

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
JUNE 19, 2007**

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

Councilmembers present: Simonian, Shaw, Cardenas, & Zadourian

Councilmembers absent: Aguayo

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

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

PUBLIC HEARING:

A) VESTING TENTATIVE TRACT MAP (TTM) NO. 5785

Mayor Simonian left the Council Chamber due to a conflict of interest from owning property near the property encompassed by TTM No. 5785. Planning Consultant O'Neal explained the project, consisting of a gated, 57 lot planned unit development, zoned R-1-6/P2, located near Adams and Fowler Avenues. He noted a change that had been made to the width of the streets, from 38 feet to 36 feet. The Planning Commission had recommended approval with changes to the hours of construction on the project.

Mr. O'Neal mentioned that comments were received regarding the proposed Negative Declaration from Consolidated Irrigation District (CID), S. K. F. Sanitation District, and Fresno County Department of Community Health. He spoke of the City's response to the comments.

Mayor Pro-Tem Shaw opened the duly noticed public hearing on the matter at 7:20 p. m. Developer Robert Wood, of Generation Homes in Fresno, spoke in detail about his subdivision project and showed renderings of the houses. He thanked the staff and Council for their assistance and approval of the project.

Jim Tsuroka, of Yamabe and Horn Engineering, noted that a clarification needed to be made on item no. 23 B of the conditions of approval, regarding the stormwater system. The item stated that a stormwater drainage plan will be provided for the project *and for existing stormwater run-off from other parts of the city*. He said that other parts of the city should not be included. City Manager Elias said that he had discussed the matter with the City Attorney and it was agreed that the language should be removed.

Fowler resident Dennis Parnagian, who is developing a subdivision project near the area, spoke in favor of the Generation Homes project.

Stephanie Sherrill, Scott Jacobsen, Larry Cruff, and other representatives of CID spoke of CID's concerns that the project would cause increased water consumption and deplete the ground water supply. They referred to their written response to the City's proposed Negative Declaration that listed CID's recommended mitigation measures, such as imposing developer fees. Ms. Sherrill read a statement regarding CID's concerns and asked that the objections be made a part of the record.

City Manager stated that staff had met with CID to resolve the issues raised, but absent a study from CID to determine whether such fee should be imposed, or the amount of such fee, the City could not require it. Planning Consultant O'Neal acknowledged that the development would create an impact to the ground water, however, the impact would not be significant.

With no further comments, the hearing was closed at 8:05 p. m.

After a discussion, Councilmember Cardenas made a motion, seconded by Councilmember Zadourian, to adopt Resolution No. 2092, "A Resolution of the City Council of the City of Fowler Approving Mitigated Negative Declaration for a Zoning Ordinance Amendment for Planned Unit Zone No. 2 and Tentative Tract Map No. 5785, Adoption of a Mitigation Monitoring Program (Generation Homes)." The motion carried on a 3-0-2 roll call vote, with Councilmember Aguayo absent, and Mayor Simonian absent (recused) due to a conflict of interest.

Councilmember Zadourian made a motion to waive the first reading and approve Ordinance No. 2007-02, "An Ordinance of the City Council of the City of Fowler Amending the Official Zone Map - Ordinance Approving Zoning Amendment and Planned Unit Zone 2 (Generation Homes)." The motion was seconded by Councilmember Cardenas, and carried on a 3-0-2 roll call vote.

Councilmember Cardenas made a motion, seconded by Councilmember Zadourian, to adopt Resolution No. 2093, "A Resolution Before the City Council of the City of Fowler, County of Fresno, State of California, Approving Vesting Tentative Tract Map No. 5785 (Generation Homes)." The motion carried on a 3-0-2 roll call vote.

Mayor Simonian returned to the Council Chamber and adjourned the meeting to a short break. The meeting reconvened at 8:26 p. m.

PUBLIC HEARING:

B) ADOPTION OF RESOLUTION NO. 2094

City Manager Elias said that Resolution No. 2094 provided for final approval of the annual assessments for the City's landscape and storm drain maintenance district.

Mayor Simonian opened the duly noticed public hearing on the matter at 8:27 p. m. With no comments, the hearing was closed at 8:27 p. m.

Councilmember Cardenas made a motion, seconded by Mayor Pro-Tem Shaw, to adopt Resolution No. 2094, "A Resolution of the City Council of the City of Fowler, California Confirming Diagram and Assessment Annual Levy 2007-2008 Landscaping and Storm Drainage Facilities Maintenance District No. 1." The motion carried on a 4-0-1 roll call vote.

Mayor Simonian adjourned the meeting to the Fowler City Council, Fowler Redevelopment Agency, and Fowler Public Financing Authority Special Joint Meeting, at 8:29 p. m. The Council meeting reconvened at 8:55 p. m.

COMMUNICATIONS

City Manager Elias mentioned an invitation to an event for the Fresno County Enterprise Zone. There was also an invitation from Fresno County Supervisor Waterston regarding an upcoming local government lecture.

STAFF REPORTS

A) AWARD CONTRACT TO DAWSON/MAULDIN CONSTRUCTION FOR THE 10TH STREET SIDEWALK AND LANDSCAPE/FOWLER HIGH SCHOOL AREA PEDESTRIAN FACILITIES

City Engineer Ken Hutchings reported on a recent bid opening for the 10th Street Sidewalk and Landscape/Fowler High School Area Pedestrian Facilities. A total of nine bids were received, with Dawson/Mauldin Construction being the lowest bidder at \$288,009. The project is contingent on approval from Fresno County, as it will be partially funded by County CDBG funds.

Councilmember Cardenas made a motion to award the contract in the amount of \$288,009 to the low bidder, Dawson/Mauldin Construction for the 10th Street Sidewalk and Landscape/Fowler High School Area Pedestrian Facilities, authorize a contingency fund in the amount of 10% of the contract cost (\$28,800), and authorize the City Manager and City Clerk to execute the contract. The motion was seconded by Mayor Pro-Tem Shaw, and carried on a 4-0-1 roll call vote.

B) ADOPTION OF RESOLUTION NO. 1785 F

City Manager Elias explained that Resolution No. 1785 F provided for an amendment to the City's administrative leave provision for department heads and the City Manager. The current provision, put in place in 1991, calls for 48 hours of annual administrative leave for overtime exempt employees. Due to the increase in City projects and obligations since that time, there are now many more after-hours meetings and events. To help compensate for the additional load, it was recommended to change the administrative leave time to 80 hours for department heads and 96 hours for the City Manager. Also, a change to the bereavement leave provisions, currently 4 days, was recommended to be changed to 5 days, to allow an employee to have a full week for funeral arrangements.

It was asked why Resolution No. 1785 had the letter “F” attached. City Clerk Davis explained that some time ago, the City combined several existing resolutions pertaining to benefits and conditions of employment into one resolution, numbered as Resolution 1785. Since that time, whenever a change has been made, the updated resolution has been assigned a successive letter: i.e, A, B, C.

Mayor Pro-Tem Shaw made a motion to adopt Resolution No. 1785 F, “A Resolution of the City Council of the City of Fowler Providing for Certain Benefits and Conditions of Employment.” The motion was seconded by Councilmember Zadourian, and carried on a 4-0-1 roll call vote.

C) ADOPTION OF RESOLUTION NO. 2095

Public Works Supervisor Weisser said that due to safety concerns from increased traffic and the proximity to schools, it was recommended to designate Third and Main Street, Second and Main Street and Tuolumne and Fourth Street, as four way stop intersections.

Councilmember Cardenas made a motion, seconded by Councilmember Zadourian, to adopt Resolution No. 2095, “A Resolution of the City Council of the City of Fowler Designating the Following Intersections as Four Way Stop Intersections: Third and Main Street, Second and Main Street, and Tuolumne and Fourth Street.” The motion carried on a 4-0-1 roll call vote.

D) APPROVE BUDGET ADJUSTMENT FOR THE PURCHASE OF TRUCKS FOR THE PUBLIC WORKS DEPARTMENT

City Manager Elias recommended the addition of two new Ford F-150 trucks for the Public Works Department, to improve the efficiency of the department so that employees can each be assigned a specific vehicle. The total cost would be \$29,937 for both vehicles.

Councilmember Cardenas made a motion to approve the budget adjustment for the purchase of two new Ford F-150 trucks for the Public Works Department. The motion was seconded by Councilmember Zadourian, and carried on a 4-0-1 roll call vote.

E) CITY MANAGER’S REPORT

No report was given.

F) COMMUNITY DEVELOPMENT DIRECTOR’S REPORT

Community Development Director Deaver mentioned that escrow had closed and the City now owns the triangle shaped property near Adams and Merced Streets.

G) PUBLIC WORKS SUPERVISOR’S REPORT

Public Works Supervisor Weisser mentioned that the Public Works Department cleaned out a ponding basin near LaCrosse and 3rd Streets, as recommended by Consolidated Mosquito Abatement District.

F) FINANCE DEPARTMENT REPORT

Finance Director Wong circulated a copy of the draft 2007-2008 budget, to be discussed at a future meeting. He also circulated a report on sales tax, and a Treasurer's Report. He gave a financial report for the fiscal year through May 2007.

G) POLICE AND FIRE REPORT

Chief Jamgochian stated that the Police and Fire Department Report had been included in the agenda packet. He will be scheduling an upcoming workshop with Council and staff pertaining to the update of the City's emergency plan.

CITY ATTORNEY'S REPORT

City Attorney Wolfe reported that a recent court case showed that cities have limited authority to regulate the placement of cell phone towers. He mentioned that his law firm, Lozano Smith, would be providing sexual harassment prevention training to all City employees the following week.

CONSENT CALENDAR

The Consent Calendar consisted of: A) Ratification of Warrants - June 19, 2007; B) Approve Minutes of the City Council Meeting - June 5, 2007; C) Adoption of Resolution No. 2096, "A Resolution of the City Council of the City of Fowler Approving Final Parcel Map No. 06-02 and Subdivision Agreement (Short Form with Notice of Land Use Restriction) and Accepting Dedication of Easements"; D) Ratification of Agreement and Consent for Lozano Smith's representation of both the City of Fowler and the Fowler Unified School District to draft a Joint Use and Development Agreement for both agencies; E) Adoption of Resolution No. 2097, "A Resolution of the City Council of the City of Fowler Concerning Local Transportation Purpose Funds (Measure "C")"; F) Approve Memorandum of Understanding Between the California Enterprise Zone Program and the Fresno County Enterprise Zone; and G) Approve the Confidentiality and Non-disclosure Agreement Between Fresno Area Workforce Investment Corporation, the County of Fresno and the Cities of Firebaugh, Fowler, Kerman, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, and Selma.

City Attorney Wolfe asked that items F and G of the Consent Calendar, relating to the Fresno County Enterprise Zone MOU and Confidentiality Agreement, be removed for further discussion. Councilmember Cardenas made a motion to approve items A - E of the Consent Calendar, seconded by Mayor Pro-Tem Shaw. The motion carried on a 4-0-1 roll call vote.

City Attorney Wolfe noted for the record that item G had a typographical error on the signatory page that should be changed before executing the document. Mayor Pro-Tem Shaw made a motion to approve item G of the Consent Calendar, seconded by Councilmember Zadourian. The motion carried on a 4-0-1 roll call vote.

City Attorney Wolfe stated that item F, the Enterprise Zone MOU, needed some minor clarifications that he had brought to Fresno County's attention. He said that although the County may not make those changes, he wanted to make note of it for the record. Mayor Pro-Tem Shaw made a motion

to approve item F of the Consent Calendar, seconded by Councilmember Cardenas. The motion carried on a 4-0-1 roll call vote.

COMMITTEE REPORTS

Mayor Simonian made a motion to re-appoint Jim Martin, Larry Kirkes, and Andrea Clift to another term on the Recreation Commission. The motion was seconded by Councilmember Zadourian, and carried by unanimous voice vote.

Councilmember Cardenas attended a League of California Cities division meeting in Clovis. He reported on a recent S. K. F. meeting. After meetings with the cities and developers, the District had resolved the problems regarding issuing will-serve letters. They also approved a rate increase. He attended a Mosquito Abatement District meeting where they adopted the budget for the new fiscal year.

CLOSED SESSION

The Mayor adjourned the meeting to a closed session at 10:02 p. m. to discuss, pursuant to Government Code Section 54957 - Public Employee Appointment/employment: Title: Police Officer (Consideration of Reinstatement from Disability Retirement). The meeting reconvened to open session at 10:25 p. m. with no reportable action taken.

CONSIDER ADOPTION OF RESOLUTION NO. 2098

City Attorney Wolfe explained that Resolution No. 2098 had two options, Alternatives A and B. Option B called for approval, upon review of medical evidence, to reinstate former police officer Gabriel Rodriguez from a CalPers disability retirement. Option A provided for denial of reinstatement from retirement. Should the Council decide to approve the reinstatement, he recommended that the language on item 3 of Resolution No. 2098 - B be changed to state: *“Within one hundred eighty (180) days after reinstatement, Rodriguez shall resolve with City any overpayments made pursuant to the Workers’ Compensation law relating to the injury that lead to Rodriguez’ disability retirement. Resolution may include a reimbursement agreement, a credit against future workers compensation claims, or other agreement satisfactory to City. A failure to satisfactorily resolve this issue within 180 days is grounds for release from employment.”*

Mayor Pro-Tem Shaw made a motion, seconded by Mayor Simonian, to adopt Resolution No. 2098-Alternative B, “A Resolution of the City Council of the City of Fowler in the Matter of Consideration for Reinstatement Following a CalPers Industrial Disability Retirement,” with the language the City Attorney read into the record. The motion carried on a 4-0-1 roll call vote.

ADJOURNMENT

Having no further business, Councilmember Zadourian made a motion to adjourn, seconded by Councilmember Cardenas. The meeting adjourned at 10:34 p. m.