

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
JULY 6, 2004**

Mayor Simonian called the meeting to order in the Council Chambers at 7:00 p.m.

Councilmembers present: Simonian, Cardenas, Shaw & Zadourian

Councilmembers absent: Fernandez

City staff present: City Manager Elias, City Clerk Davis, Finance Director Wong, Police Chief Jamgochian, Community Development Director Deaver, City Attorney Kuhn, Planning Consultant O'Neal, City Engineer Giersch

The Flag Salute and the Pledge of Allegiance were followed by an invocation given by Mayor Pro-Tem Shaw.

PUBLIC PRESENTATIONS

Fowler resident Mike Murphy spoke to the Council regarding a problem with the material the City uses to repair cracks on the street in front of his home. He said that he and his neighbors have motorcycles and the material creates a hazard because it is sticky and slippery. City Manager Elias stated that the Public Works Department would look into the matter.

PUBLIC HEARING: TO CONSIDER APPEAL OF PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT (C.U.P.) 04-06

Mayor Simonian announced that due to a conflict of interest regarding the public hearing matter, he would be turning the meeting over to Mayor Pro-Tem Shaw and leaving the Council Chambers.

Planning Consultant Bruce O'Neal explained that the public hearing concerned the Planning Commission's recent denial of a C. U. P. for a nightclub/bar to be located at 206 N. 8th Street in Fowler. The applicant, David Duron Aguilar, filed an appeal asking the City Council to reverse the Planning Commission's decision. Staff recommended denial of the appeal and to affirm the decision of the Planning Commission.

Mr. O'Neal stated that certain findings must be made for approval of a C.U.P. such as: the site must be adequate in size to accommodate the use; it must meet parking, landscaping, and other standards; have no adverse effect upon adjoining or other property; and be consistent with objectives and policies of the General Plan. A summary of the existing conditions leading to the Planning Commission's denial of the C.U.P. was given. He noted that in the event the Council desired to approve the C.U.P., a resolution and recommended conditions of approval were provided. Also attached was a resolution calling for denial of the appeal if the Council so wished.

Mayor Pro-Tem Shaw opened the duly noticed public hearing on the matter at 7:24 p. m.

The C. U. P. applicant, Mr. David Duron Aguilar, spoke to the Council with the assistance of an interpreter. He asked why he was being denied the C.U.P. Emily Aguilar, the applicant's spouse, stated that many of the problems with the location, such as the long history of police calls, were things of the past. She said that they intended to comply with all of the City's regulations and requirements.

Fowler resident Craig Mellon stated that due to the documented problems and the close proximity of the location to two other facilities that sell alcohol, he was against allowing the C.U.P. for the nightclub.

Property owner John Kahaian spoke in favor of granting the C.U.P. He said he would provide for adequate parking. He added that the business would bring tax dollars to the City.

With no further public comment, Mayor Pro-Tem Shaw closed the public hearing at 7:43 p.m.

The Council discussed the matter, including the concerns about the documented problems at the location. It was noted that if the Council reversed the Planning Commission's decision and approved the C.U.P., the business would be subject to a list of conditions that must be approved by City Staff before operations can take place.

Councilmember Cardenas made a motion to approve the C.U.P. application and adopt Resolution No. 1968, "A Resolution Before the City Council of the City of Fowler, County of Fresno, State of California, Approving Conditional Use Permit Application No. 04-06" (Aguilar). The motion carried on a 2-1-1-1 roll call vote, with Councilmembers Cardenas and Zadourian voting yes, Mayor Pro-tem Shaw voting no, Mayor Simonian abstaining from participation due to a conflict of interest, and Councilmember Fernandez absent.

Mayor Simonian then took his place on the dais and called for a short break at 8:20 p. m. The meeting resumed at 8:24 p. m.

COMMUNICATIONS

City Clerk Davis notified the Council that the nominations period for three City Council seats at the November 2, 2004 election begins Monday, July 12 through Friday, August 6, 2004. City Manager Elias mentioned that the Consolidated Irrigation District Water Forum would be held on Wednesday, July 28, 2004 from 12:00 - 3:00 p. m. at Fresno State University. Mayor Simonian mentioned communications he received on various meetings and workshops.

STAFF REPORTS

A. SECOND READING OF ORDINANCE NO. 2004-03

Councilmember Cardenas made a motion, seconded by Mayor Pro-tem Shaw, to waive the second reading and approve Ordinance No. 2004-03, "An Ordinance of the City Council of the City of Fowler Amending the Official Zone Map: Zoning Amendment No. 03-02" (RJ Hill Company)." The motion carried on a 4-0-1 roll-call vote.

POLICE AND FIRE REPORT

There was no police and fire report given.

CITY ATTORNEY'S REPORT

No City Attorney's Report was given.

CONSENT CALENDAR

The consent calendar consisted of: A) Ratification of Warrants - July 6, 2004; and B) Approve Minutes of the City Council Meeting - June 15, 2004; C) Approve Lease Agreement with Michael Poston - for office space in the old Fowler Hospital building; D) Award the low bid of \$1,749,572.50 for the Water Wells, Water Mains, and Appurtenances Project to Steve Dovali Construction - subject to Change Order 1 (deducting a credit of \$182,959.88, contingent upon approval by the Rural Utilities Service); E) Approve Special Agreement for Engineering Services for Merced Street Sidewalk Improvements from 8th Street to 10th Street; F) Adoption of Resolution No. 1966, " a Resolution of the City Council of the City of Fowler Adopting a Position Paper on the California High Speed Train System Draft Program EIR/EIS By the Cities of Fowler, Kingsburg and Selma" ; and G) Adoption of Resolution No. 1967, "A Resolution of the City Council of the City of Fowler Concerning Local Transportation Purpose Funds (Measure "C")". Councilmember Zadourian made a motion to approve the Consent Calendar, seconded by Councilmember Cardenas. The motion carried on a 4-0-1 roll call vote.

COMMITTEE REPORTS

Upon Mayor Simonian's recommendation, Councilmember Cardenas made a motion to appoint LeAnn Hodges, and re-appoint Michelle Cavalli and Craig Mellon to the Recreation Commission. The motion was seconded by Councilmember Zadourian, and carried by unanimous voice vote.

Councilmember Cardenas attended an S. K. F. meeting where Councilmember Henry Fernandez, who is leaving his seat on the S. K. F. board, was honored for his long time service to the District. He also attended a fund raiser on behalf of County Supervisor Juan Arambula. Councilmember Zadourian reported that she and Mayor Pro-Tem Shaw met with the City Manager and Finance Director to discuss the 2004-2005 fiscal year budget. City Manager Elias also mentioned that an upcoming budget workshop would be scheduled for the third week of July.

CLOSED SESSION

The meeting was adjourned to a closed session to discuss, as specified under Government Code Section 54957 - Public Employee Evaluation - Title: City Manager at 8:40 P. M. The meeting reconvened at 9:22 P. M. with the following action taken: By unanimous consent, the Council approved increasing the City Manager range of the City's Salary Schedule.

ADJOURNMENT

Having no further business, Councilmember Cardenas made a motion, seconded by Councilmember Zadourian, to adjourn. The motion carried unanimously and the meeting was adjourned at 9:24 p. m.