

**MINUTES OF THE FOWLER CITY COUNCIL
SPECIAL MEETING
SEPTEMBER 27, 2005**

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

Councilmembers present: Simonian, Shaw, Aguayo, & Cardenas

Councilmembers absent: Nagata

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

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

PUBLIC PRESENTATIONS

Yolanda Cardenas and Sarah Briones of Fowler thanked the City for its assistance in making the 40th Anniversary Celebration for St. Lucy's Church, recently held in Panzak Park, a success.

PROCLAMATIONS

The Mayor read a proclamation to the local Fowler 4-H group declaring the week of October 2 - 8, 2005 as 4-H Club Week in the City of Fowler.

PUBLIC HEARINGS:

A) CONSIDER APPEAL OF PLANNING COMMISSION DENIAL OF CONDITIONAL USE PERMIT (CUP) NO. 05-05

Planning Consultant O'Neal gave the staff report regarding an appeal of the Planning Commission's recent denial of CUP No. 05-05, for a liquor store with alcohol sales within an existing structure at 121 E. Merced Street. A business had been in existence since 1987 selling alcoholic beverages, and the store was being sold to Jaswinder Singh and Sikminder Kaur, who would be transferred the existing alcoholic beverage license and operate the business under the name of Fowler Liquor. The new owners had applied for a CUP, as required by ordinance for all businesses that sell alcoholic beverages. The CUP application was considered by the Planning Commission, who could not make the necessary findings for approval, and the applicants subsequently filed an appeal. Mr. O'Neal said that the Council's options were to deny the appeal and uphold the Planning Commission's denial of the CUP, or grant the appeal and approve the CUP. Should the Council approve the CUP, staff had prepared an amended list of recommended conditions

addressing the concerns and evidence presented during the Planning Commission's public hearing. Approval of the CUP was recommended if the Council was able to find that with the proposed amended conditions of approval, the business would not have adverse impacts on adjoining or surrounding properties.

City Attorney Wolfe stated that Councilmember Cardenas left the Council Chamber at 7:15 p. m. due to a conflict of interest from owning a business within 500 feet of the proposed liquor store. He then explained that he had spoken with the applicant's representative regarding the proposed conditions of approval. As a result, if the Council should approve the CUP with conditions, staff recommended the following changes: Condition No. 4, which had not allowed any reference to alcohol in the name of the business or signage, to now allow the reference if it included other descriptive words, such as "food and liquor," etc. Condition No. 6: the applicant had requested the hours of operation to extend to midnight, at least on weekends, instead of 10:00 p. m., but City Attorney Wolfe said that staff had no recommendation and it would be the Council's decision. Condition No. 23: Applicant had requested that the requirement to remove the pay phone be removed due to a concern that there could be an existing contract with the vendor that would be violated, however, staff did not recommend changing this condition. Condition No. 30 stated that police calls for service would not be in excess of ten percent (10%) of calls to similar businesses. Staff recommended changing the threshold to a twenty percent (20%) excess in the average calls for service.

Mayor Simonian opened the duly noticed public hearing on the matter at 7:23 p. m.

Those that spoke in favor of the proposed business were: CUP applicant Jaswinder Singh, and Bill Hancock, the applicant's attorney. Mr. Hancock clarified that the applicant's request for extending the operating hours until midnight would only apply to weekends and holidays. Also speaking in favor were: Harvey Singh - friend of the current owner, a gentleman from Fresno, a gentleman from Selma, Mike Najimian of Fresno, a Mr. Singh from Selma, and two other gentlemen from Selma.

Those that spoke against the proposed business were: Daniel Parra, Dee Riberich, Barbara Bue and Dixie Monis of Fowler.

With no further public comment, Mayor Simonian closed the public hearing at 8:08 p. m.

After a discussion, Mayor Pro-Tem Shaw made a motion to continue the public hearing to the October 18, 2005 meeting. The motion was seconded by Councilmember Aguayo and carried on a 3-0-2 roll call vote, with Councilmember Nagata absent and Councilmember Cardenas absent from the Council Chamber so as to not participate in the discussion or vote, due to a conflict of interest.

The Mayor adjourned the meeting to a short recess from 8:17 p. m. to 8:26 p. m. Councilmember Cardenas returned to the Council Chamber.

B) APPROVE 2005/06 COPS GRANT EXPENDITURE PLAN

Police Chief Jamgochian recommended using the anticipated 2005/06 COPS Grant funds to pay the salary and benefits of two full-time police officer positions originally hired under the grant. If funds were available beyond funding the two positions, they would be used to pay for extra shifts and special detail for both full-time and reserve officers.

Mayor Simonian opened the duly noticed public hearing on the matter at 8:33 p. m. There were no public comments and the hearing was closed at 8:33 p. m.

Councilmember Aguayo made a motion, seconded by Councilmember Cardenas, to approve the 2005/06 COPS Grant Expenditure Plan. The motion carried on a 4-0-1 roll call vote, with Councilmember Nagata absent.

COMMUNICATIONS

City Manager Elias reported that Councilmember Nagata was expected to be returning the following week from Florida, where he had been assisting FEMA with Hurricane Katrina relief efforts. He noted that the League of California Cities Annual Conference would also be held the following week.

STAFF REPORTS

A) ADOPTION OF RESOLUTION NO. 2018

City Clerk Davis stated that she was pleased to present the City's first Records Management Program to the Council for their approval, and gave an explanation of the Program. From the time of the City's incorporation in 1908, there has been no legal way to dispose of the large accumulation of records that are no longer of use to the City, or any method to store or preserve records with permanent and long-term value. As a result, there was an excessive volume of unnecessary records that have become a burden for efficient office operations. Government Code Section 34090 states that with certain exceptions, records that no longer have value to the City can be disposed of with the approval of the City Council by resolution and written approval from the City Attorney.

Due to the many laws pertaining to the retention periods of records, the City Clerk's Association of California developed records retention guidelines, approved by the legislature, that list the minimum legal retention requirements for records that are common to cities. These guidelines, along with input from department heads and the City Attorney, were used as a basis to develop records retention schedules for each City department. Along with the retention schedules, a process for inventorying, maintaining, and storing records, protecting permanent and vital records, and destruction of eligible records, had been set forth in a Records Management Policy and Procedures Manual. City Clerk Davis noted that staff had also implemented a document imaging system in which records are scanned into an unalterable computerized image that can be easily retrieved and reproduced. This process allows for the paper records to be lawfully destroyed with or without an approved retention schedule. The image can be "burned" to

a compact disc that can be stored in a secure location, providing extra protection for the records.

After a discussion, Councilmember Cardenas made a motion, seconded by Mayor Pro-Tem Shaw, to adopt Resolution No. 2018, "A Resolution of the City Council of the City of Fowler Adopting a Records Management Program and Authorizing the Destruction of Certain City Records as Provided by Section 34090 of the Government Code of the State of California." The motion carried on a 4-0-1 roll call vote.

B) CITY MANAGER'S REPORT

No report was given.

C) COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Community Development Director Deaver stated that he was advised that Meritage Homes will no longer be building the subdivision for Tract No. 5090. The owner, Del Valle Homes, will be marketing the property to another home building company.

Mr. Deaver explained that a license agreement was before the Council for approval. The purpose of the agreement was to allow a business to place a monument advertising sign on a portion of the City's right-of-way, near Golden State Boulevard and Manning Avenue. After a brief discussion, Councilmember Aguayo made a motion, seconded by Councilmember Cardenas, to approve the License Agreement between the City of Fowler and Tjerild and Tjerild, L. L. P. The motion carried on a 4-0-1 roll call vote.

D) FINANCE DEPARTMENT REPORT

Finance Director Wong gave the budget report for the first two months of the fiscal year, July and August 2005. With 16.67 percent of the budget year transpired, the overall expenditures were under budget.

E) POLICE AND FIRE DEPARTMENT REPORT

No report was given.

CITY ATTORNEY'S REPORT

City Attorney Wolfe said that a court had affirmed that lying was a legitimate reason for firing a police officer, even if the officer told the truth at a later date. Also, a city can terminate an employee if they test positive for marijuana use, even if it was used for medical reasons.

CONSENT CALENDAR

The Consent Calendar consisted of: A) Ratification of Warrants - September 27, 2005; B) Approve Minutes of the City Council Meeting - September 6, 2005; and C) Adoption of Resolution No. 2019, "A Resolution of the City Council of the City of Fowler of Authorization to Contract." Councilmember Cardenas made a motion to approve the Consent Calendar, seconded by Councilmember Aguayo. The motion carried on a 4-0-1 roll-call vote.

COMMITTEE REPORTS

Mayor Simonian made a motion to appoint former City Councilmember Astine Zadourian to fill the unexpired term of Curtiss Leroy on the Planning Commission. The motion was seconded by Councilmember Cardenas, and carried on a 4-0-1 roll call vote.

Mayor Pro-Tem Shaw reported that he received a newsletter from the Fowler Unified School District expressing appreciation to Chief Darrell Jamgochian for making Police Officer George Rascon available as a school resource officer.

Councilmember Cardenas attended the grand opening of S. K. F. Sanitation District's new administration building. He attended Assembly member Juan Arambula's Hispanic Heritage Month award ceremony, in which local business owner Joel Rivera was recognized.

Councilmember Aguayo attended a Recreation Commission meeting, a League of California Cities Division meeting, and a meeting with the C.O.F.C.G. "One Voice" group concerning their next visit to Washington, D. C., where they will seek funding for future transportation projects.

ADJOURNMENT

Having no further business, Councilmember Cardenas made a motion to adjourn, seconded by Councilmember Aguayo. The motion carried and the meeting adjourned at 9:16 p. m.