

**MINUTES OF THE FOWLER CITY COUNCIL MEETING
JULY 16, 2019**

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

Councilmembers Present: Cardenas, Hammer, Kazarian, Parra

Councilmembers Absent: Rodriquez

City Staff Present: City Manager/City Clerk Davis, City Attorney Lerner, Police Chief Alcaraz, Finance Director Uyeda, Public Works Supervisor/Fire Chief Lopez, Deputy City Planner O'Neal, Deputy City Clerk Burrola

The Flag Salute and Pledge of Allegiance were followed by a moment of silence and reflection.

PUBLIC PRESENTATIONS

Susana Esparza de Pinal, Partnership Specialist with the U.S. Census Bureau provided information about the 2020 Census. She provided information on how the 2020 Census will be conducted. Most households will receive an invitation in the mail in March 2020 and every household will have the option to respond online, by mail, or by phone.

Murry McManus Fowler resident expressed his concerns about mosquitos and other insects. It was suggested he go to the Consolidated Mosquito Abatement District website where they have a feature for service request for spraying.

PRESENTATION: PLAQUE TO CITY COUNCIL – FRESNO COUNTY RURAL TRANSIT AGENCY

Moses Stites, Operations Manager of Fresno County Rural Transit Agency (FCRTA) presented a plaque to City Council for their partnership with FCRTA. The recognition reflects the efforts the City of Fowler along with other cities that play a role in the transportation of residents of Fresno County.

PUBLIC HEARING: TO CONSIDER AMENDMENT TO THE FOWLER ZONING ORDINANCE SECTION 9-5.21.09 – FENCE, WALLS, AND HEDGES CLARIFYING THE USE OF ELECTRIFIED SECURITY FENCING, BARBED WIRE, AND RAZOR WIRE FENCING

FIRST READING OF ORDINANCE NO. 2019-03

Deputy City Planner Jeff O'Neal said in April 2019 Electric Guard Dog, LLC submitted an application requesting that a variance be granted to the City's fencing standards to allow installation of electrified security fencing at the Pape Machinery Construction Facility located on San Antonio Drive. The applicant has initiated Zoning Text Amendment No. 19-01 requesting to amend Fowler Zoning Ordinance to allow

electrified fencing within certain zone districts subject to building permit approval. On June 6, 2019 the Planning Commission held a public hearing and made a recommendation, by a 3-2 vote, to amend the Fowler Zoning Ordinance allowing for the installation and use of barbed wire or razor wire fencing in the M-1 (Light Industrial), M-2 (Heavy Industrial), and RCO (Resource, Conservation, Public Use, and Open Space) zones upon administrative approval and in any commercial zone district, except the Form Base Code Area, subject to the approval of a conditional use permit. The Commission also included in their recommendation the allowance for the installation and use of electrified security fencing as defined by the Civil Code Section 835 to be allowed in all non-residential zone districts except the Form Based Code Area. Mr. O'Neal noted that at the Planning Commission meeting in June, staff presented both the ordinance proposed by the applicant, as well as an Ordinance with a text amendment alternative that would prohibit electrified fencing in the City entirely. Councilmember Parra asked if the options presented to the Commission were available to review. Mr. O'Neal said the Ordinance alternative to prohibit the fencing was not included in the agenda packet because that was not the recommendations of the Planning Commission, however, but it can be provided at the Council's request.

Keith Kaneko representing Electric Guard Dog, LLC provided a presentation on how the system operates. Mr. Kaneko said Electric Guard Dog is a nationwide perimeter security company; they currently have 5,000 installations across the United States, ten percent which are in the state of California. Mr. Kaneko said Pape Machinery contacted the company because their existing security system is not working and this is what brought about the code amendment application process. Mr. Kaneko continued to provide information stating electric security fences are safe and does not lead to ventricular fibrillation due to the short 0.0003 second shock duration. The system has been tested and met the requirements of an appropriate consensus-based product safety standard.

The Mayor opened the duly noticed public hearing on the matter at 7:57 p.m.

Gary Mukai, Fowler resident and Planning Commissioner for the City of Fowler spoke that the majority of the Planning Commission recommends approval. He expressed his concerns of denying this product to businesses in order to secure their businesses from being victimized.

Patric Jones, Fowler resident expressed his concerns regarding safety. He provided a scenario on the possibly of someone coming in contact with the fence accidentally, will the system be turned off remotely and who is liable. Mr. Kaneko said Electric Guard Dog owns and maintains the product; therefore they would be liable, in reference to the hypothetical the system would be grounded out. Steve Barela, Fowler resident and former correctional officer spoke against the product. Mr. Barela expressed that the product would give the appearance of a correctional facility.

Mike Higgins, General Manager for Pape Machinery in Fowler and also oversees the store in French Camp, CA. expressed his concerns on issues the business is experiencing on theft. He stated the company is self-insured and the items being stolen

are not covered under any insurance. He said seven months ago they purchased this security system for the French Camp store and have had no problems with theft since the purchase. Mr. Higgins said they have tried all types of security options to prevent burglary, nothing has worked.

There were no other comments from the public and the hearing closed at 8:28 p.m.

The Council discussed the ordinance recommended by the Planning Commission. Mayor Cardenas said that he is concerned about business theft and wants to look into further solutions, but it was also important to protect the image of the City and safety of the citizens. He said that he was not convinced that this is the only alternative to stop crime in certain areas. It was discussed that the aesthetics of the product may bring in an institutional or correctional facility appearance to commercial and business areas. Councilmember Kazarian said that the City is concerned about and wants to protect its businesses, and that there are other ways to look at doing so, such as with having the Police Chief work with businesses on security assessments. Councilmember Parra stated that the product sends the wrong message, particularly to new businesses wishing to come in to the City.

Mayor Pro-Tem Hammer asked if the ordinance could be further modified. Mr. O'Neal explained that if new modifications are proposed that the Planning Commission did not consider at the June 6th hearing than it would have to be referred back to the Planning Commission to make a recommendation on the Council's proposal. Councilmember Kazarian said that it would be too complicated to modify or narrow down the ordinance, and issues would endure because of subjectivity of future councils, administration, and so on. Councilmember Parra stated that he agreed with those concerns.

Councilmember Kazarian made a motion, seconded by Councilmember Parra, to oppose the ordinance. Mr. O'Neal then stated that if the Council chooses to deny the ordinance, then it may be entirely possible that what Mayor Pro-Tem Hammer suggested will happen regardless, because staff would probably meet with the applicant outside of the confines of the hearing to possibly provide another solution and submit it for a future public hearing. Councilmember Kazarian stated that there was also an option to propose an amendment to prohibit electric fences. Mr. O'Neal stated that since the Planning Commission considered an ordinance to prohibit the electric fencing at their June 6th meeting, the Council could also consider such ordinance at this time. City Attorney Lerner reminded that a motion was already on the table to deny the ordinance, so the Council would need to withdraw that motion and restate it. Councilmember Kazarian and Councilmember Parra withdrew their motions to deny ordinance No. 2019-03.

Councilmember Kazarian said that he wished to introduce the ordinance containing the outright prohibition, as presented at the Planning Commission meeting, and made a motion to waive the first reading of Ordinance No. 2019-03, "An Ordinance of the City of Council of the City of Fowler Amending Section 9-5.21.09 of Article 21 of Chapter 5 of Title 9 of the Fowler Municipal Code Pertaining to Fences, Walls, and Hedges." Mr. O'Neal read the text of the ordinance with the prohibition: *The Ordinance prohibits the*

use of barbed wire, razor wire, electrified fencing, or electrified security fencing, subject to the following exceptions: (1) the installation and use of barbed wire or razor wire fencing may be allowed in the M-1 (Light Industrial), M-2 (Heavy Industrial), and RCO (Resource, Conservation, Public Use, and Open Space) zones upon administrative approval; and (2) the installation and use of barbed wire or razor wire fencing may be allowed in any commercial zone district subject to the approval of a conditional use permit and any conditions imposed by the Planning Commission or City Council. The Ordinance prohibits the installation and use of any and all electrified fencing and electrified security fencing in the City. The motion was seconded by Councilmember Parra, and carried by a roll call vote: Ayes: Cardenas, Kazarian, Parra. Noes: Hammer. Abstain: None. Absent: Rodriquez.

COMMUNICATIONS

City Manager Davis said the League of California Cities South San Joaquin Valley Division will be having a general membership meeting on Thursday, August 8, 2019 in the City of Tulare. The meetings topic will be SGMA and the Friant-Kern Canal Subsidence damage.

STAFF REPORTS

ACTION TO SELECT VOTING DELEGATE AND ALTERNATE(S)

City Manager Davis mentioned that the League of California Cities asks that cities select a voting delegate and alternates for their business meeting at the League's Annual Conference in Long Beach, October 16 – 18, 2019.

Councilmember Parra made a motion, seconded by Mayor Pro Tem Hammer to select Dan Parra as the voting delegate, Karnig Kazarian as the alternate. The motion carried by unanimous voice vote: Ayes: Cardenas, Hammer, Kazarian, Parra. Noes: None. Abstain: None. Absent: Rodriquez.

CITY MANAGER'S REPORT

City Manager Davis said a special budget meeting was tentatively scheduled for July 23, 2019 but due to an upcoming event, National Night Out, which falls on a regular scheduled meeting date on August 6, 2019, she asked if the Council would consider having a special meeting on July 30, 2019 in order for the Council and staff to attend the National Night Out event. The consensus of the Council was to schedule the special meeting for July 30, 2019 at 6:00 p.m.

She mentioned the pickle ball court dedication ceremony has been scheduled for Wednesday, July 24, 2019 at 10:00 a.m.

PUBLIC WORKS REPORT

Supervisor Lopez circulated the water production report for the month of May. He said the CCR pamphlets have arrived and have been mailed out with the water bill statements. He mentioned he currently has a crew working on cleaning out the ponding basins but due to the past rain the basins are taking a while to drain.

Supervisor Lopez said concrete walkways have been installed at Panzak Park around the park bench tables for ADA compliancy.

FINANCE DIRECTOR'S REPORT

No report was given.

POLICE DEPARTMENT REPORT

Police Chief Alcaraz circulated the DOJ Part 1 Crime statistics for the month of June 2019. He mentioned the National Night Out event will take place on Tuesday, August 6, 2019 at Panzak Park.

FIRE DEPARTMENT REPORT

Fire Chief Lopez reported that the fire department was extremely busy on the 4th of July. There were five vegetation fires due to illegal fireworks. He was able to issue citations to a few individuals using illegal fireworks.

CITY ATTORNEY'S REPORT

City Attorney Lerner expressed her gratitude for the opportunity to serve on the City of Fowler's Planning Commission. City Attorney Scott Cross will be attending future Council meetings.

CONSENT CALENDAR

The consent calendar consisted of: A) Ratification of Warrants – July 16, 2019; B) Approve Minutes of the City Council Meeting – June 18, 2019; C) Approve Resolution No. 2435, "A Resolution of the City Council of the City of Fowler Concerning Local Transportation Purpose Funds Extension (Measure "C" Extension)".

Councilmember Kazarian made a motion to approve the Consent Calendar, seconded by Councilmember Parra. The motion carried by voice vote: Ayes: Cardenas, Hammer, Kazarian, Parra. Noes: None. Abstain: None. Absent: Rodriquez.

COMMITTEE REPORTS

Mayor Cardenas met with the Mosquito Abatement District on Monday. It was reported that the population of mosquitos has grown since the past year. He shared a letter he received from Adventist Health / Valley Children's Medical Center thanking the City for its support.

Mayor Pro Tem Hammer said the Farmer's Market will begin July 31st from 5:00 p.m. to 9:00 p.m. at Panzak Park.

Councilmember Kazarian attended the 4th of July celebration. He said that it's a great representation of Fowler and expressed that it's may be one of the best fireworks shows in the valley.

He attended the bi-monthly GSA meeting; there was a slight setback with the South Kings ground water sustainability agency contract that he was directed to approve from the last meeting, there was last minute change in language by CID.

Councilmember Parra expressed his gratitude for the City accommodating his teleconference during the last Council meeting on June 18, 2019.

CLOSED SESSION

The meeting adjourned to a closed session at 8:58 p.m. pursuant to Government Code Section 54956.9(d) (1) – Conference with Legal Counsel – Existing Litigation: Name of Case: City of Fowler v. The Dow Chemical Co. et al. San Francisco Superior Court No. CGC – 18-567967

The meeting reconvened to open session at 9:07 p.m. with no reportable action taken.

ADJOURNMENT

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