whatever staff was doing, and stated a consultant would be a huge expenditure and he felt the new Council should decide if additional consulting help is needed after staff submits their report in January.

Assistant Public Utilities Director Martin responded to questions and/or comments of Councilmember Perea relative to a TV news report and whether or not there was a crisis with downtown infrastructure, and if the fee structure being discussed would be for

everything or just water. Councilmember Perea urged support for the motion stating he did not see the two issues as being separate efforts, stated because of all the work staff has already done there would probably be a lot of work the consultant would not have to do, stated this was long overdue and in his talks with developers he has seen they all have different ideas on where parks should go or where the first investment of underground utilities should go and stated unless a needs assessment and implementation plan is done there will be random developer proposals coming forth that may conflict with one another, and stated an outside third party assessment was needed and would help craft the vision of where downtown wants to go.

Mr. Rudd, Mr. Eben and Public Works Director Weimiller responded to comments and further elaborated on staff's work, how it is covering a lot of what Councilmember Duncan is asking for (**6 - 0**), the January report being the beginning of the conversation and there being an expectation for more targeted discussions, meetings held with stakeholders, and looking at more than what is called for in the general plan. Upon question of Councilmember Duncan, Mr. Weimiller confirmed there was a gap and a need for knowledge on infrastructure needs and cost to support the 2025 general plan whereupon Councilmember Duncan clarified that was all he was asking for – to fill the gap with outside sources that are credible and that can not be challenge, stated to go even more aggressive than the 2025 general plan would be tremendous but at this time it was not even known what it will take to do the general plan, and stated this was a good place to start.

**152-185**

**12/9/08**

Councilmember Duncan, Mr. Eben, Economic Coordinator Riddle and Mr. Rudd responded to numerous questions/comments of Acting President Sterling relative to how the consultant project would be funded, how staff's projects are being funded, if Councilmember Duncan and Mr. Eben have had discussions on this issue, if Councilmember-elect Brand was going to carry this issue on for Councilmember Duncan, what will happen to staff's report after submittal in January, it being uncertain if staff will be able to get the hard numbers Councilmember Duncan is asking for, concern with the economy and cost for a consultant but there being a need to take hard steps, need for both projects to work hand-in-hand, and if staff talked with Councilmember Duncan on where they were at in their project/plan. Acting President Sterling questioned if Councilmember Duncan would be willing to lay this matter over one week so he could speak with staff and look at where their plan was at, whereupon Councilmember Duncan stated what staff was doing was at a different scope, he was talking about the two basic issues of water and sewer availability in an area that appears to be lacking solid information, and stated current projects--like the downtown hotel and the Legacy project, and not Eaton Plaza -- were in serious trouble today because of that lack of any knowledge or understanding of infrastructure.

Councilmember Duncan and Mr. Rudd responded to questions/comments/concerns of Councilmember Calhoun relative to whether Agency staff was supportive of this, if the city and Agency were working at cross-purposes, the problem being the city and RDA working at cross purposes too often and this being a perfect example of that, the issue of infrastructure never being an issue brought to the Agency Board as a problem, this being an RDA motion and getting in the way of staff's work and plan, and the RDA supporting the motion because at least one developer has been complaining and it has become an excuse to not do anything. Councilmember Duncan stated no developer has driven this at all, confirmed a couple of developers learned recently there were some infrastructure issues that they were never aware of, stated the notion that this was dysfunctional with the RDA was ridiculous, and stated this was an observation and a reality that there were no hard numbers or understanding of current infrastructure and he was trying to reach a solution, and added a lot of people and organizations supported this.

Councilmember Duncan, Mr. Rudd, Mr. Souza and Mr. Martin responded to questions of Acting President Sterling and President Xiong relative to whether Councilmember Duncan worked with Economic Development on this, if they could be part of the team, if staff's upcoming report would provide answers on water availability, estimated cost of an RFQ, cost of the Tucson study, status of the downtown water tank project, if staff has met with any developers, if the RFQ would come before Council, the RFQ process, and if any cost was associated with this motion. President Xiong stated staff was making a simple request to hold off on this until they submit their report so Council can see if all questions have been addressed in detail, and stated a wait would not hurt and he was supportive of their request.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, **RESOLVED**, City and RDA staff directed to initiate a Request for Qualifications (RFQ) for the purpose of contracting with outside experts in preparing a downtown infrastructure evaluation that will determine the needed infrastructure and cost to support the goals of the 2025 General Plan, with the RFQ to be issued no later than 60 days, by the following vote:

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

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**(9:30 A.M.) GENERAL ADMINISTRATION:**

**(9:30 a.m. 'A')** APPROVE A DISPOSITION AND DEVELOPMENT AND HOME AGREEMENT WITH ROEM DEVELOPMENT CORPORATION FOR DEVELOPMENT OF A 133-UNIT AFFORDABLE SENIOR HOUSING COMPLEX ON KINGS CANYON ROAD BETWEEN WILLOW AND PEACH AVENUES

Project Manager Nunez reviewed the issue, all as contained in the staff report as submitted **(7 - 0)**.

Barbara Hunt, 2475 S. Walnut, spoke in support.

On motion of Councilmember Dages, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Disposition and Development and HOME Agreement with ROEM Development Corporation hereby approved, by the following vote:

**152-186**

**12/9/08**

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

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**(9:30 a.m. 'B')** RESOLUTION NO. 2008-339 - 39<sup>TH</sup> AMENDMENT TO AAR 2008-162 APPROPRIATING \$100,000 IN THE PARCS DEPARTMENT FOR THE DEVELOPMENT OF COMMUNITY GARDENS

PARCS Director Cooper reviewed the issue and recommended approval.

Barbara Hunt spoke in support.

Mr. Cooper responded to questions and comments of Acting President Sterling relative to where any excess funds would go, the proposed sites, how surrounding communities will be informed of the gardens, and need for community notification prior to the process. Councilmember Dages commended staff on the successful community meeting stating the big factor was showing people how the gardens would look more like the city of San Jose's gardens than the Belmont-DeWitt garden, and made a motion to approve staff's recommendation. Councilmember Caprioglio seconded the motion, concurred with Councilmember Dages, and commended ACM Rudd for all the work and effort spent on this issue.

On motion of Councilmember Dages, seconded by Councilmember Caprioglio, duly carried, RESOLVED, the above entitled Resolution No. 2008-339 hereby adopted, by the following vote:

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

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**(9:30 a.m. 'C')** BILL NO. B-73 - AMENDING SECTION OF THE FRESNO MUNICIPAL CODE RELATING TO SKATEBOARD AND BICYCLE PARK REGULATIONS

PARCS Director Cooper reviewed the issue, all as contained in the staff report as submitted.

Barbara Hunt spoke in support.

On motion of Councilmember Dages, seconded by Acting President Sterling, duly carried, RESOLVED, the above entitled Bill No. B-73 introduced before the City Council and laid over, by the following vote:

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

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**(10:30 A.M.) HEARING ON REZONE APPLICATION NOS. R-08-16, R-08-17 AND R-08-19, AND ENVIRONMENTAL FINDINGS, FILED BY THE CITY OF FRESNO, PROPERTY GENERALLY LOCATED BETWEEN FREEWAY 41 AND FREEWAY 99 SOUTH OF DOWNTOWN FRESNO**

- 1. CONSIDER AND ADOPT E.A. NO. R-08-16/R-08-17/R-08-18/R-08-19, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**
- 2. BILL NO. B-74 - ORDINANCE NO. 2008-71 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO M-3/UGM**
- 3. BILL NO. B-75 - ORDINANCE NO. 2008-72 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-A/UGM TO M-3/UGM**
- 4. BILL NO B-76 - ORDINANCE NO. 2008-73 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-20/UGM TO M-3/UGM**

**152-187**

**12/9/08**

President Xiong announced the time had arrived to consider the issue and opened the hearing. Project Manager Barnes stated the staff report as submitted was complete and there was no new information to add.

Barbara Hunt spoke in support.

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

On motion of Acting President Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the subject E.A. hereby adopted, and the above entitled Bill Nos. B-74, B-75 and B-76 adopted as Ordinance No. 2008-71, 2008-72 and 2008-73 respectively, by the following vote:

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

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**(11:00 A.M.) CONTINUED JOINT MEETING WITH THE REDEVELOPMENT AGENCY**

The City Council and Redevelopment Agency reconvened in joint session at 3:30 p.m.

**(‘A’) JOINT RESOLUTION NO. 2008-340/1733 - MAKING CERTAIN FINDINGS PURSUANT TO COMMUNITY REDEVELOPMENT LAW AND AUTHORIZING THE AGENCY’S PURCHASE OF PUBLIC STREET EASEMENTS ALONG THE SOUTH SIDE OF FLORENCE AVENUE BETWEEN EAST AND RAILROAD AVENUES WITHIN THE SOUTH VAN NESS FRESNO INDUSTRIAL REDEVELOPMENT PROJECT AREA**

- 1. ADOPT FINDING OF CONFORMITY TO PHASE I ENVIRONMENTAL SITE ASSESSMENT, CITY OF FRESNO/RDA REPORT NO. 17-084**
- 2. APPROVE THE ACQUISITION OF FOUR (4) STREET EASEMENTS AND FIVE (5) GRANT DEEDS FROM PROPERTY OWNERS ZACKY FARMS, LLC, VILLARREAL PROPERTIES, MAHLON A. WILLIAMS, CHILINGERIAN INVESTMENTS, LC, AND TONY & TRINI BISUANO, TRUSTEES OF THE BISUANO FAMILY TRUST, FOR THE PLACEMENT OF CURBS, GUTTERS AND SIDEWALKS ALONG E. FLORENCE AVENUE**

Upon question of Chair Duncan, Executive Director Murphey stated the staff report as submitted was complete and there was no new information to add.

Barbara Hunt spoke in support.

On motion of Acting President Sterling, seconded by Councilmember Caprioglio, duly carried, RESOLVED, the above entitled Joint Council/Agency Resolution No. 2008-340/1733- hereby adopted, the subject Finding of Conformity adopted, the acquisition of the street easements and grant deeds necessary for the widening of E. Florence Avenue hereby approved, and the Executive Director and Assistant Public Works Director authorized to sign all documents necessary to complete the transaction, by the following vote:

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

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

Chair Duncan stated his report/issue was brief and self-explanatory.

Barbara Hunt spoke to the issue.

A motion and second was made to approve the change.

**152-188**

**12/9/08**

Councilmember Calhoun stated this needed to go one step further and made an amended motion to include a rotation system for the Agency Chair/Vice Chair consistent with city policy on the Council President/Acting Council President. Upon call the motion died for lack of a second.

On motion of Chair Duncan, seconded by Councilmember Caprioglio, duly carried, RESOLVED, staff directed to change the Redevelopment Agency By-Laws to be consistent with City Policy to allow a first year Councilmember to be Vice Chair of the Redevelopment Agency, by the following vote:

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

City Attorney Sanchez clarified action under the by-laws required him to go back and change the text and advised he could bring the simple amendment back next week, and upon his request Council concurred on the record that the city attorney did not have to provide a written copy of the amendment to Council seven days in advance.

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The joint bodies adjourned their meeting at 3:39 p.m. and the City Council reconvened in regular session.

**CLOSED SESSION:**

**(A) CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAME: GREG OCCHIONERO V. COF, ET AL., U.S.D.C., EASTERN DISTRICT COURT**

The City Council met in closed session in Room 2125 at the hour of 3:40 p.m. to consider the above matter and the meeting was adjourned thereafter.

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**ADJOURNMENT**

There being no further business to bring before the City Council, the hour of 3:45 p.m. having arrived and hearing no objection, President Xiong declared the meeting adjourned.

*Approved* on the \_\_\_16th\_\_\_ day of \_\_\_December\_\_\_, 2008.

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

\_\_\_\_\_  
Blong Xiong, Council President

\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk