

The City Council met in regular session at the hour of 8:32 a.m. in the Council Chamber, City Hall, on the day above written.

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

Mark Scott, City Manager
 Bruce Rudd, Assistant City Manager
 Jim Sanchez, City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Reverend Bryan Martin of St. Patrick's Community Church gave the invocation, and President Westerlund led the Pledge of Allegiance.

RECOGNITION OF DISTRICT 7 STUDENTS - COUNCILMEMBER PEREA

Recognized.

RECOMMENDATION TO THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS FOR THEIR MORMON HELPING HANDS VOLUNTEER SERVICE PROJECT - MAYOR'S OFFICE

Read and presented.

PROCLAMATION OF "NATIONAL PUBLIC WORKS MONTH" - MAYOR AND CITY COUNCIL

PROCLAMATION OF "FRESNO: AMERICA'S PETANQUE CITY DAY" - MAYOR AND CITY COUNCIL

The above proclamations were read and presented.

APPROVE CITY COUNCIL MINUTES OF MAY 13, 2010:

On motion of Councilmember Dages, seconded by Acting President Brand, duly carried, RESOLVED, the minutes of May 13, 2010, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) extended a reminder that the census was still going on and encouraged those that did not turn in their forms to speak to census workers when they come to their doors; and (2) stated he felt the budget workshops were successful and working and thanked President Westerlund for his leadership and staff for their efforts stating it has been a good experience.

Councilmember Borgeas (1) stated he agreed with Councilmember Xiong that the workshops were very helpful and spoke to the benefit of front loading the informational sessions so that the final hearings can move more quickly; and (2) extended his appreciation to ACM Rudd and City Manager Scott for agreeing to include more information in staff reports for tracking purposes, especially for items/projects that come to council multiple times, with ACM Rudd expanding further on the information staff will be making available in the future.

Councilmember Sterling noted yesterday was the groundbreaking ceremony for the new Fresno Veterans Home and stated it was a beautiful ceremony and it was going to be a good project but she was extremely disappointed as the entire City Council was present, not one member was recognized or acknowledged, and Council was totally eliminated from the program after a call came in Tuesday night from the Governor's office, (2 - 0) spoke to the work and efforts of City and Agency staff, the City Council and District 3 and stated it was very disrespectful of the Governor's office, and all those involved in the project, to not recognize the City, further elaborated on the hard work and efforts put into this project since 2003 by past and present council members and city officials in conjunction with the Veterans Council, and stated she was going to send a letter to the Governor's office and thanked the City of Fresno organization and every entity who worked on the project

Acting President Brand (1) reported on his attendance at the St. Baldrick's fund-raising event for childhood cancer this past weekend at Valley Children's Hospital stating it was very humbling and he was proud to be there; and (2) noted the Amgen Bike Tour bypassed Fresno and Clovis and stated the tour was a huge money-maker for the city and strongly recommended a city team be assigned and staff do all it can to make sure Fresno is included next year.

Councilmember Perea stated even though departments are making their budget presentations at the workshops he still hoped, and wanted, full presentations in next month's budget hearings stating a lot of city employees do not have the ability to listen to proceedings and full presentations would also be beneficial to the public. ACM Rudd stated the traditional budget hearings would still occur as they have in the past and would get into more detail. President Westerlund advised the hearing schedule was currently being worked on, stated it was his hope that since there has already been 16 to 17 hours of in-depth discussion in the workshops that Council could move a little more quickly through the hearings, clarified he wanted full hearings on the larger departments that have any significant impacts, added he hoped hearings could be collapsed down to around 10 days since workshops have been going on now for two weeks, and added the workshops were being recorded and being downloaded into the internet for viewing the following day. Councilmember Borgeas stated this was an experiment and learning experience, he liked receiving the budget earlier, he felt in the future the entire budget hearing should be front-loaded as is being done now as front-loading results in less questions later, and stated he did not feel it would be in anyone's interest to have two full sets of hearings. President Westerlund added each department can make a second presentation if that is the desire of Council but he was hoping Council could move quickly through some of the smaller departments that have less service impacts and spend time where the greatest issues are, and asked that staff provide the information requested during the workshops so members can digest the information and prepare follow-up questions, if needed.

President Westerlund spoke to the Veterans Home stating he was very excited about the groundbreaking and the project citing its benefit southwest Fresno and the 400 jobs it will bring, thanked the City Council and Councilmember Sterling for all their work and efforts and P&D Manager Barnes for shepherding the project, and recognized George Sinopoli who passed away a couple of years ago who was the driving force behind this project along with all the involved veterans stating the realization of their dream was a testament to them.

APPROVE AGENDA:

(1-E) AUTHORIZE DOCUMENTS RELATING TO THE PLACEMENT OF YOUTH AGED 14 - 24 FROM (1) ARBOR E & T, LLC AND (2) FRESNO COUNTY ECONOMIC OPPORTUNITIES COMMISSION (EOC), IN A SHORT-TERM WORK EXPERIENCE AT CITY WORK SITES, AS FUNDED BY THE FRESNO REGIONAL WORKFORCE INVESTMENT BOARD (WIB)

Laid over to June 3, 2010, at the request of staff.

(9:30 A.M. #2-A) WORKSHOP/UPDATE ON THE PROGRESS OF ESTABLISHING THE OFFICE OF INDEPENDENT REVIEW

Removed from the agenda at the request of staff.

(10:15 A.M.) REGULAR MEETING OF THE REDEVELOPMENT AGENCY

(A) AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO A PURCHASE AND SALE AGREEMENT FOR PROPERTY 1521 VENTURA STREET OWNED BY TFS INVESTMENTS, INC. - MERGED PROJECT AREA NO. 1 - CHINATOWN EXPANDED REDEVELOPMENT PROJECT AREA

Removed from the agenda at the request of staff.

(1-D) RESOLUTION - CLAIMING FUNDS FOR UNCASHED CHECKS DATING FROM MARCH 3, 2004, TO DECEMBER 31, 2006, IN THE AMOUNT OF \$25,244, AND UNCLAIMED BOND DEPOSITS DATING FROM JUNE 30, 1978, TO NOVEMBER 5, 1993, TOTALING \$65,642, AND TRANSFER THE FUNDS TO THE GENERAL FUND FOR FY 2009-2010

City Clerk Klisch advised staff would be making a clarification on the item during Consent Calendar consideration.

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

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

ADOPT CONSENT CALENDAR:

Councilmember Borgeas spoke briefly to Item 1-L and expressed his support, and pulled Item 1-N from the Consent Calendar for separate discussion/action.

Frank Balekian, 4114 W. Ellery, former city employee and retirement board member, spoke to Item 1-C and clarified he was opposed to the appointment of Mr. Gray, and noted there was an effort to make changes to the fire and police (safety) retirement board and expressed concern with any attempt to change/fill vacancies on the safety board with two safety management people and explained.

Treasury Officer Wiles spoke to Item 1-D stating there were last minute claims for monies in the treasury and the amount in Exhibit B was being reduced from \$90,886.10 to \$79,406.90 to honor the claims submitted.

Russell Appling, homeless, spoke to finances and fund-raising.

Arthur Servin, 1112 Vagedes, spoke to Item 1-F and questioned what projects were being planned for testing.

(1-A) RATIFY AN AMENDMENT TO ALLOW FOR THE EXTENSION OF THE DEADLINE FOR EXECUTION OF A MEMORANDA OF AGREEMENT WITH THE CALIFORNIA NATIONAL GUARD CONTAINED IN THE MILITARY CONSTRUCTION COOPERATIVE AGREEMENT PREVIOUSLY APPROVED ON FEBRUARY 11, 2010, BETWEEN THE CITY AND THE NATIONAL GUARD BUREAU FROM MAY 5, 2010, TO JUNE 10, 2010

(1-B) RESOLUTION NO. 2010-95 - AUTHORIZING THE PURCHASE OF THE COPLINK DATA INTEROPERABILITY AND ANALYSIS SYSTEM IN THE AMOUNT OF \$225,737.65 FROM KNOWLEDGE COMPUTING CORPORATION WITHOUT ADVERTISED COMPETITIVE BIDDING

(1-C) APPROVE APPOINTMENT OF JOE GRAY TO THE GENERAL SERVICE EMPLOYEES' RETIREMENT BOARD - MAYOR SWEARENGIN

(1-D) RESOLUTION NO. 2010-96 - CLAIMING FUNDS FOR UNCASHED CHECKS DATING FROM MARCH 3, 2004, TO DECEMBER 31, 2006, IN THE AMOUNT OF \$25,244, AND UNCLAIMED BOND DEPOSITS DATING FROM JUNE 30, 1978, TO NOVEMBER 5, 1993, TOTALING \$65,642, AND TRANSFER THE FUNDS TO THE GENERAL FUND FOR FY 2009-2010, AS AMENDED, DECREASING THE AMOUNT OF FUNDS TO BE TRANSFERRED

(1-F) APPROVE AGREEMENTS IN THE AMOUNT OF \$150,000 EACH, WITH KLEINFELDER WEST, INC., AND KRAZAN AND ASSOCIATES, FOR PROFESSIONAL MATERIAL TESTING AND ACCEPTANCE SERVICES FOR CAPITAL IMPROVEMENT PROJECTS WITHIN THE CITY OF FRESNO STREET RIGHT OF WAY

(1-G) RESOLUTION NO. 2010-97 - 78TH AMENDMENT TO AAR 2009-149 APPROPRIATING \$321,600 IN AVAILABLE FUNDS FOR THE PURPOSE OF SUPPLEMENTAL UGM AND CITYWIDE DEVELOPMENT IMPACT FEE REFUNDS AND REIMBURSEMENTS TO ELIGIBLE DEVELOPERS

(1-H) APPROVE AN AGREEMENT IN THE AMOUNT OF \$115,740 WITH R3 CONSULTING GROUP FOR PREPARATION OF THE SOLID WASTE RATE STUDIES FOR FISCAL YEARS 2012 THROUGH 2016, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-I) RESOLUTION NO. 2010-98 - AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR UP TO \$1 MILLION TO THE DEPARTMENT OF THE INTERIOR (DOI), BUREAU OF RECLAMATION, FOR FUNDING TO SUPPORT THE CONSTRUCTION OF A RAW WATER PIPELINE FROM THE FRIANT-KERN CANAL TO THE CITY'S SURFACE WATER TREATMENT FACILITY

1. AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES OR DESIGNEE TO EXECUTE AND SUBMIT ALL REQUIRED DOCUMENTS NECESSARY TO CARRY OUT THE PURPOSE SPECIFIED IN THE APPLICATION AND THE PROJECTS DESCRIBED THEREIN, SUBJECT TO PRIOR APPROVAL AS TO FORM BY THE CITY ATTORNEY'S OFFICE

(1-J) ADOPT FINDING OF CEQA CLASS 1 AND 2 CATEGORICAL EXEMPTIONS (EXISTING FACILITIES AND REPLACEMENT OR RECONSTRUCTION) FOR THE SWITCHGEAR REPLACEMENT AND NEW BUILDING AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

1. **RESOLUTION NO. 2010-99 - 80TH** AMENDMENT TO AAR 2009-149 APPROPRIATING \$642,300 TO THE DEPARTMENT OF PUBLIC UTILITIES FOR THE PROJECT

2. AWARD A CONTRACT IN THE AMOUNT OF \$659,240 TO ELKINS ELECTRIC COMPANY FOR THE PROJECT

(1-K) ADOPT FINDING OF CEQA CLASS 1 AND 2 CATEGORICAL EXEMPTIONS (EXISTING FACILITIES AND REPLACEMENT OR RECONSTRUCTION) FOR REHABILITATION OF SEWER UTILITIES AT N. WEBER, S. EAST AND N. SIERRA VISTA AVENUES

1. **RESOLUTION NO. 2010-100 - 81ST** AMENDMENT TO AAR 2009-149 APPROPRIATING \$452,600 OF BOND PROCEEDS FOR THE BUTLER CALIFORNIA REHABILITATION PROJECT

2. AWARD A CONTRACT IN THE AMOUNT OF \$1,019,956 TO PIPENOLOGY, INC., FOR THE WEBER/EAST/SIERRA VISTA AVENUES SEWER REHABILITATION PROJECT

(1-L) APPROVE A CONTRACT FOR TEMPORARY WATER SERVICE (SECTION 215 OF THE RECLAMATION REFORM ACT) WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY, AND AUTHORIZE THE PURCHASE OF UP TO 500 ACRE-FEET AT A COST NOT TO EXCEED \$25,000

(1-M) ADOPT CEQA CATEGORICAL EXEMPTION (EXISTING FACILITIES) FOR NEGLIGIBLE OR NO EXPANSION OF EXISTING USE

1. AUTHORIZE AMENDMENT NO. 3 TO THE FYI AIRPORT LAND LEASE AGREEMENT WITH MCDONALD AVIATION LLC, TO APPROVE A NORTHWESTERLY RELOCATION OF THE LEASE LINE BETWEEN MCDONALD AVIATION, LLC'S HANGAR AT THE AIRPORT AND THE NEIGHBORING T HANGARS NOW OPERATED BY THE CITY

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

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

CONTESTED CONSENT CALENDAR:

(N) **BILL NO. B-14 - ORDINANCE NO. 2010-16** - GRANTING TO PACIFIC GAS & ELECTRIC (PG&E) COMPANY THE RIGHT, PRIVILEGE AND FRANCHISE TO INSTALL, MAINTAIN AND USE PIPES AND APPURTENANCES FOR TRANSMITTING AND DISTRIBUTING GAS FOR ANY AND ALL PURPOSES UNDER, ALONG, ACROSS OR UPON THE PUBLIC STREETS, WAYS, ALLEYS AND PLACES AS THE SAME NOW OR MAY HEREAFTER EXIST WITHIN SAID CITY

Councilmember Borgeas stated his questions/reservations were what the 50-year time frame meant long-term, encouraging competition and if the City was not tying its' hands for too long a time, if other options should be explored such as a 25-year or 10-year term with option(s) to renew, and if it was in the best interest of the City to make such a long-term commitment. Deputy City Manager Zieba and ACM Rudd responded and clarified (1) a 50-year term was rare as most franchises were indeterminate, (2) the franchise being non-exclusive meant another provider could come in, (3) if the term were to be changed at this point (after the public hearing process) the entire process/negotiations would have to be followed again (which would take about 30 days), and (4) every month past July 1 would be a loss to the City of \$80,000. Upon question of Councilmember Borgeas Mr. Rudd stated this matter could be delayed two weeks to see if the option of a multi-year term was viable and added staff would like to see how much Council support there was for such an option so a meeting could be set with PG&E to see if they are open to such an arrangement.

Acting President Brand presented questions relative to whether this agreement was consistent with other cities, how much revenue has been generated yearly, what the net gain would be with this new agreement, the city's current budget crisis and if PG&E front-loading some of the fees -- i.e. \$5 million the 1st year/\$4 million the 2nd year/diminishing the return further down the line -- was possible, if delaying action two weeks would not jeopardize time limits or cost the city money, and if front-loading franchise fees would re-trigger the process, with Ms. Zieba responding throughout. Acting President Brand stated his support for a two week delay so staff could research the front-loading option adding he felt an \$80,000 loss was worth it as at issue was potentially \$2 million more in this year's budget.

Councilmember Perea questioned what a delay would do to budget assumptions, what the impact would be if demands were made and PG&E said "no", what the impact would be in terms of timing, what PG&E's response was last week when this item was removed from the agenda, and why staff was recommending Council move forward this date on the agreement, with Ms. Zieba responding. Councilmember Perea urged Council to move forward stating the agreement was negotiated by staff, supported by staff and the administration, and Council would be taking a gamble on making more money, and made a motion to adopt the ordinance bill, which motion was seconded by Councilmember Sterling.

Councilmember Xiong stated he was leaning towards Councilmember Perea's position but felt Acting President Brand made an excellent point on front-loading, and upon his questions Tom Jones with PG&E Government Relations, Ms. Zieba and City Attorney Sanchez stated PG&E carrying the cost of the money up front was uncharted waters for them and he did not have a clear answer as to whether they would consider that a viable option, a 1 to 2 week delay would not make a difference if terms stay the same, **(3 - 0)** a change to front-loading would be a material change and would trigger the reset button, the administration was supportive of this agreement but staff would go back and renegotiate if that was Council's desire, negotiations were a give and take and staff had concerns about something else changing if something new is desired, and the term was very important to PG&E and the surcharge recovery portion was important to the City.

President Westerlund concurred 50 years was a long time and a valid concern but reiterated and clarified this was a non-exclusive agreement and anyone who wanted to could come in and compete, stated this agreement was negotiated in good faith and an 11th hour change was bad faith on the city's part, and spoke to the process of negotiations and stated this item had been before Council 3 or 4 times already and changes should have been suggested/discussed earlier. City Manager Scott stated risk would probably not be there with a non-exclusive agreement and clarified the only real questions were (1) what will happen when the recovery portion goes to the CPUC as that was where the extra revenue will come from and (2) whether or not the City has any options if the CPUC for some reason does not approve that arrangement. President Westerlund encouraged staff in the future to bring these type of issues to Council in closed session early enough so members can start thinking about options. Mr. Sanchez added staff was exploring the electric side of the franchise, the franchise was currently indeterminate but a legal analysis had been conducted on the potential of reopening that, and staff would be discussing that with PG&E and that could be the time to explore some of these different options.

Upon question of Acting President Brand Ms. Zieba confirmed a two week delay would not re-trigger the noticing process if nothing changes, whereupon Acting President Brand stated there was nothing to lose, the stakes were so high as another million dollars would keep a fire station open, save 25 positions, or rehire more CSOs, and made a motion to delay the matter to June 3, 2010, so staff could discuss with PG&E and research the legality of front-loading some of the fees. Councilmember Borgeas seconded the motion stating Acting President Westerlund was right on point, added he was not passionate about this issue and had reservations about committing to a 50-year contract, and clarified there may be no material change in which case this item would come back to Council in two weeks as is and Council could then make a more informed decision. Ms. Zieba and Mr. Jones responded to questions of Councilmember Xiong relative to the motion, staff's research and working with PG&E on the issue of front-loading, what would come back/what the process would be if there are no changes/if no changes are made, re-negotiating, if PG&E understood front-loading was at issue, and if a two week delay would impact PG&E's negotiating points. Ms. Zieba clarified a recovery portion of a franchise fee was being instituted and not a surcharge. Upon question of President Westerlund Mr. Jones clarified he was the lead negotiator for PG&E, he had an authorized range of options which he stated were nearly exhausted, and the front-loading issue would require senior management level and potentially the corporate board of directors due to the involvement of debt service.

ACM Rudd noted Council was asking staff to pursue the issues of front-loading some of the fees and a term change and stated those were two completely different items and staff would need to know what the priorities were of Council if they do have to go back and negotiate. Councilmember Borgeas stated he felt both issues were worth discussing and clarified these negotiations were being done in good faith, the City was not trying to make life difficult for PG&E, how lead negotiators go about negotiating was part of the process, and he was not too excited about this being an 11th hour situation. Mr. Jones clarified the City's original proposal in negotiations was for a much shorter term and in consideration for the longer term PG&E was then willing to pursue the recovery portion, and subsequently requested, if the motion to delay passes, that he and staff be given a clear list so nothing additional comes up in two weeks if this is not successful.

President Westerlund stressed this was not how things are normally done and elaborated further, spoke to his faith in staff's negotiations and position/recommendation, and reiterated negotiating this contract on the dais at the 11th hour when it has already been to Council 3 or 4 times was not good.

A motion of Acting President Brand, seconded by Councilmember Borgeas, to continue the item two weeks to June 3, 2010 so staff could discuss with PG&E and research the legality of front-loading some of the fees failed, by the following vote:

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

Councilmember Borgeas stated this was nothing against PG&E but he could not support the motion due to his reservation with the 50-year term and it being unknown what a 50-year contract will encumber the City with.

On motion of Councilmember Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-14 adopted as Ordinance No. 2010-16, by the following vote:

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

(9:15 A.M. "A") APPROVE AMENDMENT TO CHAPTER 7, ARTICLE 921, OF THE FRESNO MUNICIPAL CODE, RELATING TO THE BETTER BUSINESS ACT - ACTING PRESIDENT BRAND

1. RESOLUTION NO. 2010-101 - AMENDING THE BETTER BUSINESS ACT (CHANGING AND CLARIFYING THE FISCAL MANAGEMENT WORKSHOP REQUIREMENTS)

Acting President Brand reviewed the issue and the proposed amendment to Section II, Item #20, changing the requirement for a yearly Council workshop to a workshop on the third regularly scheduled Council meeting in the month of January in odd numbered years, all as contained in his report to Council as submitted.

Arthur Servin, 1112 Vagedes, spoke to the issue and questioned why it was felt a workshop every year was not necessary, with Acting President Brand responding.

Upon Councilmember Perea's request for clarification and questions Acting President Brand clarified the yearly review for the first three years would remain, the yearly workshop would be changed to every odd-numbered year on a specified date, the intent of the change to was to make it definitive with a specific date and tie the workshop to when new council members come in, and he felt having a workshop every year was too much. Councilmember Perea stated he supported the Better Business Act since the beginning and liked the idea of yearly workshops so he would oppose the amendment.

On motion of Acting President Brand, seconded by President Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2010-101 hereby adopted, by the following vote:

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

(9:15 A.M. "B") APPROVE RECOMMENDATION TO EXTEND THE CITY COUNCIL SUBCOMMITTEE ON WATER, AS PREVIOUSLY APPROVED BY RES. 2009-105, FOR ONE (1) YEAR - COUNCILMEMBER BORGEAS

Councilmember Borgeas reviewed the issue as contained in his report to Council as submitted. Acting President Brand left the meeting briefly at 10:40 a.m.

On motion of Councilmember Borgeas, seconded by President Westerlund, duly carried, RESOLVED, the City Council Subcommittee on Water hereby extended for one year, by the following vote:

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

Acting President Brand returned to the meeting at 10:41 a.m.

(9:15 A.M. "C") RESOLUTION NO. 2010-102 - REQUESTING THE CALIFORNIA LEGISLATURE TO PASS LEGISLATION SUPPORTING HOMEOWNER DISCLOSURE TO PURCHASERS OF THE CLAIMS MADE BY HOMEOWNERS IN CONSTRUCTION DEFECT LITIGATION THAT MAY CONSTITUTE A VIOLATION OF THE CALIFORNIA BUILDING CODE AND TO REQUIRE MONIES RECOVERED IN SUCH LITIGATION TO BE FIRST USED TO REPAIR ALL ALLEGEDLY DEFECTIVE CONDITIONS - ACTING PRESIDENT BRAND AND COUNCILMEMBER PEREA

Acting President Brand reviewed the issue, all as contained in his report to Council as submitted.

Mike Prandini, representing the Building Industry Association, spoke to the BIA's efforts at the state level to change existing legislation (Right to Repair law) and in support of the resolution and urged Council's support.

Councilmember Borgeas stated this was a good symbolic gesture, noted he had met with members of the building industry and city staff and agreed this was a big issue, expanded further on the problem and the issue of defects/disclosure, and upon his question City Attorney Sanchez stated from the city's standpoint homeowners could be forced to use any money recovered that deals with construction defects and constitute a violation of the building code to repair the defects as that rises to the legal responsibility of the homeowner to ensure compliance with the building code, but a simple appearance defect could not be mandated. A motion and second was made to adopt the resolution. Councilmember Dages expressed his support stating he believed the city had the ability to mandate a recordation on all properties and explained and added this was long overdue.

On motion of Acting President Brand, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2010-102 hereby adopted, by the following vote:

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

(9:15 A.M. "D") RESOLUTION NO. 2010-103 - OPPOSING ANY EFFORTS TO SEPARATE THE ASSETS OR ADMINISTRATION OF CITY PENSION/RETIREMENT FUNDS - ACTING PRESIDENT BRAND

Acting President Brand stated it came to his attention public safety pension members were seeking to separate the fund, clarified legally the City Council can not tell the retirement board what to do but it could make strong recommendations, stated the consequences were extremely high here and spoke to the city having the best managed pension system in the state and one of the best in the entire country and added he could not fathom why that success would want to be changed, and elaborated further and stated the system needed to continue to operate as a model for the state and country and called upon Retirement Administrator McDivitt to share his views on the matter. Mr. McDivitt stated he was here to address any technical questions on potential cost, he did not have any answers on reasoning/justification as that had not been discussed at the board level, and advised at the last board meeting the board chair appointed a subcommittee to examine this issue, which was also done back in 2002, and a decision was made at that time to not separate any of the board activities. Upon questions of Acting President Brand Mr. McDivitt responded/provided details/clarified issues relative to costs involved to separate the one fund into two **(4 - 0)**, asset portfolio manager fees, and how the city's existing staff and overhead costs compared with Fresno County and other cities.

Frank Balekian, 4114 W. Ellery Way, urged Council support the resolution and spoke to the issue stating he was not sure what the motive was in making this move but it was not in the best interest of either employee or employer.

A motion and second was made to adopt the resolution.

Councilmember Dages stated he agreed with Mr. Balekian and added he was shocked to hear there was a move to do this and elaborated further, and concurred this was what the rest of the country would like to have and added for anyone to mess with a system that is not broken would be ludicrous. City Attorney Sanchez responded to questions of President Westerlund and clarified issues relative to what impact this resolution would have, the different legal authorities the retirement boards function under, and the city having some legal standing on board actions that would require additional investment by the city. President Westerlund agreed the city should have some standing, the boards thus far have made good decisions that benefitted members, if separation were to occur and the decision cost the system more money that would have a direct impact on the amount of money the city would have to put up, and expanded further and stated so far the case has not been made on why there should be split and he felt a strong fiscal reason needed to be shown to do that.

On motion of Acting President Brand, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2010-103 hereby adopted, by the following vote:

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

(9:30 A.M. #1) HEARING TO CONSIDER THE VACATION OF S. WEST AVENUE FROM 600 FEET NORTH OF W. CHANDLER AVENUE TO W. WHITES BRIDGE AVENUE

1. RESOLUTION NO. 2010-104 - ORDERING THE VACATION OF THE ABOVE

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

City Engineer Mozier reviewed the issue, all as contained in the staff report as submitted, clarified the nature of the red tag was recommended resolution which attached the environmental assessment/CEQA document to it, and added the CEQA process was properly followed and recommended approval so that no FAA funding is lost and work can continue.

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

Upon question of President Westerlund Mr. Mozier confirmed the vacation was necessary in order to accommodate the improvements at Chandler Airport, this action amounted to a CEQA action, and it was evaluated by the planning and development department and the department issued a finding of conformity.

On motion of Councilmember Sterling, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2010-104 hereby adopted, by the following vote:

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

(9:30 A.M. #2-B) APPROVE A LICENSE AGREEMENT WITH RGM PRESENTS, LLC, FOR OPERATION AND EXPANSION OF A NIGHTCLUB AT THE 600 CLUB IN CHUKCHANSI PARK

PARCS Events Manager Broomfield gave an in-depth review of the issue, all as contained in the staff report as submitted, and recommended approval.

Speaking in support and further to the issue were: Chris Cummings with the Fresno Grizzlies; licensee Rick Mirigian, RGM Presents; and Arthur Servin, 1112 Vagedes, who also advised he was developing a website that will be used as an advertising/media tool to help in revitalizing downtown and advertise all Fresno has to offer and stated his desire to talk about his project with those involved here.

Capt. Gardner with the southwest policing district responded to questions and comments of Councilmember Dages relative to number of calls police have responded to at the club, concern with problems created by drinking, concern with problems spilling over into surrounding businesses, security/number of officers being hired, support for contract officers due to the city's budget crisis but hope that police resources are not used up/taken from other areas, and importance of keeping drinking problems under control. City Attorney Sanchez stated there was a provision that should be in the agreement that specifies the licensee will be responsible for all security as recommended by the Fresno police department and added it was his understanding that was agreed upon by the licensee and language would be included in the agreement if approved. Acting President Brand noted part of the lease entered into with the Grizzlies deals with the city's days to use the stadium and enhance revenues, stated this was a step in that direction and encouraged more of these types of things, and upon his questions Mr. Mirigian confirmed there were plans to expand (Tecate Cantina, pool and concourse areas) and explained, and attendance at the 600 Club was by far the highest compared to other nightclubs in town. Acting President Brand stated this was giving people one more reason to come downtown and one more reason to get exposed to the Grizzlies and it was all working in the right direction and made a motion to approve, which motion was seconded by Councilmember Sterling.

ACM Rudd confirmed Mr. Mirigian agreed to implement any security requirements mandated by the police department and added the working relationship with him has been a model on how to move forward with similar promoters, advised this contract was scalable and staff was encouraging expansion to enhance revenues and explained, and stated staff felt this was a win-win and Mr. Mirigian's patience was appreciated and urged support.

Councilmember Sterling commended all involved in this effort, spoke to all the work that went into this and stated it was something that had to be done and people will continuously come downtown now, and added the environment was safe and secure and she hoped the other venues will be more user-friendly for minors and families which will spark more business.

Citing comments made about utilizing stadium capacities Mr. Broomfield announced there would also be a concert on July 3rd featuring Travis Tritt, Kelly Pickler and the Maurice David Band, and thanked Mr. Cummings and Ovation for all their help in making this a positive venture for all.

Mr. Mirigian, Mr. Rudd and Mr. Sanchez responded to questions of President Westerlund and/or clarified issues relative to who RGM was, if RGM was a single LLC asset or a no asset LLC, what demographic was being targeted, drinking/dancing activities and if food was available at the Club, the city being the landlord and concern with failure when the club's newness wears off (5 - 0), if this agreement pertained to the entire ballpark, lack of a performance bond and if staff felt a performance bond was not wise, concern with the city's lack of recourse on damages, and insurance requirements. Councilmember Borgeas left the meeting briefly at 11:50 a.m. President Westerlund stated he was okay with the 600 Club but had concerns about expanding into the rest of the park and how that will work out, and stated he could not support this as he would first like to have seen how the 600 Club works out in the next year before he could support expanding.

On motion of Acting President Brand, seconded by Councilmember Sterling, duly carried, RESOLVED, the subject license agreement with RGM Presents, LLC, hereby approved, by the following vote:

Ayes :	Brand, Dages, Perea, Sterling, Xiong
Noes :	Westerlund
Absent :	Borgeas

(9:30 A.M. #2-C) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO A THREE-YEAR AGREEMENT IN THE AMOUNT OF \$275,000 WITH "THE STUDIO" FOR THE PURPOSE OF CONTINUING A HEALTH FITNESS PROGRAM FOR THE POLICE DEPARTMENT

Deputy Chief Nevarez reviewed the background of the Wellness Program and how the program works, all as contained in written material submitted, and stated the program has been effective in terms of improved health of officers and direct benefits back to the organization were hard to determine, explaining throughout.

Speaking to the issue were: Jacky Parks, FPOA, who spoke in support of the program and expanded further on the issues of vendors, cost, contractual agreement, and funding already being budgeted and earmarked for this program; and Arthur Servin, 1112 Vagedes, who questioned if any measured improvements have been seen over the past three years and if this was just an educational program.

Acting President Brand clarified he was aware this program was a negotiated MOU item and he pulled this item last week to question how the city's money was being spent and if this program was cost effective and not because of the vendors or their service; stated the two fundamental questions were cost and at what point does personal responsibility take over; stated this program, including retirement, cost about \$600,000 a year and expanded on his research, findings and what could be done with \$600,000 a year if there was no MOU; and stated in these hard economic times everything has to be evaluated, there was an element of personal responsibility, he would support this because the city was obligated, and urged this program be looked at closely when it comes up again.

ACM Rudd clarified at issue this date was selection of the vendor, stated effectiveness of this program was subject to further discussion at the time this labor agreement expires, clarified staff had to put information together quickly and the department was already asked to provide additional information on the program's effectiveness, and spoke to the number of things that will be looked at/tracked (injuries/change in policing tactics/type of violence against officers) and the importance of the analysis and stated that information will be brought forth in about 30 days.

Upon questions of Councilmember Borgeas Mr. Rudd stated the MOU would expire in FY12, this was a three year contract, and if the wellness provision is not included in a successor MOU agreement when the contract expires in FY12 there would be no appropriation in the third year and the contract would be terminated. Councilmember Borgeas stated he concurred with Acting President Brand on the need to question items stating the city was talking about divesting tree services and sidewalk maintenance to constituents and Council needed to know if the numbers justify, and stated this was a gym membership with other services as well and he supported discussing this in more detail when negotiations open up.

A motion and second was made to approve staff's recommendation.

President Westerlund stated the city was in such a difficult budget cycle and assumptions needed to be questioned, stated MOU obligations would be met, noted there was a city non-appropriation clause in the agreement even though this was a three year contract, and stated he appreciated the intent of the program but this was an issue of personal responsibility to a great degree.

On motion of Councilmember Dages, seconded by Acting President Brand, duly carried, RESOLVED, the Chief of Police authorized to enter into an agreement in the amount of \$275,090 with The Studio for continuation of a health fitness program for the police department, by the following vote:

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

LUNCH RECESS - 12:15 P.M. - 1:30 P.M. Councilmember Perea was absent for the remainder of the meeting and Councilmember Sterling returned towards the end.

The City Council recessed and met in joint session with the Joint Powers Finance Authority.

(10:00 A.M.) JOINT MEETING WITH THE FRESNO JOINT POWERS FINANCING AUTHORITY (JPFA)

("A") HEARING TO APPROVE (i) LEASE FINANCING WITH THE JPFA IN THE APPROXIMATE AMOUNT OF \$48.5 MILLION FOR THE REFINANCING OF CITY HALL, REIMBURSING THE CITY FOR THE ACQUISITION OF THE FRESNO BEE BUILDING (THE MET) AND GRANITE PARK, AND FINANCING VARIOUS CAPITAL IMPROVEMENTS IN THE CITY, INCLUDING BUT NOT LIMITED TO IMPROVEMENTS TO CITY HALL AND A CITY PARKING GARAGE; AND (ii) WHETHER THERE ARE ANY SIGNIFICANT PUBLIC BENEFITS TO THE CITY, SUCH AS SAVINGS IN EFFECTIVE INTEREST RATES, AS A RESULT OF ASSISTANCE FROM THE JPFA

1. JPFA RESOLUTION NO. 35 - AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE, A SUBLEASE AND AN ASSIGNMENT AGREEMENT, AND AUTHORIZING THE TAKING OF ALL NECESSARY ACTIONS RELATING TO THE LEASE FINANCING

2. COUNCIL RESOLUTION NO. 2010-105 - APPROVING A LEASE, A SUBLEASE AND AN ASSIGNMENT AGREEMENT AND AUTHORIZING EXECUTION OF DOCUMENTS AND THE TAKING OF ALL NECESSARY ACTION RELATING TO THE LEASE FINANCING

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

Assistant Finance Director/Controller Bradley reviewed the issue, all as contained in the staff report as submitted, and recommended approval.

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

Upon question of Acting President Brand Ms. Bradley clarified the prior \$55 million number was a place holder to provide for flexibility in case additional costs come in and staff did not expect to exceed \$48.5 million. Acting President Brand, as both a JPFA and council member, made a motion to adopt the resolutions, which was seconded by JPFA Member/President Westerlund.

Debt Administrator Hardcastle and Acting President Brand responded to questions of President Westerlund and/or clarified issues relative to the \$1.7 million savings for refinancing city hall, if there was a difference in the interest rate, how much debt was left on city hall, what the original bond amount was, if the outstanding balance would be refinanced, and debt structure/service/term.

On motion of Member Brand, seconded by Member Westerlund, duly carried, RESOLVED, the above entitled JPFA Resolution 35 hereby adopted, by the following vote:

Ayes : Brand, Westerlund
Noes : None
Absent : Swearengin

On motion of Acting President Brand, seconded by President Westerlund, duly carried, RESOLVED, the above entitled Council Resolution No. 2010-105 hereby adopted, by the following vote:

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

The JPFA and City Council adjourned their meeting at 1:44 p.m. and the City Council reconvened in regular session, recessed, and convened in regular session as the Redevelopment Agency.

(10:15 A.M.) REGULAR MEETING OF THE REDEVELOPMENT AGENCY

APPROVE AGENCY MINUTES OF MAY 6, 2010

On motion of Vice Chair Xiong, seconded by Member Westerlund, duly carried, RESOLVED, the Agency minutes of May 6, 2010, approved as submitted.

(B*) AUTHORIZE THE EXECUTIVE DIRECTOR TO CONTRACT WITH JONES AND STOKES ASSOCIATES (JSA) TO PROVIDE PROFESSIONAL ENVIRONMENTAL CONSULTING SERVICES FOR THE MERGER NO. 2 REDEVELOPMENT PLAN AMENDMENTS' ENVIRONMENTAL IMPACT REPORT (EIR)

Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted.

On motion of Member Dages, seconded by Vice Chair Xiong, duly carried, RESOLVED, the Executive Director authorized to enter into a contract with Jones and Stokes Associates to provide professional consulting services for the Merger No. 2 Redevelopment Plan Amendments' EIR, by the following vote:

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

The Redevelopment Agency adjourned its' meeting at 1:46 p.m. and the City Council reconvened in regular session.

UNSCHEDULED ORAL COMMUNICATIONS:

Karen Maroot, Executive Director of Tree Fresno, stated the Tree Fresno board wanted to meet with public works staff on tree maintenance and the city's budget crisis to offer solutions and potential support, and stated more trees were going to be planted, care and maintenance were critical, and reiterated their desire to be part of the solution and assist the city.

(6 - 0) Paula Savino, 7449 N. Mansionette Drive, spoke to architect Art Dyson's eco-village units for the homeless stating important amenities/appliances were missing and he could do much better.

Dee Barnes, 3730 Kenmore Drive, spoke as a private citizen and expressed her concern and disappointment with the city's elected representatives, managers and labor groups on budget decisions/employee layoffs/demotions.

President Westerlund noted the budget workshop process would resume tomorrow at 9:00 a.m. with an open structure in the afternoon for input by the city's bargaining units.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 1:58 p.m. having arrived and hearing no objection, President Westerlund declared the meeting adjourned.

Approved on the _____ day of _____, 2010.

ATTEST

Larry Westerlund, Council President

Yolanda Salazar, Assistant City Clerk

