

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.

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| Present: | Brian Calhoun | Councilmember |
| | Mike Dages | Councilmember |
| | Jerry Duncan | Councilmember |
| | Henry Perea | Councilmember |
| | Cynthia Sterling | Acting Council President |
| | Larry Westerlund | Councilmember |
| | Blong Xiong | Council President |

Andy Souza, City Manager
 James Sanchez, City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Pastor W. Tra Xiong of the Hmong Fresno Community Church gave the invocation and President Xiong led the Pledge of Allegiance.

STORM-READY RECOGNITION FOR THE CITY OF FRESNO BY JAMES BROTHERTON OF THE NATIONAL WEATHER SERVICE

Recognition made.

PROCLAMATION TO CENTRAL UNIFIED SCHOOL DISTRICT FOR "FFA WEEK" - ACTING PRESIDENT STERLING

Read and presented.

RESOLUTION OF COMMENDATION TO THE PURCHASING DIVISION FOR RECEIVING THE ACHIEVEMENT OF EXCELLENCE IN PROCUREMENT AWARD FOR 2007

Read and presented.

AWARDS TO THE NATIONAL VETERANS GOLDEN AGE GAMES - PRESIDENT XIONG

Presented.

PROCLAMATION TO THE FIRE DEPARTMENT FOR THEIR "FIREFIGHTER'S BALL" - CITY COUNCIL

Read and presented.

APPROVE MINUTES OF FEBRUARY 12, 2008

On motion of Councilmember Westerlund, seconded by Councilmember Perea, duly carried, RESOLVED, the minutes of February 12, 2008, approved as submitted.

COUNCIL MEMBER & CITY MANAGER REPORTS AND COMMENTS:

COUNCILMEMBER DUNCAN: Announcement that adjustments were made to District 6's budget to reduce it by 1½% (as city departments were requested to do) and hope expressed that all other council districts will do the same, and thank you to staff for their assistance.

COUNCILMEMBER CALHOUN: Concern expressed with the city being in the paint ball business and questions presented relative to why the city entered into this business, if the activity was part of the PARCS Department, if Council was involved in this decision, and how it is funded, with City Manager Souza responding.

COUNCILMEMBER DAGES: (1) Comments on the Woodward Park BMX contractor being an "BMXer" and the contractor's enjoyment in working on the track and using it; (2) question presented on how code enforcement on weekends and evenings is progressing, with Mr. Souza responding; and (3) request staff replace the two-way stop sign at Peach & Hamilton with a four-way stop sign before accidents occur.

COUNCILMEMBER WESTERLUND: Official notification given and elaboration on orders recalling him to active duty in the Navy Reserve beginning April 25th for 14 months and thanks expressed for all the support received.

ACTING PRESIDENT STERLING: Good luck and best wishes extended to Councilmember Westerlund and Council support staff member Pete Muniz on being recalled to active duty.

CITY MANAGER SOUZA: Announcement that the personnel-type investigation into incident involving Fire Station 16 resulted in the finding that due diligence was used and all rules/procedures/protocol were followed.

COUNCILMEMBER PEREA: (1) Report on attendance at a February 14th event in Sacramento when the President of Mexico was there and the discussions that occurred on the various environmental, educational and economic agreements signed by the state and the country and the opportunities available; and (2) announcement of Thursday's plans to testify in Sacramento before the California Air Resources Board (CARB) on their allocation of Proposition 1B air quality funds and request that Council members also attend and testify as well.

PRESIDENT XIONG: (1) Report on the "One Voice" trip to Washington February 9th - 14th with COG and commendation to the COG team; (2) on-going work with the City Attorney's office on final details in filling Councilmember Westerlund's seat while he is on active duty and intent to present options/recommendations to Council on March 4th; and (3) notification of plans to attend the Sacramento meeting and testify before the CARB on Thursday along with Councilmember Perea **(2 - 0)**.

APPROVE AGENDA:

(3:00 P.M. "A") JOINT MEETING WITH THE REDEVELOPMENT AGENCY - CONSIDER ADOPTION OF AGENCY RESOLUTION CERTIFYING THE SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (SEIR) FOR THE OLD ARMENIAN TOWN PROJECT - RELOCATION OF HISTORICAL RESOURCES **(Continue to March 4, 2008, at 3:00 p.m.)**

Continued as noted.

(4:00 P.M.) CONTINUED HEARING ON REZONE APPLICATION NO. R-06-39 AND ENVIRONMENTAL FINDINGS FILED BY HARBOUR AND ASSOCIATES ON BEHALF OF RIVERFRONT VENTURES, LLC, NORTHWEST CORNER OF THE W. HERNDON AND N. BRYAN AVENUES INTERSECTION

1. CONSIDER AND ADOPT E.A. NO. R-06-39/T-5558/C-06-143, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/EA/UGM

Councilmember Calhoun stated the city attorney's office was continuing with their legal research on the project and made a motion to continue the matter one week.

On motion of Councilmember Calhoun, seconded by Acting President Sterling, duly carried, RESOLVED, the 4:00 p.m. Hearing on Rezone Application No. R-06-39 filed by Harbour and Associates on behalf of Riverfront Ventures continued to March 4, 2008, at 11:00 a.m., by the following vote:

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

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

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

ADOPT CONSENT CALENDAR:

Councilmember Calhoun pulled Item **1-H** from the Consent Calendar for separate discussion/action at 2:00 p.m.

(1-A) AWARD CONTRACT TO SEQUOIA EQUIPMENT CO., INC. IN THE AMOUNT OF \$120,694.74 FOR TWO 4 X 4 CONSTRUCTION LOADER TRACTORS

(1-B) APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH CAMP, DRESSER & McKEE IN THE AMOUNT OF \$275,000 FOR GROUNDWATER TESTING AT THE FRESNO SANITARY LANDFILL

(1-C) AWARD A CONTRACT TO ALL COMMERCIAL LANDSCAPING IN THE AMOUNT OF \$65,833.44 FOR REQUIREMENTS CONTRACT FOR LANDSCAPE MAINTENANCE AT VARIOUS WATER WELLS AND WATER DIVISION PROPERTIES

(1-D) RESOLUTION NO. 2008-29 - AUTHORIZING TH SUBMISSION OF APPLICATIONS FOR AND ACCEPTANCE OF GRANT FUNDS FROM THE CALTRANS LOCAL ASSISTANCE PROGRAM - HIGHWAY SAFETY IMPROVEMENT PROGRAM, AND AUTHORIZING THE EXECUTION OF DOCUMENTS BY THE PUBLIC WORKS DIRECTOR OR HIS DESIGNEE

(1-E) RESOLUTION NO. 2008-30 - 71ST AMENDMENT TO THE AAR APPROPRIATING \$266,900 FOR MAINTENANCE OF CFD NO. 2 AND ELIGIBLE DEVELOPER DEPOSIT REFUNDS FOR ACCEPTED TRACTS

(1-F) APPROVE THE SALE OF A PORTION OF A SMALL ABANDONED WATER WELL SITE WEST OF 1328 E. REVERE TO THE ADJACENT PROPERTY OWNER DOUGLAS AND SUE JACKSON FOR THE PRICE OF \$351.00, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND COMPLETE THE DISPOSAL OF A PORTION OF EXCESS LAND TO THE ADJACENT PROPERTY OWNER

(1-G) APPROVE A ONE YEAR PARKING AGREEMENT WITH CLUB ONE CASINO FOR PARKING SERVICES IN UNDERGROUND PARKING GARAGE NO. 8, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO ENTER INTO THE AGREEMENT

(1-I) RESOLUTION NO. 2008-31 - AUTHORIZING THE PLANNING & DEVELOPMENT DIRECTOR TO PREPARE, EXECUTE AND PROCESS THE RELEASE OF CERTAIN COVENANTS WITHOUT SPECIFIC RELEASE CLAUSES

(1-J) RESOLUTION NO. 2008-32 - 72ND AMENDMENT TO THE AAR APPROPRIATING \$25,200 FOR MAINTENANCE OF CFD NO. 11 AND ELIGIBLE DEVELOPER DEPOSIT REFUNDS FOR ACCEPTED TRACTS

(1-K) RESOLUTION NO. 2008-33 - AUTHORIZING SUBMITTAL OF A GRANT APPLICATION TO THE STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, LAND AND WATER CONSERVATION FUND PROGRAM, FOR THE CONSTRUCTION OF A PAVILION AT WOODWARD PARK, AND AUTHORIZE THE PARCS DIRECTOR OR DESIGNEE TO EXECUTE AND SUBMIT ALL NECESSARY DOCUMENTS

(1-L) APPROVE AN INTERIM EXTENSION OF THE REQUIREMENTS CONTRACT FOR LEASING OF VANPOOL VEHICLES TO ENTERPRISE RIDESHARE TO EXTEND THE CONTRACT TO NO LATER THAN JUNE 30, 2008

1. RESOLUTION NO. 2008-34 - 73RD AMENDMENT TO THE AAR APPROPRIATING \$120,000 FROM COFCG FUNDS FOR THE FY 2008 COSTS OF THE VANPOOL PROGRAM

Councilmember Calhoun stated he was pleased to see there would now be a reasonable charge to passengers as there was no charge originally.

(1-M) APPROVE AN MOU BETWEEN THE CITY OF FRESNO, THE NATIONAL LEAGUE OF CITIES INSTITUTE, AND THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY BY WHICH THE CITY WILL BE ONE OF 13 MUNICIPALITIES IN THE STATE THAT ARE MEMBERS OF THE CALIFORNIA GANG PREVENTION NETWORK; AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE MOU AND RELATED DOCUMENTS AND TAKING ALL NECESSARY ACTION RELATED TO THE TRANSACTION

(1-N) BILL NO. B-6 - AMENDING THE FRESNO MUNICIPAL CODE DELETING THE PROVISION THAT ALLOWS CERTAIN GOVERNMENT VEHICLES TO PARK FREE AT DOWNTOWN PARKING METERS OR TIMED ZONES

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

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

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

Sherry Smith, 4724 W. Swift, spoke to the needs of the Ashlan/Cornelia corridor and efforts to save Fire Station No. 16.

Margie Haymon and Brunette Harris, HEAT for Southwest Fresno, expressed their opposition to using any federal CDBG funds and spoke to the need to abolish the Master Plan stating there was no community input or representation.

(9:15 A.M.) CITY COUNCIL:

(A') CONSIDER REDUCING THE OPERATIONAL HOURS OF PARKING METERS AND ELIMINATING THE SPECIFIC AREAS DESIGNATED AS THE STADIUM AND CONVENTION CENTER ENVIRONS - COUNCILMEMBER DAGES

Councilmember Dages stated it has always been his objective to have parking meters operate only between 6am and 6pm Monday through Friday and non-operational on weekends, evenings and holidays; noted over \$1 billion has been spent downtown in private and taxpayer money and meters during non-business hours chase away people; and further elaborated on the issue and stated he wanted to encourage people to come downtown and not worry about citations and parking after 6pm and made a motion to reduce the operational hours of parking meters as outlined above.

City Manager Souza stated with the \$160,000 a year impact noted in the staff report and the on-going economic challenges of downtown parking that were addressed at the recent parking workshop staff was not recommending this action, whereupon Councilmember Dages added the report also indicated some of the lost revenue would be made up around the area of the new Tuolumne Street courthouse.

Relative to the motion City Attorney Sanchez clarified modification of the enforcement hours would require a resolution and advised the proper motion would be to have staff return with a resolution modifying the hours, which was accepted by Councilmember Dages and seconded by Acting President Sterling.

Councilmember Duncan noted meters around the stadium were to ensure that people coming downtown and *not* attending a game have a place to park and free street parking would be the first that would be taken, and questioned how this change would affect existing and new businesses, where customers not attending a game would park, if the adjustments in the 10 year recovery plan would still occur whether or not this motion passes, and what the current parking division operating debt was, with Parking Manager Estabrooke responding throughout. Councilmember Dages stated he appreciated the intent and noted some of Councilmember Dages' suggestions were adopted and seem to be working well, and stated he felt this change went too far and his concerns were the loss of meter revenue that the stadium brings in and freezing up businesses' parking around the stadium during game time and further explained.

Councilmember Calhoun stressed the \$6+ million deficit was unacceptable and he would not throw another \$160,000 away; stated the city needed to stay with a stable plan and not confuse the public with constant changes downtown; and added he has not heard any complaints, every large city has a parking program and emphasized Fresno was a large city, this would further the debt and confuse the issue, and he would do his best to widdle down the debt and would be presenting some ideas on how to do that.

Mr. Estabrooke and City Manager Souza responded to questions/comments of Councilmember Perea and President Xiong relative to whether staff had any data to support the premise that parking meters drive people away from downtown, number of times the parking plan has been changed, the last change being a good compromise for business owners and customers, there never being a plan that will make everyone happy, need to stick with a plan, lack of downtown parking and this being a work in progress, need for consistency, if the master fee schedule changes have been completed, time line for the recovery plan adjustments, where adjustments would occur if this motion passes, time line for staff to return with concrete data on the impact of meters to economic development downtown, and community outreach on the parking plan.

Matt White, listing agent for the Security Bank Building, questioned what other cities are doing after 6pm, with Mr. Estabrooke stating analysis he had from 75 cities showed all were doing something a little different depending on needs and explained.

A motion of Councilmember Dages, seconded by Acting President Sterling, to direct staff to return with a Resolution reducing the operational hour of parking meters and eliminating the specific areas designated as the Stadium and Convention Center Environs failed, by the following vote:

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

('B') BILL NO. B-7 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO LOCAL PREFERENCE IN THE PURCHASE OF MATERIALS, SUPPLIES AND EQUIPMENT - COUNCILMEMBER DAGES

Councilmember Dages clarified this would not include public works projects, stated the impetus for this was the contract a couple of months ago that was awarded to a Chowchilla firm because their bid was \$340 less than a Fresno firm's bid and the \$375,000 that was sent to Chowchilla instead of remaining in Fresno, and spoke further to the amendment and his to objective and made a motion to introduce the ordinance bill, which motion was seconded by Councilmember Calhoun.

Councilmember Duncan stated research indicated over the last 4 ½ years this policy would have impacted only one bid -- the one mentioned by Councilmember Dages -- meaning only a \$340 impact over those 4 ½ years, and stated his other issues/concerns included putting up barriers, need to be more regional, need to increase competition, dollars are not going out of the region to Los Angeles, this possibly encouraging other cities to do the same thing with the result costing local businesses, and appreciation of the intent but there not being a real problem.

Councilmember Calhoun stated he appreciated the input and support from the Chamber of Commerce, he was pleased to see the boundary extended to Fresno County, Councilmember Duncan raised legitimate points but this could be rescinded in the future if it is found to be counterproductive, and this would establish a little advantage for Fresno County who works together as a team and it was healthy to work for that common good.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Bill No. B-7 introduced before the City Council and laid over, by the following vote:

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

(‘C’) REQUEST STAFF INVESTIGATE THE IMPACTS OF LOCAL WARMING, TO INCLUDE A REPORT ON ADAPTATION PLANNING - COUNCILMEMBER CALHOUN

Councilmember Calhoun explained the issue by reading his memo as submitted to Council into the record, and made a motion to request staff as outlined above and to report back in 6 months, which motion was seconded by Acting President Sterling.

Councilmember Perea expressed his support and added the city needed to get ahead of the air district and start measuring it's carbon footprint which he stated the district will be requiring and further explained **(3 - 0)**.

On motion of Councilmember Calhoun, seconded by Acting President Sterling, duly carried, RESOLVED, staff to investigate the impacts of local warming, and report back to Council in six months, including a report on adaptation planning, to give Council an opportunity to consider enacting any actionable items, by the following vote:

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

Visiting students from Mt. View Elementary School were recognized and welcomed.

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

(‘A’) AWARD A CONTRACT TO NATUREMAKER, INC., IN THE AMOUNT OF \$1,025,000 FOR THE COMMISSIONING OF SEQUOIA TREESCAPE ART IMAGERY AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT

Aviation Director Widmar and Gary Hanick, President of Naturemaker, Inc., reviewed the issue and gave a PowerPoint presentation on the project, all as contained in the staff report as submitted.

Councilmember Calhoun expressed his support stating this was very exciting , commended Mr. Widmar and staff, and made a motion to approve staff's recommendation. Councilmember Westerlund seconded the motion and upon his request Mr. Widmar elaborated further on the airport's major projects and affordability. Councilmember Westerlund presented questions relative to whether the airport department contributes to the general fund, time line for the solar project, maintenance, and service life of the materials, with Mr. Widmar and Mr. Hanick responding throughout.

On motion of Councilmember Calhoun, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled contract hereby awarded as recommended, by the following vote:

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

(‘B’) PRESENTATION OF PROGRESS REPORT TO COUNCIL ON THE DOWNTOWN PROPERTY BASED INVESTMENT DISTRICT (PBID)/ASSESSMENT DISTRICT

1. RESOLUTION NO. 2008-35 - APPROVING THE REALLOCATION OF \$15,000 OUT OF CONTINGENCY TO FUND CONSULTING SERVICES FOR THE DOWNTOWN PBID

E.D. Coordinator Riddle reviewed the issue, all as contained in the staff report as submitted.

Speaking further to, and/or in support of the issue, were: Dan Doyle, President and Chief Executive Officer of Central Valley Community Bank; Jan Minami, Executive Director of the Downtown Association, 2014 Tulare St.; Chris Johnson of Johnson Architecture, 942 E. Olive, and co-owner of the former Arco Garage; Abraham Lopez, 2881 E. Huntington Blvd.; and Al Smith, President of the Chamber of Commerce.

Councilmember Calhoun and Acting President Sterling both expressed their support and commended staff and all involved and made a motion and second to approve staff's recommendation. Councilmember Westerlund also thanked all involved, clarified this was the first step and the PBID was not being formed this date, and spoke further to the issue and process and stated he looked forward to the independent assessment and moving forward on this **(4 - 0)**.

On motion of Councilmember Calhoun, seconded by Acting President Sterling, duly carried, RESOLVED, Council hereby concurs with staff's recommendation to proceed with the next steps in the formation of a Downtown PBID/Assessment District, and the above entitled Resolution No. 2008-35 hereby adopted, by the following vote:

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

(C') BILL - ADDING TO THE FRESNO MUNICIPAL CODE RELATING TO REGULATION OF FILM PRODUCTION

Film & Entertainment Commissioner Arthur gave an in-depth overview of the issue and ordinance stating its purpose was to create legal and liability protection, uniformity and process throughout the state, and a user-friendly process for production companies, all as contained in the staff report as submitted.

Expressing objections/concerns/opposition to the proposed ordinance were: John Moses, Fresno City College film instructor and President of Fresno Filmworks; and Bill Simon, 4834 N. Fourth, Fresno Area Chapter of the ACLU.

Extensive discussion ensued. Mr. Arthur and Mr. Moses responded to questions/comments /requests of Councilmembers Perea, Westerlund and Duncan relative to what other organizations staff communicated with besides Fresno Filmworks, if this would apply to short 4-5 minute films shot on city streets, concern with impact on students and amateur film-makers and need to reduce the amount of barriers, the heightened celebration of arts and culture now occurring in the city and concern with sending the wrong message of regulations, the Rule of Three as administered in New York, appreciation for the intent but perception that the ordinance is overly broad and vague, right of freedom of expression and balancing that freedom with liability protection, request to see statistics on filming accidents the past 10 years, who will enforce this ordinance, concern with restrictions on free expression, it being unclear what problem this ordinance is solving, perception that this regulatory ordinance is being passed because it can and not because of a problem or need, clarification that concerns being expressed are with the philosophy that there is a segment of the community not being regulated and need to do something about that and have nothing to do with Mr. Arthur's work, concurrence with the ACLU that lines are being crossed and with Councilmember Perea that filming should be encouraged, and this ordinance being unnecessary and need to find ways of limiting government interference on individual's freedom of expression. Councilmember Calhoun agreed with concerns expressed, stated points being this date were to focus on commercial and the "big boys" and tread carefully on other areas, spoke to the responsibility of schools and questioned why schools do not carry liability coverage for their students, and spoke to the need to re-think going after the smaller entities. Acting President Sterling spoke to the liability issue and protecting the city, questioned how classes function without liability insurance, and stated this ordinance was headed in the right direction but required more work and communication with groups that would be affected. Upon question of President Xiong Mr. Arthur confirmed a policy was currently in place for commercial filming which was stricter than the proposed ordinance, and spoke further to the ACLU's concerns relative to liability insurance and to the lack of a law to back up city policy.

City Attorney Sanchez stated staff heard concerns laid out by Council and he felt there should be a law on the books refined to the degree that Council identified, and upon question of President Xiong stated staff could refine the ordinance to focus on the commercial and include significant exceptions to allow for student activity and report back. No motion was made and there was no further discussion.

(10:00 A.M.) PRESENTATION BY TREE TOPS (TREES, TRAILS AND OPEN SPACE) GROUP

**Due to tape/equipment malfunction the majority of the presentation was not tape-recorded.* Lee Ayers, Project Coordinator, submitted written information to Council, a copy of which is on file in the office of the City Clerk, and along with Dave Koehler of the San Joaquin River Parkway and Conservation Trust, Assistant Development Director Bergthold, and Jane Fortune of Tree Fresno, gave the oral presentation which included an overview of TreeTOPS' Regional Urban Forest, Trails, and Conservation Lands Initiative, the CAL FIRE Grant, the SJR Parkway's administration of the grant, how city staff sees the initiative, the Blueprint Plan, identification of the leadership team and other members, * *recording starts here:* and how the initiative works into Free Fresno's plan. President Xiong commended all involved on the informational presentation.

LUNCH RECESS - 11:51 A.M. - 2:00 P.M.

(2:00 P.M. #2) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

(A) ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION - CASE NAME: P.G.&E. V. CITY OF FRESNO

(B) EXISTING LITIGATION - CASE NAME: LISA RAMIREZ AND MICHAEL CAMPOS V. CITY OF FRESNO, ET AL.

The City Council met in closed session in Room 2125 at the hour of 2:00 p.m. to consider the above matters and reconvened in regular open session at 2:11 p.m. No announcements were made.

(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:

(1-H) APPROVE AN AGREEMENT WITH THE COMMUNITY HOUSING COUNCIL (CHC) IN THE AMOUNT OF \$53,000 FOR THE "NO HOMEOWNER LEFT BEHIND" FORECLOSURE PREVENTION AND INTERVENTION PROGRAM

Interim Housing Manager Bergthold reviewed the issue and program, all as contained in the staff report as submitted, and recommended approval.

(5 - 0) Councilmember Calhoun spoke to a Wall Street Journal article on the foreclosure problem and to the amount of pain it will take to solve it, and presented questions/comments/concerns relative to why a full package was not before Council/why only a small piece was being presented, how the City can deal with the bigger picture, the message that should be sent out is that the City feels the pain and is going to try to do something about it, if this program will apply only to low-income, if another proposal will be coming forth later, other cities' efforts, why staff can not present a more comprehensive package to Council, there being models out there that can be used and offered to the broader community, the staff report indicating this is targeted at the lower and moderate income, and need to double the amount of money to help more homeowners, with Mr. Bergthold and City Manager Souza responding and clarifying issues throughout.

Speaking in support of staff's recommendation and further to the issue/program were: Raleigh Smith, HUD Field Office Director; Jeff Schraeger, Vice President of the CHC; and Realtor Gail Harmon.

Councilmember Calhoun stated he was convinced everyone was on the right track but added they were not going fast enough, stated a delay was needed to allow for staff to re-look at the plan, re-tool it, and come back with a better, more aggressive plan, and made a motion to continue the matter two weeks to allow staff to return with a better plan. Upon call the motion died for lack of a second.

Councilmember Perea concurred a more comprehensive plan was needed but stressed Council needed to move forward on this program today and made a motion to approve staff's recommendation, stated good ideas were included in the Wall Street article and explained, and requested staff provide a tray memo to Council on what is transpiring in internal meetings and how Council and the community can plug into those meetings so everyone is on the same page. The motion was seconded by Councilmember Duncan.

Upon question of Councilmember Dages Mr. Schraeger explained how the program will be able to help those with adjustable rate mortgages who now have the high interest rates but insufficient income. Councilmember Westerlund stated the city did not make this bed, it was unfortunate that people get into trouble and run to the government, and he hoped the banks and private sector who made the loans would assist financially.

Upon further questions of Councilmember Calhoun, Mr. Bergthold and City Attorney Sanchez confirmed the program would serve more than just the low and moderate income and the only ones that would be turned away would be non-occupant investors, and David Mendoza spoke to why this was not approved by the HCDC when it was before them. Councilmember Calhoun stressed he wanted this program to serve everyone and added because he felt the City was not doing enough he would abstain in the vote.

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the Agreement with the Community Housing Council hereby approved, subject to approval as to form by the City Attorney, and the Planning Director authorized to execute the Agreement on behalf of the City, by the following vote:

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

(9:30 A.M.) GENERAL ADMINISTRATION - CONTINUED:

(‘D’) BILL NO. B-8 - AMENDING AND ADDING TO THE FRESNO MUNICIPAL CODE RELATING TO EXEMPTION OF PRIVATE SECTOR PROFESSIONAL EMPLOYEES FROM BUSINESS LICENSE AND LICENSE FEE REQUIREMENTS

City Attorney Sanchez noted this item was prepared pursuant to Council direction and along with ACM Rudd advised staff did receive input from the Chamber of Commerce government affairs committee as requested who unanimously supported adoption.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Bill No. B-8 introduced before the City Council and laid over, by the following vote:

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

(‘E’) RESOLUTION NO. 2008-36 - 74TH AMENDMENT TO AAR APPROPRIATING \$505,000 FOR FRESNO CONVENTION AND ENTERTAINMENT CENTER (FCEC) REIMBURSEMENTS, IMPROVEMENTS AND CONSULTING SERVICES ASSOCIATED WITH THE REPLACEMENT OF THE CITY HALL CHILLER PLANT

General Services Director Nerland reviewed the issue, all as contained in the staff report as submitted, and recommended approval. Councilmember Calhoun stated he was surprised with the chiller issue and questioned if staff had considered the bigger picture of solar panels and explained (with Mr. Nerland responding), encouraged staff to think about and look into that and report back on findings, and made a motion to approve staff’s recommendation, which motion was seconded by Councilmember Dages.

Councilmember Westerlund presented questions and comments relative to bonding for the Convention Center projects/needs, when the bonds were going to market, needs continuing to arise, why this was not part of the bond package, anticipated amount of the bond, if the \$4.2 million amount was someone’s best guess, his support for the Phase II bond package being based on the understanding that the exact cost was known, and concern with unanticipated costs, with Mr. Nerland and ACM Rudd responding throughout.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2008-36 hereby adopted, by the following vote:

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

(10:15 A.M.) HEARING ON REZONE APPLICATION NO. R-07-72 AND ENVIRONMENTAL FINDINGS FILED BY THE CITY OF FRESNO, PROPERTY LOCATED ON THE NORTH SIDE OF E. COPPER BETWEEN N. WILLOW AND N. MAPLE AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-07-72, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-9 - ORDINANCE NO. 2008-6 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-20 AND PV TO R-1/UGM

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

Speaking in support were: Jeff Roberts, representing Copper River Ranch, and Armen George, on behalf of his family, who also added they could not commit to a position for any proposed annexation of the property.

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

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, and the above entitled Bill No. B-9 adopted as Ordinance No. 2008-6, by the following vote:

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

(10:30 A.M.) HEARING TO CONSIDER TEXT AMENDMENT APPLICATION NO. TA-07-02 AND ENVIRONMENTAL FINDINGS, INITIATED BY THE PLANNING & DEVELOPMENT DIRECTOR, RELATED TO THE CREATION OF THE "ANX" ANNEXED RURAL RESIDENTIAL TRANSITIONAL OVERLAY DISTRICT FOR MAINTAINING THE RURAL RESIDENTIAL LIFESTYLE FOR ANNEXED PROPERTIES

1. BILL NO. B-10 - ADOPTING TEXT AMENDMENT APPLICATION NO. TA-07-02 AND ENVIRONMENTAL FINDINGS AMENDING THE TEXT OF THE ZONING ORDINANCE RELATING TO THE CREATION OF THE "ANX" DISTRICT

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

Planner Braun gave an in-depth PowerPoint presentation and overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Jeff Roberts, representing Granville Homes, spoke in support.

Upon call, no one else wished to be heard and President Xiong closed the hearing. A motion and second was made to approve staff's recommendation.

Councilmember Westerlund thanked staff and spoke briefly to the history of the issue and the objective.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding for E.A. No. TA-07-02 hereby approved and the above entitled Bill No. B-10 introduced before the City Council and laid over, by the following vote:

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

(10:45 A.M.) APPROVE ACTIONS REQUIRED TO CARRY OUT THE ECONOMIC DEVELOPMENT ACTION PLAN INCLUDING THE SOCIAL COMPACT ECONOMIC ANALYSIS AND THE COMMUNITY ASSET MAP

- 1. **RESOLUTION NO. 2008-37** - APPROVING THE REALLOCATION OF \$100,000 OUT OF CONTINGENCY FOR THE ECONOMIC DEVELOPMENT ACTION PLAN
- 2. APPROVE A CONTRACT WITH SOCIAL COMPACT, INC., FOR THE DRILL DOWN ECONOMIC ANALYSIS FOR AN AMOUNT NOT TO EXCEED \$48,000
- 3. APPROVE A CONTRACT WITH WEST FRESNO COALITION FOR ECONOMIC DEVELOPMENT d.b.a. FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT FOR THE ASSET MAP PROJECT FOR AN AMOUNT NOT TO EXCEED \$46,000

E.D. Analyst Trevino reviewed the issue, all as contained in the staff report as submitted.

Speaking further to the issue and in support were: Keith Kelly, Fresno West Coalition for Economic Development, and Javier Aguirre, Operations Manager for Fresno West Coalition.

Acting President Sterling expressed her support and thanked all involved and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Perea.

Ms. Trevino, Mr. Kelly, City Manager Souza and Allison Williams with the Office of Community and Economic Development at Fresno State, responded to comments and/or questions of Councilmembers Calhoun, Perea and Dages relative to outcomes/results not shown, what will come out of this besides data, what outcomes are expected/hoped for, what was at issue this date, when the action plan would be presented to Council, what inspired the Kearney Palms shopping center investment, why staff could not use the same information gathered for Kearney Palms, and why the Bookings Institute's information on concentrated poverty could not be used/why the wheel has to be reinvented. President Xiong spoke briefly to his support.

On motion of Acting President Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2008-37 hereby adopted, and the related contracts as outlined above awarded as recommended, by the following vote:

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

(11:00 A.M.) HEARING ON REZONE APPLICATION NO. R-07-52 AND ENVIRONMENTAL FINDINGS FILED BY YAMABE & HORN ENGINEERING, ON BEHALF OF SK VALLEY HOMES LLC, PROPERTY LOCATED ON THE NORTH SIDE OF W. SHIELDS BETWEEN N. BRAWLEY AND N. VALENTINE AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-07-52/T-5782, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. **BILL NO. B-11 - ORDINANCE NO 2008-7** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-1-(A)-C TO R-1

President Xiong announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Zuniga clarified the requested rezone was from R-1-C (not R-1-A as noted on the agenda) to R-1, and advised the staff report as submitted was complete and there was no new information to add.

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

On motion of President Xiong, seconded by Councilmember Westerlund, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, and the above entitled Bill No. B-11 adopted as Ordinance No. 2008-7, by the following vote:

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

(2:30 P.M. #1) CONSIDER APPROVAL OF A STAND-ALONE TAX SHARING AGREEMENT WITH THE COUNTY OF FRESNO FOR ANNEXATION OF CERTAIN TERRITORY KNOWN AS THE MCKINLEY-HAYES NO. 3 REORGANIZATION

(NEW URBAN STRATEGIES PROPERTY AND ADJACENT PARCELS)

151-55

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Project Manager Barnes reviewed the issue (7 - 0), all as contained in the staff report as submitted, and recommended approval.

Marie Ihde, owner of county property at McKinley and Bryan, requested the property retain it's commercial zoning and explained. Mr. Barnes addressed Mrs. Ihde's issue and advised her parcel, along with another owned by Mrs. Garten, could be excluded if the matter goes to LAFCO and explained. Acting President Sterling spoke further to the issue and made a motion to approve staff's recommendation, and Councilmember Dages stated he was glad the property owner's rights would be protected.

Councilmember Westerlund stated he did not like the precedent-setting independent tax sharing agreement and that was his basis for not supporting this at this time and further elaborated. President Xiong thanked staff and stated although this was a difficult decision based on the independent agreement he would support it as this was a fast growing area and another one would be coming up.

On motion of Acting President Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the Stand-Alone Tax Sharing Agreement hereby approved, in accordance with the "Amended and Restated MOU between the County of Fresno and the City of Fresno", and the City Manager authorized to execute the Agreement on behalf of the City, by the following vote:

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

- (2:30 P.M. #2) CONTINUED HEARING ON REZONE APPLICATION NO. R-07-76 AND ENVIRONMENTAL FINDINGS FILED BY THE CITY OF FRESNO, NORTH OF W. OLIVE BETWEEN N. GRANTLAND AND N. POLK AVENUES
1. CONSIDER AND ADOPT E.A. NO. R-07-76 A, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
2. BILL NO. B-12 - ORDINANCE NO. 2008-8 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT 48 PARCELS FROM RR (RURAL RESIDENTIAL, FRESNO COUNTY) AND C-6 TO R-A/UGM, R-P/UGM, C-P/UGM, R-1/UGM AND O/UGM

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

Project Manager Barnes reviewed the issue, all as contained in the staff report as submitted, and advised staff would request the parcels owned by Mrs. Ihde and Mrs. Garten on the north fringe of the territory to be annexed be excluded from annexation.

Vince DiMaggio, New Urban Strategies, spoke to meetings held and concerns addressed, spoke further to his proposal for the Ihde parcel, and requested Council's support.

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

Acting President Sterling thanked all involved for working together and made a motion to approve staff's recommendation. Upon question of Councilmember Westerlund, Mr. Barnes stated the parcels creating the peninsula east of Hayes would be brought in by another map. Councilmember Westerlund stated based on the previous 2:30 #1 stand-alone agreement he could not support this.

On motion of Acting President Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, and the above entitled Bill No. B-12 adopted as Ordinance No. 2008-8, by the following vote:

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

(3:00 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 4:12 p.m. and convened in joint session with the Redevelopment Agency.

151-56

2/26/08

APPROVE AGENCY MINUTES OF FEBRUARY 12, 2008

On motion of Acting President Sterling, seconded by President Xiong, duly carried, RESOLVED, the Agency minutes of February 12, 2008, approved as submitted.

(“B”) RECEIVE STATUS REPORT ON THE FOREST CITY’S SOUTH STADIUM PROJECT AND TAKING OF THE FOLLOWING ACTIONS:

1. ESTABLISH THE PROJECT AS A PRIORITY FOR APPROPRIATE CITY AND AGENCY FUNDING SOURCES SUCH AS CDBG, SECTION 108 FUNDS, CAPITAL IMPROVEMENT PROGRAM FUNDS, AND TAX-INCREMENT REVENUES, **as amended (COUNCIL AND AGENCY ACTION)**
2. AUTHORIZE THE EXECUTIVE DIRECTOR, IN COOPERATION WITH THE CITY, TO ESTABLISH A FINANCING TEAM TO DEVELOP FINANCING OPTIONS FOR THE MERGER 1 REDEVELOPMENT AREAS’S TAX INCREMENT, CURRENT CONFERENCE CENTER COP FUNDING COMMITMENTS, AND OTHER AGENCY AND CITY FUNDING SOURCES THAT MAY BE APPROPRIATE FOR BRIDGING THE PROJECT’S FINANCIAL FEASIBILITY **(AGENCY ACTION)**
3. DIRECT THE EXECUTIVE DIRECTOR TO APPLY FOR GRANTS AND OTHER THIRD-PARTY FUNDING SOURCES THAT MAY BE APPROPRIATE FOR BRIDGING THE PROJECT’S FINANCIAL FEASIBILITY **(AGENCY ACTION)**
4. AUTHORIZE THE EXECUTE DIRECTOR TO CONSIDER ACQUISITION OF KEY OPPORTUNITY SITES **(AGENCY ACTION)**
5. DIRECT THE AGENCY TO CONTINUE WORKING WITH FOREST CITY RELATIVE TO PROJECT COSTS AND FINANCIAL FEASIBILITY **(AGENCY ACTION)**

Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted, and Catherine Perez, representing Forest City, added they were excited about the support received and looked forward to continued progress on the project.

Jeff Reid, 5 River Park Place East, representing Getz Properties at 721 Broadway, spoke in favor of the land assemblage authority and encouraged his client’s Broadway property be one of the early targets of acquisition.

Ms. Murphey, Ms. Perez and Chair Westerlund responded at length to numerous questions and comments of Acting President Sterling relative to the \$100 million gap, which projects, if any, would be put on hold or de-funded to fill the gap, concern with the use of CDBG Section 108 funds, if there was a low-income housing component to this project, if there were plans for senior housing, funding opportunities now available and if Forest City (FC) would be going after funding more aggressively, if FC has been working with the city’s consultants, if FC was relying on their strength alone in going after state funds, Caltrans’ interest in talking about funding options and encouragement to staff and FC to talk with them, the significance of this project to District 3 and request to be kept informed as the district’s representative and an Agency board member, hope that the City/RDA will not carry this project as was done for the Kearney Palms shopping center project, and support for staff’s recommendations as no money was being expended this date. Councilmember Calhoun left the meeting at 4:38 p.m. and returned later in the meeting.

Upon the request of President Xiong City Attorney Sanchez clarified Item B-1 **(8 - 0)** and upon question suggested Council identify this project as a budget priority and add language directing City and RDA staff to work together to develop specific funding sources, not limited to those identified, and return with a funding source report within 45 to 60 days, including impacts of those fund designations. Upon further questions of President Xiong Ms. Murphey stated the amendment would place a level of specificity and set a time frame and with the report Council would be able to see the broader picture of the projects/funding sources/funding options/consequences and then make policy decisions based on that analysis.

President Xiong made a motion to approve the above staff recommendations 1 thru 5, with #1 amended by adding direction to City staff to work with RDA staff on specific funding sources, including but not limited to those identified, and return with a funding report, including impacts, within 45-60 days. Upon question of Councilmember Duncan, FC stated the motion was acceptable whereupon Councilmember Duncan seconded the motion. Councilmember Duncan stated although there were financing challenges the one-half billion dollars in private financing needed to be kept in mind while looking at this improvement project adding more interest from developers was going to be seen once FC becomes a reality. Councilmember Dages reiterated a previous request for information on current property taxes, sales taxes and fees derived from businesses in this area for comparison purposes, and continued stating this was a huge commitment and he did not want to see what happened with the stadium happen here (negative cash flow and the taxpayer getting stuck with the payment), elaborated further on that

issue, and stated he would support the motion as no funds were being committed this date.

151-57

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Mr. Souza stated it has been clear for some time that FC has been a priority project to Council, relative to the motion stated if staff is to return with a report on eligible categories that made sense but if the expectation was for the administration to return with a report prioritizing projects against FC that was a false and unfair expectation and explained, and spoke to what was going on with the Convention Center COP funding commitments.

Chair Westerlund stated he appreciated the motion and was supportive, stated the budget is what it is and Council would make determinations based upon where they feel the city should go, and stated he was sensitive to the concern expressed relative to the taxpayer becoming a "stuckee" and spoke to the funding gap and funding options and issues.

On motion of President Xiong, seconded by Councilmember Duncan, duly carried, RESOLVED, Item #1 as outlined above hereby approved, as amended, adding direction to City staff to work with RDA staff on specific funding sources, including but not limited to those identified, and return with a funding report, including impacts, within 45-60 days; and Items #2, #3, #4 and #5 as outlined above hereby approved, by the following vote:

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

("C") HEARING TO CONSIDER CITY COUNCIL AND REDEVELOPMENT AGENCY BOARD ADOPTION OF AN ORDINANCE THAT WILL EXTEND CERTAIN TIME LIMITATIONS FOR 18 OF THE ADOPTED REDEVELOPMENT PROJECT AREAS

1. BILL NO. B-13 - ORDINANCE NO. 2008-9 - AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, (1) EXTENDING THE PLAN EFFECTIVENESS DATE, THE DEBT REPAYMENT, AND THE RECEIPT OF TAX INCREMENT DATE BY ONE YEAR FOR THE AIRPORT AREA REVITALIZATION, CENTRAL BUSINESS DISTRICT, CENTRAL CITY COMMERCIAL REVITALIZATION, CHINATOWN EXPANDED (INCLUDING WEST FRESNO BUSINESS DISTRICT), CONVENTION CENTER, FRESNO AIR TERMINAL, FRUIT/CHURCH, FULTON, FREEWAY 99-GOLDEN STATE CORRIDOR, JEFFERSON, MARIPOSA, ROEDING BUSINESS PARK, SOUTH VAN NESS INDUSTRIAL REVITALIZATION, SOUTHEAST FRESNO REVITALIZATION, SOUTH FRESNO INDUSTRIAL REVITALIZATION, SOUTHWEST FRESNO G.N.R.A., WEST FRESNO I, AND WEST FRESNO II PROJECT AREAS; AND (2) EXTENDING THE PLAN EFFECTIVENESS DATE, THE DEBT REPAYMENT, AND THE RECEIPT OF TAX INCREMENT DATE BY UP TO TWO YEARS FOR THE CONVENTION CENTER, FRUIT/CHURCH, CHINATOWN (INCLUDING WEST FRESNO BUSINESS DISTRICT), JEFFERSON, MARIPOSA, SOUTHWEST FRESNO, WEST FRESNO I, WEST FRESNO II, WEST FRESNO III, AND CENTRAL BUSINESS DISTRICT PROJECT AREAS

Project Manager Freeman reviewed the issue, all as contained in the staff report as submitted, and recommended approval. Upon question of Acting President Sterling, Director Murphey stated west Fresno's plans/projects, i.e. the Chinatown ENA and Fruit/Church would benefit by this and be positively impacted and explained.

On motion of Chair Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Bill No. B-13 adopted as Ordinance No. 2008-9, by the following vote:

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

The joint bodies adjourned their meeting at 5:05 p.m. and the City Council reconvened in regular session.

RECESS - 5:05 P.M. - 5:37 P.M. All members were present.

(5:30 P.M.) HEARING, UPON REQUEST OF THE MAYOR PURSUANT TO THE FMC, TO CONSIDER CUP NO. C-07-256 AND E.A. NO. C-07-256, RECOMMENDING ADOPTION OF A MITIGATED NEGATIVE DECLARATION AS A SUBSEQUENT PROJECT UNDER MEIR 10130, RELATED TO THE CONVERSION OF THE FORMER HACIENDA MOTEL SITE AT 2550 W. CLINTON FROM A SENIOR HOUSING AND LICENSED ALZHEIMER CARE FACILITY TO A GROUP HOME FACILITY TO PROVIDE HOUSING, TREATMENT, COUNSELING AND SUPPORT SERVICES FOR WOMEN IN THE FEMALE

REHABILITATIVE COMMUNITY CORRECTIONAL CENTER, THE FRESNO FIRST PROGRAM, AND THE TRANSITIONAL SUPPORTIVE HOUSING FACILITY PROGRAM

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

151-58

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An extensive PowerPoint presentation and review of the proposed project was given by Planner Beedle, Police Chief Dyer, Kimberly Bohn of Mental Health Systems (MHS), and Architect Scott Vincent, which presentation included specifics of the project and programs **(9 - 0)**, conditions placed on the project by the police department, the history of the Hacienda Hotel, design specifics and plans for Phases I through V, and the programs/services that will be offered.

Speaking to the issue were: County Supervisor Phil Larson, concerns expressed; Jerry Kennedy, concerns/opposed; P.J. Jerman, concerns/opposed; Chip Williams, support **(10 - 0)**; Capt. Jason Horton, support; Barbara Owen, Professor of Criminology at CSUF, support; Sharon Jackson, Department of Corrections and Rehabilitation, Sacramento, who spoke to what is going on in the FRCCC program statewide; Maria Romero, Principal of Fresno Adult School, support; Bruce Nelson, Woodward Lakes resident, support; Pamela Graham, 3609 N. Cedar, support; Robin Ruby, former resident of the Fresno First Program, and her daughter Victoria Mann, support; Karen Trexler, 1305 E. Yale, former Fresno First resident, support; Lanella Hare, 964 N. Monte, opposed, who also submitted petitions opposing the project; Vanessa Huang, Policy Director the Justice Now, opposed, who also clarified issues relative to AB 76 and displayed a petition containing over 3,300 signatures of women's facility and prison inmates opposing the FRCCC model; Monica Wade, Director of Tender Care Independent Living for re-entry women, opposed; J.D. McCubbin, concerns with plans for the vacant property and lighting pollution; Yolanda Salinas Bowen, Operator of Moonlight Restaurant, 2731 W. Clinton, concerns; and Carissa Phelps, opposed.

Continued speakers were: Walter Mendez, support; Sharon Swaer-Hill, Program Manager for Fresno First, support **(11 - 0)**; Eileen Adicho, Fresno Adult School GED instructor and former instructor at Fresno First, support; Gwendolyn Major, 1235 N. Recreation, former MHS resident, support; Michelle Green, Fresno First participant, support; Diane Corbin, concerns with MHS; Chuck Krugman, 1237 P Street, concerns; Gloria Hernandez, 3232 E. Hedges, support; Attorney Howard Watkins, 1785 W. Dovewood, need for more time and meeting(s) to reach a community benefit agreement; Ignacio Garibay, Realtor, concerns; Marina Torres, operator of the motel directly across the street and former West Care participant, support; Fadia Doty, 6560 E. Inyo, support; Ann Marie Esqueda, 4120 N. Valentine, former prison inmate, support; Lula Tucker, West Care counselor, support; Laurie Gibson, support; Debbie Reyes, need for more time for community input; T.J. Cox, 3714 N. Van Ness, concern with lack of community input; Debbie Solis, support **(12 - 0)**; Penny Kromber, 4712 E. San Gabriel, parole office volunteer and former prison inmate; support; William Brent Waylon Jr., concerns/need for more time; Karl Alexander, 3259 W. Vassar, opposed; and Annie (last name inaudible), support.

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

Councilmember Dages stated the program was definitely not the problem, his issue was 300 women in a prison in a neighborhood that was not appropriately notified, and he could not support the project this date because of that; continued stating he wanted staff and the applicant to go back and meet with the neighborhood and the County to address concerns/issues before this goes any further; and presented questions and comments relative to whether Fresno First has had any police calls for service, if staff sees inmates' relatives living in the neighborhood, success rate of the program, the program sounding like a good one but there being too many concerns, and if it was possible for staff to hold meetings with the neighborhood, with Chief Dyer and City Manager Souza responding throughout.

City Attorney Sanchez clarified issues relative to the applicability of the Americans with Disability Act (ADA) and fair housing laws, the three different uses on the property, uses that involve individuals who may fall within the definition of "disabled", Council being somewhat constrained in its' consideration of this matter, Council being unable to create conditions which would unreasonably prohibit or discriminate against group home uses, the inability to add conditions that would not normally be placed on like-type projects, the noticing requirement that was properly followed, and the unique circumstance here with the new developing correctional center use; stated if Council decides to move forward with the project this date a determination needed to be made on whether this use fit the "group home/housing" definition or if the use was unique enough to fit under another definition; added sending the matter back to staff for supplemental information was another option if Council felt they did not have enough information based on the record this date; and clarified planning staff already looked at the project and made a recommendation that the correctional center use can be deemed a group home as it was part of the continuum of care.

Councilmembers Dages and Duncan presented questions and comments relative to whether any neighborhood

meetings were held, there not being enough information to make a decision, need for additional information and neighborhood meetings, desire to send this back to staff, if the Mayor supported the project now with the added police department conditions, the different positions of planning staff and the city attorney on "group homes" and if this was a group home or not, if the applicant can file a lawsuit not only against the city if this is denied but also against each council member individually under ADA regulations, and concern with personal liability. Councilmember Duncan stated he was not sure he was ready to vote on this and felt the matter should be tabled/referred back to staff to get a strong clarification on the definition of group home.

151-59

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Acting President Sterling commended and thanked staff and all involved for all their work; responded to Supervisor Larson's comments and concerns; stated although she was happy with the conditions and was ready to approve the project she felt staff should meet with the neighborhood; questioned if the project could be voted upon this date without the FRCC correctional use and have that part come back later for final consideration (with Mr. Sanchez stating it could with findings); requested staff schedule a community meeting within 10 days to allow the public the opportunity to review the operational statement and have their concerns addressed and return on March 11th for final approval; and made a motion to approve the CUP this date, excluding the correctional center use, have the FRCC's operational statement reviewed and neighborhood concerns addressed within the next 10 days, and schedule this for final approval on March 11th. Brief discussion ensued on the motion, need to set a specific timeline, objective, and further delays, whereupon Deputy City Attorney Phelan recommended the entire CUP be continued because the conditions of approval that were developed for the project included the FRCC program. Acting President Sterling then made a motion to continue the matter for 30 days to allow for a community meeting to address concerns, which motion was seconded by Councilmember Perea.

Councilmember Westerlund commented on the issue and expressed his support stating treatment was vitally important and added this project would be a benefit to the community; spoke to the CEQA analysis and requested, in addition to the community meeting, that staff look at the initial CEQA analysis again since police department conditions were later placed on the CUP (with Planning & Development Director Yovino responding); and presented questions relative to planned expenditures for buildings to bring them up to code, with Mr. Vincent responding and also addressing previously stated concerns **(13 - 0)**.

Councilmember Calhoun stated this was a good project and deserved to be voted upon this date, stated his colleagues were "ducking the issue" and added those who do not like the project today still won't like it in 30 days, expressed concern with continuing the matter and stated it would result in another three hour hearing, stated this was a city project and did not need the county's approval, and stated he was elected to make decisions, this was a great project and location, and he would not support the motion.

Upon question of President Xiong, Ms. Bohn stated a 30 day delay would have a big financial impact/burden on her non-profit agency to the tune of a \$2,000 a day penalty by the current owners because this has been continued since last November and added she was not sure her Board would agree to the continuance not knowing if the project will go forward or not. Upon further question of President Xiong, Mr. Sanchez stated since Council identified specific information they wanted in order to make a final decision the continuation request was defensible. Upon question of Mr. Sanchez Acting President Sterling clarified there would be no additional public comment when the matter comes back and there would be Council deliberation/action only. President Xiong questioned if the matter could be delayed two weeks instead of 30 days due to the hardship on the applicant, brief discussion ensued, and Acting President Sterling stated her motion as made would stand stating the community had concerns and a right to be listened to, offered to talk with the Board to possibly help, and added if her motion fails another one could be made for a two week continuance.

On motion of Acting President Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled 5:30 p.m. appeal hearing on CUP No. C-07-256 continued 30 days to allow for a community meeting and to address Council and neighborhood issues and concerns, by the following vote:

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

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 9:36 p.m. having arrived and hearing no objections, President Xiong declared the meeting adjourned.

Approved on the ____4th____ day of ____March____, 2008.

_____/s/_____
Blong Xiong, Council President

ATTEST:

_____/s/_____
Yolanda Salazar, Assistant City Clerk

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