Call to Order: 6:00 P.M.
Roll Call: Council Member West, Mayor Pro Tem Irish, Council Member Hamilton, Council Member Stadtherr, Mayor Martinez

CLOSED SESSION - CITY COUNCIL/REDEVELOPMENT AGENCY:
A. CLOSED SESSION PURSUANT TO:
   1 - GOVERNMENT CODE § 54956.9(B) - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: ONE CASE.
   2 - GOVERNMENT CODE § 54956.9(C) - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: ONE CASE.

7:00 P.M. RECONVENE OPEN SESSION AND REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
The Mayor stated that there was no action to report.

Pledge of Allegiance Led by Council Member Cameron Hamilton
Invocation by Mayor Martinez

PROCLAMATION
“WORKFORCE MONTH” - September, 2004
The Director of Community Development came forward and accepted the Proclamation.

PRESENTATIONS
Employee of the Month - Ron McAllister

ORAL COMMUNICATIONS
• William Wilson, 1030 N. Scenic Drive, expressed support for the development of an adult softball complex.
• Cathy Capone, 806 W. Westfield, advised Council of an organized walk along the Tule River from Jaye Street to Westwood scheduled for Saturday, October 9, 2004 at 9:00 a.m., and a community tree planting at Tule River Parkway set for October 23, 2004 at 9:00 a.m. Ms. Capone also expressed the importance of the City involving the Tule River Parkway Association in the process of moving the parkway forward.
• John Hardin, 454 Balmoral, expressed support for the development of an adult softball complex.
• Greg Shelton, 888 N. Williford, thanked the Council and City Staff for the progress of the Williford Street Project.
• Ray Wilcox, 1545 Date Avenue, voiced concern against the proposed development at Beverly and Lotas.
• Dick Eckhoff, 180 N. Main Street, spoke generally of concerns with Items 27, 28, and 29, and indicated Item 28, in particular, reflected the City’s need of a code enforcement officer.
• Ray Olmedo, 1245 W. Westfield, expressed support for the development of an adult softball complex.
• William Van Ladingham, 1505 W. Date Avenue, spoke in opposition to the proposed development at Beverly and Lotas.
• Charles McCormick, 1501 Heritage, spoke against the proposed building at Beverly and Lotas and pointed to potential ingress and egress problems.
• Jose Rodriguez, 2111 White Chapel, spoke in support of the development of an adult softball complex.
• Sara Topa, 85 E. Putnam, greeted Council and City Staff.

CONSENT CALENDAR
Item 11 was removed.

1. CITY COUNCIL MINUTES OF AUGUST 10 AND AUGUST 17, 2004

Recommendation: That the Council approve the City Council Minutes of August 10 and August 17, 2004.

Documentation: Minute Order 01-090704
Disposition: Approved.

2. AUTHORIZATION TO ADVERTISE FOR BIDS - CENTRAL CORE CONCRETE IMPROVEMENTS PROJECTS - AREA 1

Recommendation: That the Council approve the Plans and Project Manual, and authorize Staff to advertise for bids on the project.

Documentation: Minute Order 02-090704
Disposition: Approved.

3. AWARD OF CONTRACT FOR THE PREPARATION OF A CITY-WIDE OVERHEAD COST ALLOCATION PLAN AND FEE STUDY

Recommendation: That the Council award a contract to MAXIMUS for the preparation of the cost allocation plan and City-wide fee study, and authorize the Mayor to sign all documents necessary to initiate the process.

Documentation: Minute Order 03-090704
Disposition: Approved.

4. AWARD OF CONTRACT - MILO STREET RECONSTRUCTION PROJECT

Recommendation: That the Council:
1. Award the Milo Street Reconstruction Project to Mitch Brown Construction, Inc. in the amount of $67,629.38;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs.
5. **APPROVE DESIGN SERVICES FOR THE MURRY PARK MASTER PLAN**

**Recommendation:** That the Council approve the use of *hma landscape architecture* for design services related to the Murry Park Renovation Master Plan, and authorize the City Manager to execute a Professional Services Supplement with *hma*.

**Documentation:** Minute Order 05-090704

**Disposition:** Approved.

6. **ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-109-001 - GARCIA - ORANGE AVENUE STREET RECONSTRUCTION PROJECT**

**Recommendation:** That the Council authorize Staff to make payment to Mr. Hector D. Garcia, owner of the property, in the amount of $381.00, accept the Grant Deed, and authorize Staff to record said Deed with the County Recorder.

**Documentation:** Resolution No. 116-2004

**Disposition:** Approved.

7. **CALHOME PROGRAM APPLICATION**

**Recommendation:** That the Council:

1. Adopt the draft resolution approving the submittal of a CalHome Program funding application to the California Department of Housing and Community Development;
2. Authorize the Mayor to execute all documents pertaining to the CalHome Program; and
3. Authorize the Community Development Director to execute, in the name of the City of Porterville, project drawdown requests, and all other administrative documents required by the California Department of Housing and Community Development for administration of the CalHome Program.

**Documentation:** Resolution No. 117-2004

**Disposition:** Approved.

8. **CITY OF PORTERVILLE CONFLICT OF INTEREST CODE - BIENNIAL REPORT AND AMENDMENT**

**Recommendation:** That the Council accept the Conflicts and Disclosure Monitor Agency 2004 Biennial Report.

**Documentation:** Minute Order 06-090704

**Disposition:** Approved.

Recommendation: That Council accept the Annual Assessment of C.O.L.T. System as an informational item only.

10. APPROVAL OF ANNUAL TRANSPORTATION AGREEMENT WITH TULARE COUNTY

Recommendation: That the Council enter into an Agreement with the County of Tulare for FY 2004-2005 to provide service to County residents within the Service Area Boundary Map, and authorize the Mayor to execute the Agreement on behalf of the City.

Documentation: Minute Order 07-090704
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Hamilton to approve items 1 through 10. The motion carried unanimously.

11. APPROVAL FOR COMMUNITY CIVIC EVENT PORTERVILLE FAIR BOARD - THE GREAT OUTDOORS ADVENTURE SEPTEMBER 11-12, 2004

Recommendation: That the Council:
1. Approve the Community Civic Event Application and Agreement submitted by the Porterville Fair Board, subject to the stated requirements contained in Exhibit A; and
2. Grant the Chief of Police the authority to determine the need for the street closure, and close Olive Avenue from the Rail Road tracks to Plano Street, should the volume of pedestrian traffic and vehicular traffic warrant it.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Hamilton to approve Staff’s recommendation.

M.O. 08-090704 AYES: West, Irish, Hamilton, Stadtherr
NOES: None.
ABSTAIN: Martinez
ABSENT: None.

Disposition: Approved.

PUBLIC HEARINGS

12. CONDITIONAL USE PERMIT 6-1982, MODIFICATION NO. 1 (COLONIAL MOBILEHOME PARK)

The City Manager, John Longley, presented the item, and Director of Community Development, Brad Dunlap, presented the Staff report.

Mr. Dunlap indicated that he spoke with a representative from Colonial Mobilehome Park today, namely applicant’s counsel, who raised questions on certain proposed conditions. The first question pertained to Condition No. 4 which states “All landscaped areas, including those along the Morton Avenue and Westwood Street frontages, shall be permanently maintained…” Mr. Dunlap indicated that applicant’s counsel requested that this Condition be clarified. Mr. Dunlap stated that Staff has revised Condition No. 4 for clarification as requested, with the revised Condition No. 4 reading, “All common landscaped areas, including those along the Morton Avenue and Westwood Street frontages…” The Community Development Director stated that the second question raised by the applicant’s counsel pertained to the proposed procedure for ensuring compliance with the conditions of approval. Mr. Dunlap indicated that Staff’s intent is to follow the procedure, or its equivalent, as outlined on the memorandum prepared by him dated today, which specifically outlines the procedure as follows:

a) A field inspection will be conducted to verify that a violation or deficiency exists.

b) A letter will be sent to the property owner and the manager of the development describing the violation. The letter will include deadlines for contacting Staff and for correcting the violation if no contact is made.

c) Following the standard enforcement process, Staff will negotiate a reasonable period for the corrections to be made. Depending upon the violation, such an agreement may include interim milestones.

d) The deposited funds would only be used to cause corrections to be made if the owners and managers fail to correct the violation by an announced deadline.

e) As with all Staff actions, the determination that a violation exists at the subject site is subject to appeal to the City Council.

Mr. Dunlap indicated that this is a general outline of what the procedure would be, which he stated seemed to be satisfactory to applicant’s legal counsel. Mr. Dunlap then stated that the original landscape plan would likely not be approved this evening, because Staff is looking for a different species of plants than what is suggested in the plan. He then pointed out that the proposed plan does meet current standards and practices for landscaping and irrigation plans, and that, given the 60-day time line provided to the applicant by the Council, the applicant has moved forward with eliminating the problem related to soil and exposure of the wall footings. Mr. Dunlap indicated that the applicant has also installed some irrigation and that Staff would like to hear from the applicant if they will be able to meet the September 18, 2004 deadline in terms of completing the plantings, and if not, an extension may be needed.

The public hearing opened at 7:49 p.m.

Linda Miyai, property owner, voiced concerns over the proposed modifications. Ms. Miyai then read a statement as follows: Modification One of the Conditional Use Permit 6-1982 seeks to improve the choice of trees, shrubs, and ground cover as required in the initial City Council action. Modification One is an improvement with the addition of grass. Forty-eight trees is a lot of trees, but manageable. The Staff’s recommendation to substitute Raywood Ash on Morton for some of the pear or plum trees is OK, but adding 14 trees to the count is not. That is too many trees for the size of the area, and causes great
concern for the residents who are older and have decided to downscale their homes and yard responsibilities to meet their advancing limits on physical activity and health. Adding 14 trees causes serious problems, not to the park owner, but the mobile home owners. I personally know the harm that too much shade can do to mobile homes, or any building with masonite siding. With 48 trees, I can try to keep the landscaping airy, but adding 14 more trees, that is not possible. It is just too many trees for that area. The trees are too close and cannot be done, so the amended modification becomes more of a liability to the residents and a burden of too much water, excess landscape by-product, or trash, and is “more is better” landscaping.

Ms. Miyai pointed out that Mr. Dunlap voiced to the Council the concerns that were discussed with her attorney, and then provided Council and Staff with a more detailed list of concerns. Ms. Miyai also stated that another concern is with the proposed Boston Ivy along the wall.

Virgil Wheatly, 2300 West Morton Ave., #1, spoke regarding his concerns over the proposed ivy for the walls. Mr. Wheatly stated that, because many residences in mobilehome parks have bedrooms positioned toward the back of their homes, this means that bedrooms are often along the wall. He voiced concern with potential “trash” or loose landscape material from the ivy making its way into the residents’ bedrooms, thereby causing respiratory problems. Mr. Wheatly summarized that he opposes the planting of ivy along the walls.

Wilma Konda, a resident of Colonial Mobilehome Park, spoke in opposition to the proposed ground cover, and indicated that Ms. Miyai previously had the same ground cover planted and it caused many problems, particularly with proliferation of weeds. She also pointed to difficulty in keeping the ground cover trimmed neatly, as it grows out over the sidewalk and looks unkept.

The public hearing closed at 7:54 p.m.

Mayor Pro Tem Irish questioned Staff as to how the number of trees was determined. The Community Development Director answered that the plan before the Council was proposed by the landscape contractor. Mr Dunlap pointed out that a long expanse of the subject property exists along both Morton Avenue and Westwood Street and that it requires a large number of trees. Mr. Dunlap then stated that he believes there is a misunderstanding as to the number of trees, in that he believes the 14 Raywood Ash are actually not additional trees to be added to the 48, but rather the 14 Raywood Ash trees are to be substituted into the 48 trees.

Council Member Stadtherr stated that the Council has heard discussions on the removal of certain plants, like ground cover and Boston Ivy, but that no suggestions have been made for alternatives.

Chris Kaylor, Kaylor Landscape, 33700 Bobcat Drive, Springville, came forward and identified himself as the landscape contractor on the project. Mr. Kaylor stated that the ground cover is an alternative to the turf, but turf would be the best choice in terms of ease of maintenance. As far as drought tolerant materials, Mr. Kaylor suggested that there are other types of ground cover that may be better than the turf. Mr. Kaylor also pointed out that another option is to put in rock, concrete or asphalt, but such material will not provide the “green belt” look that the City is trying to achieve. Mr. Kaylor then indicated that the idea of some sort of landscape material along the wall was first suggested by the Chief of Police to deter graffiti. Mr. Kaylor said after that request, he suggested Boston Ivy, which he stated is very drought tolerant. Mr. Kaylor then stated that Creeping Fig is another alternative, but that it is smaller than Boston Ivy and takes longer to establish itself.
Council Member Hamilton asked Mr. Kaylor if the Boston Ivy would be “trashy,” as is the concern of owner Ms. Miyai and some of the residents. Mr. Kaylor responded that Boston Ivy does not lose materials and does not see how the ivy would pose a problem to residents, as it will be on the opposite side of the wall. Mr. Kaylor stated that ivy is not normally so aggressive as to travel up and then over all a wall.

Council Member Hamilton then asked Mr. Kaylor if he recommends the turf over the groundcover, to which Mr. Kaylor responded yes, and then pointed out that turf will also match the opposite side of Westwood.

Council Member Hamilton asked Staff for clarification of the concerns that the applicant’s attorney had with the conditions. Mr. Dunlap explained that the applicant’s attorney asked whether Condition No. 4 addressed all landscape areas around each of the individual tenant spaces, or only common areas in and around the subject property. Mr. Dunlap explained that this is the reason for adding the word “common” to Condition No. 4.

Mr. Dunlap then indicated that he misspoke when responding to Ms. Miyai’s concern for 14 additional trees. He stated that, upon further examination, there actually are 48 trees, plus the additional 14 trees, making a total of 62 required trees.

Mayor Pro Tem Irish asked Mr. Dunlap whether this was the first time that the issue of too many trees was raised by applicant, to which Mr. Dunlap responded it is.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member West to approve Conditional Use Permit 6-1982 Modification One, as amended to Resolution No. 118-04 include the “common” in Condition No. 4, and to require turf instead of ground cover. The motion carried unanimously.

Disposition: Approved.

13. BEVERLY GLENN TENTATIVE SUBDIVISION MAP (MOHAMMAD DAVARIFAR)

Recommendation: That City Council continue the public hearing to October 19, 2004.

The City Manager presented the item, and Director of Community Development presented the Staff report.

Mr. Dunlap stated that because of the discovery of an elderberry bush on the subject property, the Environmental Study and Mitigation Measures need to be re-circulated to interested agencies, thereby requiring a continuance to October 19, 2004.

Mayor Martinez then continued the public hearing to October 19, 2004.

14. VACATE PUBLIC VEHICULAR ACCESS, STORM WATER RUNOFF AND TEMPORARY STORM WATER STORAGE RELATED TO MEADOW BREEZE PHASE ONE SUBDIVISION (NICHOLSON & SMEE, LLP)
Recommendation: That City Council:
1. Conduct a Public Hearing; and
2. Authorize the City Clerk to execute the vacation of Parcel B and Parcel C of the Grant of Easement conveyed to the City of Porterville recorded June 14, 2000, as Document No. 200-0037339 of Tulare County Official Records, by signing the appropriate statement on the Final Map.

The City Manager presented the item, and Baldo Rodriguez, Public Works Director, presented the Staff report.

The Public Hearing opened at 8:06 p.m.

Cathy Capone, 806 W. Westfield, requested Council’s consideration of the location’s use for possible water re-charge, for developing an elderberry habitat for protection or conservation, or possibly for public access areas.

The Public Hearing closed at 8:08 p.m.

Council Member Hamilton indicated that he understood that the easements are no longer required for Phase One, yet questioned if the easements would be needed for Phase Two. Mr. Rodriguez confirmed that the easements are no longer needed.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Hamilton to approve Staff’s recommendation. The motion carried unanimously.

M.O. 09-0907014

Disposition: Approved.

15. ZONE CHANGE 5-2004 (STEVE VANG)

Recommendation: That the City Council:
1. Adopt the draft resolution approving a Negative Declaration for Zone Change 5-2004; and
2. Adopt the draft ordinance approving Zone Change 5-2004.

The City Manager presented the item, and Community Development Director, Brad Dunlap, presented the Staff report.

The Public Hearing opened at 8:12 p.m.

The Public Hearing closed at 8:13 p.m.

Council Member Hamilton asked if the project is being proposed with a “D” Overlay. Mr. Dunlap responded that a “D” Overlay was not requested nor included.
Council Member Hamilton voiced concern for the residential area adjacent to the property and that the applicant may not understand that he will be required to install a masonry wall. Mr. Dunlap responded that the applicant would have been informed of that requirement in the PRC letter.

Mayor Pro Tem Irish questioned whether the block wall will be required on the north side or the east side. Mr. Dunlap responded that the wall will be required on both the north side and the east side.

Council Member Hamilton then asked when the applicant will be required to construct the wall, to which Mr. Dunlap responded that the wall will be required when the property is converted to commercial usage. Council Member Hamilton then stated that a lot line adjustment means that the applicant could leave the property as is and still be in compliance. He then indicated that there are a great deal of unknowns in this item.

Community Development Director questioned whether Council would like to see the item return with a “D” Overlay. Council Member Hamilton stated that a “D” Overlay will perhaps resolve some questions he has on the matter.

Mayor Pro Tem Irish stated that he too would like to see the item returned with a “D” Overlay.

16. ANNEXATION 453 AND CONDITIONAL USE PERMIT 7-2004 (FOOTHILL PRESBYTERIAN CHURCH)

Recommendation: That the City Council:
1. Adopt the draft resolution approving a Negative Declaration for Annexation 453 and Conditional Use Permit 7-2004;
2. Adopt the draft resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo; and
3. Adopt the draft resolution approving Conditional use Permit 7-2004.

The City Manager presented the item, and the Community Development Director presented the Staff report.

The Public Hearing opened at 8:18 p.m.

Bill Roberts, Roberts Engineering, 342 N. Second Street, stated that his firm prepared the application for annexation. He stated he believes the application to be very appropriate being that the adjoining property, which is also owned by the applicant, is already annexed. Mr. Roberts pointed out that the applicant has spent funds to extend the water and sewer to their adjoining property, and asked that the Council approve the annexation.

Marvin Miller, 1963 N. Maston, voiced concerns over the potential for increased traffic in his neighborhood. Mr. Miller suggested that perhaps traffic could be routed via Linda Vista. He then stated that he opposed the annexation because of the extra traffic the church may bring into the area.

The Public Hearing closed at 8:19 p.m.

Council Member Hamilton asked whether the land directly north of the subject property is one parcel. Mr. Dunlap responded that it appears to be. Council Member Hamilton then questioned whether
the church owns all of the property immediately north of the subject site, to which Mr. Dunlap responded confirmed that the church owns that property, as well as the vacant lot immediately east of the subject site.

Mayor Pro Tem Irish stated that he has concerns with the traffic problem that may be created with this annexation, and questioned whether there was any other entrance to the site. Council Member Hamilton stated that the site is accessible from New Hope Fellowship Church’s site on Linda Vista, however an arrangement would need to be made with them.

Council Member Hamilton then stated that as far as traffic is concerned, it would only be limited to Sunday mornings and Wednesday evenings.

Council Member West pointed out that the proposed site has an occupancy limit of 49 people, therefore any increase in traffic would be limited to that.

**COUNCIL ACTION:** MOVED by Council Member West, SECONDED by Council Member Hamilton to adopt the draft resolution approving a Negative Declaration for Annexation 453 and Conditional Use Permit 7-2004.

Resolution: 119-2004

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

Disposition: Approved.

MOVED by Council Member West, SECONDED by Council Member Hamilton to adopt the draft resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo.

Resolution: 120-2004

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

Disposition: Approved.

MOVED by Council Member West, SECONDED by Council Member Hamilton to adopt the draft resolution approving Conditional Use Permit 7-2004.

Resolution: 121-2004

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

Disposition: Approved.
17. USE OF LOCAL LAW ENFORCEMENT BLOCK GRANT FUNDS BY THE PORTERVILLE POLICE DEPARTMENT

Recommendation: That the 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 presented the item, and Chief of Police, Silver Rodriguez, presented the Staff report.

The Public Hearing Opened at 8:25 p.m.

The Public Hearing Closed at 8:26 p.m.

Council Member West questioned if the school pays any funds towards the school resources officer, to which Chief Rodriguez responded that the school does not currently participate in funding that position, but that the City is currently discussing with the School Board possible joint funding.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Hamilton to approve Staff’s recommendation. The motion carried unanimously.

Resolution No. 122-04

Disposition: Approved.

18. ZONING ORDINANCE AMENDMENT 3-2004: AN ORDINANCE AMENDING VARIOUS SIGNAGE REGULATIONS

Recommendation: That the Council

1. Approve the proposed Ordinance;
2. Give first reading to the Ordinance amending Article 20 of the Zoning Ordinance pertaining to Sign Regulations; and
3. Approve the Draft Resolution Setting a Fee For Temporary Sign Permit Applications.

The City Manager presented the item, and Brad Dunlap, Community Development Director presented the Staff report.

The Public Hearing was opened at 8:37 p.m.

Dick Eckhoff, Chairman of Downtown Porterville Association, 180 N. Main Street, thanked Staff for their hard work in changing the structure of the signage requirements. Mr. Eckhoff then pointed out that the only loop hole appeared to be the lack of people to enforce the new requirements and again voiced support for a code enforcement officer. Mr. Eckhoff then stated that the Downtown Porterville Association has reviewed and discussed the proposed sign ordinance before the Council and the only
suggestion they offer is for the City to consider the use of free standing signs, which would allow
downtown restaurants to create the type of atmosphere that the City and downtown Porterville is hoping
to resurrect. Mr. Eckhoff suggested that limiting the use of such signs may unnecessarily hurt smaller
businesses. Mr. Eckhoff then stated that the Downtown Porterville Association would support a
modification to the ordinance to take into account the smaller businesses of Downtown and the atmosphere
they are trying to create with menu signs.

Renee Sprague, Sprague’s Outdoor Power Center, 75 North D Street, spoke in support of the
proposed changes to the Code regarding signs, although she voiced concern with the requirements for
temporary signage. Ms. Sprague stated that while temporary signage does require some regulation, she
suggested that the proposed limitations may be too excessive. She indicated that she would like to be able
to use more than one temporary sign at once. Ms. Sprague then stated that a customer survey conducted
upon the opening of their business indicated that most customers found their business by simply driving
by, thereby making signage a key factor in their advertising.

The Community Development Director stated that the Staff’s recommendation needs to be amended
to request that the Public Hearing be continued until September 21, 2004. He stated that additional time
is needed to further review the Business & Professions Code as it relates to the process of abatement of
non-conforming signs.

Mayor Martinez asked how much time would be needed, to which the City Attorney responded Staff
should be prepared for the September 21, 2004 Council Meeting.

Council Member Stadtherr questioned whether this would be an appropriate time to facilitate the use
of an online application process for businesses to apply for signage permits. Mr. Dunlap responded that
attempting to set that process in place for an ancillary permit such as this, as opposed to establishing it
across the board, may make the process more laborious.

Council Member Stadtherr stated that this may be an appropriate test of the system, and then if
successful, it could be expanded to include other applications. He then requested that Staff contemplate
the online implementation and report back at the next meeting.

Council Member Hamilton questioned whether the 50% limit on sign coverage on store front
windows is a hazard for business owners in terms of excessive coverage limiting the Police Department’s
ability to see inside. Chief Rodriguez responded that while it perhaps was not hazardous, such coverage
does diminish a patrol’s ability to see what is going on inside.

Council Member Hamilton then questioned, since liquor stores and convenience stores are most often
the targets for hold-ups, if there are any legal means by which the City can regulate the amount of window
signage on such businesses.

City Attorney Julia Lew responded that the City’s ability to regulate signage for liquor and
convenience stores would depend on whether the signage was designed to be temporary or permanent.
Ms. Lew indicated that this will be one of the items looked at during the next two weeks.

Council Member Hamilton then questioned whether the City could completely restrict the use of
signage for liquor stores and convenience stores. Ms. Lew responded that the City may restrict temporary
signs, with the exception of the content.
Council Member Stadtherr questioned whether the ordinance required any language that clarifies whether marquee signs are considered permanent or temporary, being that they have changing messages. Mr. Dunlap indicated that marquee signs are considered permanent signs.

Council Member Hamilton stated that he is not in favor of sandwich board signs because many of the signs he has seen are not professionally done.

Council Member West asked if trailer signs, a type of billboard sign pulled on a trailer, were regulated in the Code. Mr. Dunlap responded that the Code in question did not address such signs, and that those were considered “mobile” signs and covered under another Code.

Council Member West then asked if a difference needs to be defined between trailer or mobile signs and trailers that also have a logo or message painted on them, such as the landscapers often use. The City Attorney responded that Staff has not looked into regulation of the trailer signs, but that Staff can look into the extent that the City can regulate such signs.

Mr. Dunlap indicated that signs mounted to a portable trailer and left on a site advertising a subdivision or business are not allowed under current Code. He stated that developers are allowed through a C.U.P to obtain approval for off-site signage for advertising, with the property owner’s approval.

Council Member Stadtherr stated that a semi-trailer is currently parked on the corner of Porter and Putnam which advertises “Udders - Coming Soon,” and then asked how the City distinguishes the difference between this type of advertising on a semi-trailer and a trailer that is only used for advertising. Mr. Dunlap indicated that there are various ways to address that particular situation, such as if the semi-trailer is parked on an undeveloped dirt lot, or in a residential area, different regulations and/or Codes may apply. The City Attorney stated that she and Staff will look into how the City can regulate such mobile signs.

Council Member Stadtherr stated that it is Council’s intention to draft the amendment the right way the first time. Mr. Dunlap reminded Council that Staff’s focus was initially very narrow on this particular item, and its focus will be more comprehensive, per Council’s request, the next time the matter is presented.

The City Manager stated for clarification that the original reason for the continuation of the Public Hearing was to review the Business & Professions Code, and confirmed that Council is now requesting that Staff report back to Council on other issues relating to signage regulation, including: 1) an online sign application and payment process, 2) the extent to which the City can limit window advertising at liquor stores and convenience stores; and 3) the extent to which the City can regulate trailer signs.

The Public Hearing was continued to September 21, 2004.

SECOND READINGS

19. ORDINANCE 1658, ZONING ORDINANCE AMENDMENT 1-2003

Recommendation: That Council give Second Reading to Ordinance No. 1658, waive further reading, and adopt said Ordinance.
The City Manager stated that on August 17, 2004, the Council accepted this Ordinance on first reading, and it is now presented for second reading and adoption.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member West that Council give second reading to Ordinance No. 1658, waive further Ordinance No. 1658 reading, and adopt said Ordinance, being ORDINANCE NO. 1658, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE ZONING ORDINANCE TO DEFINE “CALL CENTERS” AND IDENTIFY APPROPRIATE LOCATIONS AND TO SET PARKING REQUIREMENTS. The motion carried unanimously.

The City Manager read the Ordinance by title only.

Disposition: Approved.

SCHEDULED MATTERS

20. CONFIRM FUNDING SOURCE OPTION AND AWARD CONSTRUCTION CONTRACT - TULE RIVER PARKWAY, PHASE II

Recommendation: That City Council:
1. Proceed with the project utilizing a funding approach as outlined in either Option A or Option B;
2. Confirm one of these funding Options;
3. Establish a budget of $222,605;
4. Award the construction contract to Halopoff & Sons, Inc. in the amount of $194,143.05 for the base plus alternate work;
5. Authorize progress payments up to 90% of the contract amount; and
6. Authorize a 10% contingency to cover unforeseen construction costs.

The City Manager presented the item, and Jim Perrine, Parks and Leisure Director, presented the Staff report.

Council Member Hamilton stated that he has concerns as to why Staff provided two options, and questioned if there is a potential problem with Option A which necessitated an additional option.

Mr. Perrine stated that Staff has been informed by Caltrans in recent discussions that other local communities have had some disappointments after construction of projects and submission of documentation to Caltrans for reimbursement, only to find out that they were not eligible for the amount of reimbursement that they were expecting. Mr. Perrine stated that Caltrans attributes such differences in expectations to one particular grant writer that was used in common on those certain applications. He stated that the City of Porterville also had that same grant writer.

Council Member Hamilton stated that while it is likely that the City of Porterville will also have difficulty in collecting funds from Caltrans, Option A should at least be pursued first, and then, if the City is unable to collect, Staff should pursue Option B.
COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr to approve Option A, and if anticipated funding is not supported by Caltrans, to pursue Option B of Staff’s recommendation. The motion carried unanimously.

Disposition: Approved.

Mayor Martinez requested that the City Manager present Item No. 25 so as to accommodate members of the audience who are present for that particular item.

25. CONSIDERATION OF A JOINT POWERS AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND THE COUNTY OF TULARE

Recommendation: That City Council approve the Joint Powers Agreement document as presented, and authorize its presentation to the Tulare County Board of Supervisors.

The City Manager presented the item and the Staff report.

Council Member Hamilton asked for clarification regarding the ceiling of $25,000 for action by agreement of the City Manager and County Administrator.

The City Manager stated that Council Member Hamilton was referring to Paragraph 5 of the Joint Powers Agreement, and confirmed that a ceiling of $25,000 exists for actions taken through agreement of the City Manager and County Administrator. He stated that the approval of City Council is required for projects over $25,000.

Council Member Hamilton commented on the benefits to both the City and the County in working together, such as the benefits gained through the City’s cooperative efforts with the school boards.

Mayor Pro Tem Irish stated that it is very rewarding as a Council Member to move forward with such a pro-active joint action between the City of Porterville and the County of Tulare. Mayor Pro Tem Irish thanked Staff, Tulare County’s Board and Staff, and both legal departments for working together on this positive effort.

The City Manager clarified that Staff’s recommendation also requests that City Council authorize the execution of the Joint Powers Agreement in the same form as presented.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton to approve the Joint Powers Agreement as presented, authorize the Mayor to execute the document on behalf of the City, and authorize its presentation to the Tulare County Board of Supervisors. The motion carried unanimously.

Disposition: Approved.
Mayor Martinez thanked both the City and County Staff, as well as both legal departments for their hard work on the Joint Powers Agreement. Mayor Martinez then acknowledged Tulare County Supervisor Jim Maples and invited him to speak.

Mr. Maples stated that he is pleased to take the Agreement back to the County, and stated that the Tulare County Board of Supervisors is very receptive to this concept. He indicated that it is only logical - given the distance from Porterville to Visalia, the hub of Tulare County - that Porterville and Tulare County join together in this venture. He stated that law enforcement, fire, public safety, as well as other services will indeed benefit. Mr. Maples then pointed out that the County and City’s interaction will not merely be limited to twice per year, but both agencies will often work together in many areas. Mr. Maples then thanked both legal counsels, the chief administrators, and the City Council and Board of Supervisors for their hard work. He then congratulated the Council on passing the Agreement unanimously and indicated that the Board will take that vote very seriously.

21. ACCEPTANCE OF FINAL SUBDIVISION MAP - MEADOW BREEZE, PHASE ONE SUBDIVISION (NICHOLSON & SMEE, LLC)

Recommendation: That City Council:
1. Approve the final map of Meadow Breeze, Phase one Subdivision;
2. Accept all offers of dedication and vacation shown on the final map; and
3. Authorize the City Clerk to file said map with the County Recorder.

The City Manager presented the item, and Baldo Rodriguez presented the Staff report.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member West to approve Staff’s recommendation. The motion carried unanimously.

M.O. 11-090704

Disposition: Approved.

22. APPROVAL OF THE PRE-QUALIFICATION PROCEDURE FOR BIDDERS ON CERTAIN PUBLIC WORKS PROJECTS

Recommendation: That City Council:
1. Adopt the Pre-Qualification System for Single Projects for use only in conjunction with construction projects funded by the CIEDB Loan;
2. Appoint a three-member “Appeals Panel” consisting of one Council Member plus an alternate, the Public Works Director and the City Engineer, plus the Field Services Manager as an alternate; and
3. Approve the documents and procedure for use by City Staff during the pre-qualification process.

The City Manager presented the item, and the Public Works Director, Baldo Rodriguez, presented the Staff report.

Council Member Hamilton questioned how long the Appeals Panel will remain in effect, to which Mr. Rodriguez responded that a new Appeals Panel will be formed for each project. Mr. Rodriguez went on to explain that in the event that a contractor does not meet the minimum requirements to be pre-
qualified, then that contractor has 5 days in which to request a review by the Appeals Panel. He stated that the Appeals Panel then has 5 days in which to provide a ruling to the contractor.

Council Member Hamilton asked what percentage of votes is needed to decide a ruling by the Panel, to which Mr. Rodriguez replied that the ruling is decided on a “majority rules” basis.

Council Member Hamilton then commented that Council Member West had an interest in this matter several month ago. Council Member West agreed and stated that he is willing to serve on the Board, and that he is in favor of adopting the Pre-Qualification System to bring the City up to date.

Mayor Pro Tem Irish questioned if the appointee to the Panel could be alternated between the Council Members.

The City Manager stated that the recommendation includes the appointment of both a Member and an alternate. Mayor Pro Tem Irish then repeated for clarification that the Council is to appoint a Member, plus an alternate, who will serve on the Appeals Panel, and that the Panel will only pertain to one particular project. With each new project funded by a CIEDB Loan, a new Panel will be appointed, with the Council Member’s appointment rotating throughout the Council. The City Manager confirmed Mayor Pro Tem Irish’s clarification.

Council Member Stadtherr then stated for the record that the rotation would begin first with Council Member West, then Mayor Pro Tem Irish, then Mayor Martinez, then Council Member Hamilton, then himself.

The City Manager stated that if the Council wishes to rotate the appointment, that Council will be required to re-appoint the designee each time.

Council Member Stadtherr then confirmed that the first appointment will be Council Member West, with Mayor Pro Tem Irish serving as the alternate.

The City Manager stated for clarification that if the Council wished to rotate the appointment, that the item will need to be brought back and Council will have to re-appoint for each panel.

Council Member Hamilton stated that this is also his understanding and that it will be beneficial as a learning process for each of the Members, to which Council Member West agreed.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr to approve Staff’s recommendation, with Council Member West serving as Council’s first appointee and Mayor Pro Tem Irish serving as the alternate, as amended to limit appointment to one panel, and re-appoint for subsequent panels on a rotating basis.

Disposition: Approved.

Council Member Hamilton requested that Mr. Longley, the City Manager, now present Item No. 30 so as to accommodate members of the audience who are present for this particular item.

30. CONSIDERATION OF A REMOTE CONTROL AUTOMOBILE USE IN PORTERVILLE
Recommendation: That City Council receive the report and provide any necessary direction to Staff.

The City Manager presented the item and the Staff report.

Mayor Martinez thanked Mr. Longley and invited interested individuals from the audience to speak on the matter.

Tim Vevey, 32636 Maverick Drive, Springville, spoke in support of allowing a remote control race car track on the subject property. Mr. Vevey stated that he and some friends built the track, and that its use is private and in no way commercial. He went on to say that, with the permission of the property owner, he and his friends constructed a fence, at their own expense, to keep children from playing at the area and getting harmed. Mr. Vevey stated that they now seek Council’s approval to get electricity to the site. He stated that they are currently operating a generator for lighting, and they feel that electricity to site would provide for a cleaner and more efficient source of energy.

Council Member West inquired where the participants were parking. Mr. Vevey responded that generally, participants park surrounding the track or in the adjacent lot. He indicated that although parking along the street is an option, nobody has yet had to park on the street.

Council Member West then asked if the water on the site is used to control dust. Mr. Vevey indicated that they do use water to eliminate the dust.

Council Member Hamilton stated that the reason he requested that this item be placed on the Agenda is because of the complexities involved in the matter. He stated that he would like Staff to work with Mr. Vevey and his associates to resolve the complexities, which may involve some variances to some ordinances, for the benefit of the children in the community. Council Member Hamilton then indicated that he would like Council’s approval to direct Staff to meet with the property owner to look for a solution.

Mayor Pro Tem Irish asked for clarification as to whether the track is currently being run with the use of a generator, and if time was of the essence, since they currently have a lighting source. Mr. Vevey confirmed that the participants are currently using a generator, and that the process with the City has actually been going on for approximately 7 months.

Council Member Hamilton then asked if the track is operated during the winter, to which Mr. Vevey responded that they do race during the winter. Mr. Vevey then went on to describe the various categories and types of cars and races.

Council Member West questioned what permission the participants had obtained to initially construct the track. Mr. Vevey stated that they spoke with the City a few occasions. Council Member West stated that discussions should begin, as the race track is already up and operating, and voiced some concern over liability issues.

Greg Shelton, 888 N. Williford, came forward and identified himself as the property owner. He voiced frustration with the governmental process and stated that he does not understand why the matter is so complex. He stated that he has allowed his friends to utilize his property, for a non-profit use, which has actually benefitted the City at no cost to the City. Mr. Shelton pointed out that his property is properly maintain and fenced, as opposed to the other adjacent properties. He also stated that because of this race
track, a new business, “Action Hobby,” has opened on Main Street. He went on to state that parking should not be an issue either. Mr. Shelton then stated that while liability was definitely an issue, he is willing to accept that risk to allow this race track to operate, as he views it as only a positive thing for the City. He requested that the process not be further drawn out and that a yes or no decision be made.

Doug Webb, 608 North Plano, stated that he thought Mr. Shelton and Mr. Vevey had done a good job on the property with the track, but requested that it not be run late at night.

Mayor Martinez thanked everyone for their comments and requested that the discussion process begin and the item be brought back to Council.

Council Member Hamilton stated that a time frame should be placed on the return of the item, and that he would like to see it brought back in two weeks with some options for the Council to make the project possible.

Mr. Longley stated that by ordinance, a use permit would be required, which would require a notice of hearing, with 10 days notice, and payment of fees. He pointed out that such notice would not allow for the matter to be placed on the September 21, 2004 Agenda, but stated that Staff could by the next meeting provide Council with various options and start the process.

23. UPDATE ON “FOR SALE” VEHICLES PARKED ON PRIVATELY OWNED PUBLIC PARKING LOTS AND PRIVATE PROPERTY

Recommendation: That the City Council receive the report and provide any necessary direction to Staff.

The City Manager presented the item, and Brad Dunlap, Director of Community Development presented the Staff report.

Council Member West asked if personal vehicles being sold on private property would be affected. Mr. Dunlap responded that personal vehicles sold from private property are not included.

24. CIEDB LOAN UPDATE

Recommendation: That the City Council accept the update on the CIEDB loan process.

The City Manager presented the item, and Deputy City Manager, Darrel Pyle, presented the Staff report.

The Council had no questions or comments.

26. PARKING LOT RENOVATION PROPOSAL

Recommendation: That City Council:
1. Authorize the utilization of STP fund in the amount of $42,000 to complete the parking lot project located behind the Bank of the Sierra;
2. Authorize the utilization of STP funds as the City match portion of the Tule River Parkway Construction Project;
3. Authorize staff to prepare a parking lot improvement plan for the City parking lot at Hockett and Mill, with a budget not to exceed $60,000; and
4. Authorize a revenue and appropriation budget adjustment in the Special Gas Tax Fund to account for the above activity.

Council Member West asked whether the curbing, gutter and sidewalk along the north side of the Bank of the Sierra is included in this proposal. Public Works Director responded that while that area is not included in this proposal, the City has money allocated for the curbing, gutter and sidewalks.

Council Member West stated that it would make financial sense if such work was already budgeted, to include it in the bid as a cost savings measure.

Council Member Hamilton questioned the accuracy of a $60,000 estimate to improve the parking lot located at Hockett and Mill, and indicated that $60,000 seems too low. Mr. Rodriguez responded that the $60,000 figure is only to initiate the work to reduce the City’s liability caused by the large exposed tree roots, some of which measure up to 8 to 10 inches. He stated that $60,000 will in no way cover the entire project for the improvements required for that parking lot.

Council Member West asked if the improvements to the Bank of the Sierra parking lot were also necessitated by large tree roots. Jim Perrine, Director of Parks and Leisure, confirmed that the Bank of the Sierra parking lot does have the same problem.

Council Member Stadtherr moved to approve Staff’s recommendation. Council Member West then requested that Council amend Staff’s recommendation, to also include the curb, gutter and sidewalk work along the north side of Bank of the Sierra, using funds already allocated.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Hamilton to approve Staff’s recommendation, as amended to also include the curb, gutter and sidewalk work along the north side of Bank of the Sierra using funds already allocated.

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

27. CONSIDERATION OF MODIFYING A PROVISION TO THE CITY’S BUSINESS LICENSE ORDINANCE

Recommendation: That City Council provide Staff with direction as to whether an ordinance should be prepared modifying the going out of business provision of the municipal Code, or in the alternative, suspending the fee.

The City Manager presented the item, and the Staff report.
Council Member Stadtherr stated that the problem with dis-enacting the Ordinance is that the City would relinquish its ability to regulate the matter at all. He then suggested a sliding scale for going out of business sales, such that businesses actually going out of business would not be penalized, such as charging no fee for the first 60 days, then increasing the fee as time goes on.

The City Manager stated that Council Member Stadtherr’s suggestion is excellent, however he believed that such a change would need to be submitted as a “318” election in that it pertains to restructuring. City Attorney Julia Lew confirmed that to be true.

Council Member Hamilton then questioned if the matter could be addressed via an amendment to the Sign Ordinance. The City Attorney stated that since going out of business signs should not be permanent signs, and perhaps regulating them through an ordinance for temporary signage is the best approach.

Mayor Pro Tem Irish questioned whether going out of business sale signage could be regulated through the sign ordinance, to which Ms. Lew responded that she believed the City could.

Council Member Hamilton asked if Staff is seeking a suspension of fees, to which Mr. Longley clarified that Staff is seeking direction and that suspension of fees is one option.

The City Attorney indicated that the City has several different options. She stated that if the Council wishes to eliminate that provision permanently, an Ordinance will need to be adopted, however if time is of the essence, the fee can be suspended until such time as Council wishes to permanently remove the fee requirement.

The City Manager clarified that Council could temporarily suspend the fee for approximately 120 days, and then the matter could be brought back to discuss permanent action.

Mayor Pro Tem Irish pointed out that the enforcement or non-enforcement of the fee appears to be a moot point in that only approximately 1 or 2 businesses per year pay the fee. The City Attorney recommended that the fee be taken off the books if it is Council’s intention not to enforce payment, unless a timing issue is relevant, such as with the business owners with whom Mr. Longley has spoken.

The City Manager stated that the timing of Council’s action is not relevant to the business owners in question, as they have conveyed to him their intention of filing for bankruptcy protection.

Mayor Pro Tem Irish stated that Council pursues regulation of going out of business signs through the sign ordinance, then the City must have some recourse to protect consumers from violators. Ms. Lew stated that violations with respect to false advertising fall under State law, and that she will research the extent to which the City can enforce them.

Council Member Stadtherr stated that the proposed code enforcement officer could also handle this.

The City Manager clarified that Council would like the matter brought back on various areas.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish to suspend the going out of business sale fee for 120 days while Staff researches
CONSIDERATION OF AN ORDINANCE AND ELECTION FOR AN INCREASE IN
THE UTILITY USERS’ TAX TO SUPPORT GENERAL FUND PURPOSES
(INCLUDING POLICE & FIRE)

Recommendation: The City Council, based upon the public’s willingness to consider a “general
measure” increase in the utility users’ tax, set a goal for an election date on this
matter, and direct the Staff to provide further information required and the specific
form of the ordinance.

The City Manager presented the item, and presented the Staff report.

Council Member West clarified that if Council places the measure on the ballot and does not
specifically designate the use of the money, then a 50% plus 1 vote will pass the measure; but if Council
places the measure on the ballot and does specifically designate that the money will be used for police and
fire, then a 2/3rds vote is required.

City Attorney Julia Lew clarified that the hiring of additional police officers and fire fighters is how
the City intends to use the money. What determines whether the tax is a general tax or a special tax is not
just the City’s intention, but moreover its legal obligation. She indicated with a special tax, the City is
legally obligated to use the money for only the designated purposes, while with a general tax, the City may
intend to use the money for a specific purpose, though it is not legally obligated to do so. Ms. Lew then
pointed to a case involving a city that passed a general tax with an accompanying advisory measure which
stated how the city intended to use the money.

Council Member West then questioned who would promote support for the measure. He indicated
that there must be some community-wide organization to promote this measure for it to become successful.
Ms. Lew responded that such a group would need to be an independent organization, as once the Council
approves the measure for the ballot, then it must stay out of the matter. She stated that the City cannot be
involved in the promoting of the measure with City funds, and that there must be a separation.

Council Member Hamilton asked whether Council is allowed to promote the measure. Ms. Lew
stated that Council will have already approved the measure for the ballot, thereby showing support for the
measure. She indicated that the issue of Council’s involvement after the measure is placed on the ballot
is similar to the restrictions on officials regarding the promotion of certain propositions, as will be
discussed in greater detail with Item 31 on this evening’s Agenda.

Mayor Pro Tem Irish asked if language indicating how the City “intends” to use the money collected
from the tax can be placed on the ballot. Ms. Lew answered that it is her understanding that such language
can be included, and stated that it is not the City’s intention, but more accurately the City’s legal
obligation, that triggers whether the tax is a special tax or a general tax.

Mayor Pro Tem Irish then asked whether the Council – in order to provide assurances to the public
that the City will use the tax money collected for police and fire – can specify that a 4/5ths vote be required
to change the use the funds for something other than police and fire. Ms. Lew stated that this option can
be explored, and stated that Council can specify a unanimous vote, so long as there is no legal obligation for the City to utilize the funds for the intended use.

Mayor Pro Tem Irish stated that requiring a 4/5ths vote will allow Council to change the intended use for a pressing issue.

Council Member Hamilton clarified that if the measure passes and the City hires 6 more police officers and 6 more fire fighters, then the City will in fact use the money for its intended use, making these concerns moot.

Council Member Hamilton questioned whether the State of California has yet devised a way to manipulate the utility users tax. Mr. Longley responded that the utility users tax and the TOT have fared better than most others.

Council Member Stadtherr questioned whether the all of the potential 2005 election dates are special elections and not general elections, to which Mr. Longley stated that he believed they are special elections. Mr. Longley stated that there is a primary and a general election every year, with the primary taking place in March, and the general taking place in November. Mr. Longley then indicated that the State Legislature is considering moving the primary to June.

Council Member West questioned whether the general tax election required 51%, or 50% plus 1 vote to pass. Ms. Lew stated it was a simple majority vote, needing 50% plus 1 vote to pass.

Council Member Stadtherr voiced concern over promising the public that money collected would be spent in a certain way, and then for reasons out of Council’s control, the money not be spent the way in which Council had intended.

Council Member Hamilton pointed out that a new Council will eventually be elected, and then that Council will control how the money is spent.

Mayor Pro Tem Irish pointed out that many candidates for Council have promised to lower the user utility tax, but when such candidates are elected, they soon realize that the utility user tax is the only discretionary funds available to the Council. He voiced concern over the present Council increasing the utility user tax, and then having a subsequent Council redirect the money from its intended use.

Council Member Hamilton agreed with Mayor Pro Tem Irish’s concerns, and questioned if a measure for a general tax passed, could Council then pass an Ordinance directing how 2% of such funds could be spent. The City Attorney stated that this is the issue that everyone is attempting to explore, which is exactly how close the City can get to obligating funds from a general tax, without truly obligating the funds. Ms. Lew then pointed to the litigation involving exactly that issue. Ms. Lew then stated that the Council and Staff can explore ways to assure the public as to how the money will be spent.

Mayor Pro Tem Irish spoke regarding the possibility of a future Council reducing the utility users tax and voiced concern over how to create assurances that police and fire would be protected. He requested that Ms. Lew research ways available to Council to safeguard at least 2% of the tax funds for police and fire, in the event the tax is reduced.
Mr. Longley restated for clarification that it is his understanding that Council will not determine election dates at this time, but that Council has requested additional information regarding assurances that the 2% remains allocated for police and fire, and that the matter will be brought back to Council at a later date.

29. UPDATE – PROPOSED CHANGES TO REGULATIONS CONCERNING SOLICITORS, PEDDLERS, AND ITINERANT VENDOR

Recommendation: That a Study Session be set for October 12, 2004, or other time as determined by the Council, to review the additional issues and provide direction.

The City Manager presented the item, and the City Attorney presented the Staff report.

The City Attorney requested that in order to move forward as efficiently as possible, that the matter be set for a Study Session on October 12, 2004, or any other time that the Council would prefer.

Mayor Pro Tem Irish asked if door-to-door salesmen were included in the proposed changes to the Code. Ms. Lew responded that regulations governing door-to-door salesmen fall under another part of the Code, although Council can proceed with changes to door-to-door sales regulations as they are only referenced in a few sections of the Code.

Mayor Pro Tem Irish voiced concern over door-to-door sales and indicated that he has received several calls from the public stating that door-to-door salesmen have been knocking on doors as late as 9:30 or 10:00 p.m. Ms. Lew stated that door-to-door sales can be addressed at the Study Session, and said that many of the problems she and Staff have had with addressing this item concerned formatting issues within the Code. She indicated that it is important to clean up the Code, which will then make enforcement easier. Ms. Lew stated that she will confer with the Finance Department and Community Development and prepare a general outline which takes into consideration issues from all of the City Departments.

The Mayor stated that the Study Session is set for October 12, 2004 at 6:00 p.m.

31. CONSIDERATION OF STATE PROPOSITION 1A AND PROPOSITION 65

Recommendation: That City Council provide direction to Staff clarifying how to proceed.

The City Manager presented the item and the Staff report.

Council Member Hamilton stated that he is disappointed that the League of Cities chose to compromise and support Proposition 1A instead of supporting Proposition 65. He stated that he would like to see the Council sign a resolution in support of Proposition 65, and not Proposition 1A.

Council Member Stadtherr questioned whether the League of Cities is also supporting Proposition 65 in addition to Proposition 1A, to which Ms. Lew stated that the League is only supporting Proposition 1A.

Council Member West stated that the League of Cities provided reasons as to why the Council should support Proposition 1A instead of Proposition 65, one reason being that at least the City has a
chance of getting its money back in three years, whereas with Proposition 65, the City has no chance. Council Member West stated that the League’s argument in support of Proposition 1A was much better than was the argument against it.

Council Member Hamilton stated that the only argument the League of Cities presented in support of Proposition 1A was that if Proposition 65 passed, the State would expend large amounts of money to fight.

The Deputy City Manager, Darrel Pyle, stated that the League of Cities’ primary argument in support of Proposition 1A over Proposition 65 was the time it would take to raise enough money - which the League estimated to be approximately 10 million dollars - to defeat the opposition of the Governor. He indicated that the League of Cities did not believe it would have enough time to raise the money they believe to be necessary to effectively support the measure without having the Governor’s support.

Council Member Hamilton stated that he believed the League of Cities is wrong in its estimation and decision.

Council Member Stadtherr concurred with Council Member Hamilton and stated that he would like to see the Council support Proposition 65 and make a statement, however, he also understands the importance of remaining loyal to the League of Cities because the City has made that commitment. Council Member Stadtherr then indicated that he is actually in favor of supporting both Propositions, or perhaps neither.

Council Member Hamilton stated that the Council Members should vote how they feel.

Council Member Stadtherr questioned whether the message sent this evening by the Council will be the same message that the Council promotes in November.

Mayor Pro Tem Irish suggested that the Council could vote on Proposition 65 this evening, then perhaps vote on whether to support Proposition 1A at another time.

Council Member West stated that he believed it was important to remain loyal to the League of Cities to show a united front against the State. He pointed out that during the League of Cities conference, the member cities almost unanimously voted in favor of supporting Proposition 1A. He stated that he believed it would be a big mistake to suddenly withdraw the City of Porterville’s support. He stated that if the Council chose not to support Proposition 1A, he would rather see the City take no action rather than specifically vote against Proposition 1A.

The City Manager offered further clarification as to the League of Cities’ rationale for supporting Proposition 1A over Proposition 65. He stated that money was one factor, and another factor was the practical matter of actual implementation of the plan. He pointed out that although a measure could pass, that in order for it to be effective, it would require the cooperation of the Legislature and the Governor. He indicated that both the Legislature and the Governor have already signed on to Proposition 1A, stating that this is also their measure. By doing that, Mr. Longley pointed out, the Governor and the Legislature now has some obligation to the public because of their endorsement. He stated that he believed that the League of Cities, through Proposition 65, finally achieved some leverage with the State, and out of that leverage, the League was able to negotiate a workable instrument, Proposition 1A, rather than just making a statement such as with Proposition 65. He then stated that he believed that the Governor would follow
through with his commitment to cooperate on Proposition 1A, although he was uncertain as to the Legislature. Mr. Longley then indicated that if Proposition 65 does pass, the State will likely strongly oppose the measure through litigation.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member West to support Proposition 1A.

M.O. 16-090704

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

Disposition: Approved.

32. CONSIDERATION OF MOSQUITO ABATEMENT PROGRAMS FOR SOUTHEASTERN TULARE COUNTY

Recommendation: That the City Council provide direction about further action to consider a mosquito abatement program.

The City Manager presented the item and the Staff report.

Mayor Pro Tem Irish questioned if Staff recommended a time line for bringing the item back to Council, to which Mr. Longley responded that to get the matter on a March ballot, he recommends that the matter be brought within 60 days.

Council Member Hamilton questioned why, if the West Nile Virus is proliferating so widely and rapidly, is an inoculation process not being implemented. Mr. Longley responded that Council Member Hamilton raises a very good point and that inoculation will certainly be addressed.

Mayor Pro Tem Irish questioned if the need for getting a measure on the ballot was the reason for the 60 day time line for the matter to be brought back to Council, to which Mr. Longley confirmed and stated that the process is complex and would need also go through LAFCo.

Council Member Stadtherr raised concerns over the delay, and asked whether mosquito abatement could be achieved through the Joint Powers Agreement just executed between the City and Tulare County. Mr. Longley stated that abatement can be handled through the JPA, and that the only issue is money.

Mayor Pro Tem Irish pointed out that in order to have an effective mosquito abatement program, every city in the County would need to jointly cooperate. Mr. Longley agreed and stated that Lindsay needs to be included.

Mayor Martinez stated that the community of Terra Bella should also be included.

Council Member Stadtherr questioned if an estimated cost for this election would be $50,000, such as other elections. Mr. Longley stated that $50,000 is a good estimate for the City’s share of the election cost.
33. COUNCIL PUBLIC RELATIONS

Recommendation: That the Council review the information and provide further direction.

The City Manager presented the item, and the City Attorney, Julia Lew, presented the Staff report.

Mayor Martinez questioned whether one or two Council Members, as individuals, are allowed to write editorials. Ms. Lew responded that as individuals, each Council Member certainly has the right to write letters to the editor. She pointed out that the Council Member should make it clear that the particular view expressed is a personal opinion, and not the view of the entire Council, unless of course, Council has made the determination in an open meeting that the particular view is the view of the Council as a whole.

Mayor Martinez then asked hypothetically, if an election was eminent, could Council, as a whole, place an editorial in the Porterville Recorder urging every citizen to vote. Ms. Lew stated that this involved campaign and election law as it questioned whether City funds could be utilized to encourage people to vote, even though Council is not endorsing a specific issue. Ms. Lew stated that if Council is interested in pursuing that, she could further research that issue, and that it may be addressed when the utility users tax information is reviewed. Ms. Lew stated that the main issue is whether City funds can be used. She indicated that the Council Members, as individuals, can certainly take out an ad in the newspaper to encourage people to vote. She stated that Council as a whole may be able to put forth the same statement, if classified as general education.

Council Member Stadtherr pointed out that another option is for Council as a whole to agree this evening to place an ad encouraging people to vote. He stated that would meet the requirements of the Brown Act.

Council Member West questioned why Council would want to put forth an ad encouraging people to vote.

34. CONSIDERATION OF SELECTING NEW MEMBERS TO ECONOMIC DEVELOPMENT COMMISSION AND BUSINESS INCENTIVE ZONE

Recommendation: That City Council select a Member of Council to provide representation on the Economic Development Corporation and the Business Incentive Zone, or provide direction for the future consideration of this to the City Manager.

The City Manager presented the item and the Staff report.

Mayor Martinez asked Mayor Pro Tem Irish to serve as Council’s representative on both the EDC and the BIZ, as the meetings generally take place on the same day and time. Mayor Pro Tem Irish asked when the meetings are generally held, to which Mayor Martinez responded that the meeting are typically held on Wednesdays from 2:00 to 4:00 p.m., or 3:00 to 5:00 p.m. Mayor Pro Tem Irish then asked how often the meetings occur, to which the City Manager stated 6 times per year.

Council Member Hamilton then stated he thought that Mr. Longley had previously requested to serve. Mr. Longley responded that he had requested to serve so that he could understand how the entities operated, and that his service has been very educational in that regard. He stated that he appreciated Council allowing him to serve in that capacity.
Council Member Hamilton then asked if Mr. Longley is comfortable with stepping down from the position, to which Mr. Longley stated yes.

Council Member West stated that he thought that Mayor Pro Tem Irish would make an excellent representative of the City on both the EDC and BIZ. Mayor Pro Tem Irish stated that he hoped to represent the City as well as Mr. Longley has.

**COUNCIL ACTION:** MOVED by Mayor Martinez, SECONDED by Council Member West to appoint Council Member Irish to serve on both the Economic Development Corporation and the Business Incentive Zone, with City Manager, John Longley, remaining the alternate on the Business Incentive Zone. The motion carried unanimously.

Disposition: Approved.

**ORAL COMMUNICATIONS**
None.

**OTHER MATTERS**
- Council Member Hamilton thanked Parks and Leisure Director, Jim Perrine, for his efforts in moving the Tule River Parkway forward.
- Council Member West requested that Mr. Cone’s letter regarding downtown banners be placed on the next Agenda.
- Parks and Leisure Director informed everyone of several community events:
  - Great Outdoors Adventure taking place Saturday and Sunday, Sept. 11 and 12, 2004;
  - Star Idol finals taking place on Saturday, Sept. 11, 2004 and a Spanish language cultural concert taking place on Sunday afternoon, Sept. 12, 2004, which are both fund raisers for the Literacy Program.
- Mayor Pro Tem Irish informed everyone of a breakfast on Sept. 12 held in honor of the police and fire departments.
- Mayor Martinez stated there is also a firefighter muster taking place this weekend at the Great Outdoors Adventure.
- Council Member Stadtherr informed the Council that he would not be available to attend the presentation to the police officers and dispatchers that is scheduled for Monday, September 13, 2004. He requested that Council extend his regards and appreciation for their hard efforts.
- Council Member West stated that Council Members should be reimbursed for mileage to and from events out of Porterville that Members are required to attend. Mr. Longley responded that Council Members can turn in their mileage for trips within the County.

**ADJOURNMENT**
The Council adjourned at 11:02 p.m. to the meeting of September 21, 2004.

Georgia Hawley, Chief Deputy City Clerk
SEAL

Pedro R. Martinez, Mayor