

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
DECEMBER 6, 2011**

Mayor Cardenas called the meeting to order at 7:04 p.m.

Councilmembers Present: Cardenas, Aguayo, Darling, Parra & Simonian

City Staff Present: City Manager Elias, City Clerk Davis, Finance Director Wong, City Attorney Wolfe, Public Works Director Weisser, Police Chief Brand, Fire Chief Lopez

The Flag Salute and Pledge of Allegiance were followed by an invocation given by Councilmember Darling. Roll call was taken.

PUBLIC PRESENTATIONS

Erica Cabrera, a representative of Assemblymember Henry T. Perea's office, presented a Certificate of Recognition to the City in honor of the recent opening of the new Veterans Monument.

Recreation Commission Chairman Craig Mellon thanked the City for assistance with the Christmas Tree Lighting event. He mentioned the Fowler Chamber's upcoming annual membership meeting.

DISCUSSION: GURNANAK PARKASH GURDWARA ANNUAL PARADE ON NOVEMBER 13, 2011

City Manager Elias said that staff recently met with members of the Gurnanak Parkash Gurdwara for a post event discussion of their recent citywide parade. Due to careful planning and coordination, this year's event resulted in minimal public concerns or problems, in contrast with last year's parade. Members of the Gurdwara thanked the Council and staff for assistance in working with them to assure that their 2011 parade went smoothly.

PUBLIC HEARING:

TO CONSIDER APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF CONDITIONAL USE PERMIT (CUP) NO. 11-04

Planning Consultant O'Neal gave background information on the appeal of the Planning Commission's (PC's) recent approval, with conditions, of CUP No. 11-04, to allow alcohol sales at a restaurant located at 106A E. Merced Street, applicant Rosa Espinosa. The Department of Alcoholic Beverage Control has approved a Type 41 beer and wine license pending the City's approval of a CUP, however, the City Manager filed an appeal so that the Council could review the CUP and address related issues. No alcohol can be served at the restaurant until the matter is resolved.

The appeal disagreed with two of the findings made by the PC: That the proposed use will have no adverse effect on adjoining or other property, and that the conditions established by the PC are adequate to protect the public health and safety. Two resolutions were before the Council to either reaffirm or to reverse the PC's decision.

The Mayor opened the duly noticed public hearing on the matter at 7:27 p.m. The applicant's son and co-owner of the restaurant, Remy Juarez, asked to get a copy of the findings and staff report. The Mayor moved to the next agenda item to give the needed time for him to review Planning Consultant O'Neal's report, and revisit the matter later in the evening.

COMMUNICATIONS

City Manager Elias mentioned various invitations to holiday open houses and events.

STAFF REPORTS:

CITY MANAGER'S REPORT

No report was given.

PUBLIC WORKS DIRECTOR'S REPORT

Public Works Director Weisser reported that the 2011 Pavement Maintenance Project, which includes striping and slurry seal along various City streets, is almost complete.

FINANCE DIRECTOR'S REPORT

Finance Director Wong gave a financial summary for July through October 2011. General Fund revenues were at 19.6 percent, and expenditures at 27.4 percent, of budget. A major revenue, property tax, will not be received until January. The Utility Users Tax revenue is up from the prior year.

POLICE DEPARTMENT REPORT

Police Chief Brand gave a statistical report for October 2011. Two felony arrests were made for embezzlement.

FIRE DEPARTMENT REPORT

Fire Chief Lopez gave a report on the call volume for October. He set up a rotating schedule for weekend call coverage for firefighters who are qualified to drive the fire vehicles.

CITY ATTORNEY'S REPORT

No report was given.

PUBLIC HEARING - APPEAL (CUP) NO. 11-04

The Mayor resumed the agenda item regarding CUP No. 11-04. City Manager Elias explained the reasons for appeal, noting that there are several concerns with the business. Mr. Juarez has exhibited poor and unsustainable business practices in his dealings with the City, and the ability to serve alcohol would exacerbate the problems. Recently it was discovered that the restaurant was selling alcohol without final approval in place, and the Police Department had to inform them to cease. The City has invested considerable funding in the downtown area to enhance economic development, but a poorly operated business would have a negative effect on these efforts, and on the neighboring properties. He also said that Ms. Espinosa and her son have failed to make loan payments on a business loan the City provided them to help launch their restaurant.

Remy Juarez and Rosa Espinosa spoke to the matter, asking what was needed to ensure that the CUP for alcohol sales would be allowed at their restaurant, as there is strong customer demand. A discussion ensued, and the Council asked Ms. Espinosa and Mr. Juarez about operations and intentions for the restaurant. Mr. Juarez began speaking to the Council using profanity, and Police Chief Brand asked him to stop or be removed from the Chamber. Ms. Espinosa told the Council that her son had not explained all matters to her, and due to her language barrier, she did not realize that loan payments were due. Mayor Cardenas and Councilmember Parra explained the concerns with the CUP in Spanish to Ms. Espinosa. Ms. Espinosa assured the Council that she has experienced individuals who will be on the premises to run the restaurant.

The Council asked that staff prepare an amendment to the business loan agreement to delay the start of the payments in order to assist the applicants, and that all documents related to the business loan and CUP be provided in Spanish to Ms. Espinosa so that she can fully understand the requirements. Councilmember Parra made a motion, seconded by Councilmember Darling, to reopen and continue the public hearing on the appeal of Conditional Use Permit No. 11-04 to the January 3, 2012 Council meeting. The motion carried by unanimous voice vote.

CONSENT CALENDAR

The Consent Calendar consisted of: A) Ratification of Warrants - December 6, 2011; B) Approve Minutes of the Fowler City Council Regular and Special Meetings - November 1, 2011; C) Consider and approve staff's recommendation to reject claim against the City of Fowler - Gloria Gamez; and D) Approve Outside Agency Boundary Water Service Agreement between the City of Fowler and Fresno Oxygen, Inc. Mayor Pro-Tem Aguayo made a motion, seconded by Councilmember Darling, to approve the Consent Calendar. The motion carried by unanimous voice vote.

COMMITTEE REPORTS

Councilmember Aguayo mentioned the upcoming Recreation Commission Children's Christmas Shopping Day event.

ADJOURNMENT

Having no further business, Councilmember Parra made a motion to adjourn, seconded by Councilmember Simonian. The motion carried and the meeting adjourned at 9:15 p.m.