

# City Council kills bonuses, begins Bonusgate postmortem

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The Fresno City Council on Thursday surprised no one when it voted 7-0 to stand bravely on the side of financial responsibility.

Officially, the council passed amendments (plus one amendment to the amendments) to something called the Transparency in City Government Act. Council members said they've made it next to impossible for city executives to ever again reap big bonuses.

Unofficially, council members all but begged voters to go home and forget this mess ever happened.

I was there. Here are a handful of thoughts.

There no doubt will be more come next spring. You know – election season.

## BAINES SHINES IN TOUGH SPOT

Council President Oliver Baines was firm but fair in handling what quickly became a tricky hearing.

Everyone on the dais other than City Clerk Yvonne Spence wanted to yak. City Manager Bruce Rudd and City Attorney Doug Sloan expressed sincere regrets. Council members saw their chance to get even with a strong-mayor form of government that often relegates the legislative branch to bench-sitter status.

The amendments to the Transparency Act were co-authored by Baines and Council Member Lee Brand. In essence, Fresno won't get an annual budget unless the executive branch gives the council an annual listing of top executives' compensation.

Everyone's thinking: City Hall since Fresno's incorporation in 1885 hasn't forgotten to field an approved budget. Perhaps that's sufficient reminder to come up with that list of Big Shot goodies.

Brand got the job of explaining the amendments. But someone had to express the council's outrage. It would have been a long hearing if all seven got on the soapbox.

SEE ALSO: [Bonusgate reignites Water Wars at City Hall](#)

District 4's Paul Caprioglio took the role. His best line came when he described Mayor Ashley Swearingin's public apology for forgetting to send the list of bonuses to the council. Caprioglio, a lawyer in his spare time, called it "conditional contrition." Such a mealy-mouth response to taxpayers, Caprioglio said, "is unacceptable."

Caprioglio then proposed two amendments to the Baines-Brand amendments.

The first was to ban all bonuses in the future. If an employee is worth extra money, then make the boost a permanent part of the paycheck.

The second Caprioglio amendment was to get the council's own accounting expert on board immediately. The council needs its own set of keen eyes focused on the budget and all its complexities.

Now, it's easy here to get lost in the weeds. And the council was on the verge of doing exactly that.

Baines stepped in and essentially said: I've checked things out. Our expert is coming. Paul, your second idea is

irrelevant. Let's move on.

Thanks to the council president, a potentially four-hour hearing was held to a mere two-and-a-half hours.

## OTHER BOSSES WERE GENEROUS

An estimated \$300,000 was handed out in bonuses and deferred compensation over a three-year span.

In the shorthand world of journalism and public commentary, Swearegin was given responsibility of dispensing it all.

Thanks to Thursday's hearing and the effort of City Communications Director Mark Standriff, we now know better.

The figure of about \$300,000 is right on the mark.

But every dollar can't be traced back to Swearegin.

About \$52,000 in bonuses/deferred compensation was paid to retirement systems Administrator Stan McDivitt.. The systems' two governing boards forked over that money.

Council Member Steve Brandau paid a \$1,000 bonus to his council assistant.

The other payments belong to Swearegin (or the city manager, who is hired/fired by the mayor).

Most of the money came from the general fund. But not all. The \$10,000 bonus paid to current Public Utilities Director Thomas Esqueda and the \$10,000 bonus (plus a small amount of deferred compensation) paid two years ago to former Public Utilities/Public Works Director Patrick Wiemiller came from ratepayer funds.

City officials said the Esqueda-Wiemiller payments did not violate Proposition 218.

## WHAT SEPARATION OF POWERS?

Thursday's hearing might have taken a more combative tone if it had occurred five years ago, when Swearegin was in the middle of her first term as mayor.

But she now has less than 14 months left in her second and final term. She didn't make an appearance in the council chamber on Thursday. Rudd, representing the administration on the dais, was a model of humility.

Yet, this executive branch forbearance may return to haunt future mayor-council relationships.

The council on a 6-1 vote (Baines said nay) banned all future executive bonuses. I'm assuming the council didn't ban potential bonuses for union-represented employees because that would trigger the meet-and-confer rule in contract negotiations.

SEE ALSO: [City Council delivers stinging rebuke of Mayor in light of Bonusgate](#)

My quick review Thursday night of the City Charter suggests the city's founding document is vague on whether executive branch bonuses come under the authority of the legislative branch. I'm guessing a strong argument could be made they don't.

But the bonus controversy clearly weakened the Swearegin Administration. After all, Rudd, recipient of more than \$100,000 in bonuses/deferred compensation, would have needed an Olympian-sized portion of self-importance to argue from the dais in favor of mayoral prerogative in this regard.

"This isn't the only challenge they'll face together," Swearegin told me, referring to the executive and legislative branches. "If the bonus ban proves to be an ongoing obstacle to the recruiting and retaining of talent, then they'll have to work it out. They'll have to modify the policy."

“That’s for the next group of leaders to do.”

## GIVE ME MORE REPORTS!

Thursday’s meeting saw a variation on a familiar theme.

Past councils, especially during the Alan Autry era, loved to request reports from the administration. What’s the status of tree-trimming in each district? How many out-of-town residents use the city’s regional parks? Which hours generate the most revenue from parking meters?

Stuff like that. The requests occasionally came from the council as a body. More often, they came from individual council members.

The council requests (demands) came so hot and heavy that former city managers Dan Hobbs and Andy Souza sometimes compiled a report on all the report requests, then waited for an opportune time to drop it on the council.

The city managers’ message: Look at all this make-work. You council members can’t even remember what you asked for.

The Transparency Act was a formal request for a report. Tell us once a year, the council told the administration, about all the compensation among top executives.

And, as we now know thanks to The Bee’s John Ellis breaking this story, everyone promptly forgot about it.

Brand co-wrote (with then Council Member Henry T. Perea) the Transparency Act. Brand has written many similar acts. At times it seems like dozens of them.

The council on Thursday asked City Manager Bruce Rudd for a detailed accounting on the status of all the reports mandated by Brands’ boatload of accountability acts.

No one had the energy to name them all.

## IT’S NICE TO HAVE LEVERAGE

Think back to –mid-June 2013.

Budget hearings for the 2013-14 fiscal year were coming to an end. The Measure G/trash privatization special election was over. The worst of the Great Recession, at least nationally, was gone.

And on June 19, 2013, then-City Manager Mark Scott announced he would resign effective July 19 to take the city manager’s job in Burbank.

Swearingin on June 19 announced that Assistant City Manager Rudd would become permanent city manager effective July 20. In other words, there would be no statewide or nationwide search for Scott’s successor.

“Rudd’s salary will be negotiated,” the City Hall news release said.

These events rattled around in my head during Thursday’s meeting.

We now know that Rudd in the past three years got more than \$100,000 in bonuses and deferred compensation. We know that in Fiscal Year 2013-14 Rudd got a bonus of \$35,792 and deferred compensation of \$20,499.96. That’s a total of \$56,291.96 over and above his six-figure salary.

The 2013-14 fiscal year began July 1, 2013, 20 days before Rudd became city manager.

Why would Swearingin spend more than \$56,000 to retain the services of a man who been No. 2 in the City

Manager's Office but never No. 1?

In fact, Rudd, unlike Scott, had never been a city manager anywhere.

In a manner of speaking, I posed this question to Swarengin and Rudd after Thursday's Transparency Act vote.

My starting point was simple. The mayor and myself both know Rudd's back-story.

Rudd started his city career in 1976 at age 20. He was a blue-collar worker in the beginning. He was ambitious. He worked his way up the ladder. Fresno has always been his home.

Rudd was 57 in 2013. He wasn't old. But neither was he young. For the past 37 years, he had never worked in a position of responsibility for any city other than Fresno. Nearly four decades is a long time to have vested in a defined benefit pension.

Rudd in mid-2013 also was, in essence, director of Parks and Fresno Area Express. That's how shorthanded City Hall's executive staff was at the time.

Rudd through the years also had acquired considerable experience at the negotiating table during contract talks. He knew what it was like to sit in labor's chair. He knew what it was like to sit in management's chair.

If something had happened to Rudd in mid-2013, if his services had suddenly been denied to the mayor, City Hall would have been without a city manager, an assistant city manager, a FAX director and a Parks director.

So, I asked Rudd on Thursday, "Did you say to the mayor (in mid-2013), 'I need a retention bonus/deferred compensation or I will retire?' I just want to know what your leverage was."

"May I answer that question?" Swarengin said. "The leverage was this guy was being recruited. When he was an assistant city manager, he was being recruited."

Swarengin said the key performance measurement she wanted from Rudd was "he had to stay."

Rudd declined to say who was recruiting him in mid-2013.

One thing is certain. The City of Fresno train full of executive bonuses/deferred compensation for the executive branch left the station after Rudd decided to stay.

I sure would like to know the identity of the city that was courting Rudd.

That berg's unrequited love led directly to a most interesting City Council meeting on Thursday.

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