

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
JULY 5, 2005**

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

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

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

The Flag Salute and the Pledge of Allegiance were followed by an invocation given by Mayor Pro-Tem Shaw. There were no public presentations.

PRESENTATION TO PHILIP CISNEROS

Mayor Simonian presented a plaque to Fowler Transit Operator Philip Cisneros, in honor of his retirement after 28 years in Fowler. The Council thanked him for his exemplary service to the community. Mr. Jeff Webster, General Manager of the Fresno County Rural Transit Agency (FCRTA), also presented a plaque honoring Mr. Cisneros.

PUBLIC HEARINGS:

A) APPROVAL OF FCRTA'S REQUEST FOR A TRANSIT FARE ADJUSTMENT

Jeff Webster was also present for the public hearing on the proposed transit fare adjustment, as discussed at a prior meeting. He said that there had been no increase to the fare in 14 years, and due to a significant increase in fuel and maintenance costs, an adjustment would be necessary. The increase would apply to each FCRTA member agency. The fee for the general public would increase from \$.50 to \$.75, and the one way fare for the elderly or children would increase from \$.35 to \$.50.

Mayor Simonian opened the duly noticed public hearing on the matter at 7:10 p. m. With no public comments, the hearing was closed at 7:11 p. m. Councilmember Nagata made a motion to approve the fare adjustment recommended by the FCRTA, seconded by Mayor Pro-Tem Shaw. The motion carried on a 5-0-0 roll call vote.

B) CONSIDER APPEAL OF PLANNING COMMISSION'S DENIAL OF VARIANCE APPLICATION NO. 05-02 (CONTINUED FROM 6/21/05)

The public hearing regarding the appeal of the Planning Commission's denial of Variance Application No. 05-02 had been continued from the June 21, 2005 meeting. Councilmember Cardenas and Mayor Pro-Tem Shaw left the Council Chamber due to each having a conflict of interest. Councilmember Cardenas has a business relationship

with the applicants, and Mayor Pro-Tem Shaw lives within 500 feet of the subject property. Mayor Simonian opened the duly noticed public hearing on the matter at 7:13 p. m.

Applicant Cirilo Medino restated that at the time he submitted his house plans, he was told by City staff that the setback for the back fence on his property was 10 feet. He built his home based on that understanding, but later found that the actual setback requirement was 25 feet. He asked the Planning Commission to approve a 15 foot variance, which was denied, and had appealed to the Council to reverse the Planning Commission's decision. Staff recommended upholding the Commission's decision, and a resolution (No. 2013) setting forth findings for denial of Variance Application No. 05-02 had been provided.

Mayor Simonian asked if there was further public comment. There were no further comments and the public hearing was closed at 7:15 p. m. After a brief discussion, Councilmember Nagata made a motion, seconded by Mayor Simonian, to recommend what the Planning Commission had recommended - no variance. The motion carried on a 2-1-2 roll call vote as follows: Ayes: Simonian, Nagata. Noes: Aguayo. Abstaining from discussion or voting: Cardenas and Shaw.

C) CONSIDER APPEAL OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT APPLICATION NO. 05-03 - EL MONTE GAS

Mayor Simonian left the Council Chamber due to a conflict of interest from owning property within 500 feet of the subject property. Mayor Pro-Tem Shaw then chaired the meeting and opened the duly noticed public hearing regarding Conditional Use Permit Application (C.U.P.) No. 05-03, at 7:32 p. m.

Planning Consultant O'Neal explained that the Planning Commission recently denied C.U.P. Application No. 05-03 for a proposed convenience store with gasoline and alcohol sales on Merced Street near Highway 99. The applicants, Pat and Don Doyle of El Monte Gas, had filed an appeal. Staff recommended upholding the Planning Commission's decision because the site plan submitted did not demonstrate that the proposed use could be accommodated. Some of the issues of concern were: the proposed ponding basin would be located within a clean-up contaminated area which would not be acceptable, and a drainage pipe system to the existing basin located north of the project would be necessary; the parking was not adequate for the proposed use; and due to the size and shape of the parcel, service trucks, RV's and larger vehicles may not be able to negotiate the turns required to access the site.

Applicants Pat and Don Doyle, spoke to the Council about their proposed project. They said that they were willing to install a storm drain and make any modifications necessary for site plan approval. Mayor Pro-Tem Shaw asked if there were any further comments. There were no further comments and the public hearing was closed at 7:56 p. m.

The Council discussed the matter. It was noted that with the adoption of the General Plan update, the Doyle's proposal would not complement the development that had been planned for the area. It was mentioned that with three existing gas stations nearby and another approved to be built, the Doyle's proposal would bring the number to five stations, which would be too many for the area. Also, with ten establishments within a one-mile radius already selling alcohol, another convenience store selling alcohol would represent an over-concentration of uses in the area. It was stated that the Council would be willing to consider another proposed use for the site other than a gas station with alcohol sales.

Councilmember Cardenas made a motion, seconded by Councilmember Aguayo, to approve Resolution No. 2014, "A Resolution of the City Council of the City of Fowler Denying Conditional Use Permit Application No. 05-03 (El Monte Gas Co. Inc.)" and making the findings made therein. The motion carried on a 3-1-1 roll call vote as follows: Ayes: Mayor Pro-Tem Shaw, Councilmember Cardenas and Councilmember Aguayo. Noes: Councilmember Nagata. Abstaining from the discussion or voting due to a conflict of interest: Mayor Simonian.

COMMUNICATIONS

City Manager Elias mentioned an invitation to a 40th Anniversary celebration for Self-Help Enterprises at the new Villa Del Rey housing development in Del Rey on July 22, 2005. Another invitation was to a groundbreaking ceremony for a new prison facility in Mendota on August 4, 2005. Mayor Simonian announced that Congressman Jim Costa would be visiting City Hall the following day, July 6, 2005, at 10:00 a. m., and that the public was invited to attend.

STAFF REPORTS

B) CITY MANAGER'S REPORT

City Manager Elias notified the Council that the deadline for nomination of officers for the 2005-06 Executive Board of the South San Joaquin Valley Division of the League of California Cities was August 1, 2005. He explained some of the duties of the Executive Board, and noted that Councilmember Cardenas currently serves as the Board's Fresno County Representative.

C) COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Community Development Director Deaver stated that some of the issues with the engineering that had been delaying the Johnny Quik project had been resolved.

D) FINANCE DEPARTMENT REPORT

No report was given.

E) POLICE AND FIRE DEPARTMENT REPORT

Police Chief Jamgochian showed the newly designed Fowler Police uniform patch to the Council. He reported that he had recently hired a new reserve officer.

CITY ATTORNEY'S REPORT

City Attorney Wolfe reported on a court case that found that “nitpicking” of an employee was not an adverse employment action. He mentioned the recent Supreme Court ruling that public agencies can take private property and convey it to a private developer for economic development purposes. The property does not have to be used for a public facility.

CONSENT CALENDAR

The Consent Calendar consisted of: A) Ratification of Warrants - July 5, 2005; B) Approve Minutes of the City Council Meeting - June 21, 2005 and Minutes of the Fowler City Council/Fowler Redevelopment Agency/Fowler Public Financing Authority Special Joint Meeting - June 21, 2005; C) Approve and accept the Slurry Seal 2004/2005 project and authorize recording of Notice of Completion; and D) Adoption of Resolution No. 2012, “A Resolution of the City Council of the City of Fowler Concerning Local Transportation Purpose Funds Measure C).” Councilmember Aguayo made a motion to approve the Consent Calendar, seconded by Mayor Pro-Tem Shaw. The motion carried on a 5-0-0 roll call vote.

COMMITTEE REPORTS

Mayor Simonian attended a COG meeting where three individuals were nominated to serve on a committee to address Central Valley issues. The committee was officially created by the Governor at the recent Mayors Conference.

Mayor Pro-Tem Shaw spoke of the appeals process related to Planning Commission decisions, noting that the zoning ordinance stated that the appellant must specify where the decision was an error or abuse of discretion by the Planning Commission or where its decision wasn't supported by the evidence in the record. This would require a more legitimate reason for an appellant to file an appeal, rather than just because they were unhappy with the Planning Commission's decision. The consensus was to place the matter on a future agenda for discussion and clarification.

Councilmember Aguayo attended a COG meeting and the Central Valley Mayors Conference, where Governor Schwarzenegger signed the Executive Order regarding the California Partnership for the San Joaquin Valley.

ADJOURNMENT

Having no further business, Councilmember Aguayo made a motion, seconded by Mayor Pro-Tem Shaw, to adjourn. The meeting adjourned by unanimous consent at 8:43 p.m.