CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
NOVEMBER 2, 2004 6:00 P.M.

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:
A. Closed Session Pursuant to:
   1 - Government Code § 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: Two Cases.
   7 - Government Code § 54957 - Public Employee Performance Evaluation - In Progress Review - Title: City Manager.

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
Partially concluded, continued to the end of open session with any reports done at that time.

Pledge of Allegiance Led by Council Member Hamilton
Invocation by Associate Pastor Julie Cheney, Porterville Church of the Nazarene

PROCLAMATIONS
“National Guard Recognition Day”
   Sgt. Jeff Carmen came forward and accepted the Proclamation on behalf of the National Guard and thanked the Council, staff and audience for their support.

   The Council then presented Certificates to the following local National Guard members who had recently returned from active duty abroad:
   • Cpl. Michael Schoenauer;
   • Sgt. Scott Gren;
   • Spc. Terry Brents; and
   • Spc. Brad Clower.

   Mayor Martinez then introduced the second Proclamation:
   “Robert Perez, Administrator of the Year Recognition Day”

   Mr. Perez came forward and accepted the Proclamation.
PRESENTATIONS
Employee of the Month - Becky West

ORAL COMMUNICATIONS
• Russell “Buck” Fletcher, 862 N. Williford Drive, came forward and voiced concerns with Items 4 and 5, specifically questioning why the contracts had not been awarded to local dealerships. Mr. Fletcher was informed of the mandatory bid process. He then voiced concern with increased crime in Porterville.
• Dorothy Broome, 863 S. Crystal Street, made comments regarding the City’s street sweepers and questioned if the equipment included water sprayers to mitigate dust. Staff confirmed water was used, and Council pointed out that the recently acquired sweeper was environmentally-friendly. Ms. Broom then voiced concern with increased crime in the area.
• Dick Eckhoff, 197 N. Main Street, voiced support for Item 19, the special tax measure, and pointed out that the need for additional fire protection would be even more so once local State funding resources were eliminated.

CONSENT CALENDAR

1. CITY COUNCIL MINUTES OF OCTOBER 5, 2004; OCTOBER 12, 2004; AND OCTOBER 19, 2004


Documentation: M.O. 01-110204
Disposition: Approved.

2. REVISION TO ENGINEERS ESTIMATE OF PROBABLE COST - SLUDGE DRYING BED EXPANSION PROJECT

Recommendation: That the Council approve the revised Engineer’s Estimate of Probable Cost.

Documentation: M.O. 02-110204
Disposition: Approved.

3. AUTHORIZATION TO NEGOTIATE CONTRACT FOR CONSULTANT SERVICES FOR ISLAND ANNEXATIONS

Recommendation: That the City Council:
1. Authorize Staff to negotiate with Quad Knopf for on-call Island Annexation services;
2. Authorize the amendment of the existing on-call environmental services contract to include island annexations and extend the expiration date to April 16, 2006;
3. Authorize the use of equipment replacement funds from the Public Works and Community Development Departments totaling approximately $22,000 in this effort; and
4. Authorize the Mayor to sign all necessary documents to facilitate this process.

Documentation: M.O. 03-110204
Disposition: Approved.
4. AWARD CONTRACT - ONE-TON CAB AND CHASSIS TRUCKS

Recommendation: That the City Council award the contract for two (2) new one-ton cab and chassis trucks to Motor City GMC of Bakersfield, California, in the amount of $28,679.92. Further, that Council authorize payment upon satisfactory delivery of the equipment.

Documentation: M.O. 04-110204
Disposition: Approved.

5. AWARD CONTRACT - ONE-HALF TON PICKUP TRUCK

Recommendation: That the Council award the contract for one (1) new one-half ton pickup truck to Hoblitt Fleet Group of Woodland, California, in the amount of $14,418.62. Further, that Council authorize payment upon satisfactory delivery of the equipment.

Documentation: M.O. 05-110204
Disposition: Approved.

6. AWARD CONTRACT - REMOVAL OF PLUM ORCHARD

Recommendation: That Council award a contract to San Joaquin Biomass of Delano, California, for the removal of the plum orchard in the amount of $8,500. Further, that Council authorize payment for said work upon satisfactory completion.

Documentation: M.O. 06-110204
Disposition: Approved.

7. ACCEPTANCE OF THE NELSON BUILDING DEMOLITION PROJECT

Recommendation: That the City Council:
1. Accept the project 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: M.O. 07-110204
Disposition: Approved.

8. INTENT TO VACATE PUBLIC VEHICULAR TURNAROUND EASEMENTS RELATED TO THE DEVELOPMENT OF RIVER SPRINGS, PHASE THREE SUBDIVISION (G.W. HOMES, INC.)

Recommendation: That the City Council:
1. Pass a Resolution of Intent to Vacate easements dedicated to the City of Porterville as Parcel 1 and Parcel 2 of Document No. 2000-0072322, recorded November 7, 2000, in the Office of the Tulare County Recorder; and
2. Set the Council Meeting of December 7, 2004, as the time and place for a public hearing.

Documentation: Resolution 137-2004
Disposition: Approved.
9. APPROVAL FOR COMMUNITY CIVIC EVENT PORTERVILLE CHAMBER OF COMMERCE, ROTARY CLUB OF PORTERVILLE, AND DOWNTOWN PORTERVILLE ASSOCIATION ANNUAL CHILDREN’S CHRISTMAS PARADE - NOVEMBER 30, 2004

Recommendation: That the Council:
1. Approve the Community Civic Event application from the Porterville Chamber of Commerce, Rotary Club of Porterville, and Downtown Porterville Association subject to the Restrictions and Requirements contained in the Application, Agreement, and Exhibit “A” of the Community Civic Event Application;
2. Authorize the temporary suspension of the Fixed Route Transit System from 4:30 p.m. to 6:00 p.m. on November 30, 2004; and
3. Restrict the closure of parking spaces in front of City Hall from 3:30 p.m. to 5:00 p.m. to those at the north end of City Hall along Main Street.

Documentation: M.O. 08-110204
Disposition: Approved.

10. REQUEST FOR STREET CLOSURE - MYERS’ TENTH ANNUAL CHRISTMAS TREE MEMORIAL SERVICE

Recommendation: That the City Council approve the closure of “E” Street, between Putnam and Cleveland, on December 2, 2004, from 6:00 p.m. to 8:30 p.m. subject to the conditions specified.

Documentation: M.O. 09-110204
Disposition: Approved.

11. THIS ITEM HAS BEEN PULLED.

12. CONSIDERATION OF ARTICLE III, CHAPTER 15, GOING-OUT-OF-BUSINESS SALE LICENSE TAX

Recommendation: That the Council approve the resolution suspending the collection of the Going out of Business Sale license tax until directed by Council to reinstate it.

Documentation: Resolution 138-2004
Disposition: Approved.

13. SINGER BUILDING TRADE FIXTURES AND IMPROVEMENTS

Recommendation: That the City Council approve the following be granted to Harriett Bessey-Standel:
1. Last month’s rent to the City of Porterville for the month of November, 2004, be waived;
2. 220 wiring, together with plugs and new breaker;
3. Ventilation system and hood (over kilns);
4. Wood partitions and shelves on walls;
5. The counters in the bus ticket office;
6. Windows;
7. One heater; and
8. One swamp cooler.
COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member West that Council approve Items 1 through 13. The motion carried unanimously.

PUBLIC HEARING

14. CONSIDERATION OF OHV MOTOCROSS PARK COST OF SERVICE AND ADULT RIDER FEE ADJUSTMENTS

Recommendation: That Council define direction for City staff after conducting the public hearing to receive public comments.

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

The Public Hearing opened at 7:35 p.m.

Kelly Hampton, a resident of Earlimart, came forward and identified himself as a part-time employee at the park. Mr. Hampton voiced support for the hiring of a full-time employee.

The Public Hearing closed at 7:37 p.m.

Mayor Pro Tem Irish commented that he did not believe the proposed fee increase was large enough, and voiced concern with again having to address the same issue in a couple of years. He stated that he believed the park was a great asset, and that the fees should be properly adjusted now. Mayor Pro Tem Irish then questioned how long the current fees had been in place.

City Manager John Longley stated for clarification that all of the fees were currently under evaluation, and in April 2005, a comprehensive fee review would be provided to Council. At that point, Mr. Longley pointed out, all costs would have been defined and the projected revenues identified thereby providing Council the ability to comprehensively review the data and make a determination as to needed subsidies. Mr. Longley then informed Mayor Pro Tem Irish that the date on which the fee schedule for City parks was last updated was July 21, 1998 via Resolution No. 87-98.

Mayor Pro Tem Irish requested that information as to what other tracks were charging were provided to Council for comparison.

Council Member Stadtherr voiced concern for price sensitivity in that raising the fees too much might affect the number of individuals participating, which would thereby reduce the projected increase in revenues. He then pointed to the downward trend in annual revenue for the OHV Park, from 2001/2002 to the projected revenue for 2004/2005. He suggested that this trend might be due to a decline in ridership.

Director of Parks and Leisure Services Jim Perrine responded that the declination in revenue was actually attributable to the amount of races held at the Park. He pointed out that in 2002/2003, the park had several sanctioned races, whereas the following year, the park had approximately 12 races, with only one of those being sanctioned. He stated that the park had a different race promoter during the 2003/2004 season, and that this season, the park had no promoter therefore a lower revenue was projected for this year. He stated that staff estimated conservatively for this year’s revenue at the park.

In response to Council Member Stadtherr’s comments, it was stated that staff was currently looking for a race promoter for the track.
Mayor Pro Tem Irish suggested that staff approach the same promoter from the 2002/2003 season.

Mr. Perrine stated that David Rogers had been the promoter in that year.

Mr. Hampton commented that Mr. Rogers had made money on the first race he promoted at the park, however he believed that he lost money on the second. He estimated that approximately thirty youth riders utilized the park on a regular basis, and suggested that the youth rider fee be increased from $5 to $15. He then stated that other tracks in the area were charging more, but that those tracks had the riders to support that fee. He warned that if the Porterville track increased the fees too much, the track might lose riders.

Mayor Martinez voiced concern with increasing the fees too drastically so as to cause riders to go elsewhere.

Council Member Hamilton indicated that rider fees at tracks in Tulare and Hanford were much higher, but pointed out that those tracks were independently operated.

Mr. Perrine stated that rider fees at other tracks in the area ranged from $15 to $25.

City Manager John Longley clarified that the draft resolution before Council provided that only the adult rider fee be adjusted, not the youth rider fee. He pointed out that resolution could be changed.

Council Member Hamilton agreed with Mayor Pro Tem Irish’s comments regarding the need for properly increasing the fee, but stated that in the meantime, he supported an interim fee adjustment until the end of April 2005 when the comprehensive analysis had been completed by the consultant and presented to Council. He commented that the fee should be increased, and cited the fact that the proposed increase had actually been proposed by the participants at the track because they recognized the need of funds for the track.

Council Member Hamilton moved that Council approve setting an interim fee of $15 across the board for any rider at the park, which fee would be in place through April 2005. He stated that this would then at least temporarily remedy this situation at the OHV park until such time as the consultant completed the comprehensive study of all park fees, which would be completed in April 2005. At that point, Council Member Hamilton stated, Council could review the report and adjust the all of the fees accordingly.

Council Member West seconded Council Member Hamilton’s motion.

City Attorney Julia Lew clarified that a public hearing would need to be set in order to increase the fee across the board to include youth riders, as opposed to only increasing the adult riders’ fee. She also pointed out that the draft resolution did not include interim fees and that would have to be re-drafted.

Council then discussed whether the interim fee should last through April or May of 2005, at which point City Manager John Longley suggested that it would be appropriate to have the interim fee be effective through the end of Fiscal Year 2004/2005.

Mayor Pro Tem Irish requested that Council be provided a report detailing the pros and cons of having the track privately run.

City Attorney Julia Lew explained that the amount of fees that other tracks were charging was not the only issue, but rather why those tracks were charging those fees. She stated that the fees must be tied to the cost for providing the service, which could be different depending on how that service was provided.
Mr. Longley then clarified that the motion was to provide direction relative to bringing back a new resolution for a $15 across the board rider fee. He then asked Council if it had direction on the staffing issue regarding hiring a full-time employee for the park.

Council Member Hamilton stated that he wished to discuss that at the next meeting. He voiced concern with hiring a full-time employee while the City currently had a hiring freeze in place.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish to direct staff to set a public hearing and draft a resolution setting an interim fee of $15 for all riders, which fee will remain in effect through fiscal year 2004/2005. The motion carried unanimously.

Disposition: Approved.

**SCHEDULED MATTERS**

15. APPOINTMENT OF PARKS AND LEISURE SERVICES COMMISSION AND LIBRARY BOARD MEMBERS

Recommendation: That the Council appoint at their discretion either Mr. Joe Ruiz or Mr. John Hardin as Commissioner to serve the remaining term of Gary Weaver which will expire in October of 2005. Staff is also requesting the appointment of Mr. Joe L. Moreno as a member of the Library Board of Trustees.

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

Mayor Martinez questioned if any of the respondents were present, and staff confirmed they were not.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council appoint Mr. Joe Moreno to the Library Board of Trustees. The motion carried unanimously.

Council Member Hamilton commented that two good candidates had expressed an interest in the Parks and Leisure Services Commission, however, he had concerns with Mr. Hardin also serving as the Chairman for the Porterville Association of Softball. He stated that he was uncertain if that position would conflict with the Parks and Leisure Services Commission, or if it would make him better suited. He then questioned if an alternate position was also available, to which staff responded that no alternate position had been established.

**COUNCIL ACTION:** MOVED by Council Member West, SECONDED by Council Member Stadtherr that Council appoint Mr. Joe Ruiz to the Parks and Leisure Services Commission to serve the remaining term of Gary Weaver which will expire in October 2005. The motion carried unanimously.

Disposition: Approved.

Mayor Pro Tem Irish requested that a letter be sent to Mr. Hardin thanking him for his interest and informing him that he would be considered for future openings.

Mayor Martinez stated that in the past, when new appointments were being considered, Council had taken into account the attendance of current board and committee members. He suggested that Council might take
that into consideration again, and if there were members whose attendance was poor, perhaps Mr. Hardin could fill one of those spots.

16. AUTHORIZATION TO NEGOTIATE CONTRACT FOR CURBSIDE RECYCLING ANALYSIS

Recommendation: That the City Council:
1. Authorize staff to negotiate a contract with SERA for curbside recycling analysis and related services, not to exceed $20,000;
2. Authorize staff to negotiate a contract with the next highest ranked firm (Huls Environmental Management) in the event a contract cannot be negotiated with SERA, not to exceed $20,000;
3. Authorize the Mayor to sign all contract documents; and
4. Authorize staff to make payments up to 100% upon satisfactory completion of the work.

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

Mayor Pro Tem Irish requested that the concerns of former Council Member Boyd Leavitt be addressed in the analysis. He stated that Mr. Leavitt raised some interesting issues, and he would like those issues addressed in the report.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council approve staff’s recommendation. The motion carried unanimously.

M.O. 14-110204

Disposition: Approved.

17. APPEAL OF DECISION TO ENFORCE REGULATIONS THAT REQUIRE TRIMMING OF A HEDGE LOCATED AT 791 NORTH VILLA STREET FACING HENDERSON AVENUE

Recommendation: That Council uphold staff’s determination to enforce the restrictions on the height of hedges on the subject property and direct staff to work with the property owner to correct the violation within 21 days and to forward the matter to the City Attorney for further action if the matter is not resolved.

Council Member West excused himself from the Council Chambers due to a potential conflict of interest.

City Manager John Longley presented the item.

David Olle, 791 N. Villa Street, came forward on behalf of the property owner and voiced opposition to the enforcement of the hedge restriction. He indicated that the hedge posed no safety hazard, particularly since the stop lights had been installed at that corner. He requested a variance, and argued that the hedge provided a barrier to noise and auto emissions, which he suggested was especially true since the installation of the traffic signals. He asserted that the hedge had brought both grace and beauty to that corner for thirty years, and that the staff had opposed the variance only because of its precedent setting potential. He voiced support for a variance suggesting that the hedge had not hurt anyone. He stated that the hedge had helped beautify that particular corner for thirty years, and had provided a healthful environment for the tenants at 791 N. Villa Street. He then suggested that there was no valid reason for denying the variance, and commented that because the Council Members were reasonable people, they should find in favor of a variance.
City Manager John Longley stated that normally staff presented a staff report and requested that Mr. Dunlap be allowed to do so at that time.

Director of Community Development Brad Dunlap then presented the staff report. He stated that while Mr. Olle had downplayed the significance of staff’s concern with setting precedent, this was of a huge concern to staff in terms of dealing with property owners and enforcing the Code. He pointed out that variances were only applicable in situations that were unusual, and that they dealt with circumstances pertaining to a particular piece of property that were not present in other properties in the same vicinity or zone. He explained that the subject property was a rectangular-shaped lot, similar to other lots in that particular area, and that there was nothing unusual about the property that would warrant approval of the variance. Therefore, Mr. Dunlap stated, staff requested that Council uphold its determination to enforce the restriction.

Mr. Olle came forward and provided Council with copies of photographs depicting other locations throughout Porterville that he alleged had similar landscaping issues. He stated that he did not understand why his property was being treated differently than the owners of the properties depicted in the photographs. He suggested that hundreds of other examples throughout the City could be found.

Mayor Martinez questioned if staff could respond to any of the alleged violations in the photographs.

Mr. Dunlap indicated that he could not attest to the orientation of the lots based on the photographs, however he pointed out that one violation did not excuse another.

Mr. Olle then requested the name of the individual that filed the complaint with the City.

City Attorney Julia Lew indicated that she was not even certain if the staff had that information, but if it did, and if the complainant’s identity was considered public information, that information would be provided to Mr. Olle. Ms. Lew then clarified that if the Council was to entertain a variance, there were procedures which the applicant would need to follow to apply for a variance, but the matter had not yet reached that step. She pointed out that pursuant to Section 2700 et seq. of the City’s Zoning Ordinance, the matter would need to be noticed. She clarified that staff was currently seeking direction from Council as to whether it wished to pursue a variance, or whether it wanted to proceed with enforcement. She stated that enforcement would need to be stayed by Council if the variance option was to be considered so as to allow time for the property owner to apply for the variance. Ms. Lew then informed Council that the variance grounds were very hard standards to meet, which is why staff had recommended enforcement. She pointed out that for a variance, very special circumstances must be present that were applicable to only a particular property, that made that situation very different from other properties. She stated that such a finding must be made before a variance could be granted.

Mayor Pro Tem Irish thanked Mr. Olle for complimenting Council on being reasonable people. He then questioned the liability of the City if the hedge height restriction was not enforced after receiving a complaint.

Ms. Lew responded that the problem lied in setting a precedent. She stated that if the City was to ignore the complaint and/or grant a variance, a precedent would be set, even though the hedge had existed on that property for thirty years without any complaints.

Mayor Pro Tem Irish stated that since Mr. Olle had provided photos of other properties that might not be in compliance with the Code, that action technically constituted a complaint, which would now need to be addressed by staff. He requested that a report regarding those property be brought back to Council.

In response to Mayor Martinez’s question, Mr. Dunlap clarified that the positioning of the home on the lot was not unique to the subject property. He stated that the way in which a property had been developed was not a factor in the consideration of a variance. He stated that a variance could only be considered in situations in which
the physical layout of the land, or topography, was unique in such a way that placement of structures, for example, was limited.

Ms. Lew clarified that the Code required uniqueness of the property in terms of size, shape, topography, and location of surroundings.

Mr. Dunlap pointed out that several of the photographs provided by Mr. Olle depicted rear yards, which would not pose the same situation as the one before Council. In any case, he indicated, staff would follow up on all of the properties depicted in the photographs.

Council then clarified with staff that the hedge could be no taller than four feet, and that the portion of the hedge currently in violation was that portion along the front of the house facing Henderson Avenue and the return along Villa Street within the front set-back. Council pointed out that those sections consisted of almost the whole hedge.

Council Member Stadtherr commented that the subject property made for one of the nicest intersections in the City, and that requiring the property owner to cut down the hedge seemed like a shame. He stated that he drove by that particular site several times per day and enjoyed that intersection. He then pointed out that there was no comparison to the subject property and those properties depicted in the photographs provided by Mr. Olle. He stated that the property owner in this case was obviously very concerned about the appearance of her property, and that the upkeep of the property was beautiful. Council Member Stadtherr voiced concern with losing that appearance.

Mayor Pro Tem Irish questioned rhetorically whether well kept violations were acceptable, whereas poorly kept violations were not.

Council Member Stadtherr voiced support for Mayor Pro Tem Irish’s request that staff provide Council with a report on the other properties allegedly in violation. He suggested that Council could stay the enforcement until such time as that report was reviewed.

Council Member Hamilton commented that this was one decision that he wished would have never come before the Council, but that it had come before the Council and the property owner was in violation. He then confirmed with staff that the setback of the house was required to 20 feet, and suggested that the property owner’s concerns with noise and pollution might be addressed by growing the hedge closer to the house.

Mr. Dunlap responded that vegetation in no way attenuated sound. He argued that there was no scientific evidence that would indicate so, unless perhaps in a situation with a 100 foot wide area of densely planted vegetation. He suggested that the subject hedge likely provided a psychological effect of reducing the noise, but did not actually reduce the noise. He then asserted that he also found it unlikely that the hedge would provide any beneficial effect on air quality. Mr. Dunlap stated that the property owner could grow the hedge nearer the house, if the hedge did not fall within the twenty foot setback.

Mayor Pro Tem Irish commented that because the hedge was clearly in violation with the Code, he did not believe Council had any choice but to direct staff to enforce the restriction.

Council Member Hamilton stated that he agreed with Mayor Pro Tem Irish and also with Council Member Stadtherr. He stated that he also appreciated the subject property and enjoyed driving by that location, however the hedge was in violation.

Mayor Martinez commented that he too liked that corner and the appearance of the property, but that the hedge was in violation. He stated that he could not find a reason to direct staff not to enforce the Code.
Velma Rather Olle, 791 N. Villa Street, came forward and identified herself as the owner of the property. Ms. Olle voiced opposition to enforcement of the restriction on the height of the hedge. She then spoke generally of problems she has had in the past with the City. She commented that she would leave the decision to the Council, and upon its decision she would then see the types of individuals that were seated on the Council. She then confirmed that two bedrooms were situated along the east side of the residence adjacent to the hedge along Villa Street. Ms. Olle asserted that the hedge had not hurt anybody, and if it had, she would have taken it down. She stated that initially she had planted trees, but those trees were ultimately removed after receiving complaints of encroachment. She stated that the hedge was the second landscaping design used in an attempt to please people. Ms. Olle concluded that she would like to know the identity of the complainant.

Dorothy Broome, 863 S. Crystal Street, came forward and voiced support for the homeowners at 791 N. Villa Street and requested that Council consider how the enforcement would affect Mr. and Mrs. Olle.

Mayor Martinez thanked Ms. Olle for her comments and stated that he believed that all Council Members were in agreement in wishing this matter had never been brought before them. He stated that all of the Council Members appreciated the appearance of that corner and the property owner’s apparent hard work in maintaining it so well.

Council Member Hamilton confirmed that the current height of the hedge was approximately six to seven feet high, and that the brick wall was 42 inches high, meaning that per the Code, the hedge could only be six inches taller than the height of the brick wall.

Council Member Stadtherr moved to stay enforcement until Council could further study the issue.

Council Member Hamilton agreed with Council Member Stadtherr.

Mayor Martinez seconded Council Member Stadtherr’s motion.

Council Member Hamilton stated that he did not want to make a concession unless a good reason existed to do so.

Mayor Pro Tem Irish commented that if Council considered a variance, then it would likely receive additional complaints. He then pointed out that this is the manner in which the City enforced its ordinances, which he surmised was a good thing.

It was then agreed that the matter could be continued until the first meeting in February 2005.

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Mayor Martinez that Council stay enforcement of the restrictions on the hedge height, until the first meeting in February 2005, so as to allow Council to further study the matter.

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

Disposition: Continued.

Council recessed for ten minutes at 8:31 p.m.

18. **C.O.L.T. FIXED ROUTE BUS SYSTEM/VETERANS’ DAY PARADE**
Recommendation: That Council provide direction to staff, and consider the following options:

1. Temporarily suspend the fixed route bus service on November 11, 2004, with the normal holiday operational hours continuing for Demand-Response (9:00 a.m. to 6:00 p.m.);

2. Temporarily suspend the fixed route bus service on November 11, 2004, until 1:00 p.m., at which time it will begin operation until 5:00 p.m.;

3. Operate only Routes 1 and 6 during the morning, which would provide passengers with some access to the west side of town. Route 1 travels west on Olive Avenue to Westwood Street, then travels east on Morton Avenue and accesses areas along Putnam Avenue adjacent to Sierra View District Hospital, connecting again on Morton Avenue to D Street, and back to the Transit Center. Route 6 travels west on Putnam Avenue to Sierra View District Hospital, south on Jaye Street to Highway 190, west on Highway 190 to Family Healthcare Network, and then returns to the Transit Center by way of Jaye Street, Orange Avenue, and D Street, all on the west side of Main Street. Keeping in mind, the only two routes being able to transfer are Routes 1 and 6. The four remaining routes would then begin operations at 1:00 p.m.;

4. If maintaining fixed route during major parades becomes an issue, direct staff to develop a special events schedule which would alter the existing fixed routes, operate on one-hour headways rather than 30 minute headways, develop a brochure, and arrange for distribution to the public to make them aware of the temporary changes in fixed route service. This could not be accomplished in time for Veterans Day, November 11, 2004, but could be in place prior to Cinco de Mayo.

City Manager John Longley introduced the item, Deputy City Manager Darrel Pyle presented the staff report.

Mayor Martinez stated that he was the Council Member responsible for pulling this item off the Consent Calendar from the October 19th meeting. He stated that he was concerned with eliminating access to the parade by individuals who were dependent on the transit system. He then pointed to the development of the new park downtown which he anticipated would increase functions and thereby raise similar transportation issues in the future. He stated that he thought it was best that those issues were discussed now.

Council Member West voiced support for Option No. 3 as outlined in staff’s report.

In response to Council Member Hamilton’s questions, Mr. Pyle explained that last year, the fixed-route transit system was suspended for the day of the parade, with only the demand-response services being operational. He stated that the only statistics available for the parade day from last year were from the demand-response because the fixed-route system had never been operated. He stated that ridership for the demand-response was approximately fifty percent of an average operating day, however staff was unclear as to how this would relate to ridership for the fixed-route system in that same time frame. Staff then indicated that the fare for fixed-route service was $.75, with free transfers in the first thirty minutes, and $2.50 for regular ridership for demand-response, and $1.50 for ADA and senior citizens for demand-response.

Council Member Hamilton commented that the fares for demand-response were significantly higher than the fares for the fixed-route service.

Mr. Pyle responded that the price structure was intentionally set up to maximize gas tax dollars and to wean non-mandatory riders off the demand-response system and encourage them to instead use the fixed-route system. He explained that this is the reason why there was no reduced fare for ADA and seniors on the fixed-route system.
Council Member Stadtherr suggested that if the parade route was limited to below Sunnyside Avenue, where Sunnyside Avenue intersects with Main Street, the transit routes, specifically routes 2 and 5 could then be re-routed down Sunnyside Avenue. He suggested that this option could serve as an alternate route instead of depending on the use of Main Street.

Mr. Pyle stated that there were stops on Main Street and that there were a few service points closer to Putnam Avenue, in between Putnam Avenue and Orange Avenue, where there was more east/west traffic of the system. He explained that the routes converged at the transit center to allow for those transfers. He stated that Council Member Stadtherr’s suggestion might assist with some of the east/west traffic on the northern portion of the map, however further investigation would then be needed to address the southerly portion of the map.

Council Member Stadtherr voiced support for Mayor Martinez’s concerns for those individuals who might wish to attend the parade that might not be able to attend if the fixed-routes were not operational.

Mayor Pro Tem Irish pointed out that if some of the fixed-routes were operational, perhaps some of the traffic congestion would be eliminated near Main Street. He then suggested that the fixed-route service be operational this year, and that the ridership be tracked and provided to Council so it could determine if the service should be provided next year. Mayor Pro Tem Irish then stated that Option Nos. 2 or 3 might be appropriate, but pointed out that people might not know that the fixed-route was running.

Mayor Martinez commented that he felt it was important that individuals be able to attend the parade if they wanted, or if necessary, have the ability to get to health care providers.

Council Member Stadtherr then moved that Council accept Option No. 3 of staff’s report and direct staff to identify a possible long term solution for re-routing traffic in the future.

In response to Council’s questions, Mr. Pyle confirmed that the Christmas parade would not affect the transit routes. He explained that the only other holiday event for which transit service had been suspended in the past was the Cinco de Mayo Parade. Mr. Pyle suggested that per Option No. 3 of staff’s report, the fixed-route system would operate only routes 1 and 6 during the morning, with the remaining routes 2 through 5 beginning operations at 1:00 p.m. He stated that the City could publicize this modified schedule for both the 2004 Veteran’s Day Parade and the 2005 Cinco de Mayo Parade, after which staff would have statistics on ridership to bring back to Council for its consideration for the future.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member West that Council accept Option No. 3 of staff’s report and direct staff to implement those modifications to the fixed-route transit services for the 2004 Veteran’s Day Parade and the 2005 Cinco de Mayo Parade, after which staff will compile ridership statistics for both holidays and report back to Council for its further consideration. The motion carried unanimously.

Disposition: Approved.

19. CONSIDERATION OF ORDINANCE CALLING ELECTION FOR A SPECIAL ELECTION FOR A SPECIAL UTILITY USERS TAX FOR POLICE AND FIRE SERVICES

Recommendation: That the Council:
1. Provide direction for any modifications in the draft measure for an increase in utility users’ tax to support police and fire;
2. Authorize the City Manager to expend monies (to be defined in amount) of reallocated or non-anticipated new revenues to retain an organization to poll on the likely results of the proposed increase in the utility users’ tax measure;
3. Establish the June 7, 2005 election as the likely time when the measure will be placed before the public.

The City Manager presented the item and the staff report.

Council Member Hamilton voiced support for the item and moved that Council authorize staff to retain the polling firm of John Fairbanks for a price not to exceed $25,000, and to bring back to Council a modification to the budget in the amount of $25,000 from reallocated or non-anticipated revenues.

Mayor Pro Tem Irish seconded the motion.

Council Member Stadtherr commented that Council had spent more time discussing the height of a hedge, and that this vote went very quickly.

Mayor Pro Tem Irish responded that the utility users tax increase had been discussed at length in a prior meeting.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that Council authorize staff to retain the polling firm of John Fairbanks for a price not to exceed $25,000, to authorize the Mayor to sign a contract with that polling firm, and to bring back to Council a modification of the budget in the amount of $25,000 from reallocated or non-anticipated revenues.

Disposition: Approved.

20. CONSIDERATION OF ACTION REGARDING MOSQUITO ABATEMENT IN THE PORTERVILLE AREA

Recommendation: That the Council authorize the modification of the City budget by an amount not to exceed $10,000, from either unallocated or new unanticipated revenues, to support a joint County/City analysis regarding the establishment of a vector control district in Southeastern Tulare County or other measures to address the issue of West Nile Virus.

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

In response to Mayor Pro Tem Irish’s question, Mr. Longley responded that at Council’s direction, he would notify the County official that he would like to meet to formulate a plan of study for the analysis under the minor project provision of the Joint Powers Agreement. He stated that while the City of Lindsay was not a part of the JPA, he would send a copy of the letter to the Tulare, with a cover letter inviting them to join.

Mayor Pro Tem Irish pointed out that this effort would take a team effort.

Council Member West questioned the chance for success even if a joint effort was undertaken.

Council Member Hamilton commented that the West Nile Virus hit every county in the United States even though most of those counties had a mosquito abatement program. He asserted that the matter was more a health issue than a mosquito abatement problem. He suggested that the matter belonged in the health department.

Council Member West commented that the State of New York spent millions of dollars, yet still had the same problem. He voiced concern with the City of Porterville spending $20,000 when beneficial results were unlikely.
Mayor Pro Tem Irish stated that he would like to pursue the matter with the County to see what the County’s intentions were. He stated that he did not wish to stand in the way of the County, but did not wish for the City of Porterville to take the lead in the effort.

Council Member Hamilton pointed out that the City of Porterville would be taking the lead in that Tulare County already had a mosquito abatement program in place. He stated that the City was currently not a part of the County’s program.

In response to Mayor Pro Tem Irish’s question, Mr. Longley clarified that staff’s recommendation included the request of an appropriation in the amount of $10,000. He stated that if approved by Council, he would activate the minor project provision in the JPA, and ask the County and the City of Lindsay to join with Porterville for a joint analysis of the need to join an existing Vector District or to form a new district.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that Council deny staff’s recommendation and make no appropriation of funds at this time.

M.O. 18-110204

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

Disposition: Denied.

21. STREET CLOSURE FOR BLOCK PARTIES ON CUL-DE-SAC STREETS

Recommendation: That the City Council continue with the program as previously adopted.

City Manager John Longley presented the item, and Captain Steve Schnars presented the staff report.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that Council accept staff’s recommendation and continue with the program as previously adopted. The motion carried unanimously.

M.O. 19-110204

Disposition: Approved.

22. AIRPORT - “WELCOME TO PORTERVILLE” SIGN

Recommendation: That the Council:
1. Direct staff to look further into design, ideas, cost estimates, and locations at the airport for installation; and
2. Direct staff to bring the issue back to Council during the budget development for Fiscal Year 2005/2006.

City Manager John Longley presented the item, and Chief Frank Guyton presented the staff report.

Council Member Hamilton questioned whether the sign would be for people driving into the airport, or for people flying into the airport.

Chief Guyton explained that he believed the sign would be on the tarmac near the restaurant, and explained that this item had been brought before Council at the request of one of the Council Members.
Council Member West stated that he believed a sign welcoming visitors to Porterville would be nice, and confirmed that he had proposed the sign for people flying into the airport.

**COUNCIL ACTION:** MOVED BY Council Member Hamilton, Seconded by Council Member West that Council accept staff’s recommendation.

M.O. 20-110204

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

Disposition: Approved.

**ORAL COMMUNICATIONS**
- Russell “Buck” Fletcher, 862 N. Williford Drive, expressed dissatisfaction with the City’s enforcement of the Zoning Ordinance regarding the hedge at 791 N. Villa Street, Item No. 17, and requested that Council “look to the spirit of the law, rather than the letter of the law.”
- Dick Eckhoff, 197 N. Main Street, voiced support for increasing the OHV rider fees, noting the generally higher costs of other comparable recreational activities, such as skiing and scuba. Mr. Eckhoff then suggested that such determination of fees should include an analysis of the quality and accessibility of the track.
- Dorothy Broome, 863 S. Crystal Street, voiced concerns regarding Item 17, and spoke generally on other various issues.

**OTHER MATTERS**
- Mayor Pro Tem Irish requested that Council again participate in a Christmas Decorations Contest. He stated that he would like to proceed as Council had in the past, with advertising costs being funded from Council’s funds. He explained that the Council Members could judge using a point system, and that first, second and third place awards could being given. (The Council Members agreed.)

The Council recessed to Closed Session at 9:08 p.m.

**CLOSED SESSION**
The Council reconvened at 10:29 p.m. and stated there was no action to report.

**ADJOURNMENT**
The Council adjourned at 10:30 p.m. to the meeting of November 9, 2004, 6:00 p.m.