Call to Order: 7:00 p.m.  
Pledge of Allegiance: Council Member Kelly West  
Invocation: Mayor Gordon T. Woods  
Roll Call: West, Joyner, Hamilton, Gurrola, Woods

**PROCLAMATION**

“Korean War Veterans Year” - January 1 - November 11, 2003

Mayor Woods called on Dr. Herb Bonds, a hot-fire combat veteran of the Korean War, to read the proclamation which calls attention to the 50th Anniversary of the Korean War Armistice. Dr. Bonds then read the proclamation.

The proclamation was then presented to James Davison, President of the Porterville Chapter of the Korean War Veterans No. 80, who accepted it in honor of all Korean War Veterans. Mr. Davison thanked the Mayor for recognizing these veterans for what they did. He stated that many of them never came home, but those that were there would never forget.

**WRITTEN COMMUNICATIONS**

The City Manager stated that a letter from Richard L. Harriman, Attorney, Re: Home Depot Project, was included in the agenda packet. He stated that there was no other correspondence.

**ORAL COMMUNICATIONS**

Richard L. Harriman, 246 W. Shaw Avenue, Suite 155, Fresno CA 93704-2644, handed out materials to the Council. He stated that he was present representing a number of Porterville residents and businesspeople that had asked him to appear on their behalf, as well as on behalf of Citizens for a Healthy Environment, a nonprofit, public benefit, unincorporated association, and Valley Advocates, a public-interest law firm which represents individuals and organizations concerned with environmental issues and the enforcement of planning, zoning, and environmental laws here in the Central Valley. He stated that his purpose in appearing was to request, pursuant to the Porterville Zoning Ordinance, that Council reconsider staff’s determinations on three points regarding the Home Depot project which was currently in the process of being considered by the Planning Department staff. He stated that based on the information that he was able to get from the City’s record, and he needed to state that he requested to see also the application for the project but it was not made available to him that day—so there may be more facts in that application then he knew about at this point. Mr. Harriman stated that they were asking Council, at this point, to reconsider and reverse the staff’s determination that the Home Depot Project, i.e., the consideration of a site plan and the issuance of a building permit under the Zoning Ordinance Sections 1101 (10) and by implication,
subsection two, was a ministerial project. Secondly, he requested that Council reconsider and reverse the staff’s determination that the Home Depot project was consistent with the Zoning Ordinance, and with the General Plan. And third, he asked that the Council direct staff to withdraw the notice of exemption, which had been transmitted to the Tulare County Clerk for posting under the California Environmental Quality Act. Mr. Harriman stated that it was his understanding from talking with staff that the Notice of Determination, which was a categorical exemption for this project based on the fact that staff determined that it was a ministerial action, which meant that there was no exercise of discretion by this Agency, either through the Council, or through staff, relative to the approvals that are being sought by Home Depot. Mr. Harriman contended that the categorical exemption from the CEQA review was erroneous, and therefore the City was proceeding in a manner not in accordance with law pursuant to Public Resources Code Section 21168 and 21168.5. Mr. Harriman stated that they had to go through this in order to exhaust their administrative remedies before the Council, so what he wanted to do was walk the Council through the reasons why they thought this was not a ministerial project. He stated that the best way to do that was to start with the first handout that was a long page.

Mayor Woods asked Mr. Harriman how much time his presentation would take. He stated that he wouldn’t cut him off, but may reschedule and have him on the agenda.

Mr. Harriman stated that their concern was that the categorical exemption, at the earliest, would have been filed with the Tulare County Clerk on or about December 12. The statute of limitations to challenge that determination is thirty-five days from the date it is filed with the County. But he has not been able to verify that date, which put him in the unenviable position of needing to make the record before the Council tonight, and to give staff more of an insight into his thinking. He stated that if the Council was willing to let him go for five or ten minutes, he could do it by highlighting the arguments. He stated that if the Council rescheduled him, he would have to file the lawsuit and then come back to the Council, which didn’t make sense.

Mayor Woods stated that ten minutes would be no problem.

Mr. Harriman stated that if the Council looked in the handouts, there was a document from the site plan drawings. He stated that staff’s theory was that this was an operation under the Zoning Ordinance which was going to sell building products, however, if they looked at the application, particularly the Fire Protection and Life Safety Report, it was clear that there was a lot more then simply limber being sold there on a wholesale basis, or even a retail basis. He stated that it was clearly a retail, commercial project, and as such, it did not fit within the 1101(10) provision which would allow for it to proceed in a ministerial fashion. Instead they felt it more closely approximates 1101(2) which was a retail, commercial type of operation which requires a conditional use permit or other discretionary review. He stated that even if the Council didn’t accept that argument, if they look at the site plan document, there were going to be some discretionary determinations that must be made at least at the staff level, and may actually come up to the Council level, if appealed. He stated that among those were the following---On the face of the document there was no storm drainage basin. In the General Plan EIR document, there was a reference on Page 45, paragraph six, that one of the mitigation measures from the 1989 General Plan EIR would be that the City would develop a standardized design regarding storm drainage basins. He stated that staff stated that they
didn’t know, and he was unable to find one or to see one that day, so therefore the staff would have
to make a determination as to where to locate the storm drainage basin. Mr. Harriman stated that
in the plans submitted by the applicant, it was indicated that Page C-5.6, also designated Page 6 of
7, as an off-site improvement, will be the storm drainage basin, so there would be some
determination by staff in exercising discretion as to whether that complies with the General Plan and
complies with the regulations. He stated that the second thing to note on the face of the document,
was that the City would be asked to abandon a portion of Poplar to avoid a traffic impact at Jaye
Street, and that will require an exercise of discretion by the Council before they could do that. He
stated that when they look at the plan they could see that this was more than just a Home Depot
project given the configuration of the traffic. He stated that it was going to involve other projects,
and so in effect, it was only a portion of the whole project, and therefore it had been segmented. In
addition, if they looked at the Zoning Compatibility Matrix in the General Plan, Appendix A, to the
Land Use Open Space Conservation and Safety Element, that document speaks volumes because it
shows what is consistent with the specific land use designations, in this case light industrial, an M-1
Zone, and what other kinds of zonings might be consistent with that land use designation. He stated
that what the Zoning Compatibility Matrix properly shows was that in that industrial land use
designation Light Industrial (M-1) and Heavy Industrial (M-2) were appropriate zones, but there was
a significant lack of any definition or disclosure in the document that a retail commercial would be
consistent with an industrial zone. So therefore the staff, or the Council, was making some sort of
a discretionary determination that they thought that this retail commercial project was consistent with
the City’s zoning. He stated that the other issues that were of significance for the Council’s
examination were that there were some planning policies in the Airport Master Plan. On Page 6-21,
Section 2.8, the zoning and land use designations that were undertaken in the General Plan to avoid
conflicts with the Airports use were done with the idea in mind that the objective of employing those
designations around the Airport, and below the flight pattern, and the Home Depot project was
included in the outer ring of the Airport’s flight area, was to minimize the risk of aircraft overflight
instances in human endangerment. He stated that the population density in agricultural and industrial
use areas was relatively low, compared to other types of use areas. So when the General Plan was
done, and the Master Plan for the Airport, they purposely designed in industrial and agricultural areas
in the outlying areas around the Airport to protect from human damages. He stated that the Tulare
County ALUC policies, which were included in the document, indicated that they were not supposed
to be bringing in lots of people under areas where there could potentially be an aircraft crash. Mr.
Harriman stated that in addition, if they looked at the Fire Protection and Life Safety Report Pages
four and five, the applicant lists a number of hazardous materials, including propane and other
substances, and if they looked at Page 7, Section 6.3, a number of them are stored outside of this
particular project. If they looked at the zoning, and looked at the development taking place to the
northwest with homes and residential, they were creating a potential safety impact, which was not
contemplated when that area was zoned industrial and was land use designated industrial. He stated
that another area of importance was that air quality impacts from this project were analyzed generally
in the EIR back in 1989, but unfortunately the General Plan was grossly outdated, and in the updates
they have only used mitigated negative declarations to try and bring the General Plan up into
consistency and timely adequacy. He stated that in the General Plan mitigation measures, Pages 38
and 39, the City specifically adopted as a mitigation measure to the General Plan in 1989 that a
mitigation for air quality impact would be to preclude development from occurring on the edges of
the City and encourage this development to occur on vacant land near the core of the City. He stated
that the preparers of that EIR, Carl Collins and his Associate referred to the alternatives analysis that was also done as part of that General Plan. Mr. Harriman stated that finally, if the Council looked at the Circulation Element, they would find that they were creating a significant potential traffic impact from this project. He stated that when they adopted the General Plan, and adopted the land use designation of industrial for the site of the Home Depot project, the City also adopted a Circulation Element and made traffic analyses by the EIR preparer which showed they would not have to expand or change Jaye Street. He stated that Jaye Street right now in front of the proposed Home Depot project was a two-lane, undivided, in effect collector, which has a maximum capacity of 12,500 trips per day. He stated that in 1989 when the General Plan was updated, and then in 1993 when the Circulation Element was updated, the City found that there existed 9,000 trips on that corridor, at that time. He stated that right now there was no evidence in the record that he was able to find, of a traffic study undertaken to evaluate what the traffic impacts would be of dumping not only the Home Depot traffic out onto Jaye Street, a two-lane, undivided collector, but what the impacts would be of closing off Poplar so there was only one access and egress point for this project, and the other ones that would come along with the development. He stated that there was no analysis of it. Mr. Harriman stated that in summary, they would respectfully request that Council reconsider staff’s determination and withdraw the categorical exemption and bring it back to staff, and proceed with an environmental analysis, including an initial study, because there was no initial study based on the staff’s preparation of the categorical exemption. He asked that Council do that and notify them, or do it that evening, but if they couldn’t act that night, take that action as soon as possible, and notify them accordingly. He stated that they looked forward to participating and commenting on the mitigation measures that would be needed to make this project susceptible to a mitigated negative declaration.

Mayor Woods thanked Mr. Harriman and stated that he had given them points to ponder. When asked if there were any questions from Council or staff, Mayor Woods informed Mr. Harriman that the matter was scheduled for Closed Session and they would hash it over.

The City Attorney stated that she would notify Mr. Harriman regarding the Council’s action.

Ben Lingo, 15490 Ventura Blvd., Ste. 210 Sherman Oaks CA 94103, stated that he was there on behalf of 148 Date Avenue LP. He stated that they were currently on the Consent Calendar, Item No. 9, and he requested that Council remove their item from the Consent Calendar so he could be allowed to present to the Council. He stated that he could do in now or after the Consent Calendar, whichever the Council desired.

Mayor Woods stated that the Council would consider Mr. Lingo’s request and remove it from the Consent Calendar. He stated that he would see how Council wished to proceed on the matter.

Alexis Gevorgian, 16633 Ventura Blvd., Ste. 1014, Encino CA 91436, asked Council to remove Item 8 from the Consent Calendar so they could present outside of the Consent Calendar.

**CONSENT CALENDAR**

Item Nos. 1, 8, 9 and 10 were removed from the Consent Calendar.
2. CLAIM - CELEDONIA ANGUIANO

Recommendation: That the Council reject said claim, and refer the matter to the City's insurance adjustor, and direct the City Clerk to give the claimant proper notification.

Disposition: Approved.
Document No.: Minute Order No. 01-010703

3. APPROVAL OF PURCHASES

Recommendation: That the City Council approve purchases as listed, and authorize the Chief Financial Officer to issue payment for same upon satisfactory delivery.

Disposition: Approved.
Document No.: Minute Order No. 02-010703

4. BUDGET ADJUSTMENTS FOR THE 2002-03 FISCAL YEAR

Recommendation: That the Council approve the attached budget adjustments and authorize staff to modify revenue and expenditure estimates as described on the attached schedule.

Disposition: Approved.
Document No.: Minute Order No. 03-010703

5. SCHEDULED MAINTENANCE FOR LADDER TRUCK NO. ONE

Recommendation: That the City Council approve the bid from Hi-Tech Emergency Vehicle Service Inc.

Disposition: Approved.
Document No.: Minute Order No. 04-010703

6. EXTENSION OF ON-CALL ENVIRONMENTAL CONSULTANT AGREEMENT

Recommendation: That City Council:
1. Approve an extension of the existing Consultant Services Agreement at the consultant’s billing rate in effect as of January 1, 2003; and
2. Authorize the Mayor to sign a letter extending the existing Consulting Services Agreement to 5:00 p.m. on April 16, 2003.

Disposition: Approved.
Document No.: Minute Order No. 05-010703
7. ACCEPTANCE OF THE WATER MAIN LOOP, ‘A’ STREET TO PLANO STREET, PROJECT

Recommendation: That City Council:
1. Accept the Water Main Loop, ‘A’ Street to Plano Street, as complete;
2. Authorize the filing of the Notice of Completion; and
3. Approve the release of the 10% retention 35 days after recordation, provided no Stop Notices have been filed.

Disposition: Approved.
Document No.: Minute Order No. 06-010703


Recommendation: That Council approve the Community Civic Event Application and Agreement from Porterville Chamber of Commerce for a “Recreation of the Original Jackass Mailrun” on Saturday, January 11, 2003, subject to the insurance requirements stated therein, and the Restrictions and Requirements contained in Exhibit “A” of the Community Civic Event Application and Agreement.

Disposition: Approved.
Document No.: Minute Order No. 07-010703

12. APPROVAL FOR COMMUNITY CIVIC EVENT - PORTERVILLE CHAMBER OF COMMERCE MOTORCYCLE RALLY, JANUARY 18, 2003

Recommendation: That Council approve the Community Civic Event Application and Agreement from Porterville Chamber of Commerce for a motorcycle rally on Saturday, January 18, 2003, subject to the insurance requirements stated therein, and the Restrictions and Requirements contained in Exhibit “A” of the Community Civic Event Application and Agreement.

Disposition: Approved.
Document No.: Minute Order No. 08-010703

13. A RESOLUTION OF THE CITY OF PORTERVILLE CITY COUNCIL IN SUPPORT OF MAINTAINING THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION'S PRESENCE AT THE PORTERVILLE MUNICIPAL AIRPORT'S AIR ATTACK BASE
Recommendation: That the City Council adopt the attached resolution in support of maintaining the California Department of Forestry and Fire Protection’s presence at the Porterville Municipal Airport’s Air Attack Base.

Disposition: Approved.
Document No.: Resolution No. 1-2003

14. REQUEST TO SET A JANUARY 28, 2003 CITY COUNCIL STUDY SESSION

Recommendation: That the City Council set January 28, 2003 at 5:00 p.m. for the proposed study session.

Disposition: Approved.
Document No.: Minute Order No. 09-010703

15. AUTHORIZATION TO TRANSFER LOCAL TRANSPORTATION FUNDS (LTF) TO THE TRANSIT BUDGET

Recommendation: That the City Council:
1. Approve the implementation of Fixed Route No. 6; and
2. Authorize the transfer of Local Transportation Funds in the amount of $187,500 from Acct. No. 89-9158-88 to the Transit account.

Disposition: Approved.
Document No.: Minute Order No. 10-010703

15a. MOTOCROSS RACE PROPOSAL FOR JANUARY 2003 THROUGH JUNE 2003

Recommendation: That the City Council approve the motocross race proposal for January 2003 through June 2003, with Central Valley Racing at the OHV Park.

Disposition: Approved.
Document No.: Minute Order No. 11-010703

15b. CLOSED SESSION PURSUANT TO GOVERNMENT CODE § 54956.9(B) - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: ONE CASE; AND, GOVERNMENT CODE § 54956.8 - CONFERENCE WITH REAL PROPERTY NEGOTIATORS/PROPERTY: 1095 N. PROSPECT STREET. AGENCY NEGOTIATOR: PURCHASING AGENT NEGOTIATING PARTIES: CITY OF PORTERVILLE AND STEPHEN SULLIVAN. UNDER NEGOTIATION: PRICE.

COUNCIL ACTION MOVED by Council Member West, SECONDED by Council Member Joyner that the Council approve Item Numbers 2 through 7, and 11 through 15b of the Consent Calendar.
AYES: West, Joyner, Hamilton, Gurrola, Woods
NOES: None
ABSENT: None
ABSTAIN: None

Disposition: Approved.

1. CITY COUNCIL MINUTES OF OCTOBER 22 AND DECEMBER 17, 2002

Mayor Woods stated that he was absent at the Council meeting of October 22, 2002, and would abstain from voting on the Minutes of that meeting.

COUNCIL ACTION

MOVED by Mayor Pro Tem Gurrola, SECONDED by Council Member Hamilton that the City Council Minutes of October 22, 2002 be approved.

M. O. 12-010703

AYES: West, Joyner, Hamilton, Gurrola
NOES: None
ABSENT: None
ABSTAIN: Woods

COUNCIL ACTION

MOVED by Mayor Pro Tem Gurrola, SECONDED by Council Member Joyner that the City Council Minutes of December 17, 2002 be approved. The motion carried unanimously.

M. O. 13-010703

Disposition: Approved.

8. REQUEST FOR IMPACT FEE REDUCTION FOR PARK VIEW VILLAGE APARTMENTS

Recommendation: That the City Council deny the request for a reduction in fees of $200,000 and a $100,000 credit against impact fees in exchange for the northerly 1/3 of the subject site for the Park View Apartments but direct Staff to continue working with the Developer to explore alternative financing mechanisms that would leave the City financially whole.

Mayor Pro Tem Gurrola stated that if it was a five minute presentation she would be open to hear what the applicant.

COUNCIL ACTION

MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council approve Mayor Pro Tem Gurrola’s recommendation. The motion carried unanimously.

M. O. 14-010703

Disposition: Approved to allow a five minute presentation.
9. REQUEST FOR IMPACT FEE REDUCTION FOR DATE AVENUE FAMILY APARTMENTS

Recommendation: That the City Council deny the request for a reduction in fees of $200,000 for the Date Avenue Family Apartment but direct Staff to continue working with the Developer to explore alternative financing mechanisms that would leave the City financially whole.

COUNCIL ACTION MOVED by Mayor Pro Tem Gurrola, SECONDED by Council Member Hamilton that Mr. Lingo be allowed to do a five minute presentation on the Date Avenue Family Apartments. The motion carried unanimously.

Disposition: Approved to allow five minute presentation.

10. CONSIDERATION OF THE CONTRACTUAL ALLOCATION FOR THE SUCCESS RESERVOIR ENLARGEMENT PROJECT

Recommendation: Allow a fifth year of participation with the Success Reservoir Enlargement Project, increasing the maximum capital participation to $382,421.

Council Member Hamilton stated that he opposed the action of spending more of the taxpayer’s dollars towards the spillway contract with the Joint Powers. He stated that they had already spent $300,000 of the taxpayer’s money for something way outside the realm of what they should be doing as the public servant of the citizens of Porterville. He stated that he would like to open it up to discussion.

Council Member Joyner and Mayor Woods spoke on the long term water level and flood control benefits to the City.

Council Member Hamilton stated that he agreed with the need to raise the water level, but he objected to who should be paying for it.

COUNCIL ACTION MOVED by Council Member Joyner, SECONDED by Mayor Pro Tem Gurrola that the Council approve Item No. 10, allowing a fifth year of participation with the Success Reservoir Enlargement Project, increasing the maximum capital participation to $382,421.

M. O. 16-010703

AYES: West, Joyner, Gurrola, Woods
NOES: Hamilton
ABSENT: None
ABSTAIN: None

Disposition: Approved.
8. REQUEST FOR IMPACT FEE REDUCTION FOR PARK VIEW VILLAGE APARTMENTS

Recommendation: That the City Council deny the request for a reduction in fees of $200,000 and a $100,000 credit against impact fees in exchange for the northerly 1/3 of the subject site for the Park View Apartments but direct Staff to continue working with the Developer to explore alternative financing mechanisms that would leave the City financially whole.

Alexis Gevorgian, 16633 Ventura Boulevard, Suite 1014, Encino, CA 91436, came forward on behalf of the Park View Apartments. He stated that they were having to pay two separate fees—an impact fee for the sewer connection, which was rather high compared to other communities, and then a separate monthly fee. He stated that in essence they were being doubled charged for service they typically pay only once. He stated that this was increase their operating costs. Mr. Gevorgian stated that the fees were a surprise to them, and so they were seeking relief in that area. He stated that the second part of their request was that they be compensated, or receive a reduction in fees, for the acreage in the rear of the property that they would be dedicating and deeding to the City. He stated that it was not atypical for them to receive some type of assistance for the types of low-income projects they develop, which were part of the General Plan and Redevelopment Agency requirements to invest in affordable housing. He stated that not only had they received no assistance from the City, but they were actually giving to the City and were being double charged for the sewer fees. He stated that they were asking for some relief, both for the sewer and then some consideration for the real estate that they would be deeding to the City.

The City Manager explained that the monthly fee pays for the operation of the sewer utility, and the connection fee pays for the development of the sewer plant, so they are two separate purposes which were very common. He stated that these fees were uniformly charged to any development within the City. The City Manager stated that in his experience there was not normally the ability to waive the fee. He stated that if the $20 a unit fee was waived, the City would be providing free sewer.

Mayor Woods stated that at this point any diminution of the fee would be both preferential and prejudicial, and he didn’t see how they could do that if they wanted too. He stated that they all appreciated the project being done, but they had to follow the rules.

Mr. Gevorgian asked about the park land being given to the City and whether there would be any consideration given to that.

The Community Development Director explained that one condition of approval of the project addressed the open space area that would not be actively developed as part of the project. He stated that the intent of open space would be that it would be passively developed and accessible to residents of the development—such as picnic tables and walking trails. He stated that the question of public access was addressed but left open-ended, in that if the City was in a position to work something out to gain public access to it, they would work through that. The Community
Development Director stated that at this time with the uncertainty of the State, they did not see any availability of funds to do such a project.

Mayor Woods stated that he recalled that Mayor Pro Tem Gurrola had requested some open space with that project for the residents, not a dedication for the public.

The City Manager stated that some time in the future they could potentially negotiate for the land, but they would have to use funds available for the purchase of park lands. He stated that the request here is to use sewer funds to purchase park lands, and that could not be done.

Mr. Gevorgian stated that it didn’t matter to them what source of funds the City used to compensate them for the consideration on the land. He stated that they were paying numerous fees, any of which could be used as an offset for the land. He stated that they would also be open to a condition where the City could pay for the land when the money became available, perhaps in the next two to three years. After further discussion, Mr. Gevorgian suggested that Council take this matter into Closed Session as a real estate matter and discuss it in detail and try to accommodate them for what they perceived to be an asset to the City.

COUNCIL ACTION

MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council deny the request for a reduction in fees of $200,000 and a $100,000 credit against impact fees in exchange for the northerly 1/3 of the subject site for the Park View Apartments but direct M. O. 17-010703 Staff to continue working with the Developer to explore alternative financing mechanisms that would leave the City financially whole. The motion carried unanimously.

Disposition: Approved.

9. REQUEST FOR IMPACT FEE REDUCTION FOR DATE AVENUE FAMILY APARTMENTS

Recommendation: That the City Council deny the request for a reduction in fees of $200,000 for the Date Avenue Family Apartment but direct Staff to continue working with the Developer to explore alternative financing mechanisms that would leave the City financially whole.

Ben Lingo, 15490 Ventura Boulevard, Suite 210, Sherman Oaks, CA 94103, came forward on behalf of 148 Date Avenue LP--the Date Avenue Apartments. He stated that this was a 78 unit affordable housing project with 100% of the units being restricted to low income, with a majority restricted to very low income. He stated that they also wanted to address the two separate fees--the sewer hookup fee and the monthly fees. He stated that he wanted to preface that the entitlement development process in the City had been fantastic. He stated that the Council had been fair and reasonable, and his dealing with staff had been professional and courteous. He stated that he did want to point out an inequity in the fee structure. Mr. Lingo stated that the typical fee structure for sewer fees was one fee or the other. He stated that the typical hookup fee ranged between $960 and $2200,
and then the monthly usage fee was a diminutive amount or nothing at all. Mr. Lingo stated that they were looking at a high end connection fee coupled with a usage fee of $19.68 per unit per month, which was also on the high end of the sewer usage fee. He stated that the fee structure for apartments versus single family was not equitable. He stated that a 550 sf. apartment with one bedroom and one bath would be charged 80% of a five bedroom, three or four bathroom home. He stated that this made it difficult to build projects that cater to the folks that would qualify for affordable housing in Porterville. He stated that based on this, he would request either a fee reduction, or City assistance through other permit or plan checking process fees, perhaps in the RDA 20% set aside funds. He stated that they were just present to explore if there were any options. He stated that the usage fee and connection fee has cost their project about $225,000, and has made the project very difficult to accomplish. Mr. Lingo asked that Council consider this options.

COUNCIL ACTION

MOVED by Mayor Pro Tem Gurrola, SECONDED by Council Member Joyner that the Council deny the request for a reduction in fees of $200,000 for the Date Avenue Family Apartment but direct Staff to continue working with the Developer to explore alternative financing mechanisms that would leave the City financially whole. The motion carried unanimously.

Disposition: Approved.

PUBLIC HEARING

16. “GRANITE HEIGHTS” TENTATIVE SUBDIVISION MAP (GARLAND GIFFORD)

Recommendation: That City Council:

(1) Adopt the draft resolution approving the Negative Declaration for “Granite Heights” Tentative Subdivision Map; and

(2) Adopt the draft resolution approving “Granite Heights” Tentative Subdivision Map.

The City Manager introduced the item, and the Community Development Director gave the staff report.

Mayor Woods opened the public hearing at 7:53 p.m.

Jim Winton, 150 West Morton Avenue, Porterville, came forward on behalf of the applicant Garland Gifford, who was also in the audience. He stated that they had reviewed the conditions of approval and agreed with them, but he had one question relating to Condition 29, which relates to Conditions Nine and Ten. He stated that there were two active wells on the property which serve the two houses to the east of the project. He stated that it was Mr. Gifford’s intention to offer to hook up those houses to the City system in exchange for the abandonment of the wells, but he couldn’t force the people to avail themselves of that service. He stated that it might be necessary to reroute their service lines to a compatible location with the development and allow their well to
continue in place. Mr. Winton stated that Condition Nine stated that all inactive wells shall be abandoned and capped, which would cover the situation if one or both of the wells could be exchanged for City water service. He stated that Condition Ten provided for protection to the City water system in the event that a well does remain. He stated that Condition 29 confused Nine and Ten, and he questioned whether the wording needed to be clarified, or if Condition 29 was necessary.

After review with the staff, the City Attorney stated that the wording “if those wells are no longer being utilized” would be added to the end of Condition 29.

Harry Bain, 1402 East Morton, stated that his property, and that of his neighbor who was also present, abuts and adjoins the proposed Granite Hills development. He stated that they discussed the problem of their water supply, and they supported the development, but they were concerned about their water. He asked for clarification on the wells.

The Community Development Director stated that the wells on Lots 3 and 14 would only be removed if the existing water service to the properties they currently serve were hooked up to City water service. If that could not be negotiated, then the wells would remain with easements in place to allow access.

Mr. Bain clarified that the developer would make provisions for them and it would be up to them to discuss it with the developer.

No one else either spoke in favor of, or in opposition to, this item.

Mayor Woods closed the public hearing at 8:03 p.m.

COUNCIL ACTION

MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council approve the Negative Declaration for Resolution 2-2003 “Granite Heights” Tentative Subdivision Map. The motion carried unanimously.

Resolution 3-2003

MOVED by Council Member West, SECONDED by Mayor Pro Tem Gurrola that the Council approve “Granite Heights” Tentative Subdivision Map, as amended. The motion carried unanimously.

Disposition: Approved.

17. CONDITIONAL USE PERMIT 5-2002 - 102± HIGH COMMUNICATIONS TOWER (STC NETCOM, INC.)

Recommendation: That the City Council:

1. Adopt the Draft Resolution approving the Negative Declaration prepared for the project; and
2. Adopt the Draft Resolution conditionally approving Conditional Use Permit 5-2002 subject to conditions of approval.

The City Manager introduced the item, and the Community Development Director gave the staff report.

Mayor Woods opened the public hearing at 8:06 p.m.

Jamie Strachan, with STC Netcom, 6399 West Shields Avenue, Fresno, came forward representing the carrier, a Sprint affiliate, who would be owning and occupying the facility. He stated that the tower would also be used by Cricket, if it was approved, and there would be additional space for additional carriers that need coverage in this area. He stated that in addition, UbiquiTel, a Sprint affiliate, has located on a tower off Olive Avenue. He stated that they have also co-located on towers in Strathmore and in Poplar to provide coverage for Sprint users in this area.

Ethel Quiram, 1028 North Highland Drive, came forward and spoke in favor of this item and asked that Council approve this request.

No one else spoke either in favor of, or in opposition to, this item.

Mayor Woods closed the hearing to the public at 8:08 p.m., and opened the matter for Council comments. Having received no Council comments, Mayor Woods closed the public hearing at 8:08 p.m.

COUNCIL ACTION

MOVED by Council Member Joyner, SECONDED by Council Member West that the Council approve the Negative Declaration prepared for the project; and adopt the Draft Resolution conditionally approving Conditional Use Permit 5-2002 subject to conditions of approval. The motion carried unanimously.

Disposition: Approved.

SECOND READINGS

18. SECOND READING - ORDINANCE NO. 1626, ZONE CHANGE NO. 5-2002 (PEARSON)

Recommendation: That Council give Second Reading to Ordinance No. 1626, waive further reading, and adopt said ordinance.

The City Manager read Ordinance No. 1626 by title only.

COUNCIL ACTION

MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Gurrola that the Council waiver further reading of Ordinance No. 1626. The motion carried unanimously.
Ordinance No. 1626  MOVED by Mayor Pro Tem Gurrola, SECONDED by Council Member Hamilton that the Council adopt Ordinance No. 1626, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 5-2002 BEING A CHANGE OF ZONE FROM R-3 (MULTIPLE FAMILY RESIDENTIAL) TO PO(D) (PROFESSIONAL OFFICE - DESIGN OVERLAY) FOR THAT SITE LOCATED ON THE NORTH SIDE OF CLEVELAND AVENUE, EAST AND WEST OF PEARSON DRIVE. The motion carried unanimously.

Disposition:  Ordinance Adopted.

19.  SECOND READING - ORDINANCE NO. 1627, ZONING ORDINANCE AMENDMENT NO. 3-2002 - SECOND UNITS

Recommendation:  That Council give Second Reading to Ordinance No. 1627, waive further reading, and adopt said ordinance.

The City Manager read Ordinance No. 1627 by title only.

COUNCIL ACTION  MOVED by Council Member West, SECONDED by Mayor Pro Tem Gurrola that the Council waive further reading of Ordinance No. 1627. The motion carried unanimously.

Ordinance No. 1627  MOVED by Council Member Hamilton, SECONDED by Council Member Joyner that the Council adopt Ordinance No. 1627, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING ORDINANCE NO.1198 BEING THE ZONING ORDINANCE OF THE PORTERVILLE MUNICIPAL CODE, PERTAINING TO SECOND UNITS. The motion carried unanimously.

Disposition:  Ordinance Adopted.

SCHEDULED MATTERS

20.  REQUEST FOR TWO (2) TEMPORARY MODULAR STRUCTURES FOR HOME DEPOT

Recommendation:  That the City Council:
1.  Adopt the attached resolution and conditions of approval for the temporary modular structures for a period of time not to exceed one (1) year from the date of approval or the completion of construction, whichever occurs first.
2. Select Option No. 1 to provide clarification that construction related temporary structures which are subject to review and approval by the Building Official do not require further review by City Council.

The City Manager presented the item and the Community Development Director gave the staff report.

Council concurred on continuing this item until January 21, 2003.

21. REQUEST FOR A TEMPORARY TENT STRUCTURE FOR BEST WESTERN HOTEL (CARRROWS RESTAURANT)

Recommendation: That the City Council adopt the proposed resolution and conditions of approval for the temporary tent structure. The structure shall be removed no later than May 31, 2003.

The City Manager presented the item and Community Development Director gave the staff report.

Mark Hillman, 620 W. Olive, came forward as the agent for Mr. Polish, and stated they had read the conditions and were in agreement.

Elinor Patterson, with REACT, came forward and stated that they hoped the Council approved the tent. She also stated that the Council didn’t want everyone to go to Visalia to shop at their Home Depot.

Donna Snow, 1626 East Tyler Avenue, also with Porterville REACT, also spoke in favor of Council approving the request for the tent.

COUNCIL ACTION

MOVED by Mayor Pro Tem Gurrola, SECONDED by Council Member West that the City Council adopt the draft resolution and conditions of approval for the temporary tent structure, which shall be removed no later than May 31, 2003. The motion carried unanimously.

Disposition: Approved.

Mayor Woods abstained from this item, and Mayor Pro Tem Gurrola took over as Chair for Item No. 22.

22. APPROVAL OF EQUIPMENT RATES FOR THE CUSTOM WORK IN THE AGRICULTURAL MANAGEMENT AGREEMENT WITH ROBERT NUCKOLS

Recommendation: That City Council:

1. Approve the rates listed in the attached *Robert Nuckols Equipment Rates*; and
2. Authorize staff to proceed with authorizing Robert Nuckols to proceed with the work described in the Agricultural Management Agreement subject to the budget limitations in the authorized budget and completion of the escrow. (This approval will specifically authorize the City Manager or his designee to expend amounts consistent with the City budget and in excess of $500 pursuant to Charter Section 48, to implement the Agricultural Management Agreement without specific Council authorization or ratification.)

The City Manager introduced the item, and the Public Works Director gave the staff report. He stated that the Nuckols escrow had closed that day.

COUNCIL ACTION  
MOVED by Council Member West, SECONDED by Council Member Hamilton that the City Council approve this item as recommended by staff.

M.O. 19-010703

AYES: West, Joyner, Hamilton, Gurrola
NOES: None
ABSENT: None
ABSTAIN: Woods

Disposition: Approved.

Mayor Woods then resumed his position to chair the balance of the meeting.

ORAL COMMUNICATIONS
There were no Oral Communications.

OTHER MATTERS
None

Mayor Woods adjourned the Council to a meeting of the Porterville Redevelopment Agency at 8:29 p.m.

PORTERVILLE REDEVELOPMENT AGENCY
January 7, 2003

Roll: Redevelopment Agency Members: West, Joyner, Hamilton, Gurrola, Woods

WRITTEN COMMUNICATIONS
There were no Written Communications.

ORAL COMMUNICATIONS
There were no Oral Communications.

The Porterville Redevelopment Agency adjourned to a Closed Session at 8:30 p.m.
CLOSED SESSION

15b. CLOSED SESSION PURSUANT TO GOV. CODE § 54956.9(B) - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: ONE CASE; AND, GOV. CODE 54956.8 - CONFERENCE WITH REAL PROPERTY NEGOTIATORS/PROPERTY: 1095 N. PROSPECT STREET. AGENCY NEGOTIATOR: PURCHASING AGENT NEGOTIATING PARTIES: CITY OF PORTERVILLE AND STEPHEN SULLIVAN. UNDER NEGOTIATION: PRICE.

The Redevelopment Agency/Council reconvened at 9:08 p.m.

The City Attorney announced that the Redevelopment Agency approved an Exclusive Negotiating Agreement between Perris 40 Corporation and the Porterville Redevelopment Agency, and authorized the Chairman to sign the agreement.

The City Attorney stated that no action was taken in Closed Session on Mr. Harriman’s request.

ORAL COMMUNICATIONS
Greg Shelton questioned the ownership of the hay on the Airport property, and the status of the Home Depot Project. He was told that the hay belonged to the City, and that the Home Depot matter could not be discussed as it was a Closed Session litigation item.

ADJOURNMENT
The Council/Agency adjourned at 9:12 p.m. to January 21, 2003.

________________________________________
John Longley, City Clerk

SEAL

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Gordon T. Woods, Mayor