

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
AUGUST 7, 2018**

Mayor Cardenas called the meeting to order at 7:00 p. m. Roll call was taken.

Councilmembers Present: Cardenas, Parra, Kazarian, Rodriguez

Councilmember Absent: Hammer

City Staff Present: City Manager/City Clerk Davis, Public Works Supervisor/Fire Chief Lopez, City Attorney Wolfe, Finance Director Uyeda, Deputy City Clerk Burrola

The Flag Salute and Pledge of Allegiance were followed by the Invocation delivered by Pastor Brian Mays of Fowler.

PUBLIC PRESENTATIONS

Andy Gonzales, Fowler Barber Shop, provided information to the Council regarding Pacific Gas and Electric (PG&E) providing service for the new Taco Bell project.

Jesus Valencia, Fowler resident, introduced himself to City Council; he is the new church pastor at Vision Church located at 214 2nd Street.

SPECIAL RECOGNITION – JOCELYNN BUDWIG

Mayor Cardenas presented a certificate of recognition to Fowler student Jocelynn Budwig. Ms. Budwig was congratulated for her outstanding accomplishment in becoming the first female in the history of Fowler Unified School District to win the gold medal for shot put in the 100th California Interscholastic Federation State Track and Field Championships.

COMMUNICATIONS

City Manager Davis mentioned the National Night Out Event at Panzak Park tonight from 7:00 p.m. to 9:00 p.m.

She also mentioned that the South San Joaquin Valley Division of the League of California Cities will not be having a meeting this month. Mayor Pro-Tem Parra mentioned the next meeting will be held in October.

STAFF REPORTS

- A) PRESENTATION OF CERTIFICATE OF SUFFICIENCY OF PETITION – FOWLER PUBLIC SAFETY MEASURE**

City Manager/City Clerk Davis presented a Certificate of Sufficiency for a petition that was circulated by citizens of Fowler entitled Fowler Public Safety Measure. The City Clerk's office received a Notice of Intent to Circulate Petition for a 1 percent sales tax increase. The completed petition was submitted to the City Clerk on July 30, 2018, and was forwarded to the Fresno County Elections office to examine the petition to determine if there were adequate signatures to place the measure on the ballot. The measure would require signatures from 10% of the registered voters in Fowler according to the most recent report of voters to the California Secretary of State, which was 3,040. The Elections office determined that the petition contained 378 valid signatures, which qualifies the measure for the ballot.

Ms. Davis also explained that at the time the Certificate of Sufficiency is presented to the Council, California Elections Code Section 9215 states that the legislative body shall do one of the following:

- (a) Adopt the ordinance, without alternation, at the regular meeting at which the certificate of the petition is presented, or within 10 days after is presented.
- (b) Submit the ordinance, without alternation, to the voters (pursuant to Section 1405).
- (c) Order a report (on the fiscal and other effects of the measure pursuant to Section 9212) at the regular meeting at which the certificate of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

She stated that because this is a tax ordinance, the City Council cannot simply adopt the tax ordinance under sections 9215(a), such ordinance cannot be imposed without voter approval. However, the options under section 9215 subsections (b) and (c) are available to the Council. If the Council chooses option (b), the action would be timely enough to place the initiative on the November 6, 2018 ballot. If they order a report pursuant to option (c), the time period involved would not allow the measure to be on the November 6, 2018 general election ballot, and a special election would be ordered for March 2019. She stated that a resolution calling for the measure to be placed on the November 6, 2018 ballot, if they so choose, was on the agenda for their consideration.

City Attorney Wolfe provided information on the related ordinance process. Two ordinances have been drafted that will be contingent on voter approval of the measure. The first ordinance will become part of the Municipal Code identifying the tax and specifying how it will be collected. The second ordinance is required by the State Agency that collects the taxes and will be uncodified. If the measure passes, the 1 percent sales tax will be collected on April 1, 2019.

Mayor Cardenas commented that if the voters approve the tax, the revenues are estimated to be \$953,000 annually which would give the City the opportunity to plan for

the future, such as for a new police station and to fix streets, and pay pension and other general fund obligations. He noted that some cities have taken the approach of implementing a sales tax measure, most recently the City of Kingsburg, which has been successful. In this case, the Fowler citizens have brought a similar initiative to the City.

Councilmember Kazarian said that the City passed a Utility Users Tax (UUT) measure in 1999, which was advanced as a public safety measure. He stated that the lion's share of the sales tax measure will go to public pensions. He is supportive of public safety, but is against this approach, as it will be a detrimental to businesses and business attraction. Mayor Pro-Tem Parra said that the Council considered implementing a sales tax measure, but it did not achieve the required supermajority vote. This measure is from the citizens, and it is honest in stating that along with public safety, some of the funds would be used for pensions and other general fund obligations. Other cities that have passed public safety sales tax measures will be in a position to free up general fund monies used for public safety to use to pay pension obligations. The UUT only provides about \$110,000 per year each for police, fire and recreation. The fire station construction budget started at \$1.2 million and ended up over budget at \$2.061 million, which depleted the UUT reserves. In addition, there are escalating pension costs for the City that it must prepare for.

Councilmember Rodriguez stated that the citizens always look forward to having some of the best things that a community can have, such as the high school's all-weather track and the new fire station, which will use up the reserve funds. The City needs to have money for the services the community wants, and it's evident by the amount of signatures on the petition that they support the initiative that will give the citizens the things they look forward to. The City now has the opportunity to put it before the voters.

Mayor Cardenas asked for public comments.

Craig Mellon, Fowler resident, spoke in favor of the tax, noting that the UUT is paid only by Fowler residents, just as school bonds are being paid solely by Fowler property owners. In contrast, the sales tax will be paid by those that choose to purchase goods in town, including non- residents, and it is just one penny per dollar spent.

Rick Martin of Fowler, spoke about the tax, noting that Kerman and other cities have passed a similar tax. He said that the tax measure, as well as solar projects and enhancing economic development should all be considered for the community.

Marlon Dick, of Fowler, commented on the benefits of the tax.

Melissa Squeo, Fowler resident, stated that she agrees with Mr. Mellon's comments, that the sales tax is a good idea as it would bring revenue from out of town visitors to benefit the City's needs.

Veronica Salmeron-Sosa, Fowler resident, said that she moved from Fresno to the City several years ago, and she loves living in the quiet town of Fowler. She said that the

reality is that Fowler is growing and to keep the City safe more police officers are needed. She would also like the City to look into grants and using money more efficiently, and provide funding for more family oriented activities and play equipment for City parks.

B) ADOPTION OF RESOLUTION NO. 2407 – SUBMITTING AN INITIATIVE MEASURE FOR SALES TAX INCREASE TO THE VOTERS AND CALLING FOR THE HOLDING OF GENERAL MUNICIPAL ELECTION

Councilmember Rodriguez made a motion to adopt Resolution No. 2407, “A Resolution of the City Council of the City of Fowler, County of Fresno, State of California, Submitting An Initiative Measure for Sales Tax Increase to the Voters of the City and Calling for the Holding of General Municipal Election Thereon.” The motion was seconded by Mayor Pro- Tem Parra, and carried by a roll call vote: Ayes: Cardenas, Parra, Kazarian, Rodriguez. Noes: None. Abstain: None. Absent: Hammer.

C) APPROVE FINAL ESTIMATED COST FOR FIRE STATION PROJECT AND LETTER TO USDA REGARDING CONTINGENCY

City Manager Davis explained that USDA informed the City that they are ready to approve the award of bid for construction of the new fire station. However, USDA has asked the City to increase the contingency amount, and provide a letter stating that if the project goes beyond the contingency amount, the City will pay that amount. USDA normally requires a 10% - 15% contingency based on project costs but has agreed to the lesser amount of 6%. Ms. Davis said that the letter approving the contingency, along with approval of the total estimated budget for the Fire Station project, was before the Council for approval.

Mayor Cardenas noted that the fire station project has been a very lengthy process and there have been three finance directors that have worked on it. He commended Councilmember Kazarian for taking a look at the original project and working to enhance it, stating that the City will be proud when it is finally done.

Melissa Squeo expressed gratitude to Staff and to Councilmember Kazarian for providing a more updated and attractive fire station design.

Councilmember Kazarian made a motion to approve the final estimated costs for fire station project and letter to USDA regarding the contingency, seconded by Mayor Pro-Tem Parra. The motion carried by unanimous voice vote: Ayes: Cardenas, Parra, Kazarian, Rodriguez. Noes: None. Abstain/Absent: Hammer.

D) DISCUSSION/DIRECTION - FOWLER MUNICIPAL CODE REGULATIONS FOR CITY PARKS AND FACILITIES RELATED TO TEMPORARY PERMITS FOR SPECIAL EVENTS

City Manager Davis explained that there were two conflicting regulations in the City's Municipal Code concerning temporary permits for special events at the City's parks. The Lions Club applied for an Alcohol Beverage Control (ABC) License for a beer garden to be held at the Farmer's Market Event in the park. There is a section of the Municipal Code that states that alcohol is prohibited in parks or other publicly owned places, except within premises located in a public place for which a license has been issued allowing such use, pursuant to the Alcohol Beverage Control Act. However, another ordinance section expressly states that alcohol is prohibited in City parks. She circulated a copy of both ordinance sections, for the Council to discuss.

Mayor Cardenas stated that he asked that the item be placed on the agenda to provide clarification on the matter of allowing alcohol in City parks during special events. He noted that the Farmers Market has been a very successful event for many years without the sale and consumption of alcohol. In past years, the Lions Club, of which he is a member, had requested having a beer garden at the Market. The idea came from other Lions Club members in other cities that have been successful in the endeavor. The City was approached by the Lions Club a few years ago on the idea of having a beer garden, but former Chief of Police Michael Brand would not agree to sign off on it, as he did not feel that the event should have a beer garden because it was a family oriented event. Also, if alcohol is allowed in the parks with a special permit during events, it would not be limited to the Lions Club, but would be open for other groups to do so. He noted that the Lions Club could have such function at any time, but perhaps it should be on private property that could be limited to adults. In addition, there is a liability issue for the City. In view of this, it would be beneficial to have a discussion to receive opinions on the matter.

Councilmember Kazarian said that he was approached by Lions Club members to gather information for holding a beer garden at the Farmers Market. He did some research and provided information to the Lions Club regarding rules and requirements on permits and licenses to start the process. He obtained an ABC license that had strict regulations for security, including having it in an enclosed area, and other requirements. They put the beer garden near the pickle ball courts, away from the main area of the Farmers Market. He received many favorable comments on it, and Recreation Coordinator Yvonne Hernandez said it will bring a lot more people to the Market. He added that clarification of the Municipal Code is needed, perhaps to specify that the garden would be limited to non-profit service groups.

Councilmember Rodriguez said that the Lions Club used due diligence in the process, but that there may be pushback from citizens, due to children being at the park. He has already been asked by other groups about the possibility of having a beer garden.

Mayor Pro-Tem Parra received comments from an individual that holds car show events in the park, that the City should not allow alcohol at the park.

Mayor Cardenas asked for public comment.

Andy Gonzales stated that there are problems that can occur from allowing alcohol in the park. Fowler is recognized as a unique town, different from other communities, and all it takes is one person and something bad can happen.

Teri Martin, Fowler resident, said that she was totally against allowing alcohol in the park, that it can have a very negative effect on children, especially those from homes where there are problems with alcohol.

Craig Mellon, Fowler resident, said that when the Fowler FFA and other groups have events with alcohol, it is an adult function and children are not allowed. The Farmers Market has been an ongoing event for several years and it's been successful with no alcohol involved. He added that if the Council did decide to allow alcohol at the park for special events, that local restaurants or business owners be given first choice for the opportunity instead of non-profits, as the businesses work very hard to be successful.

Marlon Dick, Fowler resident, said he wanted to voice his opposition and echo the comments on concerns of what would happen if it was opened to many other groups and how that would be decided. He said that if alcohol was allowed in the park, the City would have to remove the monument drinking fountain at the park, since it was placed there during Prohibition by an anti-alcohol faction of the City of Fowler, the Women's Christian Temperance Union.

City Attorney Wolfe recommended that, to assist City staff and provide a clear direction, the Council should make a motion on whether or not to apply strict interpretation of the alcohol prohibition in the City's parks.

Councilmember Rodriguez made a motion that staff apply a strict interpretation of the Fowler Municipal Code prohibition of alcohol in the City parks, seconded by Mayor Pro-Tem Parra. The motion carried by a voice vote: Ayes: Cardenas, Parra, Rodriguez. Noes: Kazarian. Abstain: None. Absent: Hammer.

CITY MANAGER'S REPORT

City Manager Davis provided an update on projects: construction of Taco Bell has begun; Jack-in the Box restaurant submitted an application to the Planning Department that was approved. The Valley Children's project is ahead of schedule with construction expected to be complete in March 2019, and the opening of the facility to follow in June 2019.

PUBLIC WORKS REPORT

Public Works Supervisor Lopez reported that staff is continuing to clean up Golden State Boulevard. Old stop signs will be replaced and adjusted to legal height and reflectors will be added to some of the stop signs in critical areas of the City. Park maintenance is being scheduled, including new tables for Panzak Park. The City is currently looking into shade covers for the playground areas. There will be some scheduled maintenance

taking place at the well sites, including replacement of some exhaust fans and other items.

FINANCE DIRECTOR'S REPORT

Finance Director Uyeda said that the draft 2018-19 fiscal year budget will be ready for presentation at the next meeting.

POLICE DEPARTMENT REPORT

No report was given.

FIRE DEPARTMENT REPORT

Fire Chief Lopez circulated the monthly statistics for July, with no changes in call activity.

CITY ATTORNEY'S REPORT

City Attorney Wolfe provided a public report regarding two actions taken at the Closed Session on June, 19, 2018: 1) Upon a motion by Mayor Pro-Tem Parra, seconded by Councilmember Kazarian, the Council voted unanimously to hire the Law Firm of Robins Borghei to represent the City in the TCP ground water contamination case. 2) Upon a motion of Councilmember Rodriquez, seconded by Councilmember Hammer, the Council agreed to initiate litigation against various defendants related to the TCP ground water contamination claims. Both motions passed by unanimous voice vote. Action was formally commenced on July 10, 2018 with the filing of the complaint in San Francisco County Superior Court.

CONSENT CALENDAR

The consent calendar consisted of: A) Ratification of Warrants – August 7, 2018; B) Approve Minutes of the City Council Meeting – July 17, 2018; C) Approve Joint Representation and Waiver of Potential Conflict of Interest – Purchase and Sale Agreement for Public Park – Lozano Smith; and D) Approve Scope of Service and Performance Agreement – Data Ticket, Inc.

Mayor Pro-Tem Parra asked that Item C be removed for discussion.

Mayor Pro-Tem Parra made a motion to approve Consent Calendar Items A, B and D, seconded by Councilmember Rodriquez. The motion carried by unanimous voice vote: Ayes: Cardenas, Parra, Kazarian, Rodriquez. Noes: None. Abstain: None. Absent: Hammer.

Regarding item C, Mayor Pro-Tem Parra asked if the agreement concerns the sale of 8 acres of a 20 acre school site that the School District agreed to sell to the City. City Attorney Wolfe explained that Lozano Smith represents both the City and the school

district on this issue. In 2010, the City and District entered into a purchase agreement whereby the District agreed to sell 8 acres of a 20 acre school site to the City. The City has been making yearly payments, and recently made the last installment. The property, however, never went into escrow and the City never acquired title. The City and District will need to meet to discuss how best to complete the property transfer.

Mayor Pro-Tem Parra made a motion to approve item C, Joint Representation and Waiver of Potential Conflict of Interest – Lozano Smith - Purchase and Sale Agreement for Public Park; seconded by Councilmember Rodriquez. The motion carried by unanimous voice vote: Ayes: Cardenas, Parra, Kazarian, Rodriquez. Noes: None. Abstain: None. Absent: Hammer.

COMMITTEE REPORTS

Mayor Cardenas mentioned that as an SKF board member, he will be attending the California Association of Sanitation Agencies (CASA) Annual Conference in Monterey this week.

ADJOURNMENT

Having no further business, Mayor Pro-Tem Parra made a motion, seconded by Councilmember Kazarian to adjourn. The motion carried and the meeting adjourned at 9:07 p.m.