

Fresno council wants to shine light on bonuses to top city officials

By John Ellis
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The Fresno City Council is poised to put significant teeth into the city's 5-year-old Transparency Act less than a week after news broke that Mayor Ashley Swearengin gave bonuses and deferred compensation packages totaling \$300,000 to some of her top lieutenants.

Council Members Oliver Baines and Lee Brand on Tuesday will unveil proposed changes to the act, and the full council is scheduled to vote on them Thursday. If five council members are on board with the proposal, it will immediately become law.

Last week, all seven council members expressed outrage after learning about the bonuses and deferred compensation, which is income paid at a later date, such as a pension. They all said they had no idea about the awards, which were given over the past three years.

The largest bonuses, totaling almost \$56,000, went to City Manager Bruce Rudd over 2014 and 2015. Assistant City Manager Renena Smith received \$30,000 – \$10,000 annually in 2014, 2015 and 2016. Police Chief Jerry Dyer received \$20,000 in 2015. Smith, Rudd and Dyer also received deferred compensation. Combined, Rudd's money totaled more than \$100,000.

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Council Member Lee Brand, on bonuses and deferred compensation given by Mayor Ashley Swearengin's administration

"It was a license to take care of your friends, and that's what I think happened here," Brand said.

Under the proposed changes to the Transparency in City Government Act:

- A report detailing employee compensation will be made publicly available the day it is released to the council, or no later than June 1 of each year. The city typically approves a budget by June 30 of each year.
- This report – which would detail any bonuses or deferred compensation – must be approved by the City Council as a condition of passing the annual budget.
- Employees not represented by a union – about 1% of employees, all of them top-ranking administration officials – will have all of their earnings publicly itemized, including not only base pay, but overtime, any bonuses, premium and severance pay, auto allowance and any deferred compensation.
- Any bonus or deferred compensation in excess of 5 percent of an employee's annual base pay must be specifically approved by the council.
- The city's Finance Department must report any bonuses to the City Clerk, who will then publish the amount on the city's website.
- Total annual compensation for an employee – not just salary, allowances and bonuses, but any deferred compensation as well – cannot exceed the upper salary range that is approved for each position annually. For instance, for the 2015-16 fiscal year the city manager, who is currently Rudd, has a monthly salary range between

\$14,475 and \$20,275.

Baines and Brand said they believe Dyer makes in excess of his upper range, which is \$17,623 monthly. That includes base salary, plus his bonus, deferred compensation and automobile allowance. If that is the case, under the Transparency Act changes Dyer's compensation would have to be cut to get him into the range, or the range must be increased by the council, Brand said.

Finally, the changes proposed by Baines and Brand will alter the rules for top administration officials, whose employment is governed by a contract. All contracts will be published on the city's website and made available to the public in the clerk's office. Any severance pay will be limited to six months. No severance pay will be allowed if a contract employee voluntarily leaves or is fired for cause.

"This is pretty sweeping, what we are doing here," Baines said. "We needed teeth."

Both council members reiterated that they are not against bonuses or deferred compensation. But they believe the administration must be forthcoming and transparent about handing out the cash. That hasn't been done for three years, they said.

On Friday, Swearingin apologized for not informing the council, saying she "dropped the ball."

Baines, the council president, and Brand met with Swearingin on Friday. They said she and her administration have been fully briefed on the proposed changes, which were worked up over the weekend by the two council members.

They said Swearingin initially was resistant to the changes. Asked whether there was any compromises made to Swearingin, both council members were emphatic: nothing.

The message was this is not negotiable.

Council Member Lee Brand, on Swearingin's input into proposed Transparency Act changes

"The message was this is not negotiable," Brand said.

Swearingin was traveling to Fresno from Washington, D.C., and could not be reached for comment.

Both Brand and Baines also were unhappy with suggestions from the Swearingin administration that the council approved the annual budgets, which included the bonuses and deferred compensation, and by doing so somehow gave their blessing to the extra pay.

Brand, a successful business owner who deals with budgets regularly, said he combed through the current salary resolution and other Swearingin documentation dealing with pay over the weekend, and he could find no direct reference to any bonuses or deferred pay. The only thing he could find was an oblique reference in the salary resolution that performance bonuses would be included in pension calculations, which Brand said is another added city expense.

"A forensic auditor wouldn't find it out," Brand said. "You'd need a magician."

Both council members said relations between the council and Swearingin had been good and a level of trust and cooperation not seen during the administrations of former strong Mayors Jim Patterson and Alan Autry had been forged. This was a breach in that trust, they said. On top of that, they said this will make negotiations with city unions more difficult moving forward.

The proposed changes will ensure this sort of thing doesn't happen again.

Said Brand: "This will hopefully close this chapter at City Hall."

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