

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
DECEMBER 7, 2004**

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

Councilmembers present: Simonian, Aguayo, Cardenas, Nagata & Shaw

City staff present: City Manager Elias, City Clerk Davis, Police Chief Jamgochian, Community Development Director Deaver, Senior/Recreation Director Monis, Finance Director Wong, City Attorney Wolfe

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

PUBLIC PRESENTATIONS

Planning Commissioner Craig Mellon spoke of concerns regarding the number of signs displaying the availability of liquor in the downtown area. City Manager Elias explained that the City had recently adopted an ordinance calling for existing and new businesses that sell alcohol to obtain a mandatory Conditional Use Permit (C.U.P) that provides regulations for these businesses. Staff is in the process of contacting the businesses to ensure that they are complying with the C.U.P. process. Mayor Simonian added that the recent General Plan Update addresses businesses in the downtown area.

CITY COUNCIL REORGANIZATION

City Clerk Davis took the Mayor's seat and asked for nominations for the office of Mayor. A motion was made by Councilmember Nagata to nominate Jim Simonian. The motion was seconded by Councilmember Shaw. With no other nominations, the nominations were closed. The motion carried by unanimous voice vote.

Mayor Simonian asked for nominations for the office of Mayor Pro-Tem. He then made a motion to nominate Mac Shaw. The motion was seconded by Councilmember Cardenas. There were no other nominations, and the nominations were closed. The motion carried on a 5-0-0 roll call vote.

COMMUNICATIONS

City Manager Elias reminded the Council of the date and time of the upcoming Annual Employee Appreciation Dinner.

STAFF REPORTS

A) ADOPTION OF RESOLUTION NO. 1989

Community Development Director Deaver said that staff recommended approval of Final Parcel Map 04-01, which encompasses 20 acres of property near Golden State Boulevard and Temperance Avenue. Developer Roger Anthony proposes to subdivide the property into five commercial parcels. The Tentative Map had been previously approved by the Planning Commission.

Councilmember Aguayo made a motion to adopt Resolution No. 1989, "A Resolution of the City Council of the City of Fowler Approving Final Parcel Map No. 04-01, Subdivision Agreement, (Short Form with Notice of Land Use Restriction) and Accepting Street Dedication and Easements." The motion was seconded by Councilmember Cardenas, and carried on a 5-0-0 roll call vote.

B) APPROVE AMENDMENT TO FIVE CITIES JOINT POWERS AGREEMENT

City Manager Elias stated that a Fresno County representative has been attending the Five Cities Economic Development Authority meetings for some time. An application for full-voting membership had been extended to Fresno County and the cities of Kingsburg and Orange Cove. The cities have declined, but the Board of Supervisors approved Fresno County's official membership. Councilmember Cardenas noted that Fresno County's membership will be of great benefit in supporting the interests of the Five Cities group.

Councilmember Cardenas made a motion to approve the First Amendment to Amended Joint Powers Agreement Creating the Five Cities Economic Development Authority, to add Fresno County as a full-voting member. The motion was seconded by Mayor Pro-Tem Shaw, and carried on a 5-0-0 roll call vote.

C) ADOPTION OF URGENCY ORDINANCE NO. 2004-18

City Attorney Wolfe explained the reasons for Urgency Ordinance No. 2004-18. In 1996, California voters approved a measure to allow seriously ill patients to obtain and use marijuana for medical purposes. The legislature subsequently provided statutory guidance regarding medical marijuana use, and cities may adopt and enforce laws consistent with these statutory guidelines. However, there has been a host of problems for law enforcement agencies on how to enforce the regulations.

Without an ordinance in place, a medical marijuana dispensary could operate within a city without restriction. He cited several examples of adverse impacts cities have experienced relating to cultivating and dispensing of marijuana for medical use. Urgency Ordinance No. 2004-18 provides temporary regulations pertaining to cultivating and dispensing medical marijuana while the Council considers adoption of permanent regulations and appropriate zoning. The ordinance would prohibit: dispensaries that distribute to three or more persons qualified to receive medical marijuana, mobile dispensaries, and more than one permitted dispensary from operating out of a single building. It also sets forth requirements and limitations for medical marijuana cultivation. He noted that if the courts challenged the ordinance as being too restrictive, there is an uncodified back up ordinance that sets forth more detailed regulations that would then apply. Once the ordinance is adopted it will be valid for 45 days unless extended. An extension ordinance, which would be scheduled for a public hearing on January 4, 2005, would give the Council and Planning Commission time to develop permanent regulations. Chief Jamgochian mentioned that he had spoken with other local police chiefs who confirmed that their cities are in the process of adopting similar urgency ordinances.

Mayor Pro-Tem Shaw made a motion, seconded by Councilmember Cardenas, to adopt Ordinance No. 2004-18, "An Urgency Ordinance of the City Council of the City of Fowler Adopting Interim Regulations Governing Medical Marijuana Dispensaries and the Cultivation of Medical Marijuana." The motion carried on a 5-0-0 roll call vote.

D) SECOND READING OF ORDINANCE NO. 2004-13

City Attorney Wolfe said that Ordinance No. 2004-13 provides for the Mayor to delegate signatory authority on warrants, contracts, conveyances and documents requiring the City seal, to the City Manager and other city officials. He explained that in the past, signatory authority was assigned to City officials by resolution. Ordinance No. 2004-13 brings the City into compliance with state law which says that signatory authority for officials other than the Mayor must be delegated by ordinance. He noted that although the ordinance provides for signatory authority, it does not provide for approval authority.

After a brief discussion, Councilmember Cardenas made a motion to waive the second reading and approve Ordinance 2004-13, "An Ordinance of the City Council of the City of Fowler Adding Article 3 and Sections 2-1.301 and 2-1.302, of Chapter 1, of Title 2, of the Fowler Municipal Code Pertaining to the Authority to Sign Warrants, Contracts, Conveyances, and Instruments Requiring the City Seal." The motion was seconded by Councilmember Aguayo, and carried on a 4-1-0 roll call vote with Councilmember Nagata voting no.

E) DISCUSSION: FILLING POSITION OF FRESNO COUNTY REPRESENTATIVE ON LEAGUE OF CALIFORNIA CITIES EXECUTIVE BOARD

City Manager Elias said that since Astine Zadourian, who was serving as the First Vice President of the League of California Cities South San Joaquin Valley Division Executive Board, was not re-elected, the position is being filled by someone from another city. The Fresno County Representative position is now vacant, and the City of Fowler was given first opportunity to fill the position. Mayor Simonian recommended that Councilmember Cardenas fill the position since he has attended many of the board meetings with Councilmember Zadourian and has knowledge of the issues at hand. After a discussion, the consensus of the Council was for Councilmember Cardenas to fill the position, and if it did not conflict with the by-laws, Councilmember Aguayo would act as the alternate.

F) CITY MANAGER'S REPORT

City Manager Elias stated that the cities of Fowler, Kingsburg, Selma, and Visalia had met regarding the proposed High Speed Rail system bypass. The cities are opposed to having the rail system going through the Union Pacific rail route, and have expressed that the preferred route instead be the Burlington-Northern/Santa Fe rail corridor. There will be a series of upcoming meetings regarding the issue.

Mr. Elias reported on Highway 99's proposed Interstate designation. The Regional Jobs Initiative

group is lobbying for the designation since they believe it will be crucial to bringing more businesses and jobs to the area.

He noted that the slurry seal project would be delayed due to the cold weather creating a longer curing time for the seal.

The Fresno County Council of Government's "One Voice" group will be traveling to Washington D. C. On February 12 - 17, 2005 to seek funding for various projects. He asked that if any Councilmembers wished to go, to let staff know so that arrangements can be made.

G) COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Community Development Director Deaver reported on projects taking place in the City. The building permits have been issued and construction is ready to begin for a new single family home for Fowler resident Lucy Lopez. The funding for the project came from the Redevelopment Agency's grant and loan program. Other projects included: a new 14,500 square foot industrial building on Golden State Boulevard south of Bobby Salazar's facility; construction of a 4.32 acre industrial park on Golden State Boulevard near the Amerigas facility; and construction of a 37,500 square foot building next to the existing Borga Manufacturing facility.

H) POLICE AND FIRE DEPARTMENT REPORT

No report was given.

CITY ATTORNEY'S REPORT

City Attorney Wolfe reported that an issue arose in one city regarding reimbursement to a councilmember for expenses to attend the Governor's recent Inauguration. The Attorney General's Office opined that a councilmember could only be reimbursed for costs to attend the Inauguration if they had official duties related to the event, such as lobbying for a project.

CONSENT CALENDAR

The Consent Calendar consisted of: A) Ratification of Warrants - December 7, 2004; B) Approve Minutes of the City Council Meeting - November 2, 2004; and C) Adoption of Resolution No. 1990, "A Resolution of the City Council of the City of Fowler Indicating Approval for the Redesignation of the Fresno County Recycling Market Development Zone"; D) Claim against the City of Fowler: Jose Cruz Pelayo - Approve staff's recommendation to reject; and E) Adoption of Resolution No. 1991, "A Resolution of the City Council of the City of Fowler, County of Fresno, Authorizing Purchase of Real Property." Mayor Pro-Tem Shaw asked that item E of the Consent Calendar be removed for discussion.

Councilmember Cardenas made a motion, seconded by Mayor Pro-Tem Shaw, to approve the

Consent Calendar without item E. The motion carried on a 5-0-0 roll call vote.

Mayor Pro-Tem asked about item E of the Consent Calendar which pertained to purchasing property for a future City park. City Manager Elias stated that with the recent update of the General Plan, the City designated certain areas to be used for park space. State law requires three acres of park space per 1,000 population. A five acre parcel has been identified on the west side of Highway 99 near Fresno and Stanford Streets as an appropriate location for a new park. The City has received grant funds to be used towards purchasing the property.

Mayor Pro-Tem Shaw made a motion, seconded by Councilmember Aguayo, to approve Resolution No. 1991, "A Resolution of the City Council of the City of Fowler, County of Fresno, Authorizing Purchase of Real Property." The motion carried on a 5-0-0 roll call vote.

COMMITTEE REPORTS

After a discussion, Mayor Simonian made the appointments to the various committees:

- Council of Governments *Jim Simonian
- S. K. F. Sanitation District..... David Cardenas, Alternate: Tom Nagata
- Five Cities Economic Development Authority.....Tom Nagata, Alternate: Jim Simonian
- Planning Commission Rico Aguayo
- Recreation Commission Rico Aguayo
- Fowler Unified School BoardMac Shaw
- Highway 99 Beautification Committee.....Jim Simonian and Curtiss Leroy
- Southeast Regional Solid Waste..... Jim Simonian, Alternate: Tom Nagata
- Finance CommitteeMac Shaw and Tom Nagata, (Astine Zadourian - serving as a member of the public at large)

ADJOURNMENT

Councilmember Cardenas made a motion to adjourn, seconded by Councilmember Nagata. The motion carried unanimously and the meeting was adjourned at 8:56 p.m.