

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
AUGUST 7, 2007**

Mayor Simonian called the meeting to order at 7:01 p. m.

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

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

The Flag Salute and Pledge of Allegiance were followed by an invocation given by Councilmember Cardenas.

PUBLIC PRESENTATIONS

Fowler resident Sandra Avedisian spoke to the Council about a problem with noise coming from Simonian Fruit Company, located near her home. Mayor Simonian left the Council Chamber due to owning Simonian Fruit Company and being related to Ms. Avedisian. Ms. Avedisian said that the noise from the business operation keeps her awake at night, and their trucks often block her driveway. City Manager Elias mentioned that staff had recently met with Ms. Avedisian to help resolve her issues. City Attorney Wolfe reminded the Council that there was a proposed noise ordinance item on the agenda, where the matter could be discussed in more detail.

Mayor Simonian returned to the Council Chamber.

COMMUNICATIONS

City Manager Elias reminded the Council of the upcoming SSJVD League of California Cities general meeting in Woodlake.

STAFF REPORTS

A) FIRST READING OF ORDINANCE NO. 2007-03

Mayor Simonian left the Council Chamber due to a conflict of interest from owning an industrial business that could be directly impacted by Ordinance No. 2007-03.

City Manager Elias explained that the Police Department had been dealing with ongoing reports of noise disturbances in residential areas, which has prompted the need for noise regulations in the City. Chief Jamgochian stated that there have been several complaints from residents concerning loud music, basketball playing and other late night noise problems from their neighbors, and there are currently no municipal code regulations that can be enforced. The proposed ordinance would make it unlawful for any person to make loud,

continued, unnecessary or unusual noise, or any noise that annoys, or disturbs the health, peace or safety of others.

City Attorney Wolfe explained some of the provisions of the noise ordinance, which included that: stereos, televisions and other amplified sound should not be audible beyond the property line, or 50 feet from a vehicle, between the hours of 9:00 p. m. and 9:00 a. m. the following day; construction activities would be limited to the hours of 7:00 a. m. and 8:00 p. m. except by special permit; and industrial noise should not exceed existing noise standards set forth in the City's zoning ordinance. The Council discussed the ordinance, including making an adjustment to the hours that audible noise would be prohibited.

Sandra Avedisian spoke on the matter, stating that industrial businesses located near residential areas should be made to comply with residential noise standards. City Manager Elias clarified that industrial businesses are located in a zone approved for such uses, which have different noise regulations than residential zoned areas. It was stated that the City would work with industrial businesses to help them to be sensitive to avoidable noise problems for nearby residents.

City Attorney Wolfe summarized the Council's suggested changes to Ordinance No. 2007-03. It would prohibit televisions, music and amplified sound from being audible beyond a residential property line or 50 feet from a vehicle, during the hours of 10:00 p. m. and 9:00 a. m. the following day on Sundays through Thursdays, and 11:00 p. m. and 9:00 a. m. the following day on Fridays and Saturdays. He stated that he would add additional language to allow for longer hours on holidays, and bring the revised ordinance back at the next meeting.

Councilmember Aguayo made a motion to waive the first reading and approve Ordinance No. 2007-03, "An Ordinance of the City Council of the City of Fowler Adding Chapter 19 to Title 5 of the Fowler Municipal Code Pertaining to Noise," with the changes on page one of the ordinance, under item (b), changing: *'the operation of any such device between the hours from Sunday to Thursday from 10:00 p. m. to 9:00 a. m. and on Fridays and Saturdays from 11:00 p. m. to 9:00 a. m.,'* and with additional language for the second reading of the ordinance at the next regular meeting. The motion was seconded by Councilmember Zadourian and carried on a 3-0-2 roll call vote, with Mayor Pro-Tem Shaw absent, and Mayor Simonian absent (recused) due to a conflict of interest.

Mayor Simonian returned to the Council Chamber.

B) APPROVE COVENANT AND AGREEMENT BETWEEN THE COUNTY OF FRESNO AND CITY OF FOWLER

City Manager Elias explained that the agreement between the City and Fresno County was to allow the new Fowler Library to use a portion of the City's nearby vacant property for a parking lot for their overflow parking. It would also allow usage of the City's storm drainage facilities. City Attorney Wolfe noted that the final executed agreement would have the strikeout text removed.

Councilmember Aguayo made a motion to approve the Covenant and Agreement Between

the County of Fresno and City of Fowler Regarding Joint-use of Parking Lot and Storm Drainage Facilities. The motion was seconded by Councilmember Cardenas, and carried on a 4-0-1 roll call vote, with Mayor Pro-Tem Shaw absent.

C) CITY MANAGER'S REPORT

City Manager Elias attended a meeting with Assemblymember Arambula where they discussed local economic development, and the possibility of using redevelopment and Community Development Block Grant funds in ways that would facilitate economic growth.

He mentioned a recent meeting with the general manager of Consolidated Irrigation District to discuss alternatives for their proposed impact fees.

He reported that the City of Fresno recently decided to opt-out of Kings River Conservation District's (KRCD) Community Choice Aggregation (CCA) program. This will have a large impact to the financing of the CCA program, although KRCD is still moving forward with their plans to build a power plant to provide an additional energy source to the region.

He mentioned that the delay in renewing the City's 15-year tax sharing Memorandum of Understanding with Fresno County was due to the City's efforts to negotiate the sharing of sales tax. This pertained to businesses located outside the City limits but inside the sphere of influence (SOI). He explained that several years ago, the City funded the extension of a sewer line near Golden State Boulevard and Jefferson Avenue, which resulted in establishment of two industrial parks in the SOI. Without this infrastructure provided by the City, there would be no sales tax producing businesses in this area. He will continue negotiating the matter with Fresno County.

D) COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Community Development Director Deaver stated that the model homes for the Estrella Condominium project were finished and ready for viewing. The new RPM Transport facility was also complete.

E) PUBLIC WORKS SUPERVISOR'S REPORT

Public Works Supervisor Weisser reported that he met with CalTrans to discuss re-landscaping of areas near Highway 99 and Merced Street, and various road maintenance matters. CalTrans has gone out to bid on the project and improvements will soon be underway.

He attended an S. K. F. Sanitation District Technical Advisory Committee meeting, where they discussed their recent facilities audit and recommendations.

He reported that copper wire from an air conditioning unit at the Fowler Chamber of Commerce office had been stolen.

F) SENIOR/RECREATION DIRECTOR REPORT

Senior/Recreation Director Monis reported on the status of the Summer Swim Program.

Although there were several obstacles to overcome due to remodeling at the high school, the program has been a success. The last day swim will be August 11, 2007, but the pool will stay open for night swim until school starts.

G) FINANCE DEPARTMENT REPORT

No report was given.

H) POLICE AND FIRE REPORT

Chief Jamgochian circulated a copy of the proposed design for the firefighter's uniform patch, as they will be soon be ordering uniforms for the Fire Department.

CITY ATTORNEY'S REPORT

City Attorney Wolfe reported that the California Supreme Court had ruled that local governments cannot adopt an ordinance to confiscate vehicles of persons arrested on suspicion of soliciting prostitutes or buying illegal drugs, as local forfeiture laws are preempted by state law.

CONSENT CALENDAR

The Consent Calendar consisted of: A) Ratification of Warrants - August 7, 2007; B) Approve Minutes of the City Council Meeting - July 17, 2007; and Fowler City Council, Fowler Redevelopment Agency and Fowler Public Financing Authority Special Joint Meeting - July 17, 2007; and C) Approve lease agreement for office space in the old Fowler Hospital Building - Michelle Cavalli. Councilmember Aguayo made a motion, seconded by Councilmember Cardenas, to approve the Consent Calendar. The motion carried on a 4-0-1 roll call vote.

COMMITTEE REPORTS

Mayor Simonian reported on the recent League of California Cities Mayors and Councilmembers Forum in Monterey.

Councilmember Aguayo reported on several meetings. He attended a Valley Blueprint Regional Advisory Committee meeting. They are developing a booklet that will include the vision and values for all eight counties. He attended a Land Buffer Task Force meeting where they will be conducting a survey of the local cities. He attended a Fowler Library Committee meeting. He also attended a California Latino Water Coalition meeting, which is a group of local officials that are focusing on the Temperance Flat Dam issue.

Councilmember Cardenas reported that he went to a meeting at Selma City Hall to hear a presentation regarding a sewer package plan. The presentation was canceled, but will be rescheduled. He reported on the League conference in Monterey.

CLOSED SESSION

The meeting was adjourned to a closed session at 8:41 p. m. to discuss:

Item 1) Pursuant to Government Code Section 54956.8 - Conference with Real Property

Negotiators - Property: 220 E. Main St. Agency Negotiators: David Elias.
Negotiating party: Harry, Miyo, Craig & Tayoko Honda. Under Negotiation: Price, terms.

- Item 2) Pursuant to Government Code Section 54956.9(b) - Conference With Legal Counsel - Anticipated Litigation: Significant Exposure to Litigation: 1 case.

The meeting reconvened to open session at 9:30 p. m. with the following action taken on each closed session item:

- Item 1) After several years of negotiation, the City has agreed to a Purchase and Sale Agreement of the Honda Auto Repair property located at 220 E. Main Street, for the purchase price of \$550,000. The agreement was approved on a motion by Mayor Simonian, and seconded by Councilmember Zadourian. The roll call vote was as follows: Ayes: Simonian, Cardenas, & Zadourian. Noes: Aguayo. Absent: Mayor Pro-Tem Shaw.

- Item 2) The City has agreed to two settlement agreements to avoid potential litigation. The first is a reimbursement agreement with S. K. F. Sanitation District. S. K. F. has agreed to participate in reimbursements to the City of \$105,405.35 towards a sewer oversize line for Tract No. 5212, that had been installed in connection with Tract No. 5212. The agreement was approved on a motion made by Councilmember Cardenas and seconded by Councilmember Aguayo. The roll call vote was as follows: Ayes: Simonian, Aguayo, Cardenas, & Zadourian. Noes: None. Absent: Mayor Pro-Tem Shaw.

The second and related agreement, is a settlement agreement and release with D.R. Horton, Inc., where the City has agreed to pay D. R. Horton for the cost of oversizing the sewer line in connection with Tract No. 5212. The amount of the reimbursement is \$369,398.62. A motion to approve the agreement was made by Councilmember Cardenas, and seconded by Councilmember Aguayo. The roll call vote was as follows: Ayes: Simonian, Aguayo, Cardenas, & Zadourian. Noes: None. Absent: Mayor Pro-Tem Shaw.

ADJOURNMENT

Having no further business, Councilmember Aguayo made a motion to adjourn, seconded by Councilmember Zadourian. The meeting adjourned at 9:34 p. m.