PORTERVILLE CITY COUNCIL MEETING
REGULAR MEETING AUGUST 19, 2003
CITY HALL COUNCIL CHAMBERS

Call to Order:  7:00 p.m.
Pledge of Allegiance:  Council Member Kelly West
Invocation:  Pastor Phil Burgess, Calvary Assembly of God Church
Roll Call:  West, Martinez, Hamilton, Stadtherr
Absent:  Irish

PROCLAMATIONS

“TURN OFF THE VIOLENCE DAY” - August 22, 2003
- Mickie Manning of Zonta Club came forward and accepted the proclamation and invited everyone to join them on Saturday at Veterans Park at 7:00 p.m.

“RUN WITH THE PACC DAY” - September 13-19, 2003
- Elva Beltran, on behalf of the Porterville Area Coordinating Council, came forward to accept the proclamation and the Mayor invited everyone to the “Run With the PAAC” run/stroll on September 13th at Veterans Park.

PRESENTATION

- The City Manager highlighted the Featured Projects for August, 2003:
  1. Kavadas Playground - slide presentation by Milt Stowe
  2. Wal-Mart Playground - slide presentation by Milt Stowe
  3. Neighborhood Community Center Environmental
  4. Airport Memorial Wall - Ben Harvey, 99 S. Ohio, of the Porterville Area Pilots Association came forward and advised Council that one and one-half of the four phase program was completed and hopefully by October they will have a dedication ceremony. Mr. Harvey advised anyone that has been a pilot in the Porterville area, or has contributed to the airport, is welcome to put a plaque (7 x 14) on the wall at their expense.

ORAL COMMUNICATIONS

• Bill Warner, 1370 Monache, addressed the Council relating to Item No.16 in support of the Graffiti Ordinance, stating he has been involved with graffiti for many years and in his opinion removing of graffiti in a timely fashion will involve not only a City removal team, but citizen involvement through block captains. Mr. Warner stated penalizing the property owners is the last resort; but if the public has to drive by and look at the graffiti over a period of time, it is no longer, in his opinion, an issue of property rights over the common good. Making penalties stick is another problem due to catching those that graffiti in the act. Mr. Warner stated that in the long run quick removal is the only remedy, and he supports the ordinance passage.
Jerry Lynch, 1490 N. Atkins Way, Vice-President of the Porterville Museum and Co-Organizer of the Hot August Bikes, reported to the Council on the success of their event last Saturday. He has only received good comments and no suggestions for improvement. Preliminary calculations indicate a profit of $5,000 for the Porterville Museum. He suggested the City consider, for any organizations that hold similar events, to advise/require clubs to get a permit from the Tulare County Health Department for food service; and that a First Aid Station or Kit be a requirement. Mr. Lynch also noted that Murry Park could use additional electrical power and upgrading to 220, and there are potholes in the grass area.

Cathy Capone, 806 W. Westfield, addressed the Council on Item No. 8, “Appointment to Tule River Improvement Joint Powers Agreement Committee,” and asked the Council to consider the Tule River Parkway Association having a seat on the committee in an advisory or observing manner. She also spoke on Item No. 11 “Section 5307 Prerequisite Documents (Transit)” and her concerns for the unmet transit needs for people with mobility problems and the time they have to sit outside to wait for the Dial-A-Ride. Councilman Hamilton asked staff if he was correct in that an ADA person can call up to two weeks in advance to schedule an appointment, and was advised that is correct.

Dick Eckhoff, 30 E. Oak, addressed the Council on Item #16 in support of the Ordinance. He expressed his concern over the sections that give the City the authority to bill the property owner and his opposition to twice punishing the owner whose property has been vandalized. Mr. Eckhoff went on to say he is not totally satisfied with the language of the ordinance, but he does back the implementation of this law. Mr. Eckhoff wanted to clear up a few misconceptions that since nothing has been done is no excuse for doing nothing, and that the City has taken steps in the implementation of this ordinance.

Sue Janoko, 619 N. 3rd St., addressed Council on Item #16 in support of passage of the Graffiti Ordinance. She stated that at earlier meetings she asked Council to take action and thanked the Council for listening and for acting.

Lloyd Turner, 1075 W. Roby, representing Rollin’ Relics Car Club, referred to Item No. 10 and asked the date of the event be corrected to reflect May 1, 2004 for the event.

**CONSENT CALENDAR**
Item Nos. 5, 8, 10, and 11 were removed from the Consent Calendar.

1. MINUTES OF AUGUST 4, 2003

   Disposition: Approved.
   Document No.: Minute Order No. 01-081903

2. 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.
3. BUDGET ADJUSTMENTS FOR THE 2003/2004 FISCAL YEAR

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

Disposition: Approved.
Document No.: Minute Order No. 03-081903

4. GASB 34 SOFTWARE MODULE

Recommendation: That the Council approve the System Agreement between Incode and the City of Porterville, and authorize the Mayor to sign all appropriate documents.

Disposition: Approved.
Document No.: Minute Order No. 04-081903

6. AIRPORT IMPROVEMENT PROGRAM NO. 3-06-0190-06

Recommendation: That the City Council authorize the acceptance of Airport Improvement Program Grant No. 3-06-0190-06, and approve both resolutions and authorize the Mayor to execute any and all documents necessary to comply with the grant agreements.

Disposition: Approved.
Document No.: Resolution No. 102-2003 and No. 103-2003

7. FEDERAL AVIATION PLANNING GRANT

Recommendation: That the City Council authorize the Mayor to accept the grant offer and sign the necessary resolutions for acceptance, and authorize the Mayor to sign a resolution for the submittal of an application, acceptance of an allocation of funds, and execution of a grant agreement with the California Department of Transportation for the matching grant.

Disposition: Approved.
Document No.: Resolution No. 104-2003 and No. 105-2003

9. FILLING VACANCIES ON THE LONG RANGE PLANNING COMMITTEE

Recommendation: That the City Council appoint Brian Ennis to a four (4) year term expiring on July 10, 2007; and continue to seek nominations for a City resident to fill the remaining vacancy with a term that will expire on July 10, 2005.
12. CONSIDERATION OF AN AMENDMENT TO THE CITY MANAGER’S EMPLOYMENT AGREEMENT

Recommendation: That the City Council approve the Amendment to the Employment Agreement.

Disposition: Approved.  
Document No.: Minute Order No. 05-081903

COUNCIL ACTION  
MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council approve Item Nos. 1 through 4, 6, 7, 9, and 12 of the Consent Calendar.

AYES: West, Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

5. AUTHORIZATION TO NEGOTIATE RENTAL OF PROPERTY - 304 N. MAIN STREET

Recommendation: That City Council:
1. Authorize staff to negotiate a short-term lease for the property located at 304 N. Main Street; and
2. Authorize the Mayor to sign all necessary documents to complete the transaction.

Council Member Hamilton stated he asked that this item be pulled as his parents own the property at 304 N. Main Street, but not the business, and probably does not have a conflict of interest but he will be abstaining from this item.

Council Member West asked the rental price the City is asking. The City Manager advised $300 is the price, the same as the prior tenant.

The City Attorney explained it would be a short-term lease and the prospective tenant would be aware of stipulation.

Council Member Martinez asked if there would be any modifications needed to the building. The City Manager advised he was not aware of any modifications and if there are any they would be exclusively at the cost of the tenant.
COUNCIL ACTION

MOVED by Council Member West, SECONDED by Mayor Pro Tem Martinez that Council approve this item.

Minute Order 07-081903

AYES: West, Martinez, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: Hamilton

Disposition: Approved.

8. CITY COUNCIL APPOINTMENT - TULE RIVER IMPROVEMENT JOINT POWERS AGREEMENT (JPA) COMMITTEE

Recommendation: That the City Council appoint Baldomero Rodriguez as the Alternate Member to the Tule River Improvement Joint Powers Agreement (JPA) Committee in conjunction with Ronald L. Irish as the Member to the Committee.

Mayor Stadtherr stated he requested this item be removed for discussion purposes as to whether it is reasonable, plausible, or possible to accommodate Ms. Capone’s request for representation on the JPA by the Tule River Park Association.

The City Manager advised that at the direction of the Council the request could be made to the Advisory Committee for their consideration.

COUNCIL ACTION

MOVED by Council Member West, SECONDED by Council Member Hamilton that the Council appoint Baldomero Rodriguez as the Alternate Member to the Tule River Improvement Joint Powers Agreement (JPA) Committee.

Minute Order 08-081903

AYES: West, Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Approved.

Council Member Hamilton asked for clarification if the notices of the Tule River Improvement Joint Powers Committee meetings were posted.

The City Manager advised the notices are posted, but he wasn’t sure if they are posted at City Hall, but he will insure the notices are posted at City Hall.

Council Member Hamilton requested Ms. Capone be e-mailed a notice of the meetings.

The City Manager assured the Council he would direct staff to take this action.
10. APPROVAL FOR COMMUNITY CIVIC EVENT, ROLLIN’ RELICS CAR CLUB - ROLLIN’ RELICS CAR SHOW - May 1, 2004.

Recommendation: That the City Council approve the Community Civic Event Application and Agreement submitted by the Porterville Chamber of Commerce, subject to the stated requirements in the Application, Agreement, and Exhibit “A”.

Mayor Pro Tem Martinez stated he asked this item to be held over to the next City Council Meeting as there have been concerns and to give Council Member Irish time to give his input on this item in relation to the parking and where the cars would be parked in the park, and to have all Council members present for discussion.

COUNCIL ACTION

MOVED by Mayor Pro Tem Martinez, SECONDED by Council Member Hamilton that this item be postponed until the next Council meeting to have full Council discussion.

AYES: West, Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Continued to the next regularly scheduled meeting of the City Council on September 2, 2003.

11. SECTION 5307 PREREQUISITE DOCUMENTS (TRANSIT)

Recommendation: That the City Council approve the:
1. 2003 Americans with Disabilities Paratransit Plan;
2. Certifications and Assurances;
3. Title VI Report; and
4. Implementation of the Half-Fare of $.35 during non-peak hours on the Fixed Route system for elderly persons and persons with disabilities.

Mayor Stadtherr stated he asked for the item to be pulled for the City Manager to address concerns. The City Manager asked Administrative Services Director, Darrel Pyle, to address this item. Mr. Pyle introduced Charley Clouse, TPG Consulting, 711 N. Court, Visalia, CA, the City’s transit consultant who is assisting the City in obtaining the 5307 federal funding. Mr. Pyle asked Mr. Clouse to explain the unmet transit needs for people waiting for demand response. Mr. Clouse thanked the Council for being able to present both the Paratransit Plan and the Title VI Report that are required by Federal guidelines that govern Porterville Transit and Colt Operations. Mr. Clouse responded to the question about availability of transit service to transit dependents, and more specifically the comment about individuals with handicaps or difficulties that may require more prompt service. He further explained that two rules govern the operation of the City system, California law and Federal law. The Federal law does provide for certain passengers to have advance registration up to 14 days in advance. The state guideline represents the definition that is allowed to
be developed through the local regional transportation agency, which is Tulare County Association of Governments (TCAG). TCAG has reviewed on an annual basis the City of Porterville’s Transit System and has determined there are no unmet needs by their definition. Mr. Clouse further stated that on his review of the guidelines in the Paratransit Plan, the City of Porterville is meeting or exceeding not only our own guidelines but the Federal guidelines we are required to follow.

Council Member Hamilton stated that at a recent TCAG meeting, reports show that Porterville is way above normal in the low number of complaints compared to Visalia and Tulare.

Mayor Pro Tem Martinez stated his understanding is that we will be getting more bus stops for better availability to riders, another plus for the program.

COUNCIL ACTION

MOVED by Mayor Pro Tem Martinez, SECONDED by Council Member Hamilton that the City Council approve the 2003 Americans with Disabilities Paratransit Plan, Certifications and Assurances, Title VI Report, and implementation of the half-fare of $.35 during non-peak hours on the Fixed Route system for elderly persons and persons with disabilities.

Minute Order 09-081903

AYES: West, Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Approved.

PUBLIC HEARING


Recommendation: That the City Council adopt a resolution confirming the report of the Advisory Board which shall constitute the levy of an assessment for the fiscal year 2003-2004.

The City Manager introduced the item and the Administrative Services Director, Darrel Pyle, was designated to present the report.

The Mayor opened the hearing to the public at 7:55 p.m.

Dick Eckhoff, Chairman of the Downtown Porterville Association (DPA), 30 E. Oak St., s. Mr. Eckhoff stated the Association has been working diligently the last couple of years and is making good improvements. They have started work on hiring a part-time Administrative Assistant and are looking into call-forward to give them full-time telephone coverage. Mr. Eckhoff invited the Council to their upcoming Annual Meeting on September 11th at 8:15 a.m. in the Library Community
Room. At that meeting, they will be presenting what has gone on over the past year and plans for the future year. Mr. Eckhoff advised that the DPA has accepted the responsibility of decorating Main Street trees with lights for Christmas, and is in contact with decorators for this project. The DPA is also involved with working with the Nelson Building Project.

The Mayor closed the hearing to the public at 7:58 p.m.

Council Member West stated he has had five businesses call him to voice that they do not want to be a part of the Association. He would like to recommend the public hearing be continued to have staff hold a forum for those people in the district that would like to voice their opinion in private. Council Member West stated some of those people feel they can’t speak up. He stated they would like to meet in private as they are concerned about retaliation.

Dick Eckhoff advised everyone benefits from the work the association does, including clean-up, tree lighting, alley and garbage clean-ups. They want to represent all downtown businesses, not just retail. Mr. Eckhoff advised this is not directed by the City, it is requested by the businesses in the district and a provision is there, that if the business as a whole request out they can be taken out, but the request has to come from the business.

Council Member Hamilton asked if there were exemptions.

Mr. Eckhoff explained there are exclusions because some businesses do not pay a business license for one reason or another so they are excluded from paying because it is matched to the business license and it has to do with federal licensing.

COUNCIL ACTION MOVED by Mayor Stadtherr, SECONDED by Mayor Pro Tem Martinez that the City Council continue the hearing to the next Council meeting, and staff will send a letter to members of the district stating the meeting has been continued to date specific; and if they wish to raise concerns, they can appear at the next hearing.

AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Continued to the next regularly scheduled meeting of the City Council on September 2, 2003.

14. USE OF LOCAL LAW ENFORCEMENT BLOCK GRANT FUNDS BY THE PORTERVILLE POLICE DEPARTMENT

Recommendation: That City Council
1. Accept the grant;
2. Approve the use of the grant funds as recommended by the Advisory Board; and
3. Authorize budget adjustment for total grant funds received.

The City Manager introduced the item, and Chief of Police, Silver Rodriguez gave the staff report.

The Mayor opened the public hearing at 8:12 p.m. The Mayor closed the hearing to the public at 8:13 p.m.

Council Member West stated he thought the City was going to ask the schools to pick up the cost of the Resource Officer.

The City Manager and Chief Rodriguez addressed questions from the Council on the time spent transporting juveniles, costs involved, procedure of the program, and City staff and school involvement.

COUNCIL ACTION _______ MOVED by Council Member Hamilton, SECONDED by Council Member West that the item be accepted as presented.

Resolution No. 106-2003

AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

The Mayor closed the hearing at 8:20 p.m.

Disposition: ___ Approved.

15. ENVIRONMENTAL REVIEW OF THE JAYE STREET NORTH OF STATE HIGHWAY 190 IMPROVEMENTS PROJECT

Recommendation: Staff is requesting that the City Council open the public hearing and continue this item to the next regularly scheduled meeting of the City Council on September 2, 2003.

The City Manager introduced the item, and City Assistant Planner, Randy Rouda, gave the staff report.

The Mayor opened the public hearing at 8:20 p.m.

COUNCIL ACTION _______ MOVED by Mayor Pro Tem Martinez, SECONDED by Council Member West that the public hearing be continued to the next regularly scheduled meeting of the City Council on September 2, 2003.
AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Continued to the next regularly scheduled meeting of the City Council on September 2, 2003.

SECOND READING
16. SECOND HEARING - ORDINANCE 1638 - THE GRAFFITI ORDINANCE

Recommendation: That Council give Second Reading to Ordinance No. 1638 and waiving further reading, and adopt said ordinance.

The City Manager gave a brief update on the graffiti matter, and advised that upon acceptance of the first reading, a program was also presented at that time. The City Manager advised a report from Field Services Supervisor, and primary Supervisor for the Graffiti Program, Fred Beltran, was provided to the Council of the implementation of the graffiti effort in the community.

The City Manager emphasized that the ordinance is the major piece, but the program is basically the motion and the effort; and it is up and operating and expected to be fully charging by the first of September.

The City Manager read the ordinance by title only.

COUNCIL ACTION

MOVED by Council Member West, SECONDED by Council Member Hamilton that the Council waive further reading of the Ordinance.

Ordinance No. 1638

AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Approved.

MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Martinez that the Council adopt Ordinance No.1638.

AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Approved.
Meeting recessed at 8:25 p.m. for a short break until 8:40 p.m.

SCHEDULED MATTERS

17. REPORT TO THE CITY COUNCIL FROM THE AIR QUALITY STUDY GROUP

Recommendation: No action required.

The Mayor advised the Air Quality Study Group that was sanctioned by previous Council has met twice and have specific requests of the City Council:

1. Consider the items in the RACM (Reasonably Available Control Measures);
2. Council to consider at a future meeting a resolution urging the Legislature to adopt Senate Bill 708. Basically, it allows counties, for highways under their jurisdiction, to establish and combine vehicle inspections/sobriety check points to check for tailpipe emissions.

The Mayor requested that the resolution of support be placed on the Council Agenda for the meeting proposed at the discretion of the City Manager.

COUNCIL ACTION No action required.

18. RESOLUTION OF NECESSITY PERTAINING TO THE ACQUISITION OF PROPERTY LOCATED AT 655 NORTH NEWCOMB STREET (EASEMENT OF APPROXIMATELY 1900 SQ. FT. OWNED BY HARLAN BENTZ, BEN ENNIS, AND BEN WEBB – APN NO. 254-214-019) - PROPOSED MEMORY LANE WIDENING PROJECT

Recommendation: That City Council:
1. Hear testimony from the owners and/or their representative(s), if they appear and request to be heard;
2. If Mr. Webb, Mr. Ennis, and Mr. Bentz have agreed to the transfer of the easement on the terms described above, approve the Resolution accepting the transfer of the easement attached; or
3. If the owner/representatives continue to dispute the acquisition of the easement, adopt the attached Resolution of Necessity, and authorize the City Attorney to take all appropriate action necessary to acquire said property on behalf of the City of Porterville.

The City Manager introduced the item, and City Attorney, Julia Lew, gave the staff report.

The City Attorney, given the information received today, recommended that Council take action to continue the matter to the next regularly scheduled meeting.
Council Member West made a motion, and it failed to receive a SECOND, that the item be continued to the next regularly scheduled Council Meeting. The motion was withdrawn by Council Member West.

After further discussion of Council:

COUNCIL ACTION MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Martinez that the City Council accept the Resolution of Necessity and propagate further negotiation.

Resolution No. 107-2003

| AYES:   | West Martinez, Hamilton, Stadtherr |
| NOES:   | None                               |
| ABSENT: | Irish                              |
| ABSTAIN:| None                               |

Disposition: Approved.

19. SALE OF REAL PROPERTY - PUTNAM & PORTER ROAD

Recommendation: That the City Council affirm the use of the sealed bid process, approve the sale of the real property located at the southeast corner of Putnam Avenue and Porter Road to Thomas J. O’Sullivan in the amount of $10,100, authorize Staff to open an escrow, adopt the Resolution, and authorize the Mayor to sign the Grant Deed on behalf of the City.

The City Manager declared a conflict of interest as one of the individuals is his landlord of an apartment he rents in the City, and Administrative Services Director, Darrel Pyle, would take the seat.

Mr. Pyle gave the staff report, and City Attorney, Julia Lew, requested to give clarification to the item.

The City Attorney advised a letter was received with an accusation of a Brown Act violation with regard to this item, specifically with the real property negotiation issue. The issue was discussed with the claimant by the City Attorney in regards to that allegation and explained that the item was discussed in closed session pursuant to Gov. Code Section 54956.9 as anticipated litigation due to threats of litigation received from one of the buyers, Mr. Allen. She further explained that what is discussed in closed session is privilege and cannot be discussed here, and that what came out of the closed session was direction to put the property out to public bid. The public was given notice of this via advertisement to the public for bidding as well as to Mr. Allen and his attorney, as well as the other interested parties that had expressed interest in purchasing this property, all of whom were given actual notice of this action by the Council.
The City Attorney requested by clarification two things for Council action. Due to the allegation of a Brown Act violation, the allegation asks for a cure, or to affirm the action taken. The City Attorney requested the two actions be taken separately.

1. Request Council to affirm the decision to go out to bid; and
2. Approve the sale of the property.

The City Attorney also stated that Mr. Allen’s attorney was notified that this item was on the agenda, and they would have every ability to speak to the Council on this issue.

The Mayor asked if there were any representatives for Mr. Allen or any of the other parties in attendance that would like to come forward. There were none.

COUNCIL ACTION

MOVEd by Council Member Hamilton, SECONDED by Mayor Pro Tem Martinez to affirm the previous Council decision to go out to bid.

Minute Order No. 10-081903

AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Approved.

MOVEd by Council Member Hamilton, SECONDED by Council Member West to open escrow on the property to the highest bidder.

Resolution No. 108-2003

AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Approved.

20. CONSIDERATION OF A RESOLUTION TO UPHOLD THE HUMAN RIGHTS AND CIVIL LIBERTIES OF THE PEOPLE OF PORTERVILLE

Recommendation: To be determined by Council.

Mayor Stadtherr opened the item to oral communications related to this item only.

Carolyn Waller, 23060 Lawson, Strathmore, spoke in support of the Resolution before the Council.

David Chandler, 33251 Tule Oak Dr., Springville, also spoke in support of the Resolution. He stated that the resolution indicates all human beings have recognized rights.

John Poutland, 17218 Ave. 296, Visalia, presented to the Council two pages of organizations that are against the Patriot Act, and requested that the Council support the Resolution before them.

Daniel Lee, 1620 N. Ajena St., Visalia, spoke on behalf of all young people and requested support for the Resolution as the young people of today have another 60-70 years to live by the laws passed now.

Esther Ameral, 335 N. Indiana, Apt 702, Porterville, spoke in support of the Resolution before the Council, and stated that having just turned 80 years old, she has seen a lot of mistakes made. She stated we are free because we have the Constitution and the Bill of Rights.

Bill Warner, 1370 Monache, Porterville, former Marine Staff Sergeant 1125177, stated Porterville has a lot of Veterans, including himself, who have served this country in defense of those freedoms which are now being threatened. Quoted a lawyer, “terrorists cannot make America less free, only Americans can do that.”

Mrs. Billie Chandler, 33251 Tule Oak Dr., Springville, stated she is a owner of a small business that does international trade and needs a City like Porterville to continue day-to-day activities, and she urged the Council to support the Resolution rejecting the Patriot Act. She stated from Benjamin Franklin “those who will give up liberty for security deserve neither”.

The City Attorney pointed out the Resolution is very broad and asked the Council to consider a few statements in the Resolution prior to making a decision.

Mayor Stadtherr made a motion and it was seconded by Council Member Hamilton that the Resolution be approved as stated.

Mayor Pro Tem Martinez advised he would like to give Council Member Irish the opportunity to give his input. Upon further discussion, Council Member Hamilton withdrew his second and the motion failed.

After additional discussion by the Council:

**COUNCIL ACTION**

MOVED by Council Member West, SECONDED by Council Member Hamilton that the item be postponed to the next regularly scheduled meeting, September 2, 2003, and placed on the Consent Calendar to allow Council Member Irish to be present.
AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Continued to the next regularly scheduled meeting, September 2, 2003.

21. WATER CONSERVATION PROGRAM INFORMATION

Recommendation: That the City Council:
1. Approve the attached “General Water Saving Tips” for distribution to the public; and
2. Direct staff to investigate the appropriateness of a mandatory water conservation program.

The City Manager introduced the item, and the Public Works Director, Baldomero Rodriguez, gave the staff report.

Council Member West made a motion that Council accept staff’s recommendation.

Council Member Hamilton addressed the Council on item #2, and stated he is not in support of a mandatory water conservation program. The City Manager explained the policies currently in place and gave an explanation of water usage. After further discussion, Council Member West withdrew his motion.

COUNCIL ACTION
MOVED by Council Member Hamilton, SECONDED by Council Member West that #1 of the Recommendation by staff be accepted, and #2 of the Recommendation be accepted with a revision to bring back the policy in November with any revisions staff might have.

Minute Order 11-081903
AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Approved.

The City Attorney requested an item be added to the agenda for tonight. She stated the need arose subsequent to the posting of the agenda, and possible immediate action by Council may be necessary. This is a Closed Session item for actual pending litigation. The case name is Brad Maples and Steve Allen vs. City of Porterville, Tulare Superior Court Case No. 03-97593. The City Attorney requested a unanimous vote by Council.

COUNCIL ACTION MOVED by Council Member West, SECONDED by Council Member Hamilton to hold a Closed Session on the pending litigation.
AYES: West Martinez, Hamilton, Stadtherr
NOES: None
ABSENT: Irish
ABSTAIN: None

Disposition: Closed Session Approved.

ORAL COMMUNICATIONS
Nicki Edwards, 13096 Rd. 208, Porterville, commented on three agenda items. She thanked Council for consideration of the Patriot Act Resolution and stated it threatens what we hold dear in America. Her second comment was on the water conservation stating she feels there comes a time when you can either regulate water consumption or you have to regulate growth. Her third comment was on the air quality item, and a request that a number be publicized for citizens to report any smoking car.

Dick Eckhoff, 30 E. Oak St., Porterville, spoke on concerns of the water conservation program. He stated he is concerned about drilling more wells but stated another problem is destroying the capacity to store water. He also stated he is opposed to being told when to turn his water off, and feels education is the route to take, as well as looking at shopping center landscape and water flowing down Olive Avenue from City irrigation.

OTHER MATTERS
There were no other matters.

COUNCIL COMMENTS
Council Member West advised he has met twice with the people from the Fairway Tract Water Company and stated Council had received a copy of the letter. He went on to state that the east side has no way of supplying water. They dig a well, but it has high nitrates above the standards. He asked the Council to consider a long range plan program on how the City could supply the water needs to the east side. With those people not able to annex at this time, they could still pay in to these wells or pay their fair share. He requested staff to prepare something for Council to look at as a lot of wells are failing on the east side.

The City Manager stated the letter was received independent of the Council, and staff, Mr. Rodriguez, and the City Manager have reviewed it and would anticipate in the next 60 days or so bringing forth a proposal to the Council to consider what would involve the wholesale of water. The City Manager stated this would not be to take over systems that are existing, but to wholesale water. He stated there are key ingredients: (1) to maintain water pressures and water supply within our own system as a priority, (which would be addressed in the proposal); (2) also provide opportunities to those on the east side that wished to make wholesale water available if the system can be held harmless or improved by the sale of the water.

Mayor Stadtherr stated that in an effort to balance out the Council workload in reference to various committee meetings, he brought forth the idea of voluntary assignment by the Council to the committees. Council Member Hamilton stated the committees are bringing the Council information they do not have time to gather.
Mayor Stadtherr stated that with the momentum of the graffiti ordinance and community activities, he wanted to extend the idea to the Council Members of doing radio spots to encourage the public to fight graffiti by reporting it to the hotline, 784-1399. He expressed he will be going to KTIP and volunteering his voice, and invited other Council Members to do the same.

Mayor Pro Tem Martinez stated there was a Hispanic Chamber event taking place and asked Felipe Martinez, 181 W. Putnam, Porterville, from the Tulare Kings Hispanic Chamber to come forward. Felipe Martinez advised the Chamber would be having an event at Finance & Thrift on Main Street, 5:30 - 8:00 on the 21st, and it is also their quarterly meeting.

Mr. Martinez also acknowledged Chief Rodriguez’s involvement with the Porterville School District and stated the presentation involved with the gang activities in the schools, and the meeting held with the principals were well received. Mr. Martinez thanked Chief Rodriguez on behalf of the Chamber.

Council Member West asked for clarification of notifications on the Business Improvement District. He stated that everyone in the Improvement District should get a letter. The City Manager stated he felt the direction was to publish a notice in the paper which would be effective, giving points of contact, and if further information was required, giving either Mr. Eckhoff or City Manager as a contact. The City Attorney further explained that publishing would be sufficient.

CLOSED SESSION
The Council adjourned at 10:00 p.m. to the Closed Session, and reconvened at 10:15 p.m.

ADJOURNMENT
The Council adjourned at 10:15 p.m. to September 2, 2003.

Georgia Hawley, Deputy City Clerk
Prepared by: Carol Bodine,
Secretary to City Manager

SEAL

Richard M. Stadtherr, Mayor