Call to Order: 5:35 p.m.
Roll Call: West, Martinez, Hamilton, Irish, Stadtherr

WRITTEN COMMUNICATIONS
There were no Written Communications.

ORAL COMMUNICATIONS
There were no Oral Communications.

SCHEDULED MATTER

1. Review of Brown Act Requirements

Julia Lew, City Attorney for the City of Porterville, addressed the Council and stated she would make a brief presentation on the Brown Act and answer any questions the Council may have in that regard. She stated it would be an informal session and discussion.

Ms. Lew stated that the Brown Act is also referred to as the “sunshine” law in California, and is the basis of the procedures used for meetings of local agencies. It ensures that meetings are held in public, and that the public is getting full benefit of the deliberations. She stated that the Brown Act applies to legislative bodies of government agencies such as the City Council, commissions, boards or other bodies created by the City Council, whether permanent or temporary, decision-making, or advisory. She referred to the exception of an ad-hoc committee of the City Council, where its members are made up of less than a quorum, and where they have been formed for a very specific, limited purpose.

The Brown Act applies to any meeting where there is a gathering of a majority number of members to hear, or discuss, any matter of business within its jurisdiction.

Council Members are all permitted to attend a seminar or conference, such as the Annual League of California Cities meeting, without violating the Brown Act, but they cannot deliberate specific City issues. She also advised that the Council members can attend community meetings, but they can’t discuss things that will end up before them as a Council. They can attend and listen but have to wait for a Council meeting for discussion.

The City Attorney then explained a serial meeting. It is a series of communications between individual Council members, ideas are exchanged among the majority, for the purpose of developing concurrence or consensus or figuring out where the vote will go. When asked when this prohibition takes effect, the City Attorney responded once the Council Member has been sworn in.
The Council was informed that the Brown Act prohibited them from taking any action on anything not on the agenda, nor could they discuss anything not on the agenda. She also referred to the Oral Communications sections of the City’s agenda which are sections permitted for public comment, as required by the Brown Act. She stated that the Other Matters section of the agenda was reserved for announcements and reports from City Council Members.

The City Attorney informed the Council that there are two emergency exceptions to discussing items not on the agenda. One is where there is a need to take immediate action on an item, and it was something that came about after the agenda had been posted. It also has to be a need that was not something that happened as a result of the fault of the Council. A two-thirds vote of the Council is required to place this type of matter on the agenda. The other “emergency” exception is extremely limited – either a crippling disaster or a work stoppage.

Relating to Closed Sessions, the City Attorney informed the Council that there are very limited categories permitted to be discussed in a Closed Session. They consist of existing or anticipated litigation; personnel issues for which the City Council has direct hiring and firing authority - the City Manager, City Clerk and City Attorney, dealing with evaluations, disciplinary issues, and appointment issues; and real property negotiations at which the Council may talk about the authority for price and/or terms of payment for a specific piece of property. Other items that may be discussed in a Closed Session include a threat to security of a public building or access to public services; and discussions with designated representatives regarding salaries, salary schedules, etc., for labor negotiations. She cautioned them as to the civil remedies available if the Council should fail to abide by the regulations, which include being enjoined from future actions, decisions can be nullified, decisions can be monitored; there are also criminal penalties, but “intent” has to be proven.

Ms. Lew then further explained serial meetings. A serial meeting can occur with contacts with staff, contacts with each other, or contacts with constituents. Individual briefings are allowed, but the City Manager should be contacted about matters dealing with staff contacts. Information should flow from the City Manager to the City Council. She stated that they were limited to asking questions or receiving information. She recommended limiting giving their opinion. She further stressed that the Council Members needed to be sure not to ask Staff to share views of other Council Members. Staff may present their viewpoints, but should not ask for the Council Member’s views.

Relating to contacts with constituents, the Council Member should state some ground rules and make it clear their views shouldn’t be disclosed. She further stressed that the Council Member should explain he will not make a final decision prior to the hearing.

As far as Council Members contacting each other, as long as the communication doesn’t involve a quorum, it’s not a meeting. She stressed they should avoid situations where one member discloses views of someone to a third member. She stated that was the problem that needs to be avoided.

Regarding the method of calling a special meeting, the City Attorney stated that the Mayor can call for a special meeting, or three Council Members, at a Council meeting, can call for a special meeting.
The City Attorney then reviewed some examples with the Council to reiterate the briefing on the Brown Act.

ORAL COMMUNICATIONS

There were no Oral Communications.

OTHER MATTERS

Council Member Irish referred to the Procedural Handbook and requested that it be placed on the agenda for adoption by the Council. The City Manager stated it would be placed on the agenda for the next regular meeting April 1, 2003.

ADJOURNMENT

The Council adjourned at 6:25 p.m. to March 27, 2003.

_______________________________
Georgia Hawley, Deputy City Clerk

SEAL

____________________________
Richard M. Stadtherr, Mayor