

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
SEPTEMBER 5, 2006**

Mayor Pro-Tem Shaw called the meeting to order in the Council Chambers at 7:04 p.m.

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

City staff present: City Clerk Davis, Police Chief Jamgochian, Finance Director Wong, Senior/Recreation Director Monis, City Attorney Wolfe

City staff absent: City Manager Elias, Community Development Director Deaver

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

City Attorney Wolfe announced the need to add an item to the agenda which arose after the agenda was posted. The item would require a closed session pursuant to Government Code 54956.9(b) Conference with Legal Counsel - Anticipated Litigation - Significant Exposure to Litigation - 1 case. The item concerned the City Hall flooring project, which was listed on the agenda for the Council's consideration to award the contract. Mr. Wolfe explained that during an earlier conversation between his law firm and project bidder Mark Kerkochian of Better Flooring Company, Inc., a threat of a lawsuit was conveyed if their bid was declared non-responsive and they were not awarded the contract. The closed session item would be added to the agenda after Item 9., the City Attorney's report.

Councilmember Cardenas made a motion to add the closed session item to the agenda. The motion was seconded by Councilmember Aguayo, and carried on a 3-0-2 roll call vote, with Mayor Simonian and Councilmember Nagata absent.

PUBLIC HEARING: DETERMINE USE OF 2007/2008 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUND ALLOCATION

City Clerk Davis said that a public hearing had been scheduled to consider the use of the 2007/2008 CDBG funds from Fresno County. Staff recommended use of the \$42,385 in funds for construction of pedestrian facilities, such as sidewalks and handicap access ramps, in an area bounded by Golden State Boulevard, and Fresno, Tuolumne, and 10th Streets. A question was asked about the similar CDBG item listed on the Consent Calendar. City Clerk Davis clarified that the public hearing concerned the application process for the next fiscal year's (2007/2008) CDBG allocation, but the Consent item was to approve an agreement with Fresno County for the current year's (2006/2007) allocation, which will be used for pedestrian facilities in an area bordered by Merced, Main, Adams and 2nd Streets. Due to the County's lengthy review process, the agreement had taken a long time to be brought before the Council for approval.

Mayor Pro-Tem Shaw opened the duly noticed public hearing on the matter at 7:15 p. m. There were no public comments and the hearing was closed at 7:15 p. m. Councilmember Cardenas

made a motion to approve the recommended use of the 2007/2008 CDBG fund allocation. The motion was seconded by Councilmember Aguayo, and carried on a 3-0-2 roll call vote.

COMMUNICATIONS

City Clerk Davis reminded the Council of the upcoming visioning/goal-setting workshop on Tuesday, September 12, 2006.

STAFF REPORTS

There were no reports from the City Manager, Community Development Director or Finance Director.

D) POLICE AND FIRE DEPARTMENT REPORT

Chief Jamgochian reported on a domestic violence incident where a car hit and injured a victim, pinning him between the car and a house. An arrest had been made in the case.

CITY ATTORNEY'S REPORT

City Attorney Wolfe reported on an opinion from the Attorney General that confirms that a mayor should appoint commission members subject to approval of the Council. He also said that the California Supreme Court recently ruled that confidential personnel records of police officers should be protected, regardless of the proceeding. The names of officers under administrative review are also not to be released.

CLOSED SESSION

City Attorney Wolfe announced the closed session item that had been added to the agenda, and the meeting adjourned to the closed session at 7:26 p. m., to discuss, pursuant to Government Code 54956.9(b) Conference with Legal Counsel - Anticipated Litigation - Significant Exposure to Litigation - 1 case. The meeting reconvened to open session at 7:45 p. m. with no reportable action taken.

CONSENT CALENDAR

Councilmember Aguayo made a motion to remove item C of the Consent Calendar, "Award bid of \$24,250 from Kerr Rug Company for new City Hall flooring and authorize City Manager to execute contract," so that the matter could be discussed. The motion was seconded by Councilmember Cardenas, and carried on a 3-0-2 roll call vote.

City Clerk Davis explained the City's process to replace the worn flooring and repaint City Hall offices. The project had been advertised for bids, and a bid opening was held on August 24, 2006. The specifications asked for a bid to replace the flooring with the cost of moving the office furniture included, and without the cost of moving the furniture included.

Two bids were received for the flooring project and no bids were received for the painting. Of the two flooring bids, only one bidder, Kerr Rug Company, provided a bid that included the cost

for moving the furniture. Additionally, upon inquiry by the City, the other bidder, Better Flooring, Inc., provided a bid for a style and quality of carpet that did not match the bid specifications. The City sent a letter to Better Flooring, informing them that their bid was non-responsive for those reasons.

Mayor Pro-Tem Shaw asked for public comment on the matter. Mark Kerkochian and Clifford Sera, of Better Flooring Company in Fresno, stated that there was a miscommunication issue and that they are able to supply the carpeting according to the bid specifications at the same price as the original bid, and that they did not believe they were non-responsive. They further stated, however, that they do not and would not move furniture.

City Attorney Wolfe stated the Council's options were: (1) If the Council desires to contract for flooring alone without furniture moving, find Better Flooring responsive based upon their representations during the meeting, and award the bid to Better Flooring as the lowest responsible bidder; (2) If the Council desires to contract for both the flooring and furniture moving, accept the Kerr Rug bid; (3) Continue the matter to evaluate what it would cost to separately contract for the furniture moving; or (4) Reject all bids and start the process over.

It was asked how long staff had been working on the project, as it had been funded for the prior budget year. City Clerk Davis stated that it had taken many months to visit flooring companies, conduct several City Hall tours with the vendors, draft the bid specifications and conduct the bid process. Coordinating the installation would take additional time, and having one company that would both move furniture and install the flooring would expedite the process.

After the discussion, Councilmember Cardenas made a motion to award the Schedule 2 bid for the flooring project, which included moving the office furniture/equipment/file cabinets, to Kerr Rug Company in the amount of \$24,250.00, and authorize City Manager to execute the contract. The motion was seconded by Councilmember Aguayo, and carried on a 3-0-2 roll call vote.

The remaining items on the Consent Calendar consisted of: A) Ratification of Warrants - September 5, 2006; B) Approve Minutes of the City Council Meeting - August 15, 2006; D) Approve Amendment No. 1 to Engineering Services Agreement - 10th Street Storm Drain - Main Street to 500 ft. north of Mariposa Street; E) Approve and Accept Slurry Seal Project and authorize recording the Notice of Completion; and F) Approve Agreement between the City of Fowler and County of Fresno for the 2006-2007 Community Development Block Grant allocation - to be used for the Fowler Pedestrian Improvements Project No. 06177, and authorize City Manager to execute related documents. Councilmember Cardenas made a motion to approve the Consent Calendar, seconded by Councilmember Aguayo, and the motion carried on a 3-0-2 roll call vote.

COMMITTEE REPORTS

Councilmember Aguayo attended a meeting with Fresno County Library representatives and the Fowler Library Committee. The next Library Committee meeting would be held at Data Works on September 7, 2006. He also attended a meeting in Selma to discuss the proposed Golden State Boulevard bike/pedestrian trail. He noted that it had been conveyed by Union Pacific Railroad that they are not interested in allowing an easement to construct anything next to the

railway. An option would be to build on the west side of Golden State Boulevard where land might be available.

Councilmember Cardenas attended a Consolidated Mosquito Abatement meeting. He circulated a report concerning the West Nile Virus. There has been a total of 388 cases in the U.S. to date, and 4 cases have occurred in Fresno County.

ADJOURNMENT

Having no further business, Councilmember Cardenas made a motion to adjourn, seconded by Councilmember Aguayo. The motion carried and the meeting was adjourned at 8:37 p. m.