



# City Council Agenda

Council President  
**Cynthia A. Sterling**

Councilmembers

**Andreas Borgeas**  
**Lee Brand**  
**Paul E. Caprioglio** – Acting President

**Mike Dages**  
**Henry T. Perea**  
**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, 2<sup>nd</sup> Floor, 2600 Fresno Street, Fresno CA 93721.

## January 13, 2009

### 8:30 A.M. ROLL CALL

Invocation by Councilmember Dages

Pledge of Allegiance to the Flag

### Ceremonial Presentation

Presentation of the SPCA Pet of the Month – Councilmember Borgeas - **Presented**

Presentation of Awards to Division Entry Winners for the 79th Annual Christmas Parade - Council President Sterling - **Presented**

[Presentation of P.R.I.D.E. Team Certificates](#) - *(Reception immediately following – 2<sup>nd</sup> floor foyer)* - **Presented**

The agenda and related staff reports are available on ([www.fresno.gov](http://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 January 6, 2009

**Action Taken:** Approved, as corrected

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 application for and acceptance of grant award for \$311,600 from the Metropolitan Medical Response System Grant Program through the County of Fresno, and authorize the Fire Chief to complete all required documents – Fire Department

**Action Taken:** Approved

1. **RESOLUTION** - Authorizing the application for and acceptance of FY 2008 Cycle U.S. Department of Homeland Security/Office of Domestic Preparedness “Metropolitan Medical Response System” grant program funding, through the County of Fresno, and authorizing completion of documents

**Action Taken:** Resolution No. 2009-4 adopted

2. \* **RESOLUTION** - 56th amendment to AAR No. 2008-162 appropriating \$311,600 from the Metropolitan Medical Response System grant to the Fire Department to provide training, equipment medical supplies and continuing program oversight (*Requires 5 affirmative votes*)

**Action Taken:** Resolution No. 2009-5 adopted

B. \* **RESOLUTION** - 55th amendment to AAR No. 2008-162 appropriating \$109,300 from the fiscal year 2007 Homeland Security grant to the Fire Department to reimburse the department for various training program expenditures (*Requires 5 affirmative votes*) – Fire Department

**Action Taken:** Resolution No. 2009-6 adopted

C. \* Approve the contract between the City of Fresno and County of Madera authorizing the City the use of inmate labor on government-owned facilities and grounds – Police Department

**Action Taken:** Approved

D. \* Authorize the Chief of Police to renew a lease agreement between the City of Fresno and Thomas-Davies Family Partnership, a California limited partnership, for the premises located at 3781, -83, -85, and -91 N. Hughes Avenue and 2211 W. Dakota Avenue in Fresno, California, for the Police Department’s Northwest Policing District Station – Police Department

**Action Taken:** Authorized

1. **CONSENT CALENDAR CONTINUED**

- E. Authorize acceptance of fiscal year 2008 Cycle State Homeland Security Program funds sub-granted from the State of California, Governor's Office of Homeland Security, as a part of the U.S. Department of Homeland Security's State Homeland Security Grant Program – Police Department  
**Action Taken:** Authorized  
1. \* **RESOLUTION** – 60th amendment to AAR 2008-162 appropriating \$263,100 for the Fresno Police Department's Homeland Security Grant Program (**Requires 5 affirmative votes**)  
**Action Taken:** Resolution No. 2009-7 adopted
- F. \* Authorize the Chief of Police to negotiate and enter into a contract with BearingPoint, Inc., for a Regional Interoperable Communications Assessment Plan for first responders in the amount of \$359,703 – Police Department  
**Action Taken:** Authorized
- G. \* Authorize the Chief of Police to enter into an agreement with the Central Unified School District to provide School Resource Officers – Police Department  
**Action Taken:** Authorized
- H. \* **RESOLUTION** - 58<sup>th</sup> amendment to AAR No. 2008-162 appropriating \$192,000 in developer contributions for the acquisition of right-of-way on N. Blythe Avenue for Tract 5710 (**Property located in District 1**) (**Requires 5 affirmative votes**) – Public Works Department  
**Action Taken:** Resolution No. 2009-8 adopted
- I. \* Approve the acquisition of a street easement and use of a construction easement at the corner of Marks Avenue and Weber Avenue from property owned by Dearld J. Henkel, (**Property located in District 1**) – Public Works Department  
**Action Taken:** Approved
- J. Approve a contract time extension to Mark Wilson Construction for the Fresno Fire Station Nos. 11 and 13 renovations/additions (**Property located in District Nos. 4 and 6**) – Public Works Dept.  
**Action Taken:** Approved
- K. Reject all bids to re-roof the Pinedale Community Center – PARCS  
**Action Taken:** Rejected
- L. **RESOLUTION** - Authorizing the submission of a grant application for up to \$250,000 to the Department of the Interior (DOI), Bureau of Reclamation for funding to construct a check structure in the Friant-Kern Canal to provide reliable delivery of water to the surface water treatment facility - Department of Public Utilities  
**Action Taken:** Resolution No. 2009-9 adopted
- M. **RESOLUTION** - Authorizing the submission of a grant application for up to \$300,000 to the Department of the Interior (DOI), Bureau of Reclamation for funding to support the installation of the residential water meters – Department of Public Utilities  
**Action Taken:** Resolution No. 2009-10 adopted
- N. **RESOLUTION** - Approving the Final Map of Tract No. 5856, accepting dedicated public uses therein (**Property located in District 6**) – Planning and Development Dept.  
**Action Taken:** Resolution No. 2009-11 adopted
- O. Submission for informational purposes of the Comprehensive Annual Financial Report (CAFR) regarding the financial activities of the City of Fresno Retirement Systems for the fiscal year ending June 30, 2008 – Retirement Offices  
**Action Taken:** Received/accepted

**CONTESTED CONSENT ITEMS (IF ANY)**

**SCHEDULED COUNCIL HEARINGS AND MATTERS**

**9 00 A.M. A. SCHEDULED COMMUNICATION**

1. Appearance by Kenneth Fick to discuss extending the time on the walk lights at crosswalks to provide sufficient time for a pedestrian to cross the street – **Appearance made**
2. Appearance by Rory Ekern to discuss the City's disregard to Federal law – **Not present when called**

**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.

**9:15 A.M. #1 \* RESOLUTION** - Adopting a policy to provide an exemption from payment of Park and Fire impact fees when UGM fees for Park and Fire have been paid prior to the expiration of vesting rights for the final map and when the building permit has been pulled prior to December 31, 2009 – Public Works Department

**Action Taken: Resolution No. 2009-12 adopted**

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

**A.** Consider approval for a Council override of Resolution Nos. 2008-346 and 2008-347 vetoed by Mayor Autry on December 29, 2008 (**Council action to override Mayoral veto requires 5 affirmative votes**) – Councilmember Dages

**Action Taken: Considered**

1. **RESOLUTION NO. 2008-346** - Adopting a policy to restore the exemption from payment of certain impact fees when said fees have been paid prior to the expiration of protection from the final map

**Action Taken: Override denied**

2. **RESOLUTION NO. 2008-347** – Adopting a policy to freeze all development impact fees at the level in effect on December 16, 2008

**Action Taken: Override denied**

**B.** Approve appointment to the Special City Selection Committee for the San Joaquin Valley Air Pollution Control District Governing Board – Councilmember Perea

**Action Taken: President Sterling appointed**

**C. \* RESOLUTION** - Adopting the Council of Fresno County Governments 2009 recommended regional priority project list – President Sterling

**Action Taken: Resolution No. 2009-13 adopted**

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

**A.** Approve the creation of a GPS monitor program for sex offenders; and approve an emergency Municipal Code ordinance regarding a GPS monitor program for sex offenders – Police Department

**Action Taken: Removed from the agenda**

1. \* **RESOLUTION** – 63rd amendment to AAR 2008-162 appropriating \$49,000 for a GPS monitor program for sex offenders (**Requires 5 affirmative votes**)

2. **BILL – (For introduction and adoption)** - Adopting the implementation of a GPS monitor program for sex offenders and declaring the ordinance to be an emergency measure that will take effect immediately upon adoption (**Requires 5 affirmative votes**)

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**\*SUBJECT TO MAYOR'S VETO OR RECONSIDERATION**

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**AND MAY BE AMENDED AT ANYTIME**

**SCHEDULED COUNCIL HEARINGS AND MATTERS SCHEDULED**

9:55 A.M. **CONTINUED HEARING** ordering the vacation of a portion of the east side of N. State Street north of W. Fairmont Avenue (*Property located in District 2*) – Public Works Dept.

**Action Taken:** Held

a. \* **RESOLUTION** - Ordering the vacation of a portion of the east side of N. State Street north of W. Fairmont Avenue

**Action Taken:** Resolution No. 2009-14 adopted

10:00 A.M. **2008 CYCLE III TRIMESTER PLAN AMENDMENT HEARINGS** – Planning and Development Department

The following plan amendment applications have been submitted for consideration during the 2008 Cycle III filing period in accordance with the Trimester Plan Amendment Program of the Planning Guidelines established by the Fresno City Council to implement the City's Local Planning and Procedures Ordinance, Article 6, Chapter 12, of the Fresno Municipal Code. In addition to the plan amendment applications, the projects described below may include rezone applications to change the subject properties' zone district boundaries and associated special permit and tentative tract map applications providing for development of the subject properties

A. Consideration of Plan Amendment Application No. A-08-17, Rezone Application No. R-08-27, and environmental findings, filed by Dan Jelladian on behalf of Sunara Corporation, pertaining to 1.18 acres of property located on the southwest corner of E. Shields and N. Winery Avenues (4898 E. Shields Avenue) (*Property located in District 4*)

**Action Taken:** Considered

1. Consider and adopt a Mitigated Negative Declaration for Environmental Assessment Environmental Assessment No. A-08-17/R-08-27

**Action Taken:** Adopted

3. **RESOLUTION** - amending the 2025 Fresno General Plan and the McLane Community Plan from the medium-low density residential planned land use designation to the light industrial land use designation for the 1.18 acres of property

**Action Taken:** Resolution No. 2009-15 adopted

4. **BILL** – Amending the Fresno Yosemite International Airport and Environs Plan from the medium-low density residential planned land use designation to the light industrial land use designation for the 1.18 acres of property

**Action Taken:** Bill No. B-1/Ordinance No. 2009-1 adopted

4. **BILL** – Amending the Official Zone Map to rezone the subject property from the AE-20 (*Exclusive Twenty Acre Agricultural*) zone district to the M-1/cz (*Light Manufacturing/conditions of zoning*) zone district

**Action Taken:** Bill No. B-2/Ordinance No. 2009-2 adopted

B. Consideration of Plan Amendment Application No. A-08-18, Rezone Application No. R-08-28, Site Plan Review Application No. S-08-103 and environmental findings, filed by Marlette Associates on behalf of the Schindler Lawrence LLC, pertaining approximately 5.31 acres of property located on the southeast corner of E. Copper and N. Chestnut Avenues (2445 E. Copper Avenue) (*Property located in District 6*)

**Action Taken:** Discussed and continued to 1/27/2009 at 3:00 p.m.

1. Consider and adopt a Mitigated Negative Declaration for Environmental Assessment No. A-08-18/R-08-28/S-08-103

2. **RESOLUTION** - Amending the 2025 Fresno General Plan and the Woodward Park Community Plan from the medium-low density residential planned land use designation to the office commercial land use designation

3. **BILL** – Amending the Official Zone Map to rezone the subject property from the R-1/UGM (*Single Family Residential/Urban Growth Management*) zone district to the C-P/UGM (*Administrative and Professional Office/Urban Growth Management*) zone district

**SCHEDULED COUNCIL HEARINGS AND MATTERS SCHEDULED**

**10:00 A.M. CONTINUED 2008 CYCLE III TRIMESTER PLAN AMENDMENT HEARINGS – Planning and Development Department**

- C.** Consideration of Plan Amendment Application No. A-08-13, Sphere of Influence Amendment Application No. SOI-08-01, and environmental findings, filed by Tom Lang on behalf of Aquarius Aquarium Institute, pertaining to approximately 89 acres bounded by W. Herndon Avenue on the south, Freeway 99 on the east, and the San Joaquin River on the north (*Property located in District 2*)

**Action Taken: Discussed and continued to 1/27/2009 at 3:15 p.m.**

1. Consider and adopt a Mitigated Negative Declaration for Environmental Assessment No. A-08-13/SOI-08-01
2. **RESOLUTION** - Amending the 2025 Fresno General Plan and the West Area Community Plan from the agricultural planned land use (Fresno County) to the Public/Quasi Public Facility land use designation for the 10-acre aquarium site and from the agricultural planned land use (Fresno County) to Agricultural/Open Space for the balance of the area (79 acres)
3. **RESOLUTION** – Amending the City of Fresno’s sphere of influence boundary to add the subject property to the City in order to allow for city sewer and water services to be extended to the public aquarium facility, which was previously approved on a portion of the subject property by Fresno County

**2:00 P.M.**

**CLOSED SESSION**

**A. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION - Government Code Section 54956.9, subdivision (a)**

1. **Case Name:** City of Fresno v. Derald Henkel, et al., Fresno County Superior Court Case Number 07 CE CG 02846 AMC  
**Action Taken: Held**

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION - Government Code Section 54956.9, subdivision (b)**

**Significant Exposure to Litigation:**

1. City of Fresno v. Fresno Hockey Club, LLC dba Fresno Falcons Professional Hockey Club  
**Action Taken: Held**

**C. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION - Government Code Section 54956.9, subdivision (a)**

1. **Case Name:** City of Fresno v. United States of America; United States Army Corps Of Engineers; National Guard Bureau; The Boeing Company; United States District Court Case Number 1:06-CV-01559-OWW-LJO  
**Action Taken: Laid over 2 weeks**

**SCHEDULED COUNCIL HEARINGS AND MATTERS**

Jan.	20 -		<b>NO MEETING – MARTIN LUTHER KING DAY</b>
Jan.	27 -	8:30 A.M.	Presentation of Make a Promotion a Commotion <b>(Reception immediately following – 2<sup>nd</sup> floor foyer)</b>
Jan.	27 -	10:00 A.M.	<b>HEARING</b> re: ordering the vacation of W. California Court and the south five feet of W. California Avenue east of W. Atchison Street
Jan.	27 -	10:15 A.M.	<b>HEARING</b> re: ordering the vacation of two parcels of public street right-of-way along the south side of Ashlan Avenue east of Cornelia Avenue
Jan.	27 -	10:20 A.M.	<b>HEARING</b> re: Resolution of Intention No. 1071-D for the vacation of the California Atchison alley between Walnut and Plumas Avenues
Jan.	27 -	10:30 A.M.	<b>TEFRA HEARING</b> to finance the acquisition and construction of Phase II (215 units) of a 464-unit Multi-family residential rental project, commonly known as Parc Grove Commons II
Jan.	27 -	10:45 A.M.	<b>HEARING</b> the Housing Element
Jan.	27 -	11:00 A.M.	<b>HEARING</b> re: Resolution of Necessity regarding eminent domain Derald Henkel, 3320 N. Weber <b>(Property located in District 1)</b>
Jan.	27 -	2:30 P.M.	<b>HEARING</b> the appeal of CUP Application No. C-08-76, property located at 245 E. Whitesbridge Avenue, Applicant Gurmeet Singh
Jan.	27 -	3:00 P.M.	<b>CONTINUED</b> consideration of Plan Amendment Application No. A-08-18, Rezone Application No. R-08-28, Site Plan Review Application No. S-08-103and environmental findings, filed by Marlette Associates on behalf of the Schindler Lawrence LLC, pertaining approximately 5.31 acres of property located on the southeast corner of E. Copper and N. Chestnut Avenues (2445 E. Copper Avenue) <b>(Property located in District 6)</b>
Jan.	27-	3:15 P.M.	<b>CONTINUED</b> consideration of Plan Amendment Application No. A-08-13, Sphere of Influence Amendment Application No. SOI-08-01, and environmental findings, filed by Tom Lang on behalf of Aquarius Aquarium Institute, pertaining to approximately 89 acres bounded by W. Herndon Avenue on the south, Freeway 99 on the east, and the San Joaquin River on the north <b>(Property located in District 2)</b>
Feb.	3 -	10:00 A.M.	<b>HEARING</b> re: bill for introduction amending TA-08-02 regarding car washes
Feb.	3 -	10:15 A.M.	<b>HEARING</b> re: Plan Amendment A-08-029: Deletion of a Portion of West Yale Avenue Official Plan Line
Feb.	10 -	10:00 A.M.	<b>CONTINUED HEARING</b> to consider an appeal, filed by Gary McDonald on the Tract Map and Councilmember Duncan on the Conditional Use Permit Application, appealing the Fresno City Planning Commission's denial of Vesting Tentative Tract Map No. 5933, CUP C-08-59