



City Council Agenda

Council President
Cynthia A. Sterling

Councilmembers

Andreas Borgeas
Lee Brand
Mike Dages

Henry T. Perea
Larry Westerlund- Acting President
Blong Xiong

City Manager
Andrew T. Souza

City Clerk
Rebecca E. Klisch, CMC

City Attorney
James C. Sanchez

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650.

The City Council welcomes you to the Council Chambers, located in City Hall, 2nd Floor, 2600 Fresno Street, Fresno CA 93721.

September 24, 2009

8:30 A.M. ROLL CALL

Invocation by Pastor Pete Gavrilllis of Peoples Church

Pledge of Allegiance to the Flag

Ceremonial Presentations:

Proclamation of "MCED CAREER COLLEGE DAY" – Councilmember Perea – **Read and presented**

Proclamation of "BINATIONAL HEALTH WEEK" – Council President Sterling – **Read and presented**

Presentation of a Resolution of Recognition to Fresno High School For Its 120th Anniversary – Councilmember Xiong – **Read and presented**

The agenda and related staff reports are available on (www.fresno.gov) as well as in the office of the City Clerk. The Council meeting can also be heard live at the same web site address, and viewed live on Cable Channel 96 from 8:30 a.m. and re-played beginning at 8:00 p.m.

PROCESS: For each matter considered by the Council there will first be a staff presentation followed by a presentation from the involved individuals, if present. Testimony from those in attendance will then be taken. All testimony will be limited to three minutes per person. If you would like to speak fill out a Speaker Request Form available from the City Clerk's Office and in the Council Chambers. The three lights on the podium next to the microphone will indicate the amount of time remaining for the speaker.

The green light on the podium will be turned on when the speaker begins. The yellow light will come on with one minute remaining. The speaker should be completing the testimony by the time the red light comes on and tones sound, indicating that time has expired. A countdown of time remaining to speak is also displayed on the large screen behind the Council dais.

Following is a general schedule of items for Council consideration and action. The City Council may consider and act on an agenda item in any order it deems appropriate. Actual timed items may be heard later but not before the time set on agenda. Persons interested in an item listed on the agenda are advised to be present throughout the meeting to ensure their presence when the item is called.

Approve minutes of September 17, 2009

Action Taken: Approved, as amended

Councilmember Reports and Comments

Action Taken Made

Approve Agenda

Action Taken: Approved, as amended

Adopt Consent Calendar

Action Taken: Adopted

1. **CONSENT CALENDAR**

All Consent Calendar items are considered to be routine and will be treated as one agenda item. The Consent Calendar will be enacted by one motion. Public comment on the Consent Calendar is limited to three (3) minutes per speaker. There will be no separate discussion of these items unless requested by a Councilmember, in which event the item will be removed from the Consent Calendar and will be considered immediately following.

- A. [Approve a modification to the current policy pertaining to return to duty and follow up drug testing procedures in accordance with the revised Department of Transportation regulations – Personnel Services Dept./Risk Management](#)
Action Taken: Approved
1. * All return to duty and follow up testing will be conducted under direct observation and in accordance with the Federal Department of Transportation protocols
Action Taken: Approved
- B. [Adopt the proposed spending plan of \\$775,000 for the Fiscal Year 2009-10 State of California Supplemental Law Enforcement Services Funds \(SLESF\) – Police Department](#)
Action Taken: Adopted
- C. [Accept award from the California Emergency Management Agency; authorize the Chief of Police to enter into and execute the grant agreement and the program Memorandum of Understanding \(MOU\) with the \(RCS\) Resource Center for Survivors of Sexual Assault and Family Violence – Police Department](#)
Action Taken: Accepted
1. * **RESOLUTION** - 17th amendment to AAR 2009-149 appropriating \$144,600 for the Sexual Assault Specialized Response Unit Program (**Requires 5 affirmative votes**)
Action Taken: Resolution No. 2009-205 adopted
- D. [Award contract to Tron Construction, Inc. of Fresno in the amount of \\$1,050,000 to acoustically treat 70 homes under the Fresno Yosemite International Airport Sound Mitigation Acoustical Remedy Treatment \(SMART\) Program, Phase XII, Federal Aviation Administration \(FAA\) Airport Improvement Program \(AIP\) Grant No. 3-06-0087-53 – Airports Department](#)
Action Taken: Awarded

1. **CONSENT CALENDAR CONTINUED**

- E. Approve a second amendment to agreement with Lawrence, Nye, Andersen Associates (LNA) in the amount of \$15,000 to design a new hot aisle/in-row air handling system for the Information Services Division (ISD) (*Property located in District 3*) – Public Works Dept.
Action Taken: Approved
- F. Adopt Finding of a Class 1 Categorical Exemption, pursuant to CEQA Guidelines Section 15201 (a) & (d) – Public Works Department
Action Taken: Adopted
 - 1. Award a construction contract in the amount of \$973,758 to Harris Builders, Inc. of Hilmar, CA for Phase I renovations of existing Fire Station Nos. 2, 10 and 14 within the City of Fresno (*Fire Station Nos. 2 and 14 are located in District 2 and Fire Station No. 10 is located in District 4*)
Action Taken: Awarded
- G. Approve appointment of Joe Moore to the Historic Preservation Commission – Mayor's Office
Action Taken: Approved
- H. Approve Reimbursement Agreement with Fresno Irrigation District for design and construction of improvements along the Jefferson Canal utilizing up to \$431,030 of a 20-Year Safe Drinking Water State Revolving Fund Low Interest Loan and authorize the Director of Public Utilities to sign on behalf of the City of Fresno – Department of Public Utilities
Action Taken: Approved
- I. Reject low bid and award a contract in the amount of \$287,900 to Fresno Roofing Company, Inc. of Fresno, CA to re-roof Fresno Art Museum – General Services Dept./Purchasing Division
Action Taken: Removed from the agenda

CONTESTED CONSENT CALENDAR

SCHEDULED COUNCIL HEARINGS AND MATTERS

- 9:00 A.M. A. **SCHEDULED COMMUNICATION –**
 - 1. Appearance by Kenneth Fick to discuss various issues – Appearance made
- 9:00 A.M. B. **UNSCHEDULED COMMUNICATION –** Members of the public may address the Council regarding items that are not listed on the agenda and within the subject matter jurisdiction of the Council. Each person is limited to a three (3) minute presentation. Anyone wishing to be placed on an agenda for a specified topic should contact the City Clerk Department at least ten (10) days prior to the desired date. Council action on unscheduled items, if any, shall be limited to referring the item to staff for a report and possible scheduling on a future Council agenda.
- 9:30 A.M. #1 **CITY COUNCIL**
 - A. Presentation by the Chicano Youth Center on the minority student drop-out rate in the Central Valley with a request that the Fresno City Council consider approval of a Joint Drop-Out Prevention Commission in partnership with the Fresno Unified School District – Councilmember Perea – Presentation made; staff directed to attend Graduation Summit and report back if necessary
- 9:30 A.M. #2 **GENERAL ADMINISTRATION**
 - A. Recommend approval of funding awards and selection of Sub-Grantees for the City of Fresno's Homeless Prevention and Rapid Re-Housing Program as funded by the U.S. Department of Housing and Urban Development - Planning and Development Department
Action Taken: Approved
 - 1. Adopt the amendment to the Fiscal Year 2008-2009 Annual Action Plan to include the awards; and authorize City Manager to sign all required implementing, and contractual documents as approved to form by the City Attorney
Action Taken: Approved

SCHEDULED COUNCIL HEARINGS AND MATTERS CONTINUED

9:30 A.M. #2

GENERAL ADMINISTRATION CONTINUED

- B. Approve Fiscal Year 2008-2009 Annual Action Plan amendment to incorporate funding levels and activities for selected Sub-Grantees under the Neighborhood Stabilization Program (NSP) and adopt the NSP Program Income Reuse Plan – Budget Mgmt. Division
Action Taken: Approved
- C. * **RESOLUTION** - 19th amendment to AAR Resolution No. 2009-149 establishing appropriations of \$5,305,300 for the purchase of the Bank of the West First Trust Deed position on behalf of the Granite Park Kid's Foundation pursuant to Section 5 of the Loan Agreement and transfer of funds budgeted in contingency related to acquisition of the Metropolitan Museum (MET) and Granite Park (**Requires 5 affirmative votes**) - Finance Department
Action Taken: Resolution No. 2009-206 adopted
- D. **WORKSHOP** regarding enforcement and prosecution of graffiti violators – Police Dept. - Held

10:30 A.M.

CONTINUED HEARING to consider an appeal, filed by Gary McDonald on the Tract Map and former Councilmember Duncan on the Conditional Use Permit Application, appealing the Fresno City Planning Commission's denial of Vesting Tentative Tract Map No. 5933, CUP No. C-08-59 – Planning and Development Dept. (**Continue to October 15, 2009 at 10:15 a.m.**)
Action Taken: Continued as noted

10:35 A.M.

HEARING to consider Rezone Application No. Application No. R-07-002 pertains to approximately 24.34 net acres of property located on the north side of E. Church Avenue between South East and S. Orange Avenues (**Property located in District 5**) – Planning and Development Department
Action Taken: Held

- a. Consider and adopt a Finding of Conformity to the 2025 Fresno General Plan Master Environmental Impact Report (MEIR) No. 10130 prepared for Environmental Assessment No. R-07-002/TPM-2007-01
Action Taken: Adopted
- b. **BILL** – Amending the Official Zone Map to rezone property from the M-3 (*Heavy Industrial, Fresno County*) zone district to the M-3 (*Heavy Industrial*) zone district
Action Taken: Bill No. B-35/Ordinance No. 2009-35 adopted

10:45 A.M.

CONTINUED HEARING to consider Plan Amendment Application No. A-08-16, Rezone Application No. R-08-26, and environmental findings, filed by Riverfront Ventures, LLC, pertaining to 10.78± acres of property located on the northwest corner of N. Bryan and W. Herndon Avenues (**Property located in District 2**) – Planning and Development Department (**Continue to October 1, 2009 at 10:00 A.M.**)
Action Taken: Continued as noted

11:00 A.M.

CLOSED SESSION

- A. **CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION** – Government Code Section 54956.9, Subdivision (a)
 - 1. **Case Name:** Robert Carson v. City of Fresno et al. U.S. District Court, Case No. 1:08-CV-004680-AWI-DLB
 - 2. **Case Name:** Michelle Maher v. City of Fresno et al. U.S. District Court, Case No. 1-08-CV-00050-OWW-SMS
Action Taken: Held

SCHEDULED COUNCIL HEARINGS AND MATTERS CONTINUED

11:00 A.M.

CLOSED SESSION CONTINUED

- B. CONFERENCE WITH LABOR NEGOTIATOR** – Government Code Section 54957.6
City Negotiator(s): Kenneth Phillips, Terry Bond
Employee Organization(s):
1. International Association of Firefighters, Local 753, Basic Unit
Action Taken: Held
- C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR** - Government Code Section 54956.8
Property: Chuckchansi Park (Multipurpose Stadium)
Negotiating Parties: Andrew T. Souza, City Manager for City of Fresno, Chris Cummings, Fresno Baseball Club, LLC and Fresno Baseball Club, LLP
Under Negotiation: Proposed Amendment to Lease Agreement between City of Fresno and Fresno Baseball Club, LLC and Fresno Baseball Club, LLP
Action Taken: Held

SCHEDULED COUNCIL HEARINGS AND MATTERS

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| Oct. | 1 - | 10:00 A.M. | CONTINUED HEARING re: Plan Amendment Application No. A-08-16, Rezone Application No. R-08-26, filed by Riverfront Ventures, LLC |
| Oct. | 1 - | 2:30 P.M. | CONTINUED HEARING to consider the Fancher Creek Development Agreement |
| Oct. | 8 - | NO MEETING – COLUMBUS DAY | |
| Oct. | 15 - | 8:30 A.M. | Presentation of P.R.I.D.E. Team Certificates for the Fall Quarter (Reception immediately following – 2nd floor foyer) |
| Oct.. | 15 - | 10:00 A.M. | HEARING re: (Plan Amendment A-09-001) El Dorado Park Neighborhood Plan |
| Oct. | 15 - | 10:15 A.M. | CONTINUED HEARING to consider an appeal, filed by Gary McDonald on the Tract Map and former Councilmember Duncan on the Conditional Use Permit Application, appealing the Fresno City Planning Commission’s denial of Vesting Tentative Tract Map No. 5933, CUP No. C-08-59 – Planning and Development Dept. |
| Oct.. | 15 - | 10:20 A.M. | HEARING re: Text Amendment No. TA-09-03 re: restaurant with alcohol sales, taverns and night clubs |
| Oct. | 22 - | 8:30 A.M. | Presentation of “Make a Promotion a Commotion” (Reception immediately following – 2nd floor foyer) |
| Oct. | 29 - | 10:00 A.M. | HEARING re: Rezone Application No. R-09-008, Plan Amendment No. A-09-004, filed by Dirk Poeschel |
| Nov. | 5 - | 5:00 P.M. | HEARING to consider residential metered water rates pursuant to Proposition 218 |