

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
JUNE 7, 2005**

Mayor Simonian called the meeting to order in the Council Chambers at 7:04 p. m.

Council members present: Simonian, Shaw, Cardenas, Aguayo, Nagata

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

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

INTRODUCTION OF POLICE OFFICERS ADAM GARZA AND GEORGE RASCON

Police Chief Jamgochian introduced Police Officers Adam Garza and George Rascon to the Council. The Council welcomed the new officers and adjourned to a short reception from 7:09 to 7:20 p. m.

PUBLIC HEARING:

**CONSIDER APPEAL OF PLANNING COMMISSION'S DENIAL OF VARIANCE
APPLICATION NO. 05-02**

It was announced that due to a conflict of interest, Mayor Pro-Tem Shaw and Councilmember Cardenas would not participate in the discussion pertaining to an appeal of the Planning Commission's recent denial of a variance application. Mayor Pro-Tem Shaw lives within 500 feet of the property and Councilmember Cardenas has a business relationship with the applicant. Planning Consultant O'Neal explained that the applicants, Cirilo and Yvonne Medina, had asked for a reduction of a front yard setback from the required 25 feet to 15 feet. The Planning Commission denied the variance in accordance with the City's zoning ordinance. The setback pertained to the back of their residence located at 990 Lorene Avenue, where a 6 foot fence would be placed. The home is situated on a 30,600 square foot "through" lot, which was originally two back-to-back lots, and has street frontages on both Lorene and Ahronian Avenues. The rear of the home is approximately 100 feet from the property line on Ahronian Avenue.

Mayor Simonian opened the duly noticed public hearing on the matter at 7:28 p.m.

Property owners Cirilo and Yvonne Medina, explained their appeal request. At the time of purchase of the property, Mr. Medina stated that he had asked City staff about the setback requirements and was repeatedly told the setback was 10 feet. He then built his home based on what he believed was a 10 foot setback requirement. In view of the discrepancy, he said that a variance for a 15 foot setback would be a reasonable solution.

Nearby property owner Daniel Parra stated that due to safety and aesthetic reasons, the appeal on the setback requirement should not be granted.

Mr. and Mrs. Jose Figueroa, also nearby property owners, spoke against the appeal, saying it would decrease property values. They stated that to allow a backyard to face Ahronian Avenue where a front yard should be is already an inconsistency.

Ahronian Estates property owner Ramon Chavez also spoke against the appeal due to aesthetic reasons and stated that it would decrease the value of his property.

Mayor Simonian asked City Attorney Wolfe to read a letter submitted by Patricia A. Cruz, a resident of Ahronian Avenue. The letter was in opposition to the appeal, and stated that allowing the 15 foot setback would create a visual problem for the neighboring properties, and could diminish property values.

With no further public comment, Mayor Simonian closed the public hearing at 7:44 p.m.

Questions were asked about legal challenges from neighboring property owners if the variance was approved. City Attorney Wolfe stated that if the Council granted the appeal, the matter could be challenged in court as an improper approval of a variance. He said that the staff report provided the reasons that the variance should not be approved, but if the Council were to approve it, they must develop findings to support that decision. He noted that recent case law has shown that cities have an obligation to enforce setback requirements.

City Manager Elias said that when this matter first arose, he told Mr. Medina that staff could only approve a 10 percent deviation from the 25 foot setback requirement, which would reduce the setback on the 6 foot fence to 22½ feet.

Mayor Simonian stated that it would be best to continue the matter to give the Council time to view the subject property. Councilmember Aguayo made a motion to continue the public hearing on Variance Application No. 05-02 to the next scheduled Council meeting on June 21, 2005. The motion was seconded by Mayor Simonian and carried on a roll call vote as follows: Ayes: Simonian, Nagata and Aguayo; Noes: none; Abstaining from discussion and vote: Cardenas and Shaw.

PRESENTATION BY FRESNO COUNTY RURAL TRANSIT AGENCY REGARDING FARE INCREASE

Mr. Jeff Webster of the Fresno County Rural Transit Agency (FCRTA) told the Council that it had been 14 years since FCRTA had adjusted their transit fares. He explained that fuel, workers compensation and maintenance costs have increased and the Board had asked that each community hold a public hearing to increase the fares. Presently the adult fare is \$.50, the youth rate is \$.35 and reduced fares are given to the elderly and disabled. FCRTA proposes an increase of \$.75 for adults and \$.50 for youth. He asked for Council approval to set the public hearing on

the fee increase for the July 5, 2005 Council meeting. He reported that Philip Cisneros, the Fowler Transit driver for many years, would be retiring at the end of June.

Mayor Pro-Tem Shaw made a motion to set a public hearing on the matter of a fare adjustment for the July 5, 2005, Council meeting. The motion was seconded by Councilmember Aguayo and carried on a 5-0-0 roll call vote.

COMMUNICATIONS

City Manager Elias reported that he and Councilmembers Aguayo and Cardenas will be attending the League of California Cities South San Joaquin Valley Division meeting on June 8, 2005. Councilmember Aguayo announced that an upcoming meeting on the Golden State Corridor will be held in Fowler on Thursday, June 9, 2005, at 3:00 p.m.

STAFF REPORTS

A) SECOND READING OF ORDINANCE NO. 2005-03

Community Development Director Deaver stated that at the May 17, 2005 meeting, the Council approved the first reading of Ordinance No. 2005-03, pertaining to a General Plan amendment and change of zone for a parcel near Highway 99 and Merced Street. The applicant, David Wong, intends to build a future shopping center on the site.

Councilmember Nagata made a motion to waive the second reading and approve Ordinance No. 2005-03, "An Ordinance of the City Council of the City of Fowler Amending the Official Zone Map: Zoning Amendment No. 04-02" (David Wong). The motion was seconded by Mayor Pro-Tem Shaw and carried on a 5-0-0 roll call vote.

B) ADOPTION OF RESOLUTION NO. 2004

City Manager Elias stated that Resolution No. 2004 called for initiating collection of the annual levy for the Landscaping and Storm Drainage Facilities Maintenance District No. 1. The R. J. Hill project, Tract No. 5198, was recently annexed into the District. City Clerk Davis explained that a public hearing would be set for the next meeting to formally adopt the assessments.

Councilmember Cardenas made a motion to adopt Resolution No. 2004, "A Resolution of the City Council of the City of Fowler - Resolution of Intention to Levy and Collect the Annual Assessments for Landscaping and Storm Drainage Facilities Maintenance District No. 1." Councilmember Aguayo seconded the motion and it carried on a 5-0-0 roll call vote.

C) CONSIDER CONSENT TO THE ASSIGNMENT OF RIGHTS, OBLIGATIONS, AND DUTIES UNDER THE SUBDIVISION AGREEMENTS FOR FOWLER RANCH SUBDIVISION, PHASE II AND SUMNER RANCH PHASE IV TO D. R. HORTON, INC.

City Manager Elias said that as mentioned at a previous meeting, some of the approved subdivision projects were being purchased by national construction companies. The Fowler Ranch II and Sumner Ranch IV subdivisions, currently being developed by West Star Construction, were in the process of being purchased by D. R. Horton, Inc.

City Attorney Wolfe explained that the subdivision agreements require that the Council approve an assignment of rights and obligations to the new owner, which would assure that the new company has the means and resources to complete the subdivision.

Mayor Pro-Tem Shaw stated that he had met with D. R. Horton, Inc. representative Tony Wyman, who would be overseeing the projects. Mr. Wyman, who was present, told the Council that the company would be using most of the same subcontractors and utilize the same building plans. Dave Crinklaw, owner of WestStar Construction, said that D. R. Horton, Inc. would do a good job in completing the residential projects. He said that WestStar would continue with some planned commercial projects in Fowler.

Mayor Pro-Tem Shaw made a motion to consent to the Assignment of Rights, Obligations, and Duties Under the Subdivision Agreements for Fowler Ranch Subdivision, Phase II and Sumner Ranch Phase IV; Tract Nos. 5280 and 5041, from West Star Construction, Inc., a California Corporation, to D. R. Horton, Inc. - Fresno, a Delaware Corporation; Subject to Approval of Form by the City Attorney. The motion was seconded by Councilmember Cardenas and carried on a 5-0-0 roll call vote.

C) CITY MANAGER’S REPORT

City Manager Elias stated that an invitation had been received from Orange Cove Mayor Victor Lopez for local city managers and mayors to attend an upcoming Economic Development Symposium in Seoul, Korea. Mr. Elias said that he would update the Council regarding local officials who planned on attending.

E) COMMUNITY DEVELOPMENT DIRECTOR’S REPORT

Community Development Director Deaver stated that he had officially received plans for a Starbucks Coffee franchise. City Manager Elias noted that Starbucks had very stringent development and construction timelines.

F) FINANCE DEPARTMENT REPORT

There was no finance report given.

G) POLICE AND FIRE DEPARTMENT REPORT

There was no report given.

CITY ATTORNEY’S REPORT

City Attorney Wolfe reported on the recent Supreme Court decision deeming Medical Marijuana as illegal, noting that there were still some unanswered questions on the issue.

CONSENT CALENDAR

The Consent Calendar consisted of: A) Ratification of Warrants - June 7, 2005; B) Approve Minutes of the City Council Meeting - May 17, 2005; and C) Adoption of Resolution No. 2005, "A Resolution of the City Council of the City of Fowler Approving the Application for Grant Funds for the Safe Routes to School (SR2S) Program for the Following Projects: North Side of Adams Ave. between Vista Ave. And Temperance Ave; 1st Street and Merced Street Pedestrian Improvements." Mayor Pro-Tem Shaw made a motion to approve the Consent Calendar, seconded by Councilmember Aguayo. The motion carried on a 5-0-0 roll call vote.

COMMITTEE REPORTS

Mayor Simonian reported on a recent COG meeting where they discussed the Highway 99 Interstate designation.

Mayor Pro-Tem Shaw stated that he had been asked about the construction work on Highway 99 near Merced Steet. City Manager Elias said that it was a bridge widening project and that CalTrans did not have plans to change the lane configuration.

Councilmember Cardenas commended Fowler High School student Jordan Maldonado on the organization of the recent Nisei graduation ceremony for Japanese Americans who were not allowed to attend graduation ceremonies during World War II. Plans to recognize Ms. Maldonado efforts at a future Council meeting was discussed.

ADJOURNMENT

Having no further business, Councilmember Cardenas made a motion to adjourn, seconded by Mayor Pro-Tem Shaw. The motion carried by a unanimous voice vote and the meeting was adjourned at 8:55 p.m.