Call to Order at 6:00 p.m.
Roll Call: Mayor Pro Tem Irish, Council Member Hamilton, Mayor Martinez
Absent: Council Member West, Council Member Stadtherr

CLOSED SESSION:
A. Closed Session Pursuant to:
   5 - Government Code § 54956.9 - Conference with Legal Counsel- Existing Litigation. Name of Case: City of Porterville v. Schellhase, Case No. 03-207816, Tulare County.

City Attorney Julia Lew noted for the record that a typo existed in Item No. 3. Ms. Lew stated the address of the property should be corrected to read “2169 Henderson West Henderson Avenue” instead of “2248 West Henderson Avenue.”

Council recessed to Closed Session at 6:04 p.m.

7:00 P.M. RECONVENE OPEN SESSION
AND REPORT ON ANY ACTION TAKEN IN CLOSED SESSION

4 - GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATORS/PROPERTY: APN 245-020-027. AGENCY NEGOTIATOR: BRAD DUNLAP. NEGOTIATING PARTIES: CITY OF PORTERVILLE AND GUIDO AND JOYCE LOMBARDI. UNDER NEGOTIATION: ACQUISITION OF RIGHT OF WAY.

City Attorney Julia Lew reported that Council had approved the counter offer made by Mr. Lombardi in the amount of $29,301.79 and approved the Resolution accepting a Grant Deed in fee for public street and underground utility purposes from Guido Lombardi.

Documentation: Resolution No. 131-2004
Disposition: Approved.

Pledge of Allegiance Led by Mayor Pro Tem Ron Irish
Invocation by Pastor Jim Rogers, Foothill Presbyterian Church

PRESENTATION
City Manager’s Featured Projects
• Parking Lot Completion at Heritage Center
• Laser Fiche Software Installation

**ORAL COMMUNICATIONS**

- Boyd K. Leavitt, 457 East Oak Street, voiced opposition to the proposed curbside recycling program. He voiced concerns regarding whether or not participation in the program would be required, fees of the program which he asserted might be too costly for economically-disadvantaged citizens, and the affect the program might have on existing recycling businesses and their employees.
- Patrick Green, 1343 West Morton Avenue, came forward and invited Council, staff and audience members to an event being held on Monday, October 25, 2004 at 5:00 p.m. at the Porterville Library regarding domestic violence and the Battered Woman Syndrome. He voiced appreciation for Council Member Stadtherr’s monetary contribution which paid for the rental of the room.
- Dan Watson, 1574 West Roby, voiced opposition to the proposed Beverly Glenn development citing concerns with traffic congestion.

**CONSENT CALENDAR**

Items 1 and 12 were removed.

2. **BUDGET ADJUSTMENTS FOR THE 2004-05 FISCAL YEAR**

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

Documentation: Minute Order 01-101904
Disposition: Approved.

3. **AUTHORIZATION TO ADVERTISE FOR BIDS - TRAFFIC SIGNAL #7**

Recommendation: That the Council:
1. Approve the Plans and Project Manual; and
2. Authorize staff to advertise for bids on the project.

Documentation: Minute Order 02-101904
Disposition: Approved.

4. **ACCEPTANCE OF THE PORTERVILLE HERITAGE CENTER PHASE 1 - PARKING LOTS**

Recommendation: That, upon completion and approval by the Public Works Director of the outstanding items, City Council:
1. Authorize the Public Works Director to accept the Porterville Heritage Center Phase I as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

Documentation: Minute Order 03-101904
Disposition: Approved.
5. ACCEPTANCE OF IMPROVEMENTS - ORCHARD RIDGE PHASE EIGHT AND NINE (DAVID HATCH - CENTEX HOMES)

Recommendation: That the Council:
1. Accept the public improvements of Orchard Ridge, Phase Eight and Nine Subdivisions for maintenance;
2. Authorize the filing of the Notice of Completion; and
3. Release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

Documentation: Minute Order 04-101904
Disposition: Approved.

6. BUSINESS RECOGNITION PROGRAM

Recommendation: That the Council approve the Business Recognition Program and First Friday Coffee event.

Documentation: Minute Order 05-101904
Disposition: Approved.

7. APPROVAL FOR COMMUNITY CIVIC EVENT - BARN THEATER ANTIQUE AND COLLECTIBLES SALE, NOV. 6, 2004

Recommendation: That the Council approve the Community Civic Event Application and Agreement from the Barn Theater, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit “A” of the Community Civic Event Application.

Documentation: Minute Order 06-101904
Disposition: Approved.

8. APPROVAL FOR COMMUNITY CIVIC EVENT - VETERANS’ HOMECOMING COMMITTEE - VETERANS’ DAY PARADE - NOVEMBER 11, 2004

Recommendation: That the Council approve the Community Civic Event Application and Agreement submitted by the Veterans’ Homecoming Committee, subject to the stated requirements contained in Exhibit “A.”

Documentation: Minute Order 07-101904
Disposition: Approved.

9. AUTHORIZATION FOR INVESTMENT WITH STATE BANK OF INDIA (CALIFORNIA)

Recommendation: That the Council approve the Resolution authorizing the investment with State Bank of India (California).

Documentation: Resolution 132-2004
Disposition: Approved.

10. REAPPOINTMENT OF LIBRARY BOARD MEMBERS AND ANNOUNCING VACANCIES ON THE LIBRARY BOARD AND THE PARKS AND LEISURE SERVICES COMMISSION
Recommendation: That the City Council:
1. Reappoint Vicky Trueblood and Hector T. Villicana to the Porterville Public Library Board of Trustees;
2. Announce the vacancies on the Library Board of Trustees and the Parks and Leisure Services Commission; and
3. Set November 2, 2004 as the time for Council appointment to fill these positions.

Documentation: Minute Order 08-101904
Disposition: Approved.

11. AGREEMENT FOR SERVICES WITH PORTERVILLE COLLEGE AND THE KERN COMMUNITY COLLEGE DISTRICT

Recommendation: That the Council:
1. Approve the Physical Fitness Training and Fitness Testing Agreement with Porterville College and the Kern Community College District; and
2. Authorize the Mayor to execute the same on behalf of the City of Porterville.

Documentation: Minute Order 09-101904
Disposition: Approved.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that Council approve Items 2 through 11 and carry over Item Nos. 1 and 12 until the November 2, 2004 Council Meeting.

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

Disposition: Approved.

1. APPROVAL OF CITY COUNCIL MINUTES OF OCTOBER 5, 2004
Disposition: Continued.

12. C.O.L.T. FIXED ROUTE BUS SYSTEM/VETERANS’ DAY PARADE

Recommendation: That Council approve the temporary suspension of the Fixed Route Bus System during its normal operating hours on Thursday, November 11, 2004.

Disposition: Continued.

PUBLIC HEARINGS

13. CONSTRUCTION OF CONCRETE IMPROVEMENTS ON SEVERAL STREET PROJECTS

Recommendation: That the City Council:
1. Take public comments, concerns and questions;
2. Authorize staff to start the construction of the stated concrete improvements for the herein listed projects; and
3. Authorize staff to schedule a Public Hearing prior to the establishment of a fee for the concrete improvements, in accordance with the Mitigation Fee Act, upon completion of each project.

The City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

The public hearing opened at 7:19 p.m.

Greg Shelton, 888 North Williford Drive, came forward to compliment staff on the progress of the project, particularly on Williford Drive. He questioned whether the development fee would create a lien which would then be recorded and therefore appear on a title report.

City Attorney Julia Lew clarified that a general notice of the reimbursement fee would be recorded rather than a lien against the property. She explained that the fees were actually “development” fees that would not be due or payable until the property was developed. She indicated that the threshold for the development was $15,000 and it would be triggered when a building permit was pulled at that amount. Any parcel map or subdivision application, she stated, would also trigger the fee. She then reiterated that a lien would not be created, and stated that the general notice to which she referred would actually be even more general than the one detailed in the staff report. Ms. Lew indicated that she was currently working with the Tulare County Recorder and Chicago Title to clear the proposed language so as to avoid clouding any title. She stated that a statement would be recorded that states: “The City of Porterville will post certain fees and charges for concrete and other improvements constructed by the City upon further development of certain parcels. Please check with the City concerning the development fees that may be applicable.” She pointed out that this statement would show up on any piece of property in Porterville and provide a trigger to check with the City to determine whether any fees on a particular property were owed. Ms. Lew then again emphasized that the statement would not create a lien or cloud on title.

Council Member Hamilton clarified that the $15,000 valuation was not limited to only one project, but could be a few different projects over the period of two years.

City Attorney Julia Lew confirmed that the $15,000 figure was cumulative.

Mr. Shelton confirmed with the City Attorney that even if he were to sell a property, the reimbursement fee would not be due until the new owner triggered the fee.

Russell “Buck” Fletcher, 862 North Williford Drive, requested completion of the project.

The Public Hearing closed at 7:24 p.m.

Mayor Pro Tem Irish requested that the slide depicting the work on Milo Street be shown, and voiced concern regarding the area on the map immediately northeast of Charles Lane. He questioned whether the difference in the width of the Milo Street shown on that area of the map created a situation similar to the situation created on North Prospect and Mulberry in which traffic flow was funneled into a smaller area. He pointed out that traffic would increase due to the development of new school district building in the immediate area, and requested clarification from staff as to what was being done at that exact area shown on the map.

City Engineer Mike Reed explained that the area south of La Vida on Milo Street would be at collector width, which consisted of 40 feet of pavement between curb face to curb face. He indicated that the area on the map to which Mayor Pro Tem Irish referred depicted a transition of 40 feet of pavement to 40 feet of pavement, which was only an off-set, not a decrease in the width of the street. He stated that the map depicted
only a transition or alignment in the road. He explained that the transition would occur from the west to the east, but that the width of Milo Street from Pioneer Avenue to Westfield Avenue would be the same.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council authorize staff to start the construction of the stated concrete improvement for the listed projects and to schedule a public hearing prior to the establishment of a fee for the concrete improvements, in accordance with the Mitigation Fee Act, upon completion of each project.

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

Disposition: Approved.

14. **BEVERLY GLENN TENTATIVE SUBDIVISION MAP (MOHAMMAD DAVARIFAR)**

**Recommendation:** That the Council:

1. Adopt the draft resolution approving the Negative Declaration for Beverly Glenn Tentative Subdivision Map; and
2. Adopt the draft resolution approving Beverly Glenn Tentative Subdivision Map.

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

The public hearing opened at 7:33 p.m.

Jim Winton, 150 West Morton Avenue, came forward on behalf of the applicant, Nader Development. He stated that since the first hearing on August 17, 2004, the developer had made modifications to the map which consisted of an adjustment of some of the lot sizes in order to provide the “no-build” easement surrounding the Elderberry bush. The adjustments allowed for the easement to affect one single lot. He then explained that the applicant had dedicated the necessary right of way for the improvement of Lotas Street on the west boundary of the subdivision, so that it could be developed with Phase I of River Springs. He stated that the developer had also dedicated the right of way on the east boundary of the property for half of Beverly Street so that it could be fully improved with Phase II of River Springs. He then pointed out that the developer had paid his share of those street improvements along those frontages, as well as his share of the sewer, water, sewer laterals and the water laterals, and to the extent that the applicant could, participated with the improvement of the two bordering streets.

Lisa Watson, 1354 West Date, voiced opposition to the proposed development due to constraints on accessways to the adjacent neighborhoods. She pointed to an increased presence of diesel trucks related to current development, and voiced concern with the effects of such large equipment as it related to the safety of children, as well as to the excessive wear and tear on yards and limited roadways. Ms. Watson asserted that residents were paying for poor City planning.

Dan Watson, 1574 West Roby, came forward and voiced opposition to the proposed development due to constraints on accessways to the adjacent neighborhoods. Mr. Watson pointed to the portion of Beverly Street that was gated off and surmised that Beverly would likely never be developed through. He then pointed out that the large equipment had already damaged the roads in the neighborhood and posed a safety concern on current roadways.
The public hearing closed at 7:39 p.m.

Mayor Pro Tem Irish asked for clarification on Condition No. 13 of the proposed resolution.

Community Development Director Brad Dunlap explained that No. 13 of the resolution required the developer to complete landscaping and lighting improvement plans for common areas prior to final approval of the subdivision. He stated that Condition No. 13 primarily pertained to street lighting.

Mayor Pro Tem Irish commented that both sides of the proposed development could be seen. He stated that if Council had the ability to have designed that area from the start, it would have been designed differently. He stated that the situation had evolved slowly, which incrementally created the traffic flow problem, and pointed out that the future continuation of Newcomb Street would relieve some of the impact on the neighborhood. Mayor Pro Tem Irish then voiced support for requiring the inclusion of a small neighborhood park in future subdivision developments. He stated that this development was the perfect example of how a park would have benefitted the neighborhood. He then stated that the developer had overcome numerous hurdles, and that he did not believe the impact on the neighborhood would be eliminated if the project was not approved. He then suggested that the large trucks would disappear once the development had been completed.

In response to Council Member Hamilton’s question, Public Works Director Baldo Rodriguez stated that the gate on Beverly Street had not been opened up at the request of the Fire Department.

City Engineer Mike Reed explained that Beverly Street consisted of one south-bound lane of traffic. He stated that if the gate were to be opened, both north-bound and south-bound traffic would conflict with each other, thereby posing a safety issue. He stated that the gate was currently set up for emergency access by fire, police or ambulatory services only.

Council Member Hamilton questioned whether the citizens who reside behind the gate had access through the gate, and if not, how those residents could gain access through the gate in the event of an emergency. He then commented that he believed gating off the access from residents was a bad idea, and that the gate should be opened.

City Engineer Mike Reed stated that the residents’ access was via Newcomb Street.

Council Member Hamilton then stated that while he had concerns with the closure of the gate on Beverly Street, Council was currently considering the approval of the development. He commented that the land rights of the developer should be considered and that the developer had met all of the zoning requirements. He stated that the developer had a right to develop the land that he had purchased, and that he supported approving the proposed subdivision. As to the gate closure on Beverly Street, Council Member Hamilton voiced concern with the residents not having access through the gate in the event of an emergency. He stated that he would like to discuss that issue at a future Council meeting.

Mayor Pro Tem Irish questioned why Beverly Street could not be made into a one-way street. He pointed out that residents living near Date and Beverly currently had limited access, and asserted that if Beverly were to be opened up to south-bound one-way traffic, those residents would have better access then they currently had.

Council Member Hamilton pointed out that residences on Beverly Street would be affected, and suggested that the real issue pertained to individuals parking on Beverly Street.

Mr. Reed stated that if the City could prevent parking along Beverly, a one-way thoroughfare could be generated. He explained that the road currently supported one-way traffic, with nine homes that generate travel in one direction. He stated that conflict seldom arose with nine residents, however, if the roadway was to opened up to approximately 181 homes, the potential for conflict would drastically increase.
Mayor Pro Tem Irish stated that in fairness to the developer, Council should consider the approval of the development and then address the street issue at a later time.

City Manager John Longley clarified that a staff report would be prepared and added to the Agenda for the second meeting in November.

Council Member Hamilton confirmed with City Attorney Julia Lew that the action required to open Beverly Street back up to traffic would depend on how the street was closed.

Mr. Rodriguez indicated that he would need to research the manner in which the street was closed and report back to Council. He pointed out that opening the street up to one-way traffic sounded like a good idea, but warned that some individuals might be used to having access in both directions. He then pointed to a culvert slightly north that also restricted traffic, which would also be addressed in the staff report.

Mr. Dunlap indicated that the closure might have been a mitigation measure for the River Springs project, which might make opening the street a more complicated process.

City Attorney Julia Lew pointed out that only three Council Member were currently present, and that per the City Charter, three affirmative votes would be required to pass a resolution and/or an ordinance that evening.

Mayor Martinez questioned if the City had a method for monitoring the safety issues that were identified by Mr. Watson and Ms. Watson, to which Mr. Longley responded that such monitoring was a part of the normal process.

**COUNCIL ACTION:**

MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council adopt the draft resolution approving the Negative Resolution 133-2004 Declaration for Beverly Glenn Tentative Subdivision Map.

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Disposition: Approved.

City Manager John Longley confirmed that the issue regarding the gate on Beverly Street will be an agenda item at the second meeting in November.

Mayor Pro Tem Irish stated that he would like to meet with the individuals who spoke in opposition to the development (Lisa Watson and Dan Watson), as well as any other interested residents, to find some solution to the current situation.
15. RANCH VICTORIA TENTATIVE SUBDIVISION MAP (DARYL NICHOLSON)

Recommendation: That the Council:
1. Adopt the draft resolution approving the Negative Declaration for Ranch Victoria Tentative Subdivision Map; and
2. Adopt the draft resolution approving Ranch Victoria Tentative Subdivision Map.

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

The public hearing opened at 7:55 p.m.

Donna Shamley, Roberts Engineering, 342 North Second Street, came forward and stated she was present to answer any questions that the Council might have pertaining to the proposed subdivision.

The public hearing closed at 7:56 p.m.

Council Member Hamilton voiced support for the project and stated he had waited a long time for the development of that particular property. He then confirmed with staff that the homes on the lots along Putnam would face Putnam Avenue, and that the homes on the lots immediately north would face Cleveland Avenue. Council Member Hamilton then stated that he wished that the development would have been completed in one phase, and questioned how the existing residence fronting Morton Avenue was going to be handled.

Mr. Dunlap responded that the parcel map accommodated that existing house which was shown as parcel 4 on the map. He indicated that the existing house on Morton would remain.

Mayor Martinez questioned why rolling curb had been included in the proposed development plans, to which City Manager John Longley indicated that the proposed rolling curb tied into existing rolling curb along that particular frontage.

In response to Mayor Pro Tem Irish’s question, Mr. Dunlap explained that curb, gutter and sidewalk would be developed along the Morton Avenue frontage, and added that north of Lot 1, a bus turn-out late would also be included. He confirmed that the curb in that particular area would not be a roll curb, but would be instead a “barrier” curb. He then explained that the City had a standard for transitioning from roll curb to barrier curb. He stated that the developer had not indicated that he intended to use roll curb, but the map merely pointed out that roll curb currently existed in that particular area on Putnam Avenue.

In response to Mayor Pro Tem Irish’s question, Mr. Dunlap explained that a landscape maintenance district was not necessary for this particular project due to the positioning of the homes in the proposed development.

Larry Long, 192 West School Avenue, came forward and asked if Putnam Avenue would eventually be widened, to which staff confirmed that it would be.

Mayor Martinez asked about the proposed 15 gallon street tree per lot and per corner. He questioned who selected the tree type and who paid for the trees.

Parks and Leisure Services Director Jim Perrine stated that the trees must be selected from the street tree list adopted by the City, and that the developer had the option of purchasing and planting the trees themselves, or paying those funds to the City. He stated that if the trees were purchased by the City, through an arrangement the City had with a local nursery, the new property owners would be notified that a free tree was
due them, and they would then be requested to select the tree. He explained that arrangements would then be made to plant the tree.

Mayor Martinez then voiced concern with the positioning of the planted trees, which he stated were often times planted in too close of proximity to homes and/or streets.

Mr. Perrine explained that the decision of where to plant trees would lie either with developer and/or the property owner.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council adopt the draft resolution approving the Negative Resolution 135-2004 Declaration for Ranch Victoria Tentative Subdivision Map.

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

MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council adopt the draft resolution approving Ranch Victoria Tentative Subdivision Map.

Resolution 136-2004

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

Disposition: Approved.

16. SET FEE FOR TEMPORARY USE PERMIT FOR REMOTE CONTROL CAR TRACK AND 2ND READING OF ORDINANCE NO. 1659 APPROVING SAID PERMIT

Recommendation: That the Council:

1. Adopt the draft resolution approving the Negative Declaration for Ranch Victoria Tentative Subdivision Map; and
2. Adopt the draft resolution approving Ranch Victoria Tentative Subdivision Map.

The City Manager introduced the item, and Associate Planner Randy Rouda presented the staff report.

The public hearing opened at 8:06 p.m.

Greg Shelton, 888 North Williford Drive, voiced appreciation for concessions made by staff in the approval process of this project. He then pointed to a clerical error regarding the inclusion of “for any purpose” in Condition No. 3 of the proposed ordinance. He stated that he believed that Council had decided that the club could charge dues and/or registration fees. Mr. Shelton then commented that he would prefer that the operators be allowed to offer concessions as a convenience to participants, but that prohibiting concessions would not a deal breaker. He then voiced concern regarding Condition No. 9 regarding the requirement for the installation of a fire hydrant, and questioned whether this requirement was per City Code. He stated that he had no problem if the Code required it. He then voiced concern for the fee amount proposed by staff and questioned if the deferment of the fee would create a lien against the property, or if it would only affect the operators.
City Attorney Julia Lew clarified that the operators of the facility were only subject to the fee, and that it would not create a lien against the property.

The public hearing closed at 8:09 p.m.

Council Member Hamilton commented on Condition No. 7 which required the operators to provide handicapped-accessible portable sanitary facilities, and questioned whether the track was close enough in proximity to Mr. Beebe’s shop, Action Hobby, so as to allow participants to utilize the business’ restroom instead of requiring handicapped-accessible facilities on site.

Tim Beebe, 677 North Plano, responded that the operators had decided researched the acquisition of the portable facilities and had decided to proceed with having them on site.

Council Member Hamilton commented that he was happy with the ordinance, but stated that he believed that the permit fee as proposed was somewhat excessive. He then pointed out that this situation involved more than a typical permit, but that he favored deferment of the fee.

In response to Mayor Pro Tem Irish’s question, City Attorney Julia Lew clarified that the permit was temporary, but the ordinance was not.

Mayor Pro Tem Irish stated that he approved of the ordinance with the exception of Condition No. 3, specifically, the language “for any purpose.” He proposed that “for any purpose” be stricken from Condition No. 3. He stated that Council had previously agreed that dues and fees could be charged amongst the club members and pointed out that if any abuse occurred, Council would be able to address that situation when and if the item came back to Council for renewal.

City Attorney Julia Lew clarified that “for any purpose” could be stricken as a clerical error, but if Council wished to strike the entire sentence, then the ordinance would need to be brought back.

Mayor Martinez stated that he would like to see the matter move forward. He stated that he checked the record as to what had been discussed regarding handicapped parking. He requested that there be an understanding that the operators provide a designated parking space for handicapped individuals. He pointed out that this would not be a requirement, but instead he requested that the operators voluntarily comply.

Mr. Shelton stated that handicapped individuals would absolutely be welcomed and accommodated and that such individuals could at any time request a parking space.

Mayor Martinez pointed out that often times handicapped individuals would not ask due to past negative experiences, or because he or she may not wish to impose on the operators. He then pointed out that remote control car racing was likely an activity in which many handicapped individuals would like to participate. Mayor Martinez then mentioned the proposed time of operation, and pointed out that if Council received any complaints, the time could be revised next year. He requested that the operators abide by the times of operations.

Mr. Shelton stated that the operators would use blue chalk or blue paint to designate a certain area for handicapped parking. He then stated that the operators had already begun to address various items proposed by Council and had in fact already hung a sign on the property outlining the various conditions. Mr. Shelton then requested that he or Mr. Beebe be contacted should Council ever receive any complaints. He stated that it was the operators’ intent to be good neighbors.
COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council give Second Reading to Ordinance No. 1659, as amended to strike “for any purpose” from Condition No. 3, and waiving further reading, adopt said ordinance, as amended, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ISSUING A PERMIT FOR TEMPORARY USE TO PERMIT THE CONTINUED OPERATION OF A REMOTE CONTROL RACE TRACK AS A HOBBY/RECREATIONAL USE.

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

Council Member Hamilton moved to adopt the fee for services in the amount of $700.00.

City Manager John Longley confirmed that the Council Member Hamilton’s motion included deferment of said fee to the time the installation of the fire hydrant was required.

Mayor Pro Tem Irish then clarified with staff that the fee would only affect the operators, and that the fee would not create a lien on the real property.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council adopt the fee for services in the amount of $700.00, M.O. 11-101904 payment of which will be deferred until such time as the fire hydrant installation is required on the subject property.

Disposition: Approved.

Mayor Martinez stated that per staff’s request, Council would now discuss an item that was to be heard during Other Matters.

City Manager John Longley stated that an Adjourned Regular Meeting had been scheduled for October 26, 2004 for discussion on the Success Reservoir with the Army Corps of Engineers. Staff had understood that because a quorum would not likely be available for that meeting, staff had moved toward cancellation of that meeting. He stated that staff had been contacted by several individuals who had asked that such cancellation be reconsidered. Mr. Longley then requested direction from the Council.

Mayor Martinez stated that he would be available for the October 26, 2004 meeting.

Council Member Hamilton stated that he too would be available on October 26, 2004.

Mayor Pro Tem Irish stated that his plans had changed, and that he would now also be available for the meeting.

City Manager John Longley confirmed that the evening’s meeting would then be adjourned to the meeting of October 26, 2004 at 6:00 p.m.

In response to Council Member Hamilton’s question, City Attorney Julia Lew clarified that while the meeting was set up to be an informational meeting, it was still a City Council meeting and that conceivably the Council could take action if an agenda item permitted it.

SCHEDULED MATTERS
Recommendation: That the Council approve the draft letter supporting the issuance of a Type 20 off-sale of beer and wine license within Census Tract no. 41.01 for the Olive Mini Mart, to be located at 709 West Olive Avenue.

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

Mayor Martinez invited comments from the audience.

Mark Hillman, Hillman Building Design, 620 West Olive Avenue, came forward on behalf of the applicants. He stated that the applicants were seeking to utilize a blighted vacant building, and if approved, would be providing a service to a residential area that lacked such service. Mr. Hillman noted that a void existed from the Olive Bowl east to Main Street. He stated that the Census Tract indicated that no such businesses currently provided services in that particular area, and that the surrounding residential areas would benefit. Mr. Hillman then stated that as a business owner on Olive Avenue, he supported for the project. He then informed Council that he would be available to answer any questions they might have.

Mayor Pro Tem Irish asked the applicants if they would rather reschedule the item until such time as all Member of the Council were present. He pointed out that a unanimous vote of the three present members would be required for the item to pass.

City Attorney Julia Lew clarified that since a resolution or ordinance was not being considered, a two to one vote was all that would be required to pass the item.

The Council took a ten minute recess.

Mr. Hillman came forward and indicated that the applicants would like Council to continue its consideration of the item that evening. He pointed out that all of the residents in the immediate area had been informed of the request, and none had opposed it, which Mr. Hillman asserted should assist Council in its decision. He also pointed out that having the business on the south side of Olive Avenue would benefit the residents and allow safe access from the neighborhood south of Olive Avenue so as to eliminate the need of crossing Olive Avenue.

Council Member Hamilton questioned if the proposed location abutted residential property, and what type of fence was currently in place between those properties. He also questioned why the project had not been required to include a concrete wall.

Mr. Dunlap responded that if the property were to be developed today, a concrete wall would have been one of the requirements. However, Mr. Dunlap explained, since a Conditional Use Permit is not required in this case, only a Letter of Public Convenience and Necessity was required.

Council Member Hamilton then commented that at the time the alcohol ordinance was revised, Council had considered requiring Conditional Use Permits on all permits. He then confirmed with staff that Conditional Use Permits were not currently required, and stated that Council should have placed such a condition on all permits. Council Member Hamilton then questioned whether the applicants were going to install gas pumps.

Mr. Hillman responded that the applicants were not considering gas pumps at that time, as the property did not allow for easy ingress and egress. He also noted that such a proposition was quite costly. Mr. Hillman
then provided a historical overview of the property. He indicated that in 1998, a permit had been pulled for the construction of a metal building. He pointed out that if lack of a block wall had been an issue, it would have been addressed at that time. He then stated in 1997, another permit had been pulled for the storefront renovations, which allowed yet another opportunity for the requirement of a block wall, and still none had been required. He emphasized that the applicants were only seeking a Letter of Public Convenience and Necessity. He stated that the back portion of the property would be utilized for storage, and pointed out that most of the traffic would be in the front of the property, away from the residential area.

Council Member Hamilton questioned where the loading would take place for the property.

Mr. Hillman responded that the loading would occur at the large roll-up door on the east end of the structure, and suggested that large forty-foot trucks generally did not service those types of convenience stores. He stated that deliveries would likely be made by smaller trucks.

Mayor Martinez stated he did not want to see the store use excessive amounts of signage.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council approve the draft letter supporting the issuance of a Type M.O. 12-101904 20 off-sale of beer and wine license within Census Tract No. 41.01 for the Olive Mini Mart, to be located at 709 West Olive Avenue.

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

Disposition: Approved.

18. THIS ITEM HAS BEEN REMOVED.

19. CONSIDERATION OF “WEEKEND” CAR WASH ORDINANCE

 Recommendation: That Council provide direction to staff.

City Manager John Longley presented the item and the staff report.

Council Member Hamilton commented that he had requested that the matter be put on the Agenda due to concerns from citizens regarding the tremendous amount of unregulated car washes throughout the City. He pointed out that many of those car washes were using the City’s storm drains, and that often times the car washes were not only operated on the weekends, but also during the week. He stated that the City had been working hard on bringing the licensed carwashes into compliance, two of which recently had been brought into compliance. Council Member Hamilton stated that personally, as a businessman, he welcomed competition as long as the playing field was fair. He then requested comments from the other Council Members.

Mayor Pro Tem Irish stated that he would like to see language included that provided for a penalty for operating without a permit, such as revoking or restricting the applicants’ ability to pull another permit for a one year period.

City Attorney Julia Lew indicated that such language could be included in the enforcement provisions of such an ordinance.
Council Member Hamilton stated that the licensed car wash owners did not wish to eliminate those non-profit car washes, and asserted that regulating the car washes would open up an avenue in which the non-profit organizations could work with the commercial car wash owners. He pointed out that in this event, the City’s storm drains would be properly utilized, and the car wash organizers would have a site in which to conduct their car washes.

Mayor Pro Tem Irish stated that he would also like to include a provision that required the applicant to show proof that the organization is legally structured as a “501” non-profit organization.

Council Member Hamilton voiced concern for that requirement and questioned whether organizations, such as cheerleading squads, were actually technically organized as 501s.

Mayor Martinez pointed out school bands were also likely not structured as 501 organizations.

Ms. Lew suggested that different areas of the City Code might provide language that could be used to include organizations other than those structured as 501(c)(3)s. She stated that an equivalent definition from other areas of the Code might be applied to this area.

Mayor Pro Tem Irish confirmed that two different factors of “weekend” car washes would be regulated – the group and the location. He then pointed out that the applicants must also be accountable, and warned of applicant organizations changing their name so as to avoid the regulations.

Council Member Hamilton added that the time should also be regulated. He then stated that some individuals would always attempt to circumvent the system.

City Attorney Julia Lew pointed out that the same concern arose in the context of the fireworks booths, because one organization under different names and subsidiaries attempted to obtain more than one permit. She indicated that she would research what the City could do to prevent that from happening in this case.

Mayor Pro Tem Irish voiced support for expediting the regulations, and cautioned over delaying the item for another year. He pointed out that the item had been debated for a great deal of time.

Council Member Hamilton suggested that a draft ordinance could be brought back to Council at the next meeting.

City Manager John Longley requested that the item be brought back at the second meeting in November due to the large Agenda already set for the November 2, 2004 meeting.

Mayor Pro Tem Irish indicated that he did not oppose the item being brought back in January 2005. He pointed out that many organizations would likely not hold car washes during the cold winter months. He then stated that he would prefer the item be finished no later than mid-January.

Council Member Hamilton stated that organizations held car washes on his lot every weekend, rain or shine. He then asked staff if the item could be done by the second week in November.

City Manager John Longley confirmed that staff could have the draft ordinance for Council’s review at the second meeting in November. He stated that staff’s only concern pertained to the full Agenda for the November 2nd meeting.

Mayor Martinez voiced concern for limiting or restricting the opportunity for many of the non-profit organizations to raise much-needed funds. He stated that he understood that the item was worthy of discussion, but pointed out that many of the organizations that would be negatively affected provided a service to the
community and depended on those funds made from car washes. He then acknowledged that there were those individuals and organizations that took advantage of the situation. He stated there were other issues that also needed to be addressed and pointed to safety issues regarding individuals advertising the car washes standing in locations such as medians. Mayor Martinez then voiced a concern over the proposed time period for allowing car washes, and pointed to summer versus winter daylight hours. He stated that he would like to continue discussion on the matter until such time when all of the Council Members were present. He stated that since most, if not all, of the Council Members participated in non-profit organizations, he believed all Council Members should have the ability to offer input. He then stated that he did not believe that bringing the item back so quickly would be beneficial, and warned that the organizations negatively impacted might not have the opportunity to come before the Council to address the issues. He stated that he did not want to pass the ordinance only to receive negative commentary from individuals after the fact. He stated that he would prefer to make certain the public had been informed of the issue so that the public could comment.

Mayor Pro Tem Irish pointed out that a reporter from the Porterville Recorder was present and was likely making a note of the item for publication.

Council Member Hamilton stated that the PAAR Home currently conducted car washes on his lot, and pointed out that that organization was not in compliance with the existing ordinance, which provided for the full containment of the water runoff. He stated that all of the car washes conducted by Victory Outreach, PAAR House, and/or the high schools were all utilizing the City’s storm drains and were currently not in compliance. Council Member Hamilton then questioned why additional time was needed, and pointed out that the only way in which those organization could comply with the existing Code was to build a car wash.

Mayor Martinez then questioned why Council should pass an ordinance that the City could not even enforce, and suggested that staff’s time would be wasted. He stated that staff’s time was valuable and best invested into other areas.

Mayor Pro Tem Irish asserted that this issue had been going on since 1995 or 1996, and although Mayor Martinez made a valid point, perhaps the City should start waiving fees because everyone could not be regulated and those regulations enforced on an equal basis. He stated that perhaps the City should waive the fees on the legitimate car washes, since those same fees were not imposed on the other car washes.

Mayor Martinez stated that he believed a distinction must be made between what Council called “legitimate,” or a licensed business, and the non-profit organizations that were raising funds. He voiced concern with calling those non-profit organizations “illegitimate.” He stated that such reference questioned the legitimacy of those non-profit organizations.

Mayor Pro Tem Irish clarified that his reference to “legitimate” was meant to refer to those organizations that were processing their waste in accordance with the City Code, such as paying all of the required fees and utilizing traps at additional expense to that operator. He stated that if the Mayor had been right in that the proposed regulations on car washes by non-profit organizations could not be enforced, then the City should perhaps also stop enforcing the requirements of the licensed car washes. He stated that the licensed car wash operators were currently required to incur the added costs to ensure compliance with the Code, yet the non-profit operations were not. Mayor Pro Tem Irish questioned the equatability of such requirements.

Mayor Martinez pointed out that non-profit car washes were generally not conducted from commercial properties that had held a car wash within the past few months. He hypothesized that such non-profit organizations could be holding car washes in such a manner and in areas where the water was not running off into the City’s sources. He stated that in that event, the proposed restrictions would not benefit the City, but would eliminate that organization’s ability to raise funds. He stated that was familiar with some locations that were utilized by non-profit organizations for car washes and that those locations did not pose a threat to the City. He then questioned whether car washes held on school properties negatively impacted the City.
City Manager John Longley stated that issue of car washes held on school properties was an issue that was defined in the staff report. He indicated that staff had preliminarily reviewed it and believed that those car washes were subject to City regulation, but that City Attorney Julia Lew would review the matter.

Council Member Hamilton stated that the Mayor brought up valid concerns with respect to protecting charitable organizations, and that protecting those organizations had been addressed by having them work with the commercial car wash operators to use the commercial facilities. He stated that this allowed for the reclamation of water.

Mayor Martinez then questioned whether conservation was the primary issue in proceeding.

Council Member Hamilton responded that conservation was part of the decision, but also pointed to the promotion of fair competition.

Mayor Martinez asserted that charitable organizations raising funds for non-profit use were not competing with businesses who operated for profit. He stated that the situation would be different if the charitable organizations were charging a fee, but asserted that such organizations instead requested donations.

Mayor Pro Tem Irish stated that he understood the point Mayor Martinez was making, but that he believed Council was getting sidetracked from the primary issue. He stated that the result from the wasted water was the same whether the waste resulted from a commercial car wash that lacked the required sand trap or from a charitable car wash. He stated that if 10 or 15 non-profit organizations held a car wash every weekend, that situation equated to the operation of an illegal car all of the time, because the results were the same. He contended that the wasted water was untreated and was going where the City did not want it to go. Mayor Pro Tem Irish asserted that this was the issue. He then questioned why the City charged commercial operations such extreme fees if there was no impact.

Mayor Martinez agreed that there were issues that needed to be addressed by Council, but voiced opposition to expediting the item. He stated that he would like the public to have the opportunity to comment, particularly those organizations that would be affected. He then suggested that the item be discussed during the joint meeting between the Council and the schools. He stated that the City could inform the schools that Council would be discussing the matter at a date in the future and provide them with the opportunity to participate. He stated that the ability for many school clubs to raise funds would be negatively affected if Council proceeded. He then pointed out that many of the young individuals that donate their time at car washes to raise funds for non-profit uses could be doing other things that could cost the City money. He then asserted that those organizations needed some method for raising funds, and stated that the public should be given the opportunity to come before the Council regarding the proposed changes.

Council Member Hamilton responded that the public would have such an opportunity as adoption of the ordinance would require a public hearing.

In response to Mayor Martinez’s question, City Manager John Longley stated that Council had suggested staff present the draft ordinance at the second meeting in November. Mr. Longley pointed out that the ordinance would be in draft form for Council’s input.

City Attorney Julia Lew explained that since the ordinance would be in a rough draft format, she recommended that Council should not proceed with first reading at that time. She pointed out that currently, Council only had a sample ordinance from Delano with which to work, and that numerous adjustments would be needed to draft an ordinance for Porterville.

Mayor Pro Tem Irish stated that supported moving forward in an effort to create a balance between the commercial operations and the non-profit operations.
COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that Council direct staff to prepare and bring back to Council on November 16, 2004 a draft ordinance regulating weekend car washes.

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

Disposition: Approved.

20. CONSIDERATION OF OHV PARK FEE ADJUSTMENT

Recommendation: That Council define direction for staff.

The City Manager presented the item and requested direction from Council.

Council Member Hamilton stated that he had requested that the item be added to the Agenda. He indicated that the motocross track in Porterville was considered to be one of the top ten tracks in California, but that a problem existed in keeping up with the maintenance due to under-staffing. He then confirmed with staff that the facility operated with a part-time supervisor and a volunteer part-time assistant. He stated that he had been informed that if the City were to raise the fee from $10 to $15 for “play” days, the City would be able to afford a full-time employee. He stated that staff had informed him that a certain process would need to be followed in order to increase the fee, but he believed that since the fee pertained to a recreational use, that process would not be applicable. He stated that all other parks were currently charging $15 to $25 fees, and that the Porterville park staff often received comments regarding the low fee. Council Member Hamilton then voiced support for bringing the item back to Council to raise the fee to $15. He then indicated that an individual who was knowledgeable on the topic was present in the audience to answer any questions the Council may have.

Mayor Martinez questioned whether raising the fee would provide the funds necessary to hire a full-time employee at the park.

Council Member Hamilton stated that according to the numbers that had been provided him, raising the fee would provide sufficient funds, and suggested that perhaps the Director of Parks and Leisure Services Jim Perrine could best answer that question.

City Manager John Longley stated that the answer was yes and no. Mr. Longley explained that if Council looked at a three-year average, the numbers would indicate that raising the fee would provide enough funds; however, if looked only at this year, the answer would be no. He stated that there was some loss on the track this year, but over a period of time, such as three years, the average indicated there would be enough money. At this point, hiring a full-time employee at the park would require a subsidy.

In response to Mayor Martinez’s question, Council Member Hamilton confirmed that an increase in the hours of operation was not being proposed. He then questioned whether the loss at the track could be attributed to the decrease in fees charged to promoters. He stated that previously, at staff’s recommendation, the contract fee charged by the City to sponsors had been lowered from approximately $1,200 to $700 or $800. He questioned whether that change had caused the track to now lose money.

Mr. Perrine responded that he was unaware if that had any impact on the loss, but did note that the track did not have the aggressive promotion as the track had a few years ago. He stated that he could not speak to exact costs.
City Manager John Longley stated that staff was not readily prepared to answer Council’s questions, as the item had been placed on the Agenda in an ad hoc manner. He stated that staff had been attempting to respond to questions out of context, and normally, staff would follow a process by which it would prepare a report and bring that report back to Council.

Mayor Martinez stated he was in agreement with staff bringing a report back for discussion.

Council Member Hamilton stated that he had wanted to bring the item to Council’s attention. He then suggested that staff speak with the individuals and participants at the park for their input.

City Manager John Longley confirmed with Council that staff would prepare a staff report on the item, and present it to Council at the next meeting.

Disposition: Continued.

21. WATER CONSERVATION PLAN PHASE II, WATER SYSTEM STATUS

Recommendation: That the Council:
1. Authorize returning to Phase I of the Water Conservation Plan; and
2. Bring the issue back to Council in April 2005 for re-evaluation.

City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

Council Member Hamilton questioned if any of the City pumps were lowered during the past year in order to collect more water, to which staff responded that no pumps were lowered.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that Council authorize returning to Phase I of the Water Conservation Plan, and bring the item back to Council in April 2005 for re-evaluation.

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

Disposition: Approved.

22. STATUS REPORT ON ESTABLISHING A YOUTH CONGRESS

Recommendation: That Council receive the status report and, if appropriate, provide further direction to staff.

City Manager John Longley presented the item, and Director of Parks and Leisure Services Jim Perrine presented the staff report.

Mayor Martinez requested that the item be included in the meeting between the City and the schools. He then stated that he had stopped by the meeting, and that he was pleased with staff’s work with the Youth Congress.

Mayor Pro Tem Irish requested that the Police Cadets also be represented.
Council Member Hamilton requested that staff provide him with a copy of the Youth Congress’ schedule so he may attend an upcoming meeting.

23. QUARTERLY PORTFOLIO SUMMARY

Recommendation: That the City Council accept the quarterly Portfolio Summary in accordance with SB 564 and SB 866.

City Manager John Longley presented that item, and Chief Financial Officer Susan Slayton presented the staff report.

Council voiced a general satisfaction with the performance of the portfolio.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council accept the quarterly Portfolio Summary in accordance with SB 564 and SB 866.

M.O. 15-101904

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

Disposition: Approved.

24. INTERIM FINANCIAL STATUS REPORT

Recommendation: That Council accept the interim financial status reports as presented.

City Manager John Longley introduced the item, and Chief Financial Officer Susan Slayton presented the staff report.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council accept the interim financial status reports.

M.O. 16-101904

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

Disposition: Approved.

ORAL COMMUNICATIONS
None.

OTHER MATTERS
None.

ADJOURNMENT
Council adjourned at 9:23 p.m. to the meeting of October 26, 2004, 6:00 p.m.
SEAL

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Pedro R. Martinez, Mayor