

**MINUTES OF THE FOWLER CITY COUNCIL MEETING  
JULY 18, 2006**

Mayor Simonian called the meeting to order in the Council Chambers at 7:03 p.m.

Council members present: Simonian, Shaw, Aguayo, Cardenas, & 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, City Engineer Giersch

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

Councilmember Aguayo stated that there was a need to add an item to the agenda, related to a California Integrated Waste Management Board (CIWMB) grant application for rubberized asphalt for street paving. The item could not wait until the next agenda since the grant is awarded on a first come, first served basis. He made a motion to add the subsequent need item to the agenda, as Staff Reports item K. The motion was seconded by Councilmember Cardenas, and carried on a 5-0-0 roll call vote.

**PRESENTATIONS:**

**Big Fresno Fair and the Fresno County Sesquicentennial**

Danielle Lebouef, a representative of the Big Fresno Fair, spoke to the Council about the October 4, 2006 opening day, in conjunction the Fresno County Sesquicentennial celebration. They plan to have banners with names and logos of all the incorporated cities in Fresno County, and a horse race named after each city which will be announced during that race. The City Councilmembers or delegates would be invited to the winners circle. Invitations will be sent to all the Councilmembers for the opening ceremonies. She said she would contact the City regarding the artwork for the banners and the list of attendees for the horse race.

**Fresno County Enterprise Zone Application**

Councilmember Aguayo stated that he invited Fresno County representative, Jose Barraza, to give a presentation on Fresno County's Enterprise Zone (EZ) application, to explain the importance and benefits of the EZ in more detail. Mr. Barraza said that the cities participating in the process included Orange Cove, Sanger, Parlier, Reedley Selma, Kerman, Firebaugh and Mendota. A firm had been selected to submit the application. Fresno County's portion of the process is \$75,000 which is half of the fee. The other half will be divided by the cities based on population and number of participants, with Fowler's cost being \$2,220. If selected, a draft Environmental Impact Report would be required at an additional cost of \$1,400 for Fowler. The benefits of the EZ to local businesses include large tax credits for each new employee hired. Also, corporations can purchase equipment of up to \$20 million and receive a credit on the sales

tax, and individuals can purchase equipment up to \$1 million and receive a tax credit. Mr. Baraza stated that the County and the Workforce Investment Board would provide assistance to cities that did not have the staff to administer the program, if the EZ designation is granted. City Manager Elias expressed concern about providing the necessary data for the application in such a short time frame. Mr. Barraza stated that the consultant has a master schedule and there would be other items that would be brought back to the Council for approval.

Councilmember Aguayo made a motion for the City of Fowler to support and enter into the agreement for the Fresno County Enterprise Zone and partake in the application process with the County of Fresno. The motion was seconded by Councilmember Cardenas and carried by a 5-0-0 roll call vote.

## **COMMUNICATIONS**

Councilmember Aguayo reported that eight counties are putting together a Blueprint Master Plan that will target transportation needs. Fresno County will be working on their own blueprint plan and submit it as part of the San Joaquin Valley Master Plan.

## **STAFF REPORTS**

### **A) AUTHORIZATION TO ADVERTISE FOR BIDS: 10<sup>TH</sup> STREET STORM DRAIN AND WATER LINE INSTALLATION**

Mayor Simonian left the Council Chamber due to a conflict of interest from owning property involved in the storm drain and water line project.

City Engineer Giersch explained the project, stating that in 1997 a consultant was hired to do a master plan for storm drainage and water in the area near 10th and Merced Streets since there were no services in the area. There were two bid schedules, the first included improvements that would complete the remaining section of storm drain, partially installed with recent improvements along Merced Street, to the detention basin on 10th Street. A water line would be installed along 10th from Merced Street north to Tuolumne Street. City Manager Elias noted that although the master plan was in place when McDonald's was built, property owner John Shehady put in an onsite basin instead, as he didn't have enough time to put in all of the facilities. The second bid schedule included the items in the first schedule plus an extension of the storm drain near McDonald's, from Merced Street to Main Street. City Manager Elias recommended that the City install services as provided in bid schedule No. 1, and if Mr. Shehady desires to connect, he can do so pursuant to bid schedule No. 2 and eliminate his onsite basin. City Engineer Giersch noted the importance of this project, since it will serve planned development in the area.

Councilmember Cardenas made a motion to authorize to advertise for bids for the 10th Street Storm Drain and water line installation. The motion was seconded by Councilmember Aguayo and carried on a 4-0-1 vote, with Mayor Simonian recused due to a conflict of interest.

Mayor Simonian returned to the Council Chamber.

**B) CONSIDER APPROVING A COST OF LIVING INCREASE (COLA) OF 4.1%**

Finance Director Wong presented financial figures for a proposed cost of living salary increase for the employees. City Manager Elias gave historical information regarding the City's annual COLA's over the past several years. He recommended that the Council approve the 4.1 percent COLA, which corresponded with the consumer price index information for wage earners, with the effective date of July 16, 2006. City Attorney Wolfe clarified that City Manager Elias was excluding himself from the COLA.

Mayor Pro-Tem Shaw made a motion to approve a Cost of Living Increase (COLA) of 4.1 percent for full-time City employees and \$.50 per hour for part-time Police Department, Public Works and Senior Center employees. The motion was seconded by Councilmember Aguayo, and carried on a 5-0-0 roll call vote.

**C) APPROVE SECOND READING OF ORDINANCE NO. 2006-04**

City Attorney Wolfe said that adoption of Ordinance No. 2006-04 would delete the termination clause of the current Utility Users Tax (UUT) ordinance, if approved by the voters at the November 7, 2006 election. Councilmember Aguayo made a motion to waive the second reading and approve Ordinance No. 2006-04 "An Ordinance of the City Council of the City of Fowler Deleting Section 3-7.20 of Chapter 7, of Title 3 of the Fowler Municipal Code Pertaining the Sunsetting (Termination) of the Utility Users Tax." The motion was seconded by Councilmember Nagata, and carried by a 5-0-0 roll call vote.

**D) ADOPTION OF RESOLUTIONS PERTAINING TO THE UTILITY USERS TAX BALLOT MEASURE:**

**1) ADOPTION OF RESOLUTION NO. 2061**

Mayor Pro-Tem Shaw explained that, as in the past, the City would place an advisory measure that would precede the UUT measure on the November ballot. The intent of the advisory measure is to ask the voters if they want to provide direction on the spending of any voter approved UUT funds. The ballot language from prior elections asked the voters preference if the UUT funds should be used only to fund the City of Fowler Fire and Police Departments, to help ensure that these services will continue to be provided at the current level. Resolution No. 2061 called for placing similar language on the ballot, except to add "*and park and recreational facilities*" to help ensure that these services will continue to be provided at the current or an "*improved*" level. City Attorney Wolfe noted that the UUT was a general tax that could be used for any purpose, but the added language to the advisory measure would allow the City to consider the voters preference on whether to also use the funds for recreation needs.

Jennifer Simonian of Fowler asked how the decision would be made to allocate the funds for both recreation and public safety. Mayor Pro-Tem Shaw explained that staff would assess the City's needs, along with priorities set by the Council with community input, before a decision is made. A discussion ensued regarding a possible new sports facility. Mayor Simonian noted that through the years the City has honored the community's wishes regarding use of the UUT funds,

making great improvements to public safety. Councilmember Aguayo stated that there will be a committee formed to discuss recreation and park facilities.

Mark Stockwell, of Fowler, Vice President of Cal Ripkin Baseball, stated that he would be willing to talk to all of the other athletic/ recreational groups to educate and encourage support of the tax measure.

Councilmember Aguayo made a motion to adopt Resolution No. 2061, "A Resolution of the City Council of the City of Fowler Ordering the Submission of a Proposition to the Qualified Voters of the City at an Election to Be Held on November 7, 2006, of a Measure Advising the City Council on the Expenditure of Proceeds of Any Continued Utility Users Tax." The motion was seconded by Mayor Pro-Tem Shaw, and carried on a 5-0-0 voice vote.

**2) ADOPTION OF RESOLUTION NO. 2062**

City Attorney Wolfe explained that Resolution No. 2062 called for placing the actual Utility Users Tax measure on the ballot. Councilmember Cardenas made a motion to adopt Resolution No. 2062, "A Resolution of the City Council of the City of Fowler Ordering the Submission of a Proposition to Continue the Existing Utility Users Tax of Five Percent (5%) for Residential Users of Electricity and Gas, Three Percent (3%) for Commercial, Industrial, and Agricultural Users of Electricity and Gas, and Five Percent (5%) of the Base Service Rate for All Users of Telephone Service, to the Qualified Voters of the City at an Election to Be Held for That Purpose, Requesting Consolidation with the General Election to Be Held on November 7, 2006, and Authorizing the Filing of an Impartial Analysis and Written Arguments." The motion was seconded by Councilmember Aguayo and carried on a 5-0-0 roll call vote.

**E) CONSIDER AMENDMENT TO CONTRACT WITH CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS):**

- 1) ADOPTION OF RESOLUTION NO. 2063**
- 2) FIRST READING OF ORDINANCE NO. 2006-05**

City Manager Elias explained that Resolution No. 2063 and Ordinance No. 2006-05 called for amending the CalPERS retirement contract to provide an enhanced benefit formula for the employees: 2.7% @55 for miscellaneous employees and 3% @55 for safety employees. It was asked whether the new formula would prompt a mass retirement exodus and create an increase in the retirement premiums, since the amendment lowers the retirement age to 55. City Manager Elias stated that he had researched the matter with CalPERS and other cities that have implemented the new formula. When PERS performs an actuarial valuation for an enhanced retirement formula, the costs for all of the employees that would be eligible to retire have been factored in. He said that in some cities, the costs ended up being lower than anticipated because employees that were expected to retire did not choose to do so.

Councilmember Cardenas made a motion to adopt Resolution No. 2063, "Resolution of Intention to Approve an Amendment to Contract Between the Board of Administration California Public Employees Retirement System and the City Council-City of Fowler." The motion was seconded

by Mayor Pro-Tem Shaw, and carried by a 4-1-0 roll call vote, with Councilmember Nagata voting no.

Councilmember Cardenas made a motion to waive the first reading and approve Ordinance No. 2006-05, "An Ordinance of the City Council of the City of Fowler Authorizing an Amendment to the Contract Between the City Council of the City of Fowler and the California Public Employee's Retirement System." The motion was seconded by Mayor Pro-Tem Shaw, and carried on a 4-1-0 roll call vote, with Councilmember Nagata voting no.

**F) APPOINT VOTING DELEGATE AND ALTERNATE FOR THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE**

City Manager Elias stated that there are several resolutions that will be voted on during the League of California Cities Annual Conference Business Meeting and they require that each city planning to attend submit the name of a voting delegate and an alternate. Mayor Simonian made a motion to appoint Councilmember Aguayo as the delegate, Councilmember Cardenas as the alternate and the mayor as the second alternate. The motion was seconded by Councilmember Aguayo, and carried on a 5-0-0 roll call vote.

**G) CITY MANAGERS REPORT**

**DISCUSSION ON THE FOWLER CHAMBER'S ANNUAL 4<sup>TH</sup> OF JULY EVENT**

City Manager Elias attended a recent Chamber of Commerce meeting where the board stated that they no longer wanted to host the 4th of July event due to a lack of volunteers and other factors. They expressed interest in the City handling the annual event. Recreation Director Monis stated that the Recreation Commission had already discussed this possibility and were interested in taking over the event.

**H) COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

Community Development Director Deaver gave a presentation and circulated a map of pavement improvement projects. Mayor Simonian asked if a crosswalk could be put in on Merced Street between the Union 76 Station and the new sidewalk to be installed under the freeway overpass. City Manager Elias stated that a right-of-way application would have to be submitted to CalTrans for their approval.

**I) FINANCE DEPARTMENT REPORT**

Finance Director Wong reported that according to reports from the HDL Company, the sales tax for the first quarter was 36.7 percent higher than last year's during the same period. He also presented a list of the top 25 sales tax producers in Fowler.

## **J) POLICE AND FIRE DEPARTMENT REPORT**

Chief Jamgochian reported that there had been an armed robbery with one suspect at the Bank of America. Most of the money was recovered when the dye pack burst and the money was thrown out on the street. It appears that the suspect was involved in a similar incident in Hanford. He also said there was a home invasion with three male suspects. One suspect has been identified and a warrant will soon be issued. There were no injuries in either incident.

## **K) CIWMB GRANT APPLICATION**

Councilmember Aguayo stated that the subsequent need agenda item concerned the CIWMB grant application for \$175,000 to be used for rubberized asphalt projects. California Consulting is preparing the application and a resolution is needed for the package. The reason for the urgency to submit the application was because funds are granted on a first come, first served basis. City Manager Elias explained that the grant would cover the difference between standard asphalt pavement costs and rubberized asphalt for several proposed projects.

Councilmember Aguayo made a motion to approve Resolution No. 2064, "A Resolution of the City Council of the City of Fowler Authorizing Submittal of an Application to the CIWMB for a Targeted Rubberized Asphalt Concrete Incentive Grant." The motion was seconded by Mayor Pro-Tem Shaw, and carried on a 5-0-0 roll call vote.

## **CITY ATTORNEY'S REPORT**

City Attorney Wolfe reported that the City of Turlock had adopted an ordinance prohibiting "Big Box" retailers and the courts upheld that ordinance. He also advised the Council that he would be on vacation for the next two weeks and another attorney from the firm would attend the first Council meeting in August. City Manager Elias stated that there were no agenda items pending for the first meeting in August and asked that it be canceled.

## **CONSENT CALENDAR**

The Consent Calendar consisted of: A) Ratification of Warrants - July 18, 2006; and B) Approve Minutes of the City Council Meeting - June 20, 2006 (as submitted on July 5, 2006). Councilmember Aguayo made a motion to approve the Consent Calendar, seconded by Mayor Pro-Tem Shaw. The motion carried by a 5-0-0 roll-call vote.

## **COMMITTEE REPORTS**

Mayor Simonian made a motion to appoint Sonia Smith to the Recreation Commission, seconded by Councilmember Aguayo. The motion carried by unanimous voice vote.

Councilmember Aguayo reported that on September 29, 2006 the Recreation Commission will have an "End of Summer Bash" with entertainment by Jeremy "Elvis" Pearce. He attended a League of California Cities division meeting and reported that they did not hire the applicant for the District Representative position. Notices will go out for additional applicants for the

position. He attended a Highway 99 Beautification meeting and advised that trees and bushes along the freeway should not be cut, and the Elderberry Bush is an endangered and protected plant species. Also, the Recreation Commission held their annual pool party with 162 in attendance.

Councilmember Cardenas attended a recent SKF meeting. There was a lengthy discussion on the budget. The next meeting will be held on August 3, 2006.

### **ADJOURNMENT**

Councilmember Aguayo made a motion to adjourn, seconded by Councilmember Cardenas. The motion carried and the meeting was adjourned at 9:44 p.m.