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Fresno, California

March 28, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

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

Councilmember Dages gave the invocation and City Clerk Klisch led the Pledge of Allegiance.

RECOGNITION OF "IDEAS PAY" AWARD RECIPIENTS ED PELKEY, GARY WINKLER AND ROBERT NICKEL

Recognized.

RESOLUTION OF COMMENDATION TO PG&E FOR DONATING 40 CARBON MONOXIDE GAS DETECTORS TO THE FIRE DEPARTMENT FOR THEIR FRONT LINE ENGINE COMPANIES

PROCLAMATION OF "VALLEY FIG GROWERS, INC. DAY" - COUNCILMEMBER DAGES

The above resolution and proclamation were read and presented.

APPROVE MINUTES OF MARCH 14, 2006:

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of March 14, 2006, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

(1) THANK YOU TO RUNNING HORSE, THE VETERANS AND THE CITY FOR PARTNERING AND LANDING THE MAJOR PGA GOLF TOURNAMENT; (2) REQUEST FOR STATUS REPORT IN TWO (2) MONTHS ON THE GAP'S PLANNED 4-PHASE EXPANSION; AND (3) THE POLICE DEPARTMENT'S DRUNK DRIVING MITIGATION MEASURES - COUNCILMEMBER BOYAJIAN

Thank you extended and request made. Councilmember Boyajian spoke to the controversy over police officers going into bars and restaurants, clarified he did not condone drinking and driving, stated the hospitality industry was a major industry in this city and he did not want to see them hurt, and stated he felt there were better ways to mitigate the problem and recommended the department work with the industry in addressing the matter. At the conclusion of council reports/comments, President Duncan clarified officers were no longer going into bars and restaurants.

(1) AMTRAK MAGAZINE "MAKING TRACKS"; (2) LOS ANGELES' METRO RAPID SYSTEM; (3) REQUEST FOR REPORT (PREVIOUSLY REQUESTED LAST NOVEMBER) ON THE POLICE FOUNDATION AND HOW IT OPERATES; AND (4) UPCOMING BUDGET SCHEDULE - COUNCILMEMBER CALHOUN

(1) Councilmember Calhoun spoke to the positive articles that were published in "Making Tracks" on Fresno's depot station and the increase in ridership; (2) suggested staff look into Los Angeles' transportation system which he advised had a built in computer system allowing for the adjustment of lines adding that was an interesting concept; (3) requested the report; and (4) upon his question President Duncan advised he would be presenting an item on the upcoming budget schedule next week.

REQUEST TO ADD ITEMS TO CLOSED SESSION - INTERIM CITY ATTORNEY SANCHEZ

Interim City Attorney Sanchez advised (1) developments arose out of a mediation late yesterday and there was a need for Council to consider a couple of matters in closed session, (2) the cases involved COF v. County of Madera (River Ranch) and the County of Madera v. COF (Fancher Creek), and (3) pursuant to the Government Code a motion and a 2/3's vote was needed to add these to the agenda based on the need to take immediate action and the finding that this came to the attention of the City following the posting of the agenda last Friday.

Councilmember Calhoun stated he did not think there was any time sensitivity and questioned what the rush was, with Mr. Sanchez stating the mediation produced some proposals that were time sensitive and Council needed to consider them this date, and added Fresno and Madera County would be considering the proposals this date as well.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the cases of *COF v. County of Madera (River Ranch)*, and the *County of Madera v. COF (Fancher Creek)*, added to the agenda under Closed Session based on the need to take immediate action and the finding that issues relating to the cases came to the attention of the City following the posting of the agenda last Friday, by the following vote:

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

REQUEST FOR STAFF TO SCHEDULE ON THE APRIL 4, 2006, AGENDA AN UPDATE REPORT ON MV TRANSPORTATION (HANDYRIDE) - COUNCILMEMBER DAGES

Request made with Councilmember Dages requesting the report address the response time violation and MV letting employees go which he understood would be staying on with the company. Councilmember Westerlund stated he also had concerns and looked forward to a report.

CONGRATULATIONS TO (1) DUNCAN POLYTECHNICAL HIGH SCHOOL ON THEIR VISIT BY THE GOVERNOR, AND (2) MEXICANA AIRLINES ON THEIR UPCOMING FIRST FLIGHT OUT OF FRESNO - COUNCILMEMBER WESTERLUND

Congratulations extended.

APPROVE AGENDA:

(3:00 P.M.) APPROVE THE ADDITION OF PAI-GOW AND 21ST CENTURY BACCARAT TO CLUB ONE CASINO LIST OF GAMES - COUNCILMEMBER DAGES

1. BILL - SETTING FORTH PERMISSIBLE GAMES WHICH MAY BE PLAYED IN CARD ROOMS UNDER THE CITY OF FRESNO CARD ROOM ORDINANCE

City Clerk Klisch noted there was a clerical and advised a resolution was being presented for adoption and not an ordinance. So noted and corrected.

(10:00 A.M.) HEARING ON REZONE APPLICATION NO. R-05-28 AND ENVIRONMENTAL FINDINGS, FILED BYU JOHN ALLEN ON BEHALF OF IMAGE HOMES, INC., PROPERTY LOCATED ON THE EAST SIDE OF N. CECELIA AVENUE BETWEEN W. SIERRA AND W. ELLERY AVENUES (*Continue to April 4, 2006, at 10:45 a.m.*)

City Clerk Klisch noted she was advised by staff it was not necessary to continue the hearing twice (as listed on the agenda and on the hearing schedule), and at staff's request the hearing was continued to April 18, 2006, at 10:45 a.m.

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

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

(10: 45 A.M.) ANNUAL UPDATE ON EMPOWERMENT ZONE PERFORMANCE MEASURES BY FRANK GALLEGOS, CHAIRMAN OF THE EZ BOARD OF DIRECTORS

Councilmember Calhoun expressed concern that the item was before Council without advance paperwork and requested staff convey that concern to the EZ Board.

ADOPT CONSENT CALENDAR:

Barbara Hunt, 2475 S. Walnut, spoke to Item **1-D** and to the importance of homeland security and providing the police department with all the tools they need.

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

Councilmember Calhoun noted the bids in Items **1-B** and **1-C** were both over the budgeted amounts (one by 594% and one by 456%) and advised he would be talking with the city manager and/or staff about that in the future.

(1-A) RESOLUTION NO. 2006-98 - APPROVING THE FINAL MAP OF TRACT NO. 5129 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, SOUTHWEST CORNER OF N. HICKORY HILL DRIVE AND E. PERRIN AVENUE
1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT

(1-B) REJECT ALL BIDS FOR THE CONSTRUCTION OF A NEW CONVEYOR SYSTEM AT THE REGIONAL WASTEWATER RECLAMATION FACILITY (RWRF)

(1-C) REJECT ALL BIDS FOR THE CLEANING AND ADJUSTMENT OF WEIRS IN THE SECONDARY SEDIMENTATION BASINS AT THE REGIONAL WASTEWATER RECLAMATION FACILITY (RWRF)

(1-D) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE AN AGREEMENT WITH THE OFFICE OF TRAFFIC SAFETY TO ACCEPT FY 2006 GRANT FUNDS FOR THE POLICE DEPARTMENT'S CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN (CSBCC)

1. RESOLUTION NO. 2006-99 - 70TH AMENDMENT TO AAR APPROPRIATING \$90,000 FOR THE SEAT BELT CAMPAIGN

(1-E) APPROVE THE ACQUISITION OF ONE 1,720 SQUARE FOOT TEMPORARY CONSTRUCTION EASEMENT FROM PROPERTY OWNED BY YLIFONZO GONZALEZ AND AURORA F. GONZALES FOR PLACEMENT OF A SEWER MAIN ALONG CENTRAL AVENUE BETWEEN CHERRY AVENUE AND MARY STREET, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ACCEPT THE TEMPORARY CONSTRUCTION DEED OF EASEMENT

(1-F) APPROVE THE ACQUISITION OF STREET AND IRRIGATION EASEMENTS AT 5020 W. MCKINLEY AVENUE FROM PROPERTY OWNED BY DIANA BROWN, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ACCEPT THE DEED OF EASEMENT FOR THE ROAD RIGHT OF WAY, EXECUTE THE PURCHASE AND SALE OF REAL PROPERTY AGREEMENT, AND COMPLETE THE ACQUISITION THROUGH ESCROW

(1-G) RESOLUTION NO. 2006-100 - APPROVING THE SUMMARY VACATION OF A PORTION OF THE RELINQUISHMENT OF ACCESS RIGHTS ALONG THE EAST SIDE OF ARMSTRONG AVENUE SOUTH OF MICHIGAN AVENUE

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(1-I) APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH BLAIR, CHURCH & FLYNN CONSULTING ENGINEERS IN THE AMOUNT OF \$90,100 TO PERFORM FEDERAL DOCUMENTATION PREPARATION, FRANCHISE UTILITY COORDINATION AND ACQUISITION OF CONSTRUCTION PERMITS PORTION OF THE HERNDON AVENUE WIDENING PROJECT BETWEEN SR 99 AND WEBER AVENUE, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-J) APPROVE APPOINTMENT OF CHRIS MENDOZA-HOWELL TO THE ROOSEVELT IMPLEMENTATION COMMITTEE - COUNCILMEMBER DAGES

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

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

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(9:00 A.M.) PUBLIC COMMENT - UNSCHEDULED COMMUNICATION:

Barbara Hunt, 2475 S. Walnut, displayed on the overhead and spoke to a book entitled "The Invisible Government".

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(9:15 A.M. "A") REPORTS FROM THE FINANCE DEPARTMENT

1. ACCEPT THE CITY OF FRESNO COMPREHENSIVE ANNUAL FINANCIAL REPORT ("CAFR") FOR FY 2005 AND RELATED LETTER TO MANAGEMENT
2. PRESENTATION OF THE MID-YEAR FISCAL REVIEW REPORT

(2 - 0) Interim Finance Director/City Controller Bradley reviewed the CAFR and the related letter to management, all as contained in the materials submitted to Council.

Barbara Hunt, 2475 S. Walnut, expressed concerns relative to safekeeping of city finances and those with authority over the finances.

Councilmember Calhoun thanked Ms. Bradley and her staff for the briefing provided to him and his staff, thanked the city manager and staff on the reporting and stated it was a credit to the mayor, and made a motion to accept the report. President Duncan stated the city's fiscal management was outstanding and commended the city manager and staff, and questioned whether revenues were above or below projections, with City Manager Souza advising staff would be covering that issue in #2, the mid year fiscal review report.

Budget Manager Smith gave an in-depth review of the Mid Year Fiscal Report as contained in the material submitted to Council.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

Ms. Smith, Mr. Souza, Interim City Attorney Sanchez and Ms. Bradley responded to questions of Councilmembers Calhoun and Boyajian relative to transportation fares meeting goals, the fire MOU and if the additional \$460,000 cost was budgeted, the MMRS grant expenditure and why staff thought it was a one time expenditure, the decrease in business tax revenues, the fire inspection fee, why the increase in housing values are not included, if the city was becoming more proactive with their lawsuits, why business tax revenues were way down at one time, and reasons for the one time loss of parking revenues. Mr. Souza thanked staff for their presentations and relative to the upcoming budget added he wanted everyone to be aware that although the city had a solid growth period and good economics there were also fixed increases next year in the neighborhood of \$14 million just to maintain/conduct city business and explained. Upon question of President Duncan, Ms. Smith explained how the loss of in-lieu fee revenues would impact public utilities' ability to pay bonds.

There was no further discussion and no action was required.

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(9:15 A.M. "B") BILL NO. B-29 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO ADVERTISED COMPETITIVE BIDDING THRESHOLD (INCREASING AMOUNT FROM \$50,000 TO \$100,000)

General Services Director Nerland gave a PowerPoint presentation on the issue, all as contained in the staff report as submitted, and requested the amount be increased for cost savings and improved performance delivery.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

Councilmember Calhoun stated he was supportive of an increase when staff requested it in 2003 and he still supported it **(3 - 0)**, encouraged Council to support the increase stating it was time to take the jump, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Sterling and later acted upon.

Mr. Nerland, Interim City Attorney Sanchez and City Manager Souza responded to questions/comments/concerns of Councilmember Dages relative to what the administration could purchase up to \$100,000 that Council would not be unaware of, if consultants could be hired, concern with the ability of the administrative body to purchase without Council knowledge, need for Council to know and have information, and concern that information flow would be cut off. At this point Mr. Sanchez clarified the amendment would not impact the consultant services side and would only impact materials and supplies, whereupon Councilmember Dages apologized stating he did not read this as the attorney addressed it. President Duncan stated he strongly supported the increase, \$100,000 was not an outrageous figure, and 60+% of the voters supporting Measure A sent a strong message to let this government run efficiently.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-29 introduced before the City Council and laid over, by the following vote:

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

(9:15 A.M. "C") APPROVE AN AGREEMENT FOR THE LEASING OF SPACE BY THE CITY FROM THE CECIL C. HINTON CENTER, INC., TO PROVIDE RECREATION AND COMMUNITY SERVICES

PR&CS Director Cooper gave an overview of the issue, all as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke to the history of the Hinton Center.

Councilmember Sterling commended staff and the Hinton Center group for all their work, stated it had been a long road in getting back to this point and elaborated, spoke to the history of the Hinton Center, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Dages.

Extensive discussion ensued. Mr. Cooper, Deputy City Attorney Coyle and Hinton Center Board member George Finley responded to questions, comments, and/or concerns of Councilmembers Calhoun, Boyajian and Westerlund relative to maintenance responsibility, what the City was responsible for, what the Hinton Center Board was responsible for, what the City owned/what the Board owned, concerns relative to maintenance and liabilities, agreement points, the 1999 agreement, suggestion to delay action to get title ownership questions answered, if the contract was reviewed by the Hinton Center Board, if the Board supported the agreement, if the Board would be responsible for the building as the "lessor", the Discovery Center situation, and this being different from the Discovery Center and need for the city attorney's office to look into property ownership/title.

A motion of Councilmember Calhoun, seconded by Councilmember Boyajian, to table the matter until the city attorney's office looks into and reports back on title to the property failed, by the following vote:

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

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Councilmember Sterling made a motion to approve staff's recommendation and direct the city attorney's office to address the property title concerns in writing. Councilmember Sterling continued and spoke to the issue at length including all the hard work that went into this by a lot of people, this being a partnership with the community, the importance of the center and what it provides to the community (and thanking all who have contributed), her being insulted that some members would even think that someone would put the City out on a limb or present this to Council without dotting all the i's and crossing all the t's, and urged Council's support. Upon question of Councilmember Dages, Councilmember Sterling clarified her motion was a modification of the motion on the floor.

Councilmember Calhoun stated by Councilmember Sterling including in her motion direction to staff to respond in writing to title concerns she was making the case as to why Council should not be voting on this today, stated she was saying "please pass this contract" and at the same telling the city attorney "when you get around to it fill us in on the details", stated she was raising questions herself and agreeing with him and Councilmember Boyajian that there were some issues that have not been addressed, added he was hearing "vote on this and trust us" and stated that was not the way this Council operated, and stated it was very disingenuous to ask Council to pass something that would establish a contract and added anything that comes back would be after the fact. Mr. Sanchez clarified the motion on the floor and the options that Council could consider (**4 - 0**). Councilmember Calhoun noted Councilmember Boyajian brought up the issue of whether there was a preceding contract (from 1999) that carried forward and there was no information on that issue either, and stated he would vote against the motion and would never vote for anything without having all the facts.

Councilmember Boyajian clarified he was 100% in support of the Hinton Center but stressed that was not the issue, clarified he was questioning the procedure as some things had not been looked at and elaborated, and stated he believed in the Hinton Center and the contract but emphasized this needed to be done right.

President Duncan commended Mr. Cooper and Mr. Finley for bringing this good idea forward and added it was worthy of Council's support, relative to the motion stated the additional part was done as a courtesy to two members who had outstanding questions which he stated were not serious enough to have a material impact on whether or not Council should move forward, added if that was an issue the attorney's office would have had that clarified, and commended Councilmember Sterling for being considerate of concerns and also being wise enough to realize Council needed to move forward with this.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, (1) a five-year lease agreement with an option for 3 additional years for the use of space by the Parks, Recreation & Community Services Department at the Cecil C. Hinton Center hereby approved, (2) the transfer of administration of the building from the City of Fresno to Cecil C. Hinton, Incorporated approved, and (3) staff directed to report look into and report back on title of the property and the 1999 contract, by the following vote:

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

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(9:15 A.M. "D") BILL NO. B-30 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO REQUIRED INSTALLATION OF AUTOMATIC FIRE EXTINGUISHING SYSTEMS FOR ALL OCCUPANCIES (FIRE SPRINKLERS)

President Duncan noted there were a lot of questions and much discussion the last time this issue was before Council, stated he received a number of requests from contractors that will have to live with this bill to have an opportunity to review it before it is finally adopted and added that was a fair request, and clarified action this date would only introduce the bill and final action/adoption would occur on April 18th.

Chief Bruegman gave an overview of the issue and advised staff was in attendance to answer any questions, advised the first meeting between the City and the BIA was in April 2004 and stated staff has been working diligently to bring this to conclusion over the past 24 months, and recommended the amendments be introduced.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, support; and Michael Prandini, BIA, who requested the matter be set for a time certain on April 18th.

Upon Mr. Prandini's request, the bill was set for April 18th at 3:30 p.m. for adoption. Upon question of Councilmember Boyajian, Chief Bruegman clarified three options were presented to Council in January, Council chose Option 3, and staff was now presenting the amendments for introduction. Councilmember Sterling clarified she supported fire sprinklers but stated her concern was the affordability of homes in her district especially when there are other measures that can be utilized that are just as safe as sprinkler systems.

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On motion of Councilmember Westerlund, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Bill No. B-30 introduced before the Council and laid over to April 18, 2006, at 3:30 p.m. for final action, by the following vote:

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

(10:10 A.M.) HEARING ON CFD NO. 11, ANNEXATION NO. 1, TRACT MAP NO. 5357

- 1. RESOLUTION NO. 2006-101 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX**
- 2. RESOLUTION NO. 2006-102 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 3. RESOLUTION NO. 2006-103 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-31 - ORDINANCE NO. 2006-29 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2005-2006 AND FUTURE TAX YEARS**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and stated this was a new direction for the city and was a huge step forward in helping to preserve the long-term infrastructure of our city.

Senior Engineering Technician Paff stated CFD 11 was formed to provide more functions than were previously done, advised an ordinance was created and the scope of projects that could be financed with CFDs was widened, and explained what CFD 11 was designed to do and advised the major difference was streets were included. President Duncan added the funds would now stay within neighborhoods and would be available to fix any street/curb/sidewalk problems that may occur and complimented staff.

Speaking to the issue were: Jeff Roberts, Granville Homes, 1396 W. Herndon, support for their tract; and Barbara Hunt, 2475 S. Walnut, who questioned who collects and control the funds.

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

Councilmember Calhoun stated this was a very historic process and a visionary move in the right direction, stated the old CFDs were not planned well, and made a motion to approve staff's recommendation, which motion was seconded by Acting President Perea. Councilmember Boyajian commended staff and the developer and added the area would be maintained by its citizens and not the people of the inner-city and again thanked staff. Mr Paff responded to questions of Councilmember Westerlund relative to the annual cost per unit and if street repairs were included. President Duncan noted each project was unique and would have different choices and options which was why there was a variety of annual costs, added another goal was for this type of CFD to go into existing neighborhoods who choose to participate to ensure their neighborhoods stay on top of the game, and again complimented staff.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-101, 2006-102 and 2006-103 hereby adopted, and the above entitled Bill No. B-31 adopted as Ordinance No. 2006-29, by the following vote:

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

(10:15 A.M.) HEARING ON CFD NO. 11, ANNEXATION NO. 4, FINAL TRACT MAP NO. 5338

- 1. RESOLUTION NO. 2006-104 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX**
- 2. RESOLUTION NO. 2006-105 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 3. RESOLUTION NO. 2006-106 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-32 - ORDINANCE NO. 2006-30 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2005-2006 AND FUTURE TAX YEARS**

President Duncan announced the time had arrived to consider the issue and opened the hearing. Upon question of President Duncan Senior Engineering Technician Paff stated the staff report as submitted was complete and added this developer chose to spend more on the landscaping to make it more lush and green.

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Barbara Hunt, 2475 S. Walnut, questioned why these type of beautification proposals do not occur in district 3.

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

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-104, 2006-105 and 2006-106 hereby adopted, and the above entitled Bill No. B-32 adopted as Ordinance No. 2006-30, by the following vote:

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

(10:30 A.M.) HEARING ON REZONE APPLICATION NO. R-05-01 AND ENVIRONMENTAL FINDINGS, FILED BY ANTHONY PINGS ON BEHALF OF WEI-SHING SU, PROPERTY LOCATED ON THE NORTHWEST CORNER OF N. ORCHARD STREET AND E. HERNDON AVENUE FRONTAGE ROAD

1. CONSIDER AND ADOPT E.A. NO. R-05-01/C-05-16, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. **BILL NO. B-33 - ORDINANCE NO. 2006-31** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-A/UGM TO C-P/EA/UGM

President Duncan announced the time had arrived to consider the issue and opened the hearing. Upon question of President Duncan, an unidentified staff member stated the staff report as submitted was complete.

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

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

President Duncan advised this was for the development of office buildings in an office area and was consistent with the general plan, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Dages.

Staff and the project architect responded to questions of Councilmember Boyajian relative to types of businesses planned for the offices, number of tenants, if the change was from single family to medical, the traffic study, what would be mitigated, who conducted the study, and if the developer would be paying a Caltrans fee.

On motion of President Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding for the E.A. dated February 9, 2006, that the project proposal conforms to the provisions of the 2025 Fresno General Plan MEIR hereby approved, and the above entitled Bill No. B-33 rezoning the site adopted as Ordinance No. 2006-31, by the following vote:

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

(10: 45 A.M.) ANNUAL UPDATE ON EMPOWERMENT ZONE PERFORMANCE MEASURES BY FRANK GALLEGOS, CHAIRMAN OF THE EZ BOARD OF DIRECTORS

Mr. Gallegos submitted written material and President Duncan advised Mr. Gallegos that a request was made from the dais that in the future handouts be submitted in advance of the presentation so Council would have time to review them. Mr. Gallegos began his review of the past year's highlights and into his presentation President Duncan interrupted and questioned if the presentation could be postponed one week so Council could review the material that was just submitted, with Mr. Gallegos stating it could be rescheduled in a

few weeks.

Councilmember Sterling advised of a business in her district that wanted to expand and stated she would be directing them to the board. President Duncan stated Council looked forward to celebrating the success and having a good discussion on it. Councilmember Boyajian thanked Lynn Bowness for all her hard work on Mid State Bowl and stated he hoped the city could partner with the RDA for the Las Vegas Convention and on a booth.

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3:45 P.M.) CONTINUED HEARING ON CFD NO. 11, ANNEXATION NO. 2, TRACT NO. 5316

1. RESOLUTION - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
2. RESOLUTION - CALLING A SPECIAL MAILED-BALLOT ELECTION
3. RESOLUTION - DECLARING ELECTION RESULTS
4. BILL - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2005-2006 AND FUTURE TAX YEARS

City Clerk Klisch advised staff and the developer were requesting the hearing be continued to April 4th.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled hearing continued to April 4, 2006, at 3:15 p.m., by the following vote:

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

(3-A) REQUEST STAFF PROVIDE INFORMATION ON SURVEILLANCE CAMERAS PURCHASED SINCE JANUARY 1, 2001, INCLUDING THEIR PURPOSE/USE AND THE BUDGET FROM WHICH THEY WERE PURCHASED - COUNCILMEMBER CALHOUN

Councilmember Calhoun stated there was a need to find out where cameras were located, stated the question of "do we want more" needed to be asked, noted the police chief wanted more cameras but stated Council was the policy-maker, noted the issue was catching a lot of public attention and stated Council needed to give the matter thought and take a policy stand on it, read his memo as submitted to Council into the record, clarified he was presenting this in a neutral sense and he was just asking staff for some information, spoke briefly to using NNLB dollars to purchase cameras without Council authorization, and made a motion to report back by April 28th or later if necessary.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, staff directed to report back by April 28th with the requested information, or later if additional time is needed, by the following vote:

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

LUNCH RECESS - 11:43 A.M. - 2:00 P.M. Councilmember Sterling was absent and returned later in the meeting.

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

(1-H) APPROVE AN AGREEMENT WITH HARRIS CONSTRUCTION FOR PROJECT MANAGEMENT AND CONSTRUCTION MANAGEMENT SERVICES OF VARIOUS REMODELING PROJECTS AT THE FRESNO CONVENTION CENTER COMPLEX

Design Services Manager Andersen responded to questions of Councilmember Boyajian relative to why there was no information on other firms who bid and their prices, if the prices were similar, and if Harris Construction was chosen due to their experience **(5 - 0)**.

On motion of Councilmember Boyajian, seconded by Councilmember Westerlund, duly carried, RESOLVED, an agreement with Harris Construction in the amount of \$521,747 hereby approved, by the following vote:

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

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

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(A) EXISTING LITIGATION: JOHN ROBERT BAIROS V. POLICE DEPARTMENT, ET AL.

(B) *EMERGENCY ADD ON* - PENDING LITIGATION: COF V. COUNTY OF MADERA (RIVER PARK PROJECT), AND COUNTY OF MADERA V. COF (FANCHER CREEK PROJECT)

The City Council met in closed session in Room 2125 at the hour of 2:10 p.m. to consider the above matters.

Councilmember Westerlund recused himself from Item "A" based on family business, and President Duncan recused himself from Item "B" due to property ownership in the Fancher Creek area.

The City Council reconvened in regular open session at 3:01 p.m. with Councilmember Sterling arriving shortly thereafter.

(3:00 P.M.) APPROVE THE ADDITION OF PAI-GOW *TILES* AND 21ST CENTURY BACCARAT TO CLUB ONE CASINO LIST OF GAMES - COUNCILMEMBER DAGES

1. RESOLUTION NO. 2006-107 - SETTING FORTH PERMISSIBLE GAMES WHICH MAY BE PLAYED IN CARD ROOMS UNDER THE CITY OF FRESNO CARD ROOM ORDINANCE (ADDING PAI GOW TILES AND 21ST CENTURY BACCARAT)

Councilmember Dages corrected the above title from Pai-Gow to Pai-Gow Tiles, stated he was presenting this on behalf of Club One who wanted to add these games and stated he was supportive as the games were already approved by the State Attorney General's office and also because of competition noting other valley casinos already had them, stated if people want to play these games and spend their money he wanted them to do it right here in Fresno so the city could receive revenues, spoke to Club One's contributions to the city: 360 employees, \$1.2 million into the city's general fund annually and \$6500 monthly in parking fees, and said he was happy to bring this forth on their behalf, reiterated the games were already state-approved, and made a motion to approve, which motion was seconded by Councilmember Calhoun.

Jeremy Newman, Club One Casino Manager, stated they wanted to offer the games as they felt there was an interest, advised the games have been approved at the state level for many years, clarified this was not an expansion of gaming and explained, spoke to how long the games have been around, and stated Club One wanted remain competitive and offer the games and added the casino does not take a financial interest in whether a player wins or loses and explained.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2006-107 hereby adopted, by the following vote:

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

RECESS - 3:08 P.M. - 3:30 P.M.

(3:30 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 3:30 p.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF MARCH 14, 2006

On motion of President Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the Agency minutes of March 14, 2006, approved as submitted.

("A") CONSIDER MATTERS REGARDING THE PURCHASE OF PROPERTIES IN THE HOPE VI AREA, AREA BOUND BY E. ATCHISON, S. PLUMAS, E. FLORENCE AND S. WALNUT AVENUES

1. AGENCY RESOLUTION NO. 1675 - ADOPTING E.A. NO. EA-RDA-05-02, A MITIGATED NEGATIVE DECLARATION FOR ACQUISITION OF 20 PARCELS IN THE HOPE VI AREA

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2. APPROVE PURCHASE AND SALE AGREEMENTS FOR 3 PROPERTIES AT 234 AND 236 E. GEARY AND 105 E. LORENA AVENUES, AND AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE THE AGREEMENTS AND TAKE ALL ACTIONS NECESSARY TO ACCEPT CONVEYANCE AND CARRY OUT THE AGREEMENTS (Agency action)

Chair Sterling advised her family owned property in the area and recused herself from proceedings and left the meeting at 3:32 p.m.

Senior Real Estate Agent Hansen corrected the staff report by striking out the last sentence in the first paragraph of Page 3, and gave an overview of the issue, all as contained in the staff report as submitted. Executive Director Murphey added this action would significantly advance the project at California and Walnut, and stated out of 19 properties only one would remain north of Lorena (the proposed County One Stop Center) and 7 would remain outside of that footprint.

On motion of Member Duncan, seconded by Member Perea, duly carried, RESOLVED, the above entitled Agency Resolution No. 1675 hereby adopted, and the acquisition of two single-family residential properties located at 105 E. Lorena and 234 E. Geary, and a vacant lot located at 236 E. Geary, all within the Hope VI Project area, hereby approved, and the Executive Director authorized to execute all documents pertaining to these transactions, by the following vote:

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

The joint bodies adjourned their meeting at 3:36 p.m. and the City Council reconvened in regular session.

RECESS - 3:36 P.M. - 4:00 P.M.

(4:00 P.M.) RESOLUTION NO. 2006-108 - OPPOSING THE PROPOSED BURLINGTON NORTHERN AND SANTA FE RAILROAD AND CALTRANS PROJECT SEEKING TO CREATE A DOUBLE TRACK THROUGH NORTHWEST FRESNO - COUNCILMEMBER CALHOUN

Councilmember Calhoun read his memo as submitted to Council into the record, thanked Fresno Area Residents for Rail Consolidation for bringing this proposal to his attention, stated if this resolution is approved it would be placed on the California Transportation Commission's agenda for their April 26-27 meeting, advised of meetings held and his concern with BNSF/Caltrans officials' not providing the necessary information to constituents, and read the "NOW, THEREFORE, IT BE RESOLVED...etc." portion of the resolution into the record and made it part of his motion, including adoption of the resolution, which motion was seconded by Acting President Perea.

Speaking in support of the motion were: Tom Bailey, President, Fresno Area Residents for Rail Consolidation, who also advised his organization was started back in 1999 due to a derailment right on this subject siding and displayed a photograph to illustrate; Joyce Hale who stated her bed and office desk were a few hundred yards from the subject railroad; Eric Wardwell; Loran Harding, 3411 W. Browning; Dennis Madding, 1162 N. Chapel Hill, Clovis, who also spoke to the intent of the state funds; and John Giannopoulos, ex-railroad engineer for Union Pacific RR, 4520 W. Palo Alto #104. Riley Shelton, 327 E. Yale, who resides 8 blocks from the main line, stated trains do not cause any problems and explained.

COG representative Clark Thompson responded to questions of Councilmember Boyajian relative to what the issue was here,

how COG was involved, what the City's jurisdiction was over this issue at this point, if the State has made any decision on the funds yet, and if the allocation was a sure thing.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the Council of the City of Fresno (1) opposes the proposed creation of a double track in the City of Fresno, (2) believes that the most viable and least intrusive location for the proposed double track is in a non-urbanized area to the north of the San Joaquin River, (3) requests that BNSF and CalTrans withdraw their current plan to create a double track in the City of Fresno and, instead, transfer the location of the proposed double track to a non-urbanized area to the north of the San Joaquin River, (4) appreciates the involvement of the local State legislators and seeks their support for the City of Fresno's objectives, (5) requests the California Transportation Commission to deny any requests for funding of this double track project as it is currently proposed since BNSF and CalTrans cannot establish that the efficiency gained from placing the double track in Northwest Fresno will significantly outweigh the problems of environmental degradation, amplified sonic levels, increased pollution in an area with unhealthy air, and the diminished quality of life that the double track will impose on the affected residential neighborhoods, (6) requests this on behalf of all citizens of Fresno and their quality of life, and hereby adopts the above entitled No. 2006-108, by the following vote:

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

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(4:30 P.M.) AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE REGULATION OF DOGS AND CATS IN THE CITY

1. **BILL NO. B-34 - EXHIBIT A** - AMENDING THE FMC RELATING TO ANIMALS AT LARGE AND DANGEROUS ANIMALS, AND ADDING SECTION 9-225 RELATING TO THE BREEDING, TRANSFER AND SALE OF DOGS AND CATS, as amended, EXCLUDING Section 9-225 (President Duncan request)
2. **BILL - EXHIBIT B** - ADDING SECTION 9-225 TO THE FMC RELATING TO THE MANDATORY SPAYING AND NEUTERING OF DOGS AND THE TRANSFER AND SALE OF DOGS AND CATS (Not introduced)
3. **BILL NO. B-35 - ORIGINAL EXHIBIT A** - AMENDING THE FMC RELATING TO ANIMALS AT LARGE AND DANGEROUS ANIMALS, AND ADDING SECTION 9-225 RELATING TO THE BREEDING, TRANSFER AND SALE OF DOGS AND CATS (Councilmember Calhoun recommendation - includes alternative to the mandatory spay/neuter ordinance)

Councilmember Calhoun thanked Fresno County, the County Health Department and the SPCA stating this had been a collaborative effort with them; thanked the city attorney's office and staff stating they did an outstanding job; noted there would be a cost associated with this and commended the city manager and staff; thanked the victims of dangerous/vicious dogs and their families for speaking up and providing input; clarified the recommendations were not breed specific; advised he had pushed for mandatory spay/neuter but the SPCA was recommending against that and stated an alternative to mandatory spay/neuter was also being presented; made the following motions: (1) to introduce Exhibit A relating to at large and dangerous animals, and (2) to include the alternative to the mandatory spay/neuter ordinance which calls for higher fees on those animals not spayed/neutered (which motions were seconded by Acting President Perea); stated by taking this action the city and SPCA would be able to take action against dangerous and at-large dogs much sooner which would come at a cost estimated by the SPCA as \$105,000 for additional personnel and equipment; **(6 - 0)** and upon question of President Duncan included in the first motion for discussion the addition of Section 9-225 as presented.

City Manager Souza clarified although the staff report stated PRCS included a request for the additional funds in their 2006-07 budget it did not mean the mayor or the administration was automatically supporting that or rolling in into what Council would see next year. President Duncan requested the city manager clearly specify what the case or decision is in the budget documents that will be presented in May.

Speaking to the issue were: Eric Wardwell, N. San Pablo, who stated vicious/dangerous dogs should be allowed in the county only and if they are in the city the owner should be required take out insurance on the dog; Gloria Torrez who agreed with Mr. Wardwell and spoke to the need to (1) take action the first time a dog attacks, (2) address vaccinations, (3) make it clear who is to be called and follow up on calls, (4) not target pit bull dogs, (5) address animal overpopulation, and (6) address dog noise levels; Lynetta Pope, 1328 N. Safford, who spoke to her cat that was attacked, to the problems encountered in calling the SPCA and police department, and need for enforcement; Sharon Babcock, who stated her grandson was killed over one year ago by pit bulls and suggested the city consider banning pit bulls; and Brenda Mitchell, 3684 N. Angus, SPCA volunteer, who spoke in opposition to banning specific breeds and to the need for dog owners to be responsible.

Lengthy discussion ensued. Upon question of Councilmember Dages Mr. Souza stated if the ordinance is adopted staff would

have to return with a funding source for the balance of this year and the next fiscal year as well, would look into funding options, and would continue to work with the SPCA to enforce ordinances on the books as required. Councilmember Calhoun, SPCA Director Norm Minson, Mr. Souza and Interim City Attorney Sanchez responded to questions, comments and/or concerns of Councilmember Boyajian and President Duncan relative to Councilmember Calhoun's motions and what was included, how the SPCA would administer the ordinance, what percentage of dogs are registered, if the SPCA will get pro-active in going door-to-door checking for unregistered dogs, concern with the financial portion and need for a cost analysis to determine self-sufficiency, resources being attainable if there is a vision, if the cost proposal was a projection or actual number, request for staff to place the final ordinance on the city's website, when the finalized ordinance would be available, and concerns with Section 9-225 including it being impractical and impossible to enforce. President Duncan stated he really wanted to support this and requested if the motion-maker would remove Section 9-225 as he felt parts of it would not be able to be enforced, with Councilmember Calhoun consenting to its removal. Councilmember Calhoun stated he disagreed with President Duncan, stated Section 9-225 fell into the education function and explained, and stated he was willing to try it and added it could always be removed later if necessary.

Acting President Perea spoke to the importance of enforcement stating the ordinance was meaningless without it, stated he would support any budgetary actions in the upcoming budget to ensure the city and SPCA have the ability to properly enforce and also go after the broader issue of animal abuse stating real abuse was happening and elaborated, and stated he wanted to send a message to the mayor and the administration that he would support any funding the mayor may want to include in the budget.

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Councilmember Sterling stated she agreed with Acting President Perea, spoke to the importance of enforcement and advised she was concerned with how the ordinance would be enforced, and questioned if the SPCA's proposal would provide for more weekend and evening dispatch service. Mr. Minson responded, clarified issues relative to the separations and differences between the expenses presented, and stated this was strictly a public safety/leash law enforcement/vicious dog response time issue and had nothing to do with population or the SPCA. Upon question of Councilmember Boyajian, Mr. Minson confirmed (**7 - 0**) it was the SPCA's intent to do more door-to-door in areas where there is high activity of leash law and dangerous dog violations, stated if the city moves towards the enhancement on license fees more funds could be generated to offset a lot of the SPCA's expenses, and relative to animal cruelty advised there was already a very effective state law on the books and staff was available to enforce that law but stressed the SPCA needed to be made aware of the complaints.

City Clerk Klish and Mr. Sanchez noted portions of the motions intertwined, clarified what was before Council, and explained the motions.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Bill No. 34 (Exhibit A) hereby introduced, as amended, excluding Section 9-225, by the following vote:

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

Upon question of Councilmember Calhoun, Mr. Sanchez and President Duncan further clarified the action just taken and the upcoming motion.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Bill No. 35 (Exhibit A) hereby introduced as presented (*includes Section 9-225*), by the following vote:

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

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 5:37 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned.

Approved on the 4th day of April, 2006.

_____/s/_____
Jerry Duncan, Council President

ATTEST: _____/s/_____
Yolanda Salazar, Assistant City Clerk

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