CITY COUNCIL AGENDA
PORTERVILLE, CALIFORNIA
NOVEMBER 16, 2004 6:00 P.M.

Call to Order
Roll Call

CLOSED SESSION:
A. Closed Session Pursuant to:
   1 - Government Code § 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: Two Cases.

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

Pledge of Allegiance Led by Council Member Stadtherr
Invocation by Pastor Tom West, Westfield Christian Church

PRESENTATIONS
   Presentation to Miss Porterville and her Court
   Donations for City Programs
   Outstanding Business Recognition

PROCLAMATION
   “America Recycles Week”

ORAL COMMUNICATIONS
   This is the opportunity to address the Council on any matter of interest, whether on the agenda or not. Please address all items not scheduled for public hearing at this time.

CONSENT CALENDAR
   All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar.

1. Approval of City Council Minutes of October 26, 2004 and November 2, 2004

2. Claim - Zenith Insurance Company
   Re: Rejecting a claim in excess of $10,000 filed by workers’ compensation carrier for death of Cal Grain and Hay employee, Lupe Ayon, for alleged negligence by City for not repairing ditch near 811 West Olive Avenue.

3. Budget Adjustments for the 2004-05 Fiscal Year
   Re: Approval of various budget adjustments to modify revenue and expenditure estimates.

   Re: Authorizing staff to make payment of $20,000 to Ms. Jackie Cotton for the purchase of real property for right-of-way usage located at the northwest corner of Orange Avenue and Wallace Street.
5. **Traffic Signal No. 8 (Plano Street and Mulberry Avenue) - Joint Powers Agreement to Acquire Property**
   Re: Authorizing Mayor to execute JPA with Tulare County for installation of disabled ramps at four corners of intersection for construction of traffic signal as required by the Safe Routes to School (SR2S) grant.

6. **Authorize the Distribution of a Request for Proposals for a Consultant for the Land Use and Circulation Elements Update**
   Re: Authorizing formation of General Plan Advisory Committee and solicitation of nominations from the building industry, Chamber of Commerce, Hispanic Chamber of Commerce, Porterville Area Ministerial Association, School Districts, Downtown Porterville Association, Tulare County, Tule River Indian Tribe, and Sierra View District Hospital, and approving the formation of a consultant selection committee.

7. **Approval for Community Civic Event Downtown Porterville Association - Tree Lighting Ceremony, November 26, 2004**
   Re: Approving the tree lighting and caroling event at the corner of Main Street and Thurman Avenue from 5:30 p.m. to 8:30 p.m. on November 26, 2004.

8. **Airport Lease - Lot 40 (Burleson)**
   Re: Approving Assignment of Lease between City of Porterville and George W. Burleson and Walter D. Burleson to Dr. Dan Dale and/or Allison Dale.

9. **Sale of Airport Industrial Site - Russken Holdings LLC**
   Re: Approving resolution authorizing the sale of 1.72 acre vacant lot located in the Airport Industrial Park to Russken Holdings LLC for $1.09 per square foot.

10. **Report on Holiday Street Tree Lighting**
    Re: Reporting planned level of holiday street lighting along Main Street, Olive Avenue, and of the Gardner Tree.

11. **Status Report on Healthcare Task Force/Program Update**
    Re: Authorizing staff to change from the Inter-plan Network of Doctors to the Blue Cross Network of Doctors, effective December 2004, for an approximate $50,000 in current year savings.

    *A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible*

**PUBLIC HEARINGS**

12. **Conditional Use Permit 11-2004 - Proposed Church at the Northwest Corner of Cleveland Avenue and 3rd Street**
    Re: Approval of C.U.P. requested by Masjid Porterville (Basem Aqra), subject to various conditions.

13. **Consideration of OHV Motocross Park Cost of Service and Rider Fee Adjustments**
    Re: Considering increasing the youth and adult rider fees at the park to $15.00.

14. **Budget Adjustment/Citizens’ Option for Public Safety (COPS) Program Funding**
    Re: Authorizing use of grant funds in the amount of $100,000 to offset costs for the full-time sworn officer, the community services officer, and any necessary training equipment.

**SCHEDULED MATTERS**

15. **Traffic Safety Issue - Opening of Emergency Access Gate on Beverly Street Between Date Avenue and Union Avenue**
Re: Review and discussion on alternatives to opening street to traffic to relieve congestion related to proposed development of Beverly Glenn Subdivision and ongoing development of River Springs Subdivision.

16. General Plan Referral - Burton Middle School
   Re: Determination of whether the proposed middle school at the southwest corner of Thurman Avenue and North Elderwood Street conforms to the City’s General Plan, and authorizing mayor to sign letter to School District describing the Council’s findings and indicating that the responsibility of ensuring adequate infrastructure lies with the School District.

17. Update Regarding Various Proposed General Plan Amendments
   Re: Review of various pending and potential General Plan Amendments, and determination of whether such amendments should be prioritized, combined, or deferred.

   Re: Considering draft ordinance regulating charitable car washes; and consideration of construction of car wash sludge containment structure either as a joint private/public partnership, or as a service where the City recovers the full construction and disposal costs through a fee.

19. Consideration of Continuing the Hiring “Freeze” for City Positions
   Re: Consider continuation of hiring freeze until February 28, 2005, with some restorations including project engineers to support completion of City projects, hiring of Public Works Clerical II to process development applications, and flexing of positions in Parks and Leisure Services to supervise OHV facility.

20. Consideration of Minimum (Skeletal) Staffing for City Facilities During Holiday Period and Canceling the First City Council Meeting in January
   Re: Considering reduced staffing between December 22 and December 30, 2004, except for public safety personnel, for utilization of leave and vacation time accrued due to effects of hiring freeze.

21. Discussion on Codes Pertaining to Visibility of Junk from any Public Right-of-Way
   Re: Discussion on the storage or keeping of junk on residentially zoned properties when visible from public right-of-way.

22. Consideration of Request Regarding Bicycle Transportation Account
   Re: Considering Blue Skies Coalition proposal regarding the creation of approximately 25 miles of bicycle lanes at an estimated cost of $23,000, $20,700 of which would be funded by Bicycle Transportation Account (BTA) funds, $500 by the Blue Skies Coalition, and the remaining $1,800 by the City.

Adjourn to a Meeting of the Porterville Public Financing Authority

PORTERVILLE PUBLIC FINANCING AUTHORITY AGENDA

Roll Call: Public Financing Authority Members

WRITTEN COMMUNICATIONS
ORAL COMMUNICATIONS

SCHEDULED MATTER
PFA-1  Annual Meeting of the Porterville Public Financing Authority
Re: Accepting public comment and approving the 2004 Status Report for the Redevelopment Bond Issue No. 1 Projects.

Adjourn to a Meeting of the Porterville City Council.

**ORAL COMMUNICATIONS**

**OTHER MATTERS**

**CLOSED SESSION**
Any Closed Session Items not completed prior to 7:00 p.m. will be considered at this time.

**ADJOURNMENT -** to the meeting of December 7, 2004

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Deputy City Clerk at (559) 782-7442. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.
Call to Order at 6:00 p.m.

Roll Call: City Council: Hamilton, Irish, Martinez
Absent: West, Stadtherr

WRITTEN COMMUNICATIONS
None.

ORAL COMMUNICATIONS
None.

Pledge of Allegiance Led by Mayor Pro Tem Irish
Invocation by Mayor Martinez

SCHEDULED MATTER

1. LAKE SUCCESS REMEDIATION PROJECT

Public Works Director Baldo Rodriguez introduced various members of the Army Corps of Engineers and the Tule Lake Basin Committee, including:

- Norbert Suter, Project Manager, Corps of Engineers
- Ronn Rose, Dam Safety Assurance Program Manager, Corps of Engineers
- Dwayne Urquhart, Park Manager, Corps of Engineers
- Karen Wagner, Assistant Park Manager, Corps of Engineers
- Dan Vink, General Manager, Lower Tule River Irrigation District
- Brent Graham, Chairman, Tule River Improvement Joint Powers Agreement Assoc.
- Dick Schafer, Water Master

Mr. Rodriguez then turned the floor over to Norbert Suter, Project Manager, Corps of Engineers.

Mr. Suter stated that it was the Corps of Engineers’ responsibility to make certain that Success Dam continued to function and remained safe. He stated that during that evening’s meeting, he would present what the Corps of Engineers was currently doing and what it had done over the past few years with regard to the seismic problem at Lake Success. He stated that the two main areas on which the presentation would focus were the problem with the dam itself, and the seismic problem that could cause damage in the event of an earthquake of the right magnitude. He stated that he would also discuss the need to lower the pool level in the lake until the seismic fix could be completed. He stated that this particular project was one of two projects that was currently being run by the Corps at Success Lake, the other one being the Spillway Raise Project, which was to increase the height of the lake by approximately ten feet. Mr. Suter explained that this would basically double the flood protection for the City of Porterville, increase the water storage capacity by approximately thirty percent (30%), and also increase the recreational opportunities at the lake. Mr. Suter stated that his presentation that evening would not focus on that project, being that it was not really a part of the seismic problem. He pointed out, however, that the two projects were intertwined in that as a sponsor of the spillway raise project, the State had requested last week that the work be slowed until such time as a
decision had been made on the seismic remediation project. Mr. Suter voiced support for that decision, and reassured the audience that the spillway project was not dead, but rather slowed until a decision had been made on the remediation project. Mr. Suter then re-introduced Ronn Rose, Dam Safety Assurance Program Manager, Corps of Engineers. That program, he explained, conducted investigations of dams throughout the country using the latest engineering updates and seismic knowledge to ensure the safety of all dams. He stated that Mr. Rose had a great deal of involvement over the last several years with putting together the knowledge base which influenced the final decision for the Success Dam remediation, which decision would be discussed that evening.

Mr. Suter then presented an historical overview of Success Dam. He stated that in the early 1990s, the Corps had performed a routine dam safety assurance program investigation of the dam, and out of that examination, the Corps became concerned over the foundation of the dam. Mr. Suter explained that over the next four or five years, the Corps explored the lower depths of the dam to figure out exactly what had been occurring, and in 1999 believed it had a good idea as to the problem. In 2000, Congress appropriated the needed funds to allow the Corps to fix the problems identified. He stated that as the Corps began to prepare plans and specifications to correct the dam, additional drilling and boring evidenced that the extent of the problem originally identified was greater than had been originally thought in 1999. He stated that over the following two to three years, the Corps examined the dam further, and in the Spring of 2003, the Corps’ findings regarding the foundation were presented to a panel of international experts. He stated that those experts conferred with the Corps’ findings that there was a fairly significant problem in the foundation of the dam. He stated that at that point, the Corps took the available data and ran numerical and computer models to see how the dam would perform based on the underlying foundation weakness. He stated that the first results were available in October 2003 and showed that under the right earthquake, there would be problems with the dam. He stated that at that point, the Corps took the next step to determine the risk to the community. Mr. Suter explained that the Corps hired an international expert in dam safety to conduct a thorough study to determine whether or not the dam could continue to be operated as it had during the past forty years. He stated that in the Spring of 2004, the preliminary results indicated that the dam could not be operated to its gross pool elevation as it had in the past without exceeding some of the Federal guidelines in terms of dam safety. He stated as such, the Corps of Engineers in Sacramento placed an artificial restriction on the dam during Spring 2004, lowering the allowable water in the lake to about eighteen feet below its normal height. He pointed out that because of the drought, the level did not naturally exceed that height, so the artificial restriction passed unnoticed. Mr. Suter explained that during Summer 2004, a team consisting of multi-disciplined engineers, economists and environmental experts had been organized to investigate alternative approaches to correcting the problem. Mr. Suter explained that the best solution had been chosen last month, and that in November of this year the final height restriction would be determined. He stated that the height restriction would indicate the maximum height at which the dam could be operated until completion of the remediation.

Mr. Suter then explained that Success Dam was an earthen-filled dam made up of materials from the area immediately upstream, which was now Success Lake. He explained that the outer face of the rock layer protected the inner portion of the dam from erosion caused by rainfall and waves from the lake. He stated that in the center portion of the dam was a core made up of non-impervious material, like a clay, which kept water from seeping through the dam. On either side of that core, he explained, was a pervious shell which essentially held up the inner core. He stated that the problem with the dam was not with the dam itself, which was constructed in 1961 and met all known standards and requirements at that time, but rather with the foundation layer called “recent alluvium.” He stated that the recent alluvium layer was put down by the Tule River over a period of several thousand years and explained that when the layer settled, it was never consolidated or compacted in the way it should have been. He explained that when the dam was built, the recent alluvium layer was not known to be a concern in that the effects of earthquakes on that type of dam, on that type of foundation, had not been known at that time. He pointed out that the only area of the dam
foundation that had been taken down to bedrock was the area directly underneath the core. He stated that there was no problem with the dam core, or the dam shells, but the problem was with the foundation layer of recent alluvium.

Mr. Suter explained that because the layer of recent alluvium had not been consolidated, during the shaking of an earthquake the materials would still have room to compress. He stated that the water from the lake would cause the soil to move and become liquified like jello, and in that case the foundation would be unable to support the material above it. He stated that in the case of Success Dam, under the right circumstances and the right type of earthquake, enough shaking could cause the material to liquify thereby causing the dam to fail. He explained that this was essentially the problem with the dam. He then reiterated that the dam had been built properly in terms of what actually got placed, but not in terms of what the dam materials were placed on. He stated, however, the problem of liquefaction was not known at the time the dam was constructed.

Mr. Suter stated that in 1999, the Corps of Engineers thought that the problem had been limited to a specific section of the dam, the repair for which Congress had appropriated $30.9 million. However, Mr. Suter explained, in preparation of addressing that specific area, the Corps discovered that the recent alluvium had extended quite a bit further and acted differently than previously thought. He then referred to a slide which illustrated the affected area to be approximately 40% to 50% of the dam. Mr. Suter then discussed two different types of earthquakes that could affect Success Dam. The first type, he explained, was one of moderately large magnitude with an epicenter in fairly close proximity to the dam. He stated that this type of earthquake caused strong shaking over a short period of time. The second type of earthquake, he explained, was of considerably larger magnitude with an epicenter at a farther distance from the dam, the effects of which would make the dam shake only a little, but for a longer duration. He stated that both of these types of earthquakes could cause problems with Success Dam.

Mr. Suter then referred to the San Andreas fault on a map, which he indicated to be approximately 72 miles from Success Dam. He explained that the type of earthquake that could cause damage to the dam from the San Andreas fault would be of an 8.0 magnitude, which he asserted was a very large earthquake. He stated that based on the latest studies conducted by the Corps of Engineers, an earthquake of that magnitude would cause damage to the dam. Mr. Suter then pointed to the Premier Fault, which he stated was located within 13 miles of the dam. He claimed that even though that fault’s return period for earthquake activity was less than once every 2,000 years, that fault was still located closely enough to the dam that if it produced an earthquake, it would cause severe damage. Mr. Suter also mentioned the Owens Valley fault and the White Wolf fault, both of which he stated also had the potential of impacting Success Dam.

He then discussed the Corps of Engineers’ criteria on assessing risks from earthquakes, and stated that such analysis involved looking at two types of earthquakes. The first was called the Maximum Credible Earthquake (“MCE”) which was the largest event that would ever occur at that site, with or without the dam. According to their analysis for Success Dam, he explained, the MCE would be from the Premier fault which was only 13 miles away, and would cause excessive shaking at the dam because of its close proximity. He stated that the magnitude was fairly high, but not an 8.0. He stated that according to the criteria of the Corps, Success Dam would have to withstand that earthquake and not release the water pool. Mr. Suter explained that the second type of earthquake considered in risk assessment was called an Operating Basis Earthquake (“OBB”), which he explained was a more frequent earthquake. He stated that the Corps would expect an OBB earthquake to happen at the site once every 140 years. He explained that such an earthquake would cause the ground at the subject location to shake or accelerate at one-tenth the force of gravity. Mr. Suter asserted that this type of earthquake could come from a variety of sources, one particular source being the San Andreas fault. He stated that an earthquake with a magnitude of 8.0 from that fault would be expected to accelerate at one-tenth the force of gravity. He then pointed out that an earthquake of that magnitude was
expected to occur about once every 140 years, with the last recorded earthquake occurring back in the 1850s. If an earthquake like that were to occur today, Mr. Suter contended, the dam would incur damage.

Mr. Suter then presented a graph titled “Historic Earthquakes.” The graph identified various earthquakes that had impacted the area and gauged the “peak ground acceleration” or “PGA” of each, with the failure threshold for the dam being at 0.8 Gs. For each earthquake, the graph also tracked the worst case, the best case, and the median PGA of each earthquake. Mr. Suter explained that only two earthquakes on the diagram, specifically the 1870 Owens Valley earthquake and the 1952 Kern earthquake, would have exceeded the failure threshold on all accounts. He pointed out that if the dam had been built in the 1940s, there was a high probability that the dam could have suffered some damage from the 1952 Kern earthquake. He pointed out that even with the best case PGA, Success Dam might have sustained damage.

Mr. Suter then described how a Maximum Credible Earthquake would affect Success Dam. He pointed out that such an earthquake would be the worst earthquake that could ever occur at Success Dam. He stated that when the parameters of the foundation of Success Dam were entered into their computer program, the analysis indicated that significant deformation would occur on the upstream face of the dam. He stated that while the Corps did not anticipate this happening as such an earthquake was not likely to occur, the only way to address this issue and keep the community safe would be to drop the water line below where it was currently allowed to stay.

Mr. Suter explained that during Summer 2004, the Corps looked at four different alternatives. He explained that the first alternative involved limiting the scope of the repair to only the location where recent alluvium was present. He explained, however, that the only way to do that without completely taking the dam down was to drill through the dam and insert columns of jet grout, which would have involved removing flood protection from the area. Mr. Suter stated that consultants determined that the project would require approximately 9,000 columns 9 feet in diameter on the upstream side. He explained that this alternative was rejected because it would have involved the destruction to the foundation of a significant portion of the downstream face of the dam, and the subsequent reconstruction of that portion. He stated that another less expensive alternative was also discussed that involved allowing the dam to fail, but strengthening the downstream slope of the dam by placing a 100 ft to 300 ft berm on that downstream face. He stated that while this scenario would have been less expensive, it did not meet the Corps of Engineer’s criteria. He stated that while this alternative would have prevented a catastrophic release of the water, it would not have prevented the dam from falling down on the upstream face, and therefore, it had been eliminated early on in the process. He explained that the remaining two alternatives involved constructing a new downstream earthen dam while leaving the existing dam in place to provide flood protection and allow some irrigation and recreational use. He indicated that the third alternative was problematic in that the borrow areas were questionable as to whether they would be accessible, depending on the elevation of Success Lake. Another problem, he explained, was that the third alternative had the largest footprint, which meant that it was not a good alternative from an environmental standpoint. He then pointed out that the alluvium under the upstream face would have remained underneath the earthen dam, which caused concern as to whether the problem would have truly been solved. He explained that the fourth alternative consisted of constructing a roller-compacted concrete dam (“RCC”) within the downstream footprint, the entire width of the downstream face of the dam, at the same height of the existing dam. Mr. Suter explained that once the new dam had been built, the top of the original dam would then be degraded so that it would be significantly below the concrete dam.

Mr. Suter explained that the fourth alternative consisting of the roller-compacted concrete dam seemed to the Corps of Engineers to provide the best solution to the problem at Success Dam. He stated that in terms of costs, the roller-compacted concrete dam was comparable to the earthen dam as well as to the jetouting alternative, although slightly more expensive than the other two alternatives. He asserted, however, that on a relative scale, the cost of the RCC dam was within five percent of the cost of the two other
alternatives. Mr. Suter stated that this alternative made use of a proven technology and that once a part of the existing dam had been removed and the foundation exposed, the Corps would know the exact foundation on which the new dam would be built. He then asserted that the roller-compacted concrete method was a reliable technology, and pointed out that all of the other alternatives required a complete draining of the reservoir and loss of flood protection to the area during the construction period, whereas this alternative did not. He contended that one of the primary benefits of the roller-compacted concrete dam was that once the foundation area had been adequately prepared, the RCC dam could be constructed within approximately nine months.

He then discussed the next steps that the Corps would be taking in Sacramento. Mr. Suter stated that the Corps was currently attempting to move the RCC dam alternative through headquarters and Congress in order to obtain the necessary funding for the project. He stated that while the Corps believed this to be the right solution, the project was dependent upon Congress providing the money to go forward. He stated that currently the cost was estimated to be approximately $170 million to $200 million for construction, payment of which would be spread out over a five-year period with the bulk of the funds being budgeted during Fiscal Year 2008. Mr. Suter then explained that because many assumptions were made to reach that figure in order to prepare the various alternatives, the Corps would further refine that estimate. He pointed out, however, that such assumptions were made across all of the alternatives, so they should not have skewed the selection process. He then stated that the Corps had already initiated an environmental impact study that would analyze the effects of the roller-compacted concrete, and that some of those preliminary results indicated that while the RCC dam was not quite as good as the jet grout alternative, it was significantly better than the earthen dam as it minimally impacted the environment due to maintaining the same footprint of the existing dam. He stated that this Fall, the Corps would initiate a foundation and exploration program which would likely begin within the next few weeks. He stated that drilling would begin late this year, or early next year at the latest.

In terms of the re-operation, Mr. Suter stated that back in October 2003 when the Corps realized that the community might be at risk, it hired RAC Engineers and a world-renown economist, Dr. Bowles, who came up with a program to determine if the dam should be re-operated and if so, at what elevation to meet public safety standards. He pointed out that Dr. Bowles was experienced in this regard, pointing to his work with the Corps of Engineers, as well as in risk analysis work in other countries such as Great Britain and Australia. He explained the short term and long term risks associated with the dam identified by Dr. Bowles, and stated that a recommendation was made to lower the maximum level of the lake, with that maximum elevation being 620 feet, or 32 feet below the current gross pool of the lake. He stated that this was about 30% of the lake and that it was 29,000 acre feet versus the lake capacity at approximately 82,000 acre feet. Mr. Suter pointed out that this restriction would significantly impact the recreational use of the lake in those years when it naturally would have filled. He explained that the 620 acre foot elevation restriction reduced the threat of the water overtopping the dam, which was the most dangerous risk associated with the dam. He pointed out that if the dam were to sluff down approximately 20, 30 or more feet, the water might actually go over the top of the main structure, depending on the full gross pool and the effects of an earthquake. In that event, he explained, an almost instantaneous catastrophic failure would occur. Mr. Suter stated that by reducing the elevation by 70 feet, from an elevation of 690 feet to 620 feet, the risk of overtopping would be eliminated. He suggested that if the dam did fail to the extent that the Corps believed it might, it would be a delayed failure. He explained that the extent of failure would depend on how the inner core held up after an earthquake, and stated that if the core had been fractured, water could seep through that fracture, causing it to eventually widen. He stated that in the event of dam failure, the Corps had every expectation that the warning time would be sufficient to get everyone out of harm’s way. He indicated that this warning time could be greater than 10 hours, or even a few days. He stated that at a water elevation of 620 feet, the dam would meet safety standard around the rest of the country and the world.
He stated that the decision to go to 620 feet had been recommended by Dr. Bowles and that the Sacramento District Dam Safety Commission, a board comprised of senior managers. He indicated that the Dam Safety Commission would actually finalize its decision on November 12, 2004. Mr. Suter explained that the timeline for the remediation would be approximately five to six years and indicated that this was an aggressive estimate. At that point, Mr. Suter ended his formal presentation and opened the floor up to questions from the audience.

Audience Member Delores Garson identified herself as a resident of the Lakeside Mobile Home Park and asked 1) if the proposed construction would produce excessive dust and noise 2) how the construction would impact residents’ wells; and 3) if the Corps had any intentions of purchasing the mobile homes in the park.

Mr. Suter explained that the Corps had not yet decided if it would need to acquire the mobile home park, but that it did recognize that the residents of the mobile home park would be impacted by both noise and dust attributed to the construction. He explained that the Corps’ decision on how to handle the flow of water through the spillway would affect its decision on whether acquisition of the mobile home park would be necessary. Mr. Suter then stated that construction would be fairly continuous and that residents’ wells would be affected. He then explained that the environmental analysts would be on site to address all environmental impacts associated with the project, and that this would be considered as an impact.

In response to a question by an audience member, Mr. Suter provided more detail on roller-compacted concrete. He explained that the concrete was placed using a front loader while very dry, and then compacted with a roller. He stated that the benefit of the product was that the material went down very quickly and resulted in a very strong structure on a smaller footprint. He confirmed that the material was completely made out of concrete, and explained that while the concrete was wetted, it was not wetted to the degree of standard concrete. Mr. Suter then explained that roller-compacted concrete was not a new technology, and pointed to a large dam almost twice as high as Success Dam that had just recently been completed in San Diego. He pointed out that this technology was being used around the world.

An audience member asked about the future of the earthen dam and the current flow of water supporting the hydroelectric plant upon completion of the new dam.

Mr. Suter explained that once the new dam was in place, the earthen dam would be degraded down to a height lower than that of the new dam and explained that the materials would not be removed from the site. He explained that the concrete dam was a very narrow dam and that once it was constructed, the earthen dam materials might be used as backfill. In terms of the flow of water going to the hydroelectric power plant, Mr. Suter indicated that the Corps did not anticipate any changes, except during those times prior to the completion of the new dam when the water pool was being restricted. He pointed out, however, that once the new dam was in place, virtually no change would exist unless a new spillway was put in place.

Mr. Suter then referred to a diagram showing a triangular cross-section of the dam. He stated that the Corps would initiate test drilling to indicate whether or not the existing foundation would support the dam. He explained that the purpose of the preliminary drilling program was to determine whether or not the roller-compacted dam alternative would really work and asserted that the Corps believed that it would be 100% effective in the area in which the dam’s foundation is on bedrock. He stated that where the hill began to slope upward, extensive drilling would be required to determine if the weight of the concrete could be supported.

At the suggestion of Public Works Director Baldo Rodriguez, Mr. Suter then discussed the project’s funding sources. He explained that when the dam was originally built in the 1960s, the Federal government
had paid 90.5% of the total cost, and because the dam was considered a "dual purpose" dam, the local irrigation districts had paid the remaining 9.5%. He stated that while the dam's primary purpose was to provide flood control to the area, in order to take advantage of the opportunity to store water for irrigation and recreational use, the local partners paid almost 10% of the cost of the original dam. Mr. Suter explained that pursuant to the Water Resources Development Act of 1986, the share of the local agency that contributed to the dam's original construction would only be 15% of what that agency originally paid. As such, he explained, the Federal government would be paying approximately 98.6% of the cost, with local contribution being approximately 1.4%. He explained that there would be no cost to the City of Porterville or to the taxpayers.

An audience member questioned how the irrigation district below the dam would be affected, in terms of costs and water flows.

Mr. Suter explained that currently the Corps had been looking at the water control diagrams which indicated on a monthly basis the level at which the lake needed to be. He pointed out that the amount of water passing into the lake was uncontrollable, and that the Corps could only control storage. He stated that he believed there would be earlier releases of water in the spring, which normally would have been held until later in the Summer. He stated that there would be an impact on irrigation, and that the Corps had been working with local districts to minimize that impact.

In response to a question from the audience, Mr. Suter responded that he was uncertain as to how the Corps would proceed with acquiring the mobile homes, if they ultimately decided to purchase the mobile homes. He clarified that when the government acquired property, it had a responsibility to the property owners to make certain they were relocated and fairly compensated.

Mr. Suter then informed the audience that the Corps intended to set up a website to provide information to the public and that, when that website was up, he would provide the address to Mr. Rodriguez to share with the community.

An audience member questioned if the Corps had projected a minimum level for the lake, and if so, if it would be lower than this year’s 4,800 acre feet.

Mr. Suter stated that he believed that the level rose to 630 feet this year, and while he could not speak for the irrigation uses, he imagined that low levels would occur. He then stated that not draining the lake was one of the constraints in the selection process, and pointed out that there was another alternative which would have been to remove the affected area of the dam to repair the damage. He stated, however, this method would have provided no flood protection.

In response to a question from the audience, Mr. Suter explained that the Corps had projected five years from start to finish on the project, which he asserted was a very aggressive schedule.

An audience member then voiced concern with the difference between the proposed timing of water releases and when the water was actually needed for irrigating crops.

Mr. Suter apologized for the inconvenience that would be created and stated that the Corps would hopefully be able to work with the irrigation districts to minimize the impact. He pointed out that there was no easy solution to the problem.

Audience Member Ted Cornell asked if the water level could be raised as the dam construction approached its final stages.
Mr. Suter responded that this might be an option, although he pointed out that because the actual construction of the dam would take less than one year, between fall and spring, that option might not come into play. He then stated that once the project had been started, all attempts would be made to complete the project before the spring run-off.

In response to a question from the audience, Mr. Suter stated that the economic loss attributable to the lowered level of the lake was projected by the Corps' consultants to be approximately $2.8 million per year, considering irrigation and recreational uses.

An audience member then questioned if the west side of the lake would be accessible during the construction of the new dam.

Mr. Suter responded that closure of the west side of the lake was not anticipated by the Corps, and suggested that one of the fortunate factors in selecting the RCC method, was that the Corps might be able to raise the spillway at the same time. In that case, he pointed out, some restrictions on that roadway might be necessary.

In response to audience member Russell "Buck" Fletcher's question as to whether the repair would be permanent, Mr. Suter responded that the lifespan of the roller-compacted cement dam was one of the factors that had been considered in the selection process. He stated that roller-compacted concrete was a proven technology that should last for 100 years, and should be able to withstand intermediate earthquakes with no problem.

An audience member questioned the critical path of completing the project within five years.

Mr. Suter stated that the critical path was securing funding from Congress, but that the Corps had been proceeding as if the funds would be appropriated. He stated that $4 million had been budgeted this year, and that all of those funds had already been spent during the exploration program. He stated that once the funds were secured, it was a question of relating the urgency of the project to Congress. Mr. Suter then confirmed that efforts through the media and local organizations were being made to work with local representatives to inform Congress, and confirmed that project hinged upon acquiring funding from Congress. Mr. Suter then pointed out that Corps' five year estimate had been based on the assumption that everything went smoothly, and suggested that the project could take longer.

At the suggestion of Public Works Director Baldo Rodriguez, Mr. Suter then explained the emergency system currently utilized by the Corps at the dam. He stated that monitoring sensors were in position throughout the dam, and that those sensors were connected to an automatic dialing system. In the event those sensors detected anything out of the ordinary, the system would first alert Dwayne Urquhart, the Park Manager, and if unavailable, would continue to dial the back-up personnel. He stated that the call list had several layers, including Emergency Management in Sacramento. Once notified, he stated, the first responder would personally inspect the dam to see if any movement had occurred.

A ten minute recess was taken at 7:00 p.m.

Mr. Suter then continued to take questions from the audience. In response to a question, he explained that there was no level of water that would be low enough to make the dam safe. He explained that even if no water had been stored in the lake and the river had been allowed to flow directly through the outlet, the dam could not remain in its current condition. He explained that the Corps could not have a dam in place that it knew would fail. He stated that the dam would either have to come down, or it would need to be fixed. These two options, Mr. Suter explained, were the only two options at this point. He explained that the only
reason the dam could maintain a water level of 620 feet was because risk analysis indicated that for such a short window of time, the chances of having a large storm fill the reservoir and have an earthquake also occur within that same window were minimal. He reiterated that the dam either needed to be fixed or removed, and during the time until a decision was made, the water level of the lake needed to be restricted.

An audience member voiced concern that the Porterville community was going to have to live with that risk for the next five or more years until the dam is either fixed or removed.

Mr. Suter commented that the risk actually met current guidelines of dams around the world. He stated that, for example, he lived in Sacramento and that the residents of Sacramento lived underneath the Folsom Dam, which also had problems. He pointed out that the levees around Sacramento also had problems. He stated that although everyone knew of such problems, they still chose to live there. He stated that while he was not discounting the risk, anytime one lived below a dam or near a river, there were associated risks.

Dan Vink, General Manager, Lower Tule River Irrigation District, clarified that when Mr. Suter spoke of “failure,” he was not referring to a “Hollywood special effects” type failure, in that it was not an instantaneous collapsing of the dam.

Mr. Suter stated that an earthquake could make the dam come down at the lower levels, and depending on whether or not the central core had been damaged, it might or might not release water. He stated that if the core remained in tact, no water would be released. If the core had been damaged and water found its way to those cracks, that water would eventually start to leak through. He stated that over time, perhaps ten hours or several days, the seepage through such a crack would eventually grow. He indicated that meanwhile, the Corps would release water as quickly as possible through the outlets, but there would be a potential risk of flooding, even with the pool at 620 feet.

Ronn Rose, Dam Safety Assurance Program Manager, stressed that if there had not been a reservoir restriction in place, an instantaneous-type failure could occur if the pool of water was high, and a large impact earthquake hit causing the dam to slump enough so as to allow the water to flow over the top of the dam. Mr. Rose pointed out, however, that even without the reservoir restriction, that type of scenario posed an extremely small risk. Mr. Rose stated that the reservoir restriction basically eliminated that type of failure, and indicated that the only risk would be the type of failure consisting of a gradual leakage with an approximate ten hour warning. Mr. Rose then confirmed that the risk assessment included the historical seasonal levels of the lake and pointed out that the maximum level of 620 feet was to minimize the time that the lake would be at a high level.

In response to a question from the audience, Mr. Suter addressed the risk factor during the construction phase. He explained that a portion of the downstream face would be excavated to expose its footing, but that the entire length of the dam would not need to be opened at once, but rather in sections. He cited a large dam the Corps was remediating in South Carolina with a similar liquefaction problem, and pointed out that the Corps had opted to work in 300 foot increments on that dam. He stated that this approach would be considered for Success Dam.

Mr. Suter then explained that the Corps had estimated two years for the design phase, which he suggested was quite aggressive. He then pointed out that the window of time for placing the concrete was restrictive due to weather, and that the construction phase would need to begin in September and be completed by late April or May. He explained that the Corps did not wish to have the construction continue into the summer months when the temperature was too high. He stated that even in the early fall and/or late spring, some of the concrete and aggregate would likely need to be chilled for use because of the hydration process on such a large project. He explained that because the opportunity to place the concrete was limited,
if the concrete phase could not begin in September, the contractor might choose to wait until the following season.

Dan Vink, General Manager, Lower Tule River Irrigation District, commented that as the general manager of the irrigation district that would be most impacted, he wished to inform the audience that everything that could be done was being done. He stated that his district and the Corps were working with a Congressional delegation to attempt to get funding. He suggested that the project depended upon how quickly Congress appropriated the necessary funds, and the amount of funds that was ultimately appropriated. He stated that the local U.S. Representatives, Congressmen Nunes and Dooley, had been well-briefed and had been working with the Corps. He stated that in December, a team would head to Washington D.C. to meet with the Corps of Engineers in the Office of Management and Budget. He assured the audience that the necessary steps in securing the safety of the community were being taken. He then pointed out that while there might be an inclination to blame the Corps of Engineers for the problems with the dam, he wished to inform the audience that the Corps had done a fantastic job in working on this matter. He stated that the selection of a remediation solution in such a quick time frame was commendable, particularly in such a bureaucratic environment. He asserted that the Corps was working as allies of the local community, and stated that in his opinion, the best approach was to remediate the dam as soon as possible. He stated that there would be impacts on the locals, and that the only way to minimize those impacts was to get the project started and finished as soon as possible. He stated that those efforts were currently under way.

In response to a question from an audience member, Mr. Suter confirmed that almost all of the funding would be covered by the Federal government, with the balance being paid by the original cost-share partners on the original dam.

Mr. Vink elaborated that the original cost-share partners were the local irrigation districts and water supply interests. He stated that the 1.4% of the total cost that would be sought from those combined agencies would not be due up front, but rather amortized over a thirty year period with a low interest rate.

Mr. Suter then explained the test drilling phase, and estimated that the drilling would realistically begin by January 2005 at the latest. He pointed out that the drilling process was not an invasive procedure, and that the residents in close proximity might not even be aware it was happening. He explained that generally the drilling team generally was comprised of 2 to 4 people, and that the Corps was currently in the process of determining the location of the test sites for sampling purposes, which might total approximately 20 to 30.

In terms of the environmental impact analysis, Mr. Suter explained that the same individual that had worked with the Corps in selecting a remediation method was assembling a team to begin the environmental report. He stated that the analysis would likely begin in the next month or two, and that some of the work had already been done, such as identification of Elderberry Bushes and the amount of acreage needed for mitigation. He indicated that issues such as the effects on the mobile home park would also be addressed in the report.

Mr. Suter then informed the audience that photographs of the original construction of the dam were available for interested individuals to view at the end of the meeting.

In response to an audience member's question, Mr. Rose informed the audience that the original cost of the dam was $14.3 million, which Mr. Suter pointed out had been estimated by a Corps' economist to equal approximately $180 million in today's terms.

Mr. Suter then concluded the question and answer session, at which time the Mayor thanked the Corps of Engineers for the informative presentation.
ORAL COMMUNICATIONS

An audience member asked how the Corps handled the build-up of silt and if that build-up would eventually affect the capacity of the dam.

Mr. Suter responded that sedimentation was a problem at every dam. He explained that because the river slowed upon reaching the lake pool, it naturally dropped the sediment carried by flowing river water. He stated that he was unaware of the siltation rate for Lake Success, but that all the dams faced the same problem. He stated with certainty that the capacity of the lake did shrink over time, and that he did not know of any efforts underway to deal with the siltation.

Dwayne Urquhart, Park Manager, stated that the siltation rate for Lake Success was 80 acre feet per year, and that approximately 3,500 acre feet had been lost thus far.

City Manager John Longley stated that the public often asked for information on that topic, and questioned if there was a process currently underway to deal with the problem. He stated that he had heard that some dredging of the lake had been planned.

Mr. Urquhart responded that work had begun, but that the Corps had not gotten to the point where material could be taken out. He stated that the environmental work had been completed, and that it was just a matter of coming to a satisfactory resolution.

Audience Member Mitch Brown stated that he had been attempting to enter into an agreement with the Corps to dredge the lake, but thus far those attempts had been unsuccessful.

Public Works Director Baldo Rodriguez questioned how the concrete materials would be transported to the site and where the mixing of the materials would take place.

Mr. Suter explained that the Corps hoped to obtain the materials from the lake, and that the drilling process would identify whether or not this would be possible. He pointed out, however, that the cement and water would need to be trucked to the site. He explained that a batch plant with a capacity of approximately 600 cubic yards per hour would be set up, with a goal of placing 300 cubic yards per hour for a period of six to nine months. He stated that this was a very fast, high production scenario in which the materials were fed into conveyors and deposited right up onto the dam. He stated that if the Corps was unable to get all of the materials from the lake, local quarries would be utilized.

Mayor Martinez again thanked the Corps of Engineers for their presentation and acknowledged California Assemblyman Bill Maze and Tulare County Supervisor Jim Maples who were also present. He then thanked everyone for coming and participating in the discussion.

ADJOURNMENT - at 7:40 p.m. to November 2, 2004.

Patrice Hildreth, Deputy City Clerk

SEAL

Pedro R. Martinez, Mayor
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.

Documentation: M.O. 10-110204
Disposition: Approved.

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 decline 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, that 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.

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 healthier 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 Stadherr 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 Stadherr 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 Stadherr 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 Stadther, 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.

**M O 15-110204**

**AYES:** Irish, Hamilton, Stadther, 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 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 $7.50, 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 Stadtheir 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 Stadtheir’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 Stadtheir 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 Veterans 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 ORDNANCE 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
M.O. 17-110204  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.
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.

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 be 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.

Patrice Hildreth, Deputy City Clerk

SEAL

Pedro R. Martinez, Mayor
COUNCIL AGENDA - November 16, 2004

SUBJECT: CLAIM - ZENITH INSURANCE COMPANY

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Zenith Insurance Company has filed a claim against the City for personal injury. They are claiming that on June 9, 2004, Lupe Ayon, an employee of their insured Cal Grain and Hay, was killed when his forklift tipped over due to hitting a ditch which hadn’t been repaired despite requests by Cal Grain and Hay. Zenith stated that they are the workers compensation carrier which will be paying death benefits.

The amount being claimed as of the date of this claim is stated as unlimited jurisdiction.

RECOMMENDATION: That the Council reject said claim and refer the matter to the City's insurance adjustor, and direct the City Clerk to give the claimant proper notification.

Attachment: Claim Form

Item No. 2

Dir. Appro. CM
Funded
CLAIM AGAINST __________________________ CITY OF PORTERVILLE

Claimant's name: Zenith Insurance Company

SS#: __________________________ DOB: __________________________

Claimant's address: 21255 Califa Street, Woodland Hills, CA 91367

Address where notices about claim are to be sent, if different from above:

Date of incident/accident: June 9, 2004

Date injuries, damages, or losses were discovered: June 9, 2004

Location of incident/accident: Cal Grain and Hay, 811 W. Olive, Porterville, CA 93257

What did entity or employee do to cause this loss, damage, or injury? Ditch was never repaired despite request by Cal Grain and Hay. Forklift hit it and tipped over.

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? Unknown

What specific injuries, damages, or losses did claimant receive? Employee Lupe Ayon was killed. Zenith, as the workers' compensation carrier will be paying death benefits

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(0) Unlimited jurisdiction

How was this amount calculated (please itemize)?

Date Signed: October 27, 2004 __________________________ Signature: __________________________

If signed by representative:

Representative's Name WARD D. SKINNER, ESQ., of CHERNOW AND LIEB

Address 21255 Califa Street, Woodland Hills, CA 91367-5021

Telephone #(818) 592-3814

Relationship to Claimant Attorney for Zenith Insurance Company
SUBJECT: BUDGET ADJUSTMENTS FOR THE 2004-05 FISCAL YEAR

SOURCE: Administrative Services

COMMENT: During the course of the fiscal year, additional budget information becomes available that more accurately identifies revenue projections and project costs. Once known, budget modifications are necessary to complete projects and record revenues. To address budget adjustments in an orderly fashion, all adjustments will be presented as one agenda item for Council’s consideration.

RECOMMENDATION: That the Council approve the attached budget adjustments and authorize staff to modify revenue and expenditure estimates as described on the attached schedule.
# CITY OF PORTERVILLE

**BUDGET ADJUSTMENTS**

<table>
<thead>
<tr>
<th>FUND</th>
<th>NO.</th>
<th>DESCRIPTION</th>
<th>FUNDING SOURCE</th>
<th>DOLLAR AMOUNT</th>
<th>REVISED EOY FUND CASH BALANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL FUND</td>
<td>4</td>
<td>To increase the revenue estimate in the General Fund to account for the receipt of Global Language Materials Grant revenue.</td>
<td>GLOBAL LANGUAGE GRANT</td>
<td>$3,000</td>
<td>$1,121,838</td>
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<td>GENERAL FUND</td>
<td>5</td>
<td>To increase the appropriation in the General Fund Library Budget to allow for the expenditure of Global Language Materials Grant monies.</td>
<td>GLOBAL LANGUAGE GRANT</td>
<td>$3,000</td>
<td>$1,118,838</td>
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<td>GENERAL FUND</td>
<td>6</td>
<td>To increase the revenue estimate in the General Fund to account for the receipt of California State Library Literacy Grant revenue</td>
<td>LITERACY GRANT</td>
<td>$56,582</td>
<td>$1,175,420</td>
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<td>GENERAL FUND</td>
<td>7</td>
<td>To increase the appropriation in the General Fund Library Budget to allow for the expenditure of Literacy Grant monies.</td>
<td>LITERACY GRANT</td>
<td>$56,582</td>
<td>$1,118,838</td>
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<td>GENERAL FUND</td>
<td>8</td>
<td>To increase the revenue estimate in the General Fund to account for the receipt of Mervyn's donation for &quot;Wild About Reading Summer Reading Program.&quot;</td>
<td>Mervyn's Donation</td>
<td>$170</td>
<td>$1,119,006</td>
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<td>GENERAL FUND</td>
<td>9</td>
<td>To increase the appropriation in the General Fund Library Budget to allow for the expenditure of the Mervyn's donation.</td>
<td>Mervyn's Donation</td>
<td>$170</td>
<td>$1,118,838</td>
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<tr>
<td>GENERAL FUND</td>
<td>10</td>
<td>To increase the revenue estimate in the General Fund to account for the receipt of the donation from Mr. David Stimpson in memory of his Mother, Mrs. Eleanor Stimpson</td>
<td>Mr. Stimpson Donation</td>
<td>$10,000</td>
<td>$1,128,838</td>
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<tr>
<td>GENERAL FUND</td>
<td>11</td>
<td>To increase the appropriation in the General Fund Library Budget to allow for the expenditure of the donation in memory of Mrs. Stimpson.</td>
<td>Mr. Stimpson Donation</td>
<td>$10,000</td>
<td>$1,118,838</td>
</tr>
<tr>
<td>GENERAL FUND</td>
<td>12</td>
<td>To increase the revenue estimate in the General Fund to account for the receipt of the donation from Eagle Mountain Casino for Kid's Day.</td>
<td>Eagle Mnt Casino</td>
<td>$10,000</td>
<td>$1,128,838</td>
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<tr>
<td>GENERAL FUND</td>
<td>13</td>
<td>To increase the appropriation in the General Fund Parks and Leisure Services Budget to allow for the expenditure of the donation from Eagle Mountain Casino for the Kid's Day Event.</td>
<td>Eagle Mnt Casino</td>
<td>$10,000</td>
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**Modification No:** 03-04/05
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<th>FUND</th>
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<tbody>
<tr>
<td>EQUIPMENT REPLACMNT</td>
<td>1</td>
<td>To increase the appropriation in the Equipment Replacement Fund to allow for the mandatory upgrades to the fuel island equipment as required by SB989 and ordered by the County of Tulare.</td>
<td>Fund Balance</td>
<td>$5,930</td>
<td>$6,728,406</td>
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<tr>
<td>GENERAL FUND</td>
<td>14</td>
<td>To increase the revenue estimate in the General Fund to account for the receipt of the donation from the Wal-Mart Foundation.</td>
<td>Wal-Mart Foundation</td>
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<td>$1,120,338</td>
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<tr>
<td>GENERAL FUND</td>
<td>15</td>
<td>To increase the appropriation in the General Fund Fire Department Budget to allow for the expenditure of the donation from the Wal-Mart Foundation for the purchase of fire prevention materials.</td>
<td>Wal-Mart Foundation</td>
<td>$1,500</td>
<td>$1,118,838</td>
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<tr>
<td>GENERAL FUND</td>
<td>16</td>
<td>To increase the revenue estimate in the General Fund to account for the receipt of the donation from the Wal-Mart Foundation.</td>
<td>Wal-Mart Foundation</td>
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<td>GENERAL FUND</td>
<td>17</td>
<td>To increase the appropriation in the General Fund Police Department Budget to allow for the expenditure of the donation from the Wal-Mart Foundation for crime prevention needs.</td>
<td>Wal-Mart Foundation</td>
<td>$1,500</td>
<td>$1,118,838</td>
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<tr>
<td>GENERAL FUND</td>
<td>18</td>
<td>To increase the revenue estimate in the General Fund to account for the receipt of a distribution of funds remaining at the retirement of GNMA.</td>
<td>GNMA Retirement</td>
<td>$136,285</td>
<td>$1,255,123</td>
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<tr>
<td>GENERAL FUND</td>
<td>19</td>
<td>To increase the appropriation in the General Fund Council Contingency Budget to allow for the expenditure of the proceeds from the retired GNMA issue, designated for the Utility User's Tax Polling efforts.</td>
<td>GNMA Retirement</td>
<td>$25,000</td>
<td>$1,230,123</td>
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<td>GENERAL FUND</td>
<td>20</td>
<td>To increase the appropriation in the General Fund Council Contingency Budget to allow for the expenditure of the remaining proceeds from GNMA for future projects.</td>
<td>GNMA Retirement</td>
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<td>Modification No:03-04-05</td>
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CITY COUNCIL AGENDA: NOVEMBER 16, 2004

SUBJECT: ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-150-016 – JACKIE COTTON - ORANGE AVENUE RECONSTRUCTION PROJECT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Ms. Jackie Cotton, owner of property located at APN 261-150-016, has accepted the appraised value of $20,000 for the entire parcel.

The City recently had the property appraised by Timothy J. Simon, MAI, a Certified General Real Estate Appraiser. The appraisal came in at $20,000 for the parcel. This appraisal is available in the Community Development Department for your review.

RECOMMENDATION: That City Council:

1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Ms. Jackie Cotton, in the amount of $20,000, after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

ATTACHMENTS:

1. Right-Of-Way Take Map
2. Grant Deed
3. Resolution

[Signature]

ITEM NO. 4
RECORDING REQUESTED BY
AND WHEN RECORDED MAIL THIS
DEED AND TAX STATEMENTS TO:

City of Porterville
291 N. Main St.
Porterville, CA 93257

<table>
<thead>
<tr>
<th>Atlas Sheet</th>
<th>Section</th>
<th>Township</th>
<th>Range</th>
<th>Street/Avenue</th>
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<tbody>
<tr>
<td>G-9</td>
<td>36</td>
<td>21S</td>
<td>27E</td>
<td>Orange Ave.</td>
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Jackie Cotton

GRANTS to the CITY OF PORTERVILLE,
a Municipal Corporation, all that real property in the City of Porterville, County of Tulare, State of California, described
as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF
EXHIBIT “A”

ALL THAT PORTION OF SECTION 36, TOWNSHIP 21 SOUTH, RANGE 27 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTH LINE OF ORANGE STREET AND THE WEST LINE OF WALLACE STREET, PRODUCED NORTH; THENCE WEST ALONG THE NORTH LINE OF ORANGE STREET, 50 FEET; THENCE NORTH AND PARALLEL WITH THE SAID EAST LINE OF WALLACE STREET, TO THE WEST LINE OF A STRIP OF LAND FORMERLY KNOWN AND DESIGNATED AS ROAD “K” (WHICH WAS ABANDONED BY THE BOARD OF TRUSTEES OF THE CITY OF PORTERVILLE, BY ORDINANCE NO. 160, PASSED AND APPROVED OCTOBER 5, 1914), THENCE SOUTHEASTERLY ALONG SAID WEST LINE OF SAID STRIP OF LAND, TO ITS POINT OF INTERSECTION WITH THE WEST LINE OF WALLACE STREET PRODUCED NORTH; THENCE SOUTH AND PARALLEL TO THE SAID WEST LINE OF WALLACE STREET, PRODUCED NORTH, TO THE POINT OF BEGINNING.

APN: 261-150-016
Dated this ____ day of ________________, 20

Jackie Cotton

STATE OF CALIFORNIA } ss
County of

On this the ____ day of ________________, 20 ____, before me, ____________________________,
Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared ____________________________________________
Name(s) of Signer(s)

☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(Notary Public's signature in and for said County and State)

(for notary seal or stamp)
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACCEPTING A GRANT DEED IN FEE FOR REAL PROPERTY FROM JACKIE COTTON

BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby accepts a Grant Deed in fee from Jackie Cotton, for real property, in the City of Porterville, County of Tulare, State of California, to-wit:

See Exhibit “A” attached hereto and made a part hereof.

BE IT FURTHER RESOLVED that the purchase price of $20,000.00 is hereby approved with the City to open escrow account, pay the normal and customary escrow fees, authorize Mayor to sign all necessary documents, and said deed to be recorded in the office of the Tulare County Recorder. The foregoing has been accepted by the City Council for the City of Porterville.

______________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By: Georgia Hawley, Chief Deputy City Clerk
SUBJECT: TRAFFIC SIGNAL NO. 8 (PLANO STREET AND MULBERRY AVENUE) - JOINT POWERS AGREEMENT TO ACQUIRE PROPERTY

COMMENT: The City has received a Safe Routes To School (SR2S) grant to construct a traffic signal at the intersection of Plano Street and Mulberry Avenue. Plans and specifications as of this writing are at 90%.

As a condition of the grant, the City must install standard disabled ramps at all four corners. The northwest and southeast corners of the intersection are located in the County. The two corners equal approximately 240 s.f. and are shown in the attached locator map.

In order to begin negotiations with the property owners to purchase the properties, the City must enter into and execute a Joint Powers Agreement similar to the agreement used on the Granite Hills Streets, Phase I & II projects. A Joint Powers Agreement describing the conditions and responsibilities of each agency is attached for Council’s review and action.

RECOMMENDATION: That City Council:

1. Authorize the Mayor to execute the Joint Powers Agreement with Tulare County; and

2. Direct staff to transmit the fully executed agreement to the County’s Right of Way Department and request that this department prepare a staff report seeking the Board of Supervisor’s approval and acceptance of the Joint Powers Agreement.

ATTACHMENT: Locator Map Agreement

Y:\Engineering\Council Items\Plano_Mulberry Joint Powers Agreement.wpd
AGREEMENT

THIS AGREEMENT, is entered into as of _____________, between the COUNTY OF TULARE, referred to as COUNTY, and the CITY OF PORTERVILLE, referred to as CITY, with reference to the following:

A. CITY wishes to construct disabled ramps as a part of the Traffic Signal No. 8 Project as indicated on the map attached hereto as Exhibit A.

B. To accomplish the Traffic Signal No. 8 Project, CITY will need to acquire portions of the parcels listed in Exhibit B, all of which are located in unincorporated territory.

C. Streets and Highways Code section 1810 allows CITY to acquire property in the unincorporated area by purchase or eminent domain to connect or widen existing CITY streets if COUNTY consents to such acquisition.

D. County wishes to support CITY’s Traffic Signal Project by consenting to the future acquisition by CITY of so much of the additional parcels listed in Exhibit B as is needed for the street widening, on the terms and conditions set forth below.

ACCORDINGLY, IT IS AGREED:

1. CONSENT TO ACQUISITIONS AS CITY STREETS: COUNTY hereby consents to the acquisition by CITY by purchase or by eminent domain of such portions of the parcels listed in Exhibit B, attached hereto, as are needed for the Traffic Signal No. 8 Project, and COUNTY hereby ratifies the acquisition by purchase of such portions of the parcels listed in Exhibit B, attached hereto, as are needed for said signal project, all of said acquisitions to be deemed CITY streets for all purposes, including maintenance, as of the date of acquisition.
2. INDEMNIFICATION BY CITY: CITY acknowledges that COUNTY has not evaluated, or in any way participated in any decision regarding the design of any works proposed in CITY's traffic signal project. CITY will hold harmless, defend and indemnify COUNTY, its agents, officers and employees, from and against any liability, costs, claims, actions, damages, or losses, including death, to any person, or for damage to or loss of any property arising out of any phase of said projects, including the property acquisition phase.

3. TERMINATION: The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

   (a) **With Cause:** This Agreement may be terminated by either party should the other party materially breach this Agreement. Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within 30 days of written notice specifying the breach. If the breach is not remedied within that 30 day period, the non-defaulting party may terminate the agreement on further written notice specifying the date of termination.

   (b) **Effects of Termination:** Termination of this Agreement shall not terminate any obligations to indemnify.

4. ENTIRE AGREEMENT REPRESENTED: This Agreement represents the entire agreement between CITY and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

5. NOTICES: Except as may be otherwise required by law, any notice
to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY: Tulare County Road Commissioner  
Resource Management Agency  
5961 S. Mooney Boulevard  
Visalia, CA 93277

Fax No.: 559-730-2653 / Confirming No.: 559-733-6291

CITY: Public Works Director  
City of Porterville  
291 N. Main Street  
Porterville, CA 93257

Fax No.: 559-781-6437 / Confirming No.: 559-782-7462

Notice delivered personally or sent by facsimile transmission deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

6. CONSTRUCTION: This Agreement reflects the contributions of both parties and accordingly the provision of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

7. NO THIRD PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

8. EXHIBITS AND RECITALS: The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

9. FURTHER ASSURANCES: Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required
to effect the purposes of this Agreement.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

__________________________
Chairman, Board of Supervisors

ATTEST: JANET HOGAN
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

__________________________
Deputy Clerk

CITY OF PORTERVILLE

__________________________
Pedro R. Martinez, Mayor

ATTEST: JOHN LONGLEY
City Clerk

__________________________
Georgia Hawley, Chief Deputy City Clerk

Approved as to Form
County Counsel

__________________________
Deputy

Approved as to Form
City Attorney

__________________________
Julia Lew
EXHIBIT "B"

MULBERRY AVENUE

N.W. COR OF THE S. 1/2 OF
THE S.E. 1/4 SEC. 24 21/27

POINT OF COMMENCEMENT
TRUE POINT OF BEGINNING

17.48'

ROAD EASEMENT RECORDED ON JAN
12, 1968 IN BK 2752, PG 353,
O.R.T.C. AS DOC# 1388

PLANO STREET

ROAD EASEMENT RECORDED IN VOL
3 OF MAPS, PG 34.

LOT 56 PIONEER LAND CO'S FIRST SUBDIVISION
APN: 248-100-001

40.00'

INDICATES AREA TO BE DEEDED TO
THE CITY OF PORTERVILLE FOR
PUBLIC STREET PURPOSES.

AREA = 154 FT.

OWNER: JAMES M. DRYBURGH
JANET M. DRYBURGH
APN: 248-100-001

SCALE 1" = 20'

CITY OF PORTERVILLE - PLANNING AND DEVELOPMENT SERVICES

PORTION OF THE SOUTHEAST QUARTER
OF SECTION 24, TOWNSHIP 21 SOUTH,
RANGE 27 EAST, MOUNT DIABLO BASE
AND MERIDIAN, TO BE DEEDED TO THE
CITY OF PORTERVILLE FOR PUBLIC
STREET PURPOSES.

F.B. No. Dr. By: JLP
Ch. By: Date: 5-26-04
Scale: 1" = 20'
EXHIBIT "B"

PIONEER LAND COMPANY'S FIRST SUBDIVISIONRecorded in Vol 3 OF MAPS, PG 34.

LOT 52
APN: 248-010-005

POINT OF BEGINNING

S.E. COR OF THE N 1/2 OF THE S.W. 1/4 SEC. 24 21/27

MULBERRY AVENUE

INDICATES AREA TO BE DEED TO THE CITY OF PORTERVILLE FOR PUBLIC STREET PURPOSES.

AREA = 85 FT.

OWNER: HERMOSA TIERRA, INC., A CALIFORNIA CORPORATION
APN: 248-010-005

SCALE 1" = 20'

CITY OF PORTERVILLE - PLANNING AND DEVELOPMENT SERVICES

FIRM NAME: DIXON & ASSOC.
ADDRESS: 55 SHAW #215
CLOVIS, CA 93612
SURVEYOR: GARY J. DIXON
L.S. NO. 5277
TELEPHONE: (559) 297-4200

PORTION OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 21 SOUTH, RANGE 27 EAST, MOUNT DIABLO BASE AND MERIDIAN, TO BE DEED TO THE CITY OF PORTERVILLE FOR PUBLIC STREET PURPOSES.

F.B. No. Dr. By: JLP
Ch. By: 5-26-04
Date: SCALE: 1" = 20'

REVISED 04-08-04

SHEET 1 OF 1
AUTHORIZE THE DISTRIBUTION OF A REQUEST FOR PROPOSALS FOR A CONSULTANT FOR THE LAND USE AND CIRCULATION ELEMENTS UPDATE

COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING

The City Council adopted the 2004/05 fiscal year budget in June, 2004. The approved budget includes a funding component for an update to the Land Use and Circulation Elements of the General Plan. In addition to updating the two (2) elements, the scope of work includes the preparation of a water supply study pursuant to recent state legislation, and an update to the City-wide biological assessment that was performed in 1989, with the most recent comprehensive Land Use Element update.

A major component of the proposed update is the public participation program. In addition to the extensive public workshops and meetings, Staff is recommending that the Council establish a General Plan Update Advisory Council for the express purpose of soliciting input from a cross-section of the community. Since it is critical that the input into the process be comprehensive Staff recommends that the structure of the committee be as follows:

**General Plan Update Advisory Committee:**

- Two representatives of the building industry
- Two representatives of the Chamber of Commerce
- Two representatives of the Hispanic Chamber of Commerce
- Two representatives from the Porterville Area Ministerial Association
- Two representatives from the School Districts (representing the three districts)
- One representative from Downtown Porterville Association
- One representative from the County of Tulare
- One representative from Tule River Indian Tribe
- One representative from Sierra View District Hospital

**Total representation excepting Staff and Consultant is 14 committee members***

In addition to the ongoing input in the General Plan update process, the selection of the right consultant for the City is critical. As such, Staff is recommending that a selection committee be made up of the following:

- Two (2) Council members
- One (1) member of the Chamber of Commerce
- One (1) member of the Hispanic Chamber of Commerce
- One (1) member of Porterville Area Ministerial Association
- One (1) member of the Building Industry Association (BIA)
- Community Development Director
- City Manager
- Deputy City Manager
Obviously, the above committees could be modified at the desire of the Council, the most critical factor is that the City needs to be careful to ensure that the process represents input from a cross-section of the community. Any one interest group with too much autonomy could inequitably influence the outcome.

STAFF RECOMMENDATION: That the City Council:

1. Authorize the distribution of the Request for Proposals;

2. Approve the formation of a General Plan Advisory Committee and solicit nominations from each of the groups identified above except as may be modified by the Council, and bring the nominations/appointments back to the Council in conjunction with the selection of a consulting firm;

3. Approve the formation of a consultant selection committee for the hiring of a consultant to undertake the update of the Land Use and Circulation Elements of the General Plan and authorize the Chief Deputy City Clerk to accept nominations from the organizations and accept nominations for the two Council members to serve on the selection committee.
I. Project Summary

The City of Porterville is requesting proposals from qualified consulting firms for the update to the Land Use and Circulation Elements of the General Plan and for the preparation of the requisite Environmental Impact Report (EIR). As the backbone for all the other General Plan elements, the City is undertaking the update of the Land Use and Circulation Elements. It is anticipated that upon completion of these elements, the other elements of the General Plan will be updated in successive years. In addition, the City is anticipating the preparation of a comprehensive Zoning Ordinance Amendment after the completion of this project. Due to the requirement for internal consistency between elements, it is expected that this project will include a review of all the General Plan elements, and continual analysis of consistency between the new elements and those continuing in effect.

The City has typically relied upon the General Plan EIR to address cumulative impacts from individual projects. It is also expected that the General Plan EIR prepared for this project will facilitate the continuance of this practice. In response to recent legislation and the fact that water is an increasingly valuable commodity, a water supply analysis will be prepared as a part of this project. In addition, since Porterville is located in the San Joaquin Valley, the City is affected by two distinct issues, endangered species act issues, and one of the worst air quality ratings in the country. As such, the project will include a City-wide biological survey and air quality modeling as a component of the environmental study.

II. Background

The City of Porterville has historically experienced a growth rate of approximately 3% per year. In the last three (3) to four (4) years, the City has seen an increase in development activity, increased residential building permit issuance and has had the largest commercial retail permit valuation in the City's history. To date, there is no indication that this will slow. In fact, the City is currently working on the environmental document for the largest commercial-retail development in the City's history. Based on current trends, Staff believes that development pressures will continue to push toward the west if no action is taken to direct it into other areas. City Staff has been working on policies, projects and incentives that would encourage growth on the east side of the City and serve to balance out growth between the west and east sides of the community.

These and other factors contribute to the City Council’s decision to undertake an update of the Land Use and Circulation Elements at this time. In general, the other factors are as follows:

1. The City Council embraces planning for the future when addressing the issues of today. They embrace the concept of sound planning to provide framework to guide the growth and development of the City and improve the quality of life.
2. The City Council believes that the General Plan plays a vital role in equipping the City to manage and plan for growth and the ability to provide essential services to the residents of the City.

3. Growth pressures have continued to guide development to the west resulting in a skewed growth pattern resulting in Main Street no longer being the center of the community which is a central theme in the current General Plan.

4. Quality of the built environment affects the quality of life in the City of Porterville.

5. Activities and access to facilities for the youth is a critical need in the City. The City’s ability to invest capital to construct facilities is not always as difficult an issue as operating and maintaining facilities once they are constructed.

6. A greater impact on the quality of life comes from partnerships with other agencies such as the local school districts, the community college, the hospital, community organizations and other stakeholders.

7. Over the past many decades, there has been significant development activity on the west resulting in investment of infrastructure, the construction of a fire station, sewer, water and storm drain facilities and parks.

8. In contrast to the investment on the west side of the City, until recently, there has been less investment into public services on the east than on the west. Over the past 5-6 years, approximately $30 million has been invested on the east side of the community in the form of a high school and infrastructure improvements, including streets, sewer, water and storm drain facilities. Still on the east side of town but, more centrally located, is an area consisting of a new elementary school, community center, reconstructed streets and redevelopment/housing activities totaling approximately $18 million.

The City of Porterville has identified the very real need to update the Land Use and Circulation Elements of the City’s General Plan. A “comprehensive” update to the Land Use Element was approved in 1995. Although generally considered comprehensive, it was development driven. The impetus for the update was a proposed 500+ acre sphere of influence amendment with a portion of the area annexed by a housing developer. In reality, the last truly comprehensive update was approved in 1989. The Circulation Element was last comprehensively updated in 1993. An update was initiated in 1999 but, due to significant technical issues, the document was shelved. Significant growth has occurred in Porterville since the last update to these two foundational elements of the General Plan. In 1990, the population of Porterville was 29,563 (1990 Census), today the population is 43,150 (State Department of Finance), and the size of the incorporated area was 11.6 square miles in 1990, while today the City consists of approximately 14.8 square miles.

There are also a number of physical factors that affect the growth of the community and in particular, the movement of people, and goods. This could be referred to in terms of the circulation network as well as land use compatibility. The City is bisected by a number of lineal land use features that pose numerous challenges. These features include State Highway 190, State Highway 65, the Tule River, Porter Slough, Santa Fe Railroad, Friant Kern Canal, Scenic Heights, County Islands, East Porterville Porterville Municipal Airport, surrounding farm land, and Rocky Hill and surrounding slopes. All of these features result in development issues relative to land use adjacencies, circulation barriers, conservation and biological issues. Further, it seems as though the issues in Porterville may be exacerbated by the historic development pattern.

The various Elements of the General Plan were updated at various times. The Elements and the date of their latest comprehensive update are provided for reference. At various times, focused amendments were undertaken based on City initiated or privately initiated General Plan Amendments that affected
III. Project Goals

The following describes the general goals the City of Porterville intends to achieve through this project:

1. Develop comprehensive and contemporary Land Use and Circulation Elements that will serve as the framework to guide the physical, social and economic growth of the City.

2. Effectuate progress toward an improved quality of life for all residents in the City of Porterville through the implementation of the updated General Plan.

3. Develop a General Plan built on consensus of the community at large and the many stakeholders that guides the growth of the City into the future (2030).

4. To conclude the process with a product that is practical and yet future thinking.

5. To effectively balance out the interests of the various stakeholders and the resulting growth implications for the City. It is anticipated at this time, that the General Plan update will result in an amendment to the City Boundary, the Urban Development Boundary and perhaps the Urban Area Boundary. (The City’s boundaries are believed to be the most consistent, amongst the various cities, with the County’s General Plan boundaries)

IV. Scope of Services

The selected consultant shall conduct all aspects of the preparation of the updates to the Land Use and Circulation Elements of the General Plan. In addition, the Consultant will prepare all aspects of the EIR required for adoption of the general plan updates. The EIR shall serve as a tiering document for individual development projects and shall effectively evaluate project impacts from implementation of the General Plan, cumulative impacts and growth inducing impacts associated with growth of the community. It is expected that the EIR will be as detailed as practicable to minimize further environmental analysis for individual projects that implement the General Plan.

A. Work Program

It is anticipated that this General Plan Update effort will require a substantial time commitment on behalf of the consultant, City Staff and decision makers. As such, the City is anticipating that the preparation of the updates will at least span the 2004/05 and 2005/06 fiscal years (approximately 18 to 24 months). In the current fiscal year, a total of $250,000 has been appropriated for the effort. Approximately ten (10) percent will be directed to staff support resulting in up to a $225,000 budget allocation for the first fiscal year. A separate funding source has been designated for the water supply study discussed below. Due to the State budget condition, it is uncertain what the budget for the next fiscal year will entail. The Consultant’s work program shall define logical steps and timelines in the progress of updating the General Plan and shall provide a budget amount for each step to facilitate the budgeting process by the City. A component of the update process will include a review of the various General Plan Elements for consistency. The work program shall also outline the public participation process to be undertaken.
B. Public Participation

The Consultant will facilitate the public participation process soliciting input from stakeholders groups and the general public on the direction of the City’s growth. The proposal shall detail the Consultant’s plan for public participation. In the proposal, the Consultant should consider the establishment of a General Plan Committee or advisory group. The group could be comprised of members of the community at large, representatives of stakeholders groups and decision makers. It is the City’s desire to provide substantial opportunities for public input throughout the update process. The City is anticipating public workshops and study sessions with the City Council at various stages of the General Plan update and environmental review process. The public participation component of the proposal shall be submitted in the form of a public participation plan with specific elements of the plan detailed as to opportunities for, and objectives to be achieved by each step.

C. Issues Paper

The Consultant will develop an issues paper early in the process that is developed through an evaluation of implementation of the current General Plan, data collection and review, and through the citizen and stakeholder participation process.

D. Data Collection

It is the Consultant’s responsibility to obtain all necessary background material and data necessary to complete the preparation of the General Plan update and requisite EIR. It is expected that the General Plan and EIR will be prepared concurrently to the extent practical. City Staff will provide available General Plan, Master Plans, Redevelopment Plan, preliminary GIS information, and other documentation for the consultant’s use. The data collection work effort should include an analysis of progress made toward achieving the goals contained in the current General Plan Elements.

E. Water Supply Analysis

The City adopted an updated Water System Master Plan in 2001, which sets out infrastructure needs of the community relative to pipelines, wells and storage structures. The plan does not, however, include any analysis of actual water supply. Due to recent state legislation and other usage/growth factors, the Consultant must include a work component for a water supply analysis. The City currently relies exclusively on ground water and is just beginning to enter into discussions on the use of surface water rights the City owns. A regional shopping center entitlement application is currently being processed, for which a water supply study is being prepared as a component of the environmental analysis.

F. Biological Assessment

As a part of the 1990 comprehensive Land Use Element update, a city-wide reconnaissance level biological assessment was performed which identified sensitive habitat areas. The City is requesting an update to the earlier study. However, the earlier study did not identify habitat for the Valley Elderberry Longhorn Beetle (VELB) which is present in the City. The VELB is a federally listed Threatened species under the Endangered Species Act. The City is currently
working on the development of a city-wide Habitat Conservation Plan (HCP) for the VELB. This process will be running concurrently with the General Plan update.

G. Environmental Impact Report

The Environmental Impact Report prepared in conjunction with the general plan update will assess the environmental issues on a city-wide basis and will serve as a detailed document that will allow for tiering of environmental documents for project specific impacts associated with proposed projects. The consultant proposal shall include a description/recommendation of the type of EIR best suited to a General Plan Update (i.e. Master EIR, Program EIR, etc.). To the extent feasible, it is anticipated that the policies developed in the General Plan Update will work towards the mitigation of potentially significant environmental impacts. For the purposes of the EIR, the Year 2025 is the assumed build-out date. The environmental issues to be evaluated are anticipated to include, but not be limited to, the following:

1. Traffic: The Consultant will prepare a traffic impact analysis of the proposed new land use alternatives. The current General Plan has a minimum level of service (LOS) of D required throughout the City. There may be certain streets or locations that may need to be approved to function at less than a LOS D, such as Main Street between Olive and Morton Avenues.

2. Air Quality: The central valley is identified as a non-attainment area pursuant to State and Federal Clean Air Standards. Although the City is not proposing the adoption of an Air Quality Element of the General Plan, the effects of the plan shall be evaluated to determine what impact implementation will have on the air quality in the valley.

3. Noise: Circulation and Noise are closely linked variables. It is anticipated that noise modeling will be prepared as a component of the Circulation Element to determine what potential impacts may stem from the updated Circulation Element. In addition, there may be land use relationships that have tendencies to impact sensitive uses.

4. Public Facilities and Services: The Consultant will prepare an analysis of the impacts of the proposed land uses on existing facilities and services. This will include an analysis of existing service facilities and capacities as well as future capacity generated by the proposed update.

5. Water: An analysis is required of the long term water supplies available to accommodate the build-out of the plan. Coordination with the City Water Department, the Lower Tule Irrigation District and others pursuant to Government Code Section 65352.5 is critical.

6. Agricultural Preserves: An analysis of the impacts of proposed land uses on agricultural lands and services is required. The analysis shall discuss inherent conflicts of preserving agricultural lands versus providing affordable housing and space for economic development.

The Consultant will be responsible for preparing all technical studies, draft and final documents, statement of overriding considerations and findings of fact (if necessary), mitigation monitoring program, and all notices, graphics, etc. in compliance with CEQA.
H. Land Use Analysis

City Staff are anticipating that, early in the process, an analysis of the existing land use area and remaining vacant land, by land use type, will need to be prepared. City Staff may assist in this effort, or may have the effort completed by the time this contract is executed. However, this component should be included in the proposal as an alternate. In addition, the vacant land use supply shall be calculated and evaluated based on policies established by LAFCo for local agencies to maintain approximately a 10-year residential, and 20-year (each type) commercial and industrial land use supplies. It is anticipated that, through the update of the Land Use Element, it may be necessary to expand the Urban Area Boundary (generally considered the City’s growth limit), the Urban Development Boundary (generally consistent with the City’s sphere of influence), and the City limit line.

I. Draft Documents

Prepare Draft Land Use and Circulation Elements and Draft EIR, which will include the submittal of an electronic original (CD) of each version of each document at the administrative draft stage, the draft, and final stage. In addition to the electronic original, the Consultant shall be responsible for submitting a camera ready original and nine (9) printed copies of the screencheck draft for each Element and the EIR.

J. Final Documents

Prepare final documents of the Land Use and Circulation Elements and the EIR and related documents for final approval. Submittal of documents shall include 50+ copies of each document, a camera ready copy and an electronic copy on CD. A copy cost shall be broken out in the event that the number of copies requested in a particular phase changes.

V. Submittal Requirements

The proposal must describe the specific services to be provided and, at a minimum, respond to the tasks outlined in the City’s scope of services. The proposal and supplemental data pages should be numbered, and a table of contents included. The structure of the proposal should be as concise as possible, and include the outline information listed below:

A. Description:

A description, including background, size and orientation of the firm.

B. Qualifications:

- A summary of the qualifications of the firm to perform the services described herein, including but not necessarily limited to:

- The firm’s and project team’s previous experience in preparing this type of analysis.

- The firm’s and project team’s previous experience with the City of Porterville and familiarity with the community.
• The firm’s ability to produce the required products in a timely fashion and ability to present such reports to elected officials and the general public.

• A designation of the firm’s personnel who will be assigned to this project, including background information on the individuals outlined in II above. This should include sub-consultants as well. The services agreement will specify individuals in the firm that will work on the project and will explicitly require City approval prior to substitutions or replacements. The City will evaluate individual experience in addition to that of the firm.

• Indicate any potential conflicts of interest that may exist through property ownership or other circumstances.

C. Scope of Work:

The scope of work must outline specific tasks required to complete the project, describing how each task will be accomplished. The consultant is encouraged to express their approach or vision for addressing the various issues and tasks of this effort. List each consultant and/or sub-consultant responsible for each task, and describe work products that will be produced. All proposals should include a detailed time frame and the consultant’s recommendations for the scheduling of the required work.

D. Fee Schedule:

This section should identify the fee schedule for the project. The City is funding the General Plan update out of the General Fund. As the project is anticipated to extend through at least two fiscal years the program for the update shall be tailored to milestones allowing for effective budgeting and adequate funding to be allocated with the work product tied to logical milestones within each stage of funding and work.

VI. Additional Information:

A. As appropriate, the consultant shall provide exhibit material suitable for display and presentations. All materials, including reproducible originals of all maps and plans, will become the property of the City of Porterville and will be delivered to the City upon completion of the contract responsibilities or termination of the contract. Maps and exhibits shall also be provided to the City in the form of electronic files on CD.

B. The Consultant shall provide on CD or other electronic form (Microsoft Word 97 or newer), all studies, surveys, and reports prepared as part of this project. They will become the property of the City.

VII. Instructions to Applicants

A. Filing Date: All proposals must be filed at the Community Development Department of the City of Porterville, on or before 4:00 p.m. December 23, 2004 at the City.
B. Preparation of proposals: The City invites proposals on the form attached to be submitted at the time and place stated in the Request for Proposals. The applicant shall submit ten (10) copies of the proposal and any related information in a sealed envelope marked as stated in the Request for Proposals to:

City of Porterville
Community Development Department
291 N. Main Street
Porterville, CA 93257

C. All information in the proposal must be complete. It is the sole responsibility of the applicant to see that their proposal is submitted in proper time. Any proposal received after the scheduled closing time for receipt of proposals will be returned to the applicant unopened in accordance with Section 53068 of the Government Code.

D. Signature: The proposal must be signed in the name of the applicant and must bear the signature in long hand of the person or persons duly authorized to sign the proposal.

E. Requests For Information: Any questions relative to the proposal should be directed to Bradley D. Dunlap, Community Development Director at (559) 782-7460.

F. Evaluation: The City will be evaluating the proposals according to the City’s Consultant Selection Rating Form (Attachment 1). Upon evaluation of the prospective consultants, the City Council will authorize Staff to negotiate with the consultant on cost. This evaluation includes ranking the capability to perform all or most aspects of the required services, recent experience comparable to the requested services, ability to provide timely and convenient services, qualifications and experience of personnel who will be conducting the work, proximity of applicant’s office to Porterville, degree of interest shown in undertaking the contract, and evidence that applicant is an equal opportunity employer.

G. Disadvantaged Business Enterprise: In accordance with City of Porterville policy, disadvantaged business enterprises (DBE), including qualified small minority and woman-owned firms, are encouraged to submit a proposal or otherwise participate in the completion of the work covered by this request. No DBE participation goals have been established for this project.

H. Award of Contract: The right is reserved by the City of Porterville to reject any or all proposals, to evaluate proposals submitted and to award the contract according to the proposal which best serves the interest of the City. All proposals will become the property of the City of Porterville.

The City reserves the right, at its discretion, to pursue any or all of the following actions related to this RFP:

   a. Issue addenda to RFP;
   b. Request additional information and/or clarification of proposal;
   c. Negotiate a contract solely on the basis of additional information supplied;
d. Reject, for any reason, any or all proposals; permit the timely correction of errors; waive minor deviations or any informalities not affected by law; and accept or reject all or part of any proposal as may be best considered to serve the public interest; and/or

e. Issue subsequent RFP’s based on refinements of concepts proposed in response to the RFP.

The selected firm will be required to enter into a written contract with the City of Porterville in a form approved by the City Attorney. A sample service agreement is attached (Attachment 2).

I. Prevailing Law: In the event of any conflicts or ambiguities between these instructions and State or Federal laws, regulations or rules, then the latter shall prevail.

J. Business License: A City of Porterville Business License will be required of Consultant upon award of contract.

VIII. Contract Requirements

The Consultant should be aware that the following provisions are to be included in the contract award for services provided in accordance with this RFP.

A. This contract may not be assigned nor have any of its elements subcontracted unless written approval is granted by the City in advance. Employees of consultant and subcontractors possessing particular experience critical to the selection of the consulting firm will be specifically named in the Consultant services agreement. Any change in these employees will, at a minimum, necessitate written authorization by the City and, if appropriate replacements are not available, could result in termination of the contract.

B. This contract shall contain suitable provisions for termination by the recipient, including the manner by which termination will be affected and the basis for settlement. In addition, such contract shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the contractor’s control.

C. This contract shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as may be appropriate.

D. This contract shall include provisions to the effect that the City or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to this specific project for the purpose of making audits, examinations, excerpts and transcriptions.

E. The Consultant hereby agrees to and shall protect, indemnify and hold harmless the City of Porterville, and all officers, agents, representatives and employees thereof from and all liability, claims or damages of whatsoever kind or character, including attorneys’ fees and costs of all types incurred in defense of any of the said parties from said claims or liability, because of or arising out of, directly, or indirectly, the acts, errors, or
omissions of the Consultant, Consultant’s independent subcontractors, employees, representatives, agents and invitees.

Said indemnification and hold harmless provisions shall be in full force and effect regardless of whether or not there shall be insurance policies covering and applicable to such damages, claims or liability. This Contract shall be binding upon the Consultant whether or not there are any allegations of fault, negligence or liability of the indemnities hereunder.

**F.**

As a condition precedent and prior to commencement of the work to be performed pursuant to this contract, the Consultant shall furnish the City of Porterville a policy or certificate of Comprehensive General liability-bodily injury and property damage insurance in the amount of $1,000,000 combined single limit. Said insurance policy shall name the City of Porterville, its officers, employees and agents as additionally insured and shall protect them from claims for personal injury, death or property damage suffered by third persons or by officers, employees and agents of the Consultant, and arising out of or in connection with the work which is the subject of this Contract. Notwithstanding any consistent statement in the insurance policy or certificate of any subsequent endorsement attached thereto, the City of Porterville shall be insured NAMED AS ADDITIONAL INSURED covering the work which is the subject of this contract, whether liability is attributable to the Consultant or to the City of Porterville. Said insurance shall SPECIFY OCCURRENCE BASIS and shall be in effect on the date the work is commenced and shall expire no sooner than THIRTY DAYS AFTER the date on which the work is completed and accepted by the City of Porterville. The cost of providing this insurance requirement shall be borne by the Consultant.

The selected Consultant will be required to carry and provide certificates of compliance for automotive liability insurance and workers’ compensation.

<table>
<thead>
<tr>
<th>Automotive Liability</th>
<th>$1,000,000 per occurrence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers’ Compensation</td>
<td>Statutory Limits</td>
</tr>
</tbody>
</table>

The Auto Liability Policy is to contain or be endorsed to name the City, its officers, officials, employees and agents as Additional Insured as respects liability arising out of the activities performed in connection with this contract. The coverage shall be primary and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability. Original endorsements, signed by a person authorized to bind coverage on its behalf, shall be furnished to the City by the successful firm.

The Firm and its employees are independent contractors and not employees of the City. The Consultant shall carry Workers’ Compensation Insurance for all his/her employees and his/her subcontractors engaged in work on the project, in accordance with Workers’ Compensation Laws of the State of California. Workers’ Compensation policy is to be endorsed to include a waiver of subrogation against the City and the Agency, its officers, officials, employees, and agents. Prior to the start of work, the Consultant shall provide the City with a valid Workers’ Compensation Insurance Certificate.
All liability insurance policies shall bear an endorsement or shall have an attached rider whereby it is provided that in the event of expiration or proposed cancellation of such policies for any reason whatsoever, the City of Porterville shall be notified by registered mail, return receipt requested, giving it sufficient time before the date thereof to comply with any applicable law or statute, but in no event less than thirty (30) days before the expiration or cancellation is effective.

G. The contract shall contain a provision requiring compliance with applicable Equal Opportunity Employment laws.

IX. Funding

It is expected that the City will fund this update out of the General Fund. Although funding for fiscal year 2003-2004 has been budgeted, funding for future fiscal years has not yet been reserved.

Due to financial uncertainties, the City of Porterville desires to maintain flexibility in terms of funding of project phases and work products. In this regard, proposals may include recommendations on alternatives to scale down, eliminate or postpone aspects of the General Plan. Because of the need to track funds separately, the consultant’s cost estimates shall be detailed for each phase and task of the work program.

X. Maps

The City is currently utilizing ArcView version 3.2a and any electronic maps submitted need to be readable using the above referenced software.

XI. Pre-proposal Conference

A pre-proposal conference is scheduled for 2:00 p.m., December 2, 2004 in the Mikkabi Room, at 291 N. Main Street Porterville, CA. Please call Becky West at (559) 782-7460 by Wednesday, November 24, 2004, so that sufficient copies of materials will be available. Attendance at the pre-proposal conference is mandatory for proposers. A summary of questions and the City’s reply will be mailed to persons in attendance by Tuesday, December 7, 2004. Although staff is available for answering questions outside of the pre-proposal conference, in order to ensure that all firms that wish to propose have equal access to information, questions are to be e-mailed so that the question and the City’s reply can be forwarded to the other firms. Questions shall be e-mailed to the following address: bdunlap@ci.porterville.ca.us
Stakeholders/Interest Group List

1. Chambers of Commerce (both)
2. Downtown Porterville
3. Building Industry Association
4. Individual Developers/contractors
   a. Ennis Development
   b. Woodard Homes
   c. Gary Smee
   d. Daryl Nicholson
   e. Ben Webb
   f. Mary McClure
   g. Antoine Bechara
   h. Webb and Son
5. Tule River Parkway
6. Sequoia Riverlands Trust
7. School Districts
   a. PUSD
   b. Burton
   c. Alta Vista
8. Porterville Area Ministerial Association
9. Veterans Groups
10. Tulare County
11. LAFCo
12. Lower Tule Irrigation District
13. TCAG
14. Civic Organizations
   a. Rotary Clubs
   b. Lions Club
   c. Kiwanis
   d. Elks
15. Others to be added
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
DOWNTOWN PORTERVILLE ASSOCIATION - TREE LIGHTING CEREMONY, NOVEMBER 26, 2004

SOURCE: Administrative Services, Finance Division

COMMENT: The Downtown Porterville Association is requesting approval to hold its annual “Tree Lighting Ceremony” at the corner of Main Street and Thurman Avenue on Friday, November 26, 2004. The event consists of tree lighting and a caroling procession.

The following street closure/usage is requested:

POLICE ASSISTED ROLLING STREET CLOSURES:
Main Street from Thurman Avenue to Oak Avenue.

STREET CLOSURE FOR ENTERTAINMENT:
Oak Avenue from Division Street to Second Street

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. The requirements are listed on the attached copy of the application, agreement and Exhibit “A.”

RECOMMENDATION: That the Council approve the attached Community Civic Event Application and Agreement submitted by the Downtown Porterville Association, subject to the stated requirements contained in the Application, Agreement and Exhibit “A.”

ATTACHMENT: Community Civic Event Application, Agreement, Exhibit “A,” outside amplifier permit, street closure/usage request and map
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 10/18/04  Event date: 11/26/04

Name of Event: Tree Lighting Ceremony

Sponsoring organization: Downtown Porterville Assoc  PHONE # 781-0880
Address: 180 N Main St, Ste A
Authorized representative: Michelle Hooper  PHONE #
Address: SAA
Event chairperson: Kelly McCracken  PHONE # 783-8933

Location of event (location map must be attached): Main Street from Thurman to Garden

Type of event/method of operation: Tree lighting and caroling

Nonprofit status determination: Yes

City services requested (any fees associated with these services will be billed separately):
- Barricades (quantity): 26  Street sweeping Yes  No
- Police protection Yes  No  Refuse pickup Yes  No
- Other:

Parks facility application required: Yes  No
Assembly permit required: Yes  No

STAFF COMMENTS (list special requirements or conditions for event):

Approve  Deny

Bus Lic Spvr
Pub Works Dir
Comm Dev Dir
Field Svcs Mgr
Fire Chief
Parks Dir
Police Chief
Risk Manager
CITY OF PORTERVILLE

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Authorization: This permit must be submitted 30 days PRIOR to the date of the event in order to obtain City Council approval.

City Code requirements:
- At least 48" must remain clear on sidewalks for pedestrian traffic.
- Do not block any entrance to or exit from buildings.
- Area must be accessible to emergency and safety personnel and vehicles.
- Electrical cords must be approved and installation checked by the Fire Department.

Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. The City of Porterville shall be named as additional insured. The amounts of such insurance and any additional requirements are listed in Exhibit "A."

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include full liquor liability in an amount not less than one million dollars ($1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permittee, his/her agents or representatives pursuant the permit. Claims-made policies are not acceptable.

Health permit: Organization/Applicant will obtain or ensure that all participants obtain a health permit(s) from the County of Tulare Department of Health if any food is to be served in connection with this Community Civic Event.

First aid station: Organization/Applicant will establish a first aid station to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 1326, as amended, and the terms and conditions set forth by City Council and stated in Exhibit "A." The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind of character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of the kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees.

[Signature]

(Date)

(Name of organization)
CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Tree Lighting Ceremony

Sponsoring organization: DPA

Event date: 1/26/04 Hours: 5:30pm - 8:30pm

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Street</td>
<td>Thurman</td>
<td>Oak</td>
<td></td>
</tr>
<tr>
<td>Cleveland</td>
<td>Division</td>
<td>Second</td>
<td></td>
</tr>
<tr>
<td>Putnam</td>
<td>Division</td>
<td>Second</td>
<td></td>
</tr>
<tr>
<td>Mill</td>
<td>Division</td>
<td>Second</td>
<td></td>
</tr>
<tr>
<td>Oak</td>
<td>Division</td>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalks</td>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parking lots and spaces</th>
<th>Location</th>
<th>Activity</th>
</tr>
</thead>
</table>

4 of 4
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

DOWNTOWN PORTERVILLE ASSOCIATION

TREE LIGHTING CEREMONY

NOVEMBER 26, 2004

Business License Supervisor:
  K. Maxwell

No comments.

Public Works Director:
  B. Rodriguez

No comments

Community Development Director:
  B. Dunlap

Obtain Council approval for use of public R.O.W.

Field Services Manager:
  B. Styles

No comments.

Fire Chief:
  F. Guyton

No comments.

Parks and Leisure Services Director:
  J. Perrine

No comments.

Police Chief:
  S. Rodriguez

Street closures requires council approval.

Risk Manager:
  D. Pyle

See attached.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Downtown Porterville Association
Event: Tree Lighting Ceremony
Event Chairman: Kelly McCracken
Location: Main Street and Thurman Avenue, procession to Oak Avenue
Date of Event: November 26, 2004

RISK MANAGEMENT: Conditions of Approval

That the Downtown Porterville Association provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than $1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as “Additional Insured” against all claims arising from, or in connection with, the Permittee’s operation and sponsorship of the aforementioned Community Civic Event

A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than $1,000.

B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less that A:VII, and the insurance company must be an “admitted” insurer in the State of California.
This application must be submitted 10 days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1. Name and home address of the applicant:
   Downtown Porterville Assoc
   180 N Main St, Ste A
   Phone # 781-0880

2. Address where amplification equipment is to be used:
   Main Street
   Phone # 781-0880

3. Names and addresses of all persons who will use or operate the amplification equipment:

4. Type of event for which amplification equipment will be used:
   Tree lighting and Caroling procession

5. Dates and hours of operation of amplification equipment:
   11/26/04 5:30 - 8:30 pm

6. A general description of the sound amplifying equipment to be used:
   Portable unit on truck bed
I hereby certify that all statements and answers on this registration form are true and correct.

Michelle Hooper
Applicant

10/18/04
Date

Chief of Police

Date

Section 18-14 City Ordinance Outside Amplifiers; permit required.
It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or connected any loud-speaker or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, without having first procured a permit from the Chief of Police.

Section 18-9 City Ordinance, Radios, record players, etc.
It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, juke box, record player, loudspeaker musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort of the occupants of nearby residences.

California Penal Code Section 415
Any person who maliciously and willfully disturbs another person by loud and unreasonable noise, is guilty of a misdemeanor.

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

cc: ____________________

________________________________

________________________________

3/27/01
CITY COUNCIL AGENDA: November 16, 2004

SUBJECT: AIRPORT LEASE - LOT 40

SOURCE: Fire Department/Airport

COMMENT: Mr. George W. Burleson and Mr. Walter D. Burleson currently own a hangar on lot 40 at the Porterville Municipal Airport. They have extended a purchase option of their private hangar to Dr. Dan Dale and Alison Dale. Dr. Dale is requesting council authorization to assume the existing lease between the City of Porterville and George and Walter Burleson dated January 1, 2002. Dr. Dale is requesting the lease be recorded as Dr. Dan Dale and/or Alison Dale.

RECOMMENDATION: That the City Council approve the assigning of the lease agreement between the City of Porterville and George W. Burleson and Walter D. Burleson to Dr. Dan Dale and/or Alison Dale.

Attachment:  
(1) Locator Map  
(2) Assignment of Lease Agreement  
(3) Lessor's Consent to Assignment of Lease Agreement  
(4) Request to Transfer Letter, Burleson's  
(5) Request to Transfer Letter, Dan Dale

Dir. [Signature] / Funded / C/M [Signature] /  
Item No. 8  
Approp.
ASSIGNMENT OF LEASE
(PORTERVILLE MUNICIPAL AIRPORT)

THIS AGREEMENT, made this 1st day of November, 2004, by and between Mr. George W. Burleson and Mr. Walter D. Burleson 9852 RD 256, Terra Bella, owners a hangar on lot 40 at the Porterville Municipal Airport, as the Assignors, and Dr. Dan Dale and/or Alison Dale, 2439 W. Nancy, Porterville, as the Assignee

In consideration of the mutual covenants herein contained, each act to be performed hereunder, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Effective November 1, 2004, Assignor hereby assigns, transfers and conveys to Assignee all of their right, title and interest as Lessee, in, to and under a certain Lease Agreement dated January 1, 2002 (hereinafter "Lease"), executed by and between the City of Porterville, as Lessor, and George Burleson and Walter Burleson, as Lessee, providing for the letting of certain premises located at the Porterville Municipal Airport, Porterville, California, being more particularly described as follows:

   An airport hangar known as No. 40, and containing a total area of approximately 4200 square feet, and establishing an original Lease terminating December 31, 2011.

2. Effective November 1, 2004, Assignee hereby accepts and assumes all of the obligations, responsibilities and liabilities of Assignor under said Lease, and agrees to perform said Lease Agreement according to its terms, covenants and conditions, without exception, and Assignee understands and agrees that Landlord makes no warranty or representation that either Assignor or Assignee would be given an exclusive use in the Porterville Municipal Airport for the use thereof by Assignor and/or Assignee, except as provided in the Lease.

3. Upon execution of this Assignment of Lease and Landlord's consent hereto, Assignee's Notice Address and Assignee's Billing Address shall be as set forth herein above.

4. Assignor hereby covenants said Lease as valid and existing and Landlord is not default as of the date of this Assignment.

5. This Assignment shall be binding upon and shall inure to the benefit of the respective parties, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Lease as of the date first above written.

ASSIGNOR
BY: George Burleson

ASSIGNEE
BY: Dr. Dan Dale and/or Alison Dale

George W Burleson
Walter D. Burleson

airportlease@burleson
LESSOR'S CONSENT TO ASSIGNMENT OF LEASE AGREEMENT
(PORTERVILLE MUNICIPAL AIRPORT)

The City of Porterville, a municipal corporation of the State of California, being the Landlord under the Lease described in the foregoing Assignment, hereby consents to the foregoing Assignment of Lease upon the expressed condition, however, that there shall be no further assignment without the prior written consent of the Landlord.

Dated this 16th day of November, 2004.

CITY OF PORTERVILLE

BY: ____________________________

Padro R. Martinez
MAYOR, CITY OF PORTERVILLE

"LESSOR"

ATTEST: ____________________________

John Longley, CITY CLERK

APPROVED AS TO FORM:

BY: ____________________________

Julia Lew
City Attorney
To the City of Porterville, 

October 28, 2004

I, Dr. Dan Dale and Alison Dale are purchasing a hangar at the Porterville Airport from George W. Burleson and Walter D. Burleson. I hereby request to assume the existing lease between the City of Porterville and the Burlesons’ for lot #40.

Sincerely

[Signature]

Dr. Dan Dale
George W. Burleson  
9852 Rd. 256  
Terra Bella, Calif. 93257

October 28, 2004

Airport Manger, City of Porterville

I, George Burleson and Walter D. Burleson, currently own a hangar on lot 40 at the Porterville Municipal Airport. We are in the process of selling the hangar to Dr. Dan and Alison Dale. We are requesting the City of Porterville allow the Dale’s to assume our current lease. We are aware of the City’s fee of $150, which is designed to recover the City’s cost for processing any changes to our current lease agreement with the City. Please bill us accordingly.

Sincerely,

George Burleson

Date 11-1-04

Walter Burleson

Date 11-01-04
CITY COUNCIL AGENDA: NOVEMBER 16, 2004

SUBJECT:  SALE OF AIRPORT INDUSTRIAL SITE – RUSSKEN HOLDINGS, LLC

SOURCE:  COMMUNITY DEVELOPMENT DEPARTMENT – ECONOMIC DEVELOPMENT

COMMENT:  During the March 16, 2004 City Council meeting, Council approved Russken Holdings, LLC request to purchase the 1.72 acre vacant lot east of their facility located in the Airport Industrial Park for the addition of a new 10,000 square foot building. Council approved the transaction with the following conditions:

1) That escrow open on April 1, 2004, with a non-refundable deposit made by Russken Holdings, LLC, of $15,000.
2) Purchase price of the lot to be $1.09 per square foot.
3) Escrow to close anytime in 2004. If escrow does not close by December 31, 2004, the deposit is forfeited to the City, less any fees due to the escrow holders, and escrow is cancelled.

Russken Holdings, LLC, made the deposit as outlined in the above conditions and the property has been in escrow since April 2004. The escrow company has notified the City that Russken Holdings, LLC, has deposited the remainder of the funds to finalize the transaction and desires to close escrow. A Resolution from City Council authorizing the sale of City property to Russken Holdings, LLC is necessary to complete the transaction.

RECOMMENDATION:  That the City Council:

1) Approve the Resolution authorizing the sale of the property; and
2) Authorize the Mayor to sign all documents and agreements necessary to complete the project.

ATTACHMENTS:  1) Resolution
2) Locator Map

[Signature]  Appropriated/Funded  CM  Item No. 9
RESOLUTION NO. ___-2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE SALE OF CITY PROPERTY TO RUSSKEN HOLDINGS, LLC

BE IT HEREBY RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby grants to Russken Holdings, LLC, a deed for property at the Porterville Municipal Airport Industrial Park, with certain property situate, lying and being near the City of Porterville, in the County of Tulare, State of California, to-wit:

Parcel 1 of Parcel Map No. 4498 in the City of Porterville, County of Tulare, State of California, per map filed as Document No. 2001-0064359, on August 28, 2001 in Book 46 of Parcel Maps, at page 3, in the office of the County Recorder of said County.

BE IT FURTHER RESOLVED that said deed be recorded in the office of the Tulare County Recorder. The foregoing has been authorized by the City Council for the City of Porterville.

________________________________________
Pedro R. Martinez, Mayor

ATTEST:
JOHN LONGLEY, City Clerk

Georgia Hawley, Chief Deputy City Clerk
SUBJECT: REPORT ON HOLIDAY STREET TREE LIGHTING

SOURCE: Parks & Leisure Services Department

COMMENT: This year the street trees along Main Street will be illuminated with light strings installed by a contractor working for the Porterville Downtown Association. The City will contribute $3,500 towards the effort from funds provided for this purpose in the community promotions budget.

Some repairs have been made by Public Works staff to the permanently installed lights strings on the Gardner Tree in front of City Hall. Staff also replaced approximately 80 light bulbs, determined the tree is ready for illumination, and does not appear to need additional strings of lights this year. Last year a 100 foot high-lift bucket was rented by Parks Maintenance to install several new light strings on this tree.

Public Works and Parks Maintenance staff will be installing lights on alternate trees within the medians along Olive Avenue. It is estimated that the material cost for new light strings will be approximately $3,000 for the effort this year, with an estimated 100 hours of staff effort. The illumination of downtown parking lot trees is not planned to occur this year.

RECOMMENDATION: Receive the report and note the planned level of holiday street tree lighting.

ITEM NO.: 10
COUNCIL AGENDA:  NOVEMBER 16, 2004

SUBJECT: STATUS REPORT ON HEALTHCARE TASK FORCE/PROGRAM UPDATE

SOURCE: Administrative Services

COMMENT: For the Fiscal Year ended June 30, 2004, the City's self-insured healthcare program lost $551,000.00. The loss is estimated at $640,000.00 for the current fiscal year, if no corrective action is taken. Losses in the healthcare program for the past several fiscal years led to the formation of a Healthcare Task Force in 2003, consisting of employees from every department, and representing each bargaining unit. The purpose of the Task Force is to examine the program, and make recommendations for cost savings measures.

The Healthcare Task Force has continued to meet to discuss changes to the existing healthcare system that should reduce costs to the program. The most recent meeting was held on Friday, November 5, 2004. One topic of discussion was the proposed move from the Inter-Plan Network of Doctors to the Blue Cross Network of Doctors. These networks represent healthcare providers in our area that have contracted with Inter-Plan and Blue Cross to provide services for agreed upon prices. These prices are lower than the prices charged to patients not affiliated with these networks.

After much research on cost savings measures, it has been determined by the Healthcare Task Force that the Blue Cross Network offers greater discounts on services than the Inter-Plan Network currently utilized by the City. Changing networks will not result in any changes in the benefits currently provided by the City. The change will only result in smaller bills from the providers for the same services. To determine the level of savings available from this network change, staff ran three months of prior claims costs against the Blue Cross discounts. When extrapolated for the entire fiscal year, the savings were estimated at $92,000.00.

Since this change does not result in any modification to benefits, it is not subject to meet and confer. Management believes it to be in the best interest of the City to meet and consult with the bargaining units on the subject prior to the implementation of the network change. This change can take place in December, and could generate nearly $50,000.00 in current year savings.

Dir.  Approve  CM
Funded

Item No. 11
The Task Force also reviewed draft documents that may result in an opportunity to obtain quotes for Excess Stop Loss Coverage in conjunction with the City of Tulare to achieve greater discounts. This effort will continue over the next few months.

RECOMMENDATION: That the Council authorize staff sign all documents necessary to move to the Blue Cross Network of Doctors upon conclusion of the meet and consult process with the bargaining units.
PUBLIC HEARING

SUBJECT: CONDITIONAL USE PERMIT 11-2004 - PROPOSED CHURCH AT THE NORTHWEST CORNER OF CLEVELAND AVENUE AND 3RD STREET

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of a Conditional Use Permit to allow the re-establishment of a church in an historical church building located at the northwest corner of Cleveland Avenue and 3rd Street. The subject site is located within the PO (Professional Office) Zone which permits churches subject to the approval of a Conditional Use Permit.

The building was constructed as a church but has been converted to a variety of commercial uses. Throughout that time, the central sanctuary has remained. The classrooms and basement areas have been used for a dance studio, hair salon, etc. The applicant proposes to remove the pews from the sanctuary area, and use the space for open gathering of worshippers. The sanctuary is approximately 3,060 feet in size, which could accommodate a maximum of approximately 250 persons (although the congregation is not currently that large).

Typically, a sanctuary capacity of 250 persons would require a minimum of fifty parking spaces. Only eleven spaces are provided on the subject site. However, the building is existing and has historically been used as a church. Furthermore, the subject site is located within Parking District Number 2, and two public parking lots are located conveniently close to the building. Within Parking District No. 2, Zoning Ordinance Section 2306 A.1 permits the use of existing structures up to two stories and a basement with no requirement to provide additional parking. Section 2308 lists exceptions to the Parking District No. 2 provisions. Such uses are required to provide the typical on-site parking. Churches are not listed as such an exception.

The project is Categorically Exempt pursuant to Section 15303, Class 23 of the CEQA Guidelines - New construction or conversion of small structures. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.
RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit No. 11-2004.

ATTACHMENT:

1. Complete Staff Report
PUBLIC HEARING - STAFF REPORT

TITLE: CONDITIONAL USE PERMIT 11-2004 (MODIFICATION #1)

APPLICANT: Masjid Porterville (Basem Aqra)
6318 Monitor Street
Bakersfield, CA 93307

SPECIFIC REQUEST: The applicant is requesting approval of Conditional Use Permit 11-2004 to allow for the re-establishment of a church at 289 North 3rd Street in the PO (Professional Office) Zone.

PROJECT DESCRIPTION: The building was constructed as a church but has been converted to a variety of commercial uses. Throughout that time, the central sanctuary has remained. The classrooms and basement areas have been used for a dance studio, hair salon, etc. The applicant proposes to remove the pews from the sanctuary area, and use the space for open gathering of worshipers. The sanctuary is approximately 3,060 feet in size, which could accommodate a maximum of approximately 250 persons (although the congregation is not currently that large).

Typically, a sanctuary capacity of 250 persons would require a minimum of fifty parking spaces. Only eleven spaces are provided on the subject site. However, the building is existing and has historically been used as a church. Furthermore, the subject site is located within Parking District Number 2, and two public parking lots are located conveniently close to the building.

GENERAL PLAN AND ZONING: The General Plan designates the site as Professional and Office. The subject site is zoned City PO (Professional Office).

SURROUNDING ZONING AND LAND USE:

North: City PO - Apartments.
South: City PO - Cleveland Avenue and vacant building.
East: City PO - Third Street, professional office and single family residential uses.
West: City PO - Alley, professional office and single family residential uses.

STAFF ANALYSIS: Section 2202 A-3 of the Porterville Zoning Ordinance requires that one (1) parking space for each five (5) seats in the main auditorium (sanctuary) for churches is required.

Typically, a sanctuary capacity of 250 persons would require a minimum of fifty parking spaces. Only eleven spaces are provided on the subject site. However, the building is existing and has historically been used as a church. Furthermore, the subject site is located within Parking District Number 2, and two public parking lots are located conveniently close to the building. Within Parking District No. 2, Zoning Ordinance Section 2306 A.1 permits the use of existing structures up to two stories and a basement with no requirement to provide additional parking. Section 2308 lists
exceptions to the Parking District No. 2 provisions. Such uses are required to provide the typical on-site parking. Churches are not listed as such an exception.

The Zoning Ordinance relies on the size of the sanctuary to determine the intensity of use of a church. As no expansion to the sanctuary, as it was last used for church purposes, is proposed, Staff recommends that the City Council find that Conditional Use Permit 11-2004 is not an expansion of an existing non-conforming use. Staff is recommending a condition of approval to require that a sign be posted within the church parking lot directing overflow parking to the public parking lot.

The use of bells, broadcast music or other amplified sound was not proposed as a component of the Conditional Use Permit.

Portions of the building, including the basement, will require additional improvements to comply with Building and Fire Codes, prior to the occupancy of those areas for church purposes. The Fire Department conducts annual inspections of commercial and public assembly buildings to ensure that their use conforms to the Fire Code. Staff is recommending that use of the basement and second floors for church purposes be prohibited until authorized by the Fire Chief and Chief Building Official.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No project. Denial of the proposed use permit would not allow the applicants to proceed as proposed and the present uses of the site would be allowed to continue.

2. Approve the project. Approval of the request would result in the applicant being conditionally allowed to proceed as proposed.

ENVIRONMENTAL: The project is Categorically Exempt pursuant to Section 15303, Class 23 of the CEQA Guidelines - New construction or conversion of small structures. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: September 1, 2004

DATE ACCEPTED AS COMPLETE: November 2, 2004

RECOMMENDATION: That the City Council:

1. Adopt the Draft Resolution conditionally approving Conditional Use Permit 11-2004
ATTACHMENTS:

1. Land Use/Zoning/General Plan Map
2. Building layout (Main floor and basement)
3. Pictures of sanctuary
4. Application
5. Categorical Exemption
6. Draft Resolution approving Conditional Use Permit 11-2004
NOTES: **CEILING IS CELLUTEX**
APPLICATION FOR CONDITIONAL USE PERMIT

(See Page 3 of this form for information on preparing and filing this application)

The Applicant(s) ___________ PORTERVILLE ___ are the owner(s) or tenant(s) of property situated at ___________ North 3rd Street between ___________ and ___________ Street/Avenue. Exact legal description of said property being ___________.

As applicable, a Plot Plan and 300' radius property owners map, and corresponding mailing list are hereto attached and made a part of this application (see detailed instructions on Page 3 of this form)

(A) Above described property is owned by ___________.

Date acquired ___________.

(B) If applicant is the lessee, give date property was leased:

(C) List below the original deed restrictions, if any, that were placed on the property which pertain to the type of improvements permitted.

Give date said restrictions expire ___________.

(You may attach copy of original printed restrictions in answer to this question after property underlining those features controlling the type and class of uses permitted thereby)

(D) REQUEST: The applicant requests a Conditional Use Permit to USE the above described property for the following purposes:

(Use this space ONLY to state exactly what is intended to be done, on or, with the property). I t will be used for prayer services, office talks and lectures about religion.
NOTE: The basic purpose of the Conditional Use Permit Article of The City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the Ordinance and to protect the public health, safety and welfare. due to the unique and special characteristics of such uses.

1. State the proposed use will not be materially detrimental to the public welfare or injurious to property or improvements in such vicinity and zone in which the use is proposed to be located. It will be an improvement because all of broken windows will be fixed, prayer hall will offer people the opportunity to worship their creator "lord".

2. Principal requirements of intended use (Please answer the following statements, if applicable):
   (a) Total number of people that the building (or grounds if the use is not conducted in a building) can accommodate at one time (Seating Capacity).

   250

   (b) Total number of employees that will work on the property.

   None

   (c) Total number of off-street parking spaces provided or planned.

   The spaces being offered are about 22 spaces.

   (d) Maximum height of buildings or structures.

   (e) If the application is not intended to be for a permanent conditional use, state the length of time for which it is requested.

   N/A
We, the undersigned OWNERS of ADJACENT PROPERTY as shown upon the map attached to the application, hereby certify that we have read the foregoing petition and agree that the facts stated correctly and completely present the conditions surrounding the property involved in the application, and believe the application SHOULD BE GRANTED. (Add additional sheets where necessary. These signatures are desirable but not required)

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Name</th>
<th>Address</th>
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<th>Block</th>
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**APPLICANT'S DECLARATION**

STATE OF CALIFORNIA )
) ss.)
COUNTY OF TULARE )

I (WE), ________________ being duly sworn, declare and say that I am (we are) the owner (lessee or agent) of property involved in this application and that I (we) have completed this application and all other documents and maps required hereby to the best of my (our) ability and that the statements and information above referred to are, in all respects, true and correct, except, as to the matters stated to be on my information and belief

I declare under penalty of perjury that the foregoing is true and correct, executed at ________________ this __________ day of __________, __________

Telephone No. __________

Signature

Mailing Address

This is to certify that the foregoing application has been inspected by me and has been found to be thorough and complete in every particular and to conform to the rules and regulations of the City of Porterville governing the filing of such application.

By __________________________

Date Received ___________________
1. Conditional Use Permit Application Form
2. 300-Foot Radius Map
3. Property Owners' List
4. Plot Plan, Drawings or Photographs

Filing fee $700.00

1. The Conditional Use Application form must be filled out with full answers to every statement and question. The application must be signed by owner or authorized agent under penalty of perjury in the space provided on Page 3.

2. The 300-Foot Radius Map accompanying the application must be a clear tracing to a suitable scale and must be correctly prepared. It must show each parcel within 300 feet of the exterior boundaries of property involved with the uses of each parcel or present type of occupancy, such as single-family residence, duplex, apartment house, business building or type of industrial use, or if vacant. The various zones surrounding the subject property must also be shown. Each parcel must be consecutively numbered to correspond to owner's name on Property Owners' List (as explained below).

3. The Property Owners' List should be typewritten or legibly printed on a form to be obtained from the City (or directly on sheets of mailing labels), and must include the owner's name and mailing address. Each owner's name on this list must be numbered to correspond with the numbering placed on the aforesaid Map (Names of owners must be secured from County Assessor's Office at County Courthouse or from any title company). (One copy)

4. The Plot Plan, if applicable, must be a clear and accurate tracing of suitable size showing the parcel dimensions, its location with respect to adjacent streets, and the location of all existing and proposed buildings, structures or other improvements, with their distances from the parcel lines clearly shown. Drawings of proposed buildings on a scale large enough to illustrate the subjects under discussion are suggested as exhibits with this application. Photographs of structures are also helpful (8 copies initially with additional copies to be submitted prior to public hearing).

When above requirements are met, file Application, Plot Plan, if applicable, and Property Owners' List with the Planning Division, City Hall, Porterville, California. The application must be complete in every respect, with all questions and demands answered, before the City Planner can receive and certify the petition.

This application is not a permit. A public hearing will be held on your application.
NOTICE OF EXEMPTION

TO: Office of Planning and Research
    Tulare County Clerk
    1400 Tenth Street, Room 121
    County Civic Center
    Sacramento, CA 95814
    Visalia, CA 93291

FROM: City of Porterville
      Masjid Porterville (Basem Aqra)
      291 N Main Street
      6318 Monitor Street
      Porterville, California 93257
      Bakersfield, CA 93307

Conditional Use Permit 11-2004
Project Title

289 North Third Street.
Project Location (Specific)

City of Porterville          Tulare
Project Location (City)      Project Location (County)

Conditional Use Permit 11-2004 to allow for the re-establishment of a church at 289 North Third Street in the City of Porterville, County of Tulare.
Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville
Name of Public Agency Approving Project

Masjid Porterville (Basem Aqra), 6318 Monitor Street, Bakersfield, CA 93307
Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

   ______ Ministerial (Section 15073)

   ______ Declared Emergency (Section 15071 (a))

   ______ Emergency Project (Section 15071 (b) and (c))

   X  Categorical Exemption. State type and section number: 15303, Class 3

New construction or conversion of small structures.
Reasons why project is exempt

Bradley D. Dunlap, Community Development Director
Contact Person
If Filed by Applicant:
1. Attached certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the projected? Yes: ______ No: ______

Date Received for filing: ______

Signature
Community Development Director
Title
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF
CONDITIONAL USE PERMIT 11-2004 TO ALLOW FOR THE RE-ESTABLISHMENT OF A
CHURCH WITHIN AN EXISTING BUILDING IN THE PO (PROFESSIONAL OFFICE)
ZONE FOR THAT SITE LOCATED AT 289 NORTH THIRD STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of November 16, 2004, conducted a public hearing to consider the re-establishment of a church
within an existing building in the PO (Professional Office) Zone for that site located at 289 North
Third Street; and

WHEREAS: The City Council received testimony from all interested parties relative to said
modification to existing Conditional Use Permit 11-200; and

WHEREAS: The City Council made the following findings:

1. The project is Categorically Exempt pursuant to Section 15303, Class 3 of the CEQA
   Guidelines - New construction or conversion of small structures.

2. That the proposed project is consistent with the General Plan

   The General Plan designates the subject site for Professional and Office type uses.
   The subject site is located in the PO (Professional Office) Zone which is supported
   by the General Plan. Additionally, Cleveland Avenue and North Third Street are both
two (2) lane local streets as designated by the Circulation Element of the General
Plan.

3. That the design and operation of the proposed project are consistent with the Zoning
   Ordinance.

Section 2103 A-3 of the Zoning Ordinance allows for churches in the PO Zone
subject to approval of a Conditional Use Permit.

Typically, a sanctuary capacity of 250 persons would require a minimum of fifty
parking spaces. Only eleven spaces are provided on the subject site. However, the
building is existing and has historically been used as a church. Furthermore, the
subject site is located within Parking District Number 2, and two public parking lots
are located conveniently close to the building.
The Zoning Ordinance relies on the size of the sanctuary to determine the intensity of use of a church. As no expansion to the existing sanctuary is proposed, the Zoning Ordinance does not require the provision of additional parking.

4 That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties of improvements in the vicinity.

The General Plan designates the site for Professional Office type uses. Churches are allowed in the Professional Office Zone with a Conditional Use Permit. The site is surrounded by developed professional office and single family residential uses. Conditions of approval are included to ensure adequate development standards are met.

5 That the City Council is the decision-making body for the project.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 11-2004 subject to the following conditions:

1. That the subject site will be developed in accordance with the site plan as shown on Exhibit "A".

2. The developer/applicant shall not permit the basement or second floor areas to be occupied until such areas have been improved in compliance with adopted Building and Fire Codes to the satisfaction of the Fire Chief and Chief Building Official or their designees.

3. The developer/applicant shall post a sign within the church parking lot directing overflow parking to the public parking lots.

4. The use of bells, broadcast music or other amplified sound, shall not exceed 60 dB at the property line.

5. The developer/applicant shall provide a minimum of one tree for every thirty-five (35) linear feet of street frontage along the Cleveland Avenue and Third Street property line(s). Automatic irrigation systems for all landscaping will be required.

6. The developer/applicant shall install a refuse container enclosure according to City standards. Enclosure location to be approved by City prior to issuance of building permit. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot.

7. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 of the Zoning Ordinance.
8. The Conditional Use Permit shall become null and void if not under taken and actively and continuously pursued within one (1) year.

9. A modification to this Conditional Use Permit shall be required prior to the issuance of any building permit for an addition or remodel that would increase the existing sanctuary space.

10. At all times, the facility shall be operated and maintained to comply with State Law, the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.

__________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By _______________________
Georgia Hawley, Chief Deputy City Clerk
PUBLIC HEARING

SUBJECT: CONSIDERATION OF OHV MOTOCROSS PARK COST OF SERVICE AND RIDER FEE ADJUSTMENTS

SOURCE: Parks & Leisure Services Department

COMMENT: At the last City Council meeting, direction was given to schedule, for the next meeting, a review of an increase in the adult and youth rider fees to $15.00 at the OHV Park. To implement the direction, a public hearing has been scheduled for this agenda item. It was understood that the proposed fee increase would be an interim fee which would remain in effect through the balance of the current fiscal year, or until such time as further fee adjustments are made as the result of the comprehensive fee study currently in process.

Based upon last year’s ridership, staff estimates that a $15.00 across the board rider fee will result in an additional $33,000 of annual revenue. The adult riders would generate approximately $15,000 of the increased revenue, with youth riders providing an estimated $18,000 of the revenue increase. For the balance of the current fiscal year it is estimated that $15,000 to $20,000 of additional revenue will be the result of the proposed fee change.

The cost of service for the OHV Park should be defined to reflect the estimated increase in fee revenue. The attached Resolution has been prepared for Council consideration of the change in cost of service and rider fee increase.

RECOMMENDATION: Conduct a public hearing to receive public comment and consider the Resolution adjusting the OHV Motocross Park cost of service and rider fees.

ATTACHMENTS: Draft Resolution Adjusting the OHV Motocross Park Cost for Service and Rider Fees November 2, 2004 Staff Report

ITEM NO.: /3
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE ADJUSTING THE
OHV MOTOCROSS PARK COST FOR SERVICE
AND RIDER FEES

WHEREAS, the cost for service to be recovered from participant and spectator fees at the Porterville OHV Cycle Park has previously been established as a 25% match for grant funds together with $21,000 for City overhead expenses; and

WHEREAS, the overhead expense portion of the cost for service will be changed with modifications to the manner of operation and maintenance of the facility; and

WHEREAS, a comprehensive fee study is being conducted by the City and is expected to be completed by April, 2005, which will consider long term fee levels.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville as follows, on an interim basis through June 30, 2005:

1. The cost for service to be recovered from participant and spectator fees at the OHV Cycle Park shall be a 25% match for grant funding plus $54,000 for overhead expenses;
2. The adult rider fee shall be adjusted to $15.00; and
3. The youth rider fee shall be adjusted to $15.00.

PASSED AND ADOPTED, at a regular meeting of the Porterville City Council held on November 16, 2004, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

__________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Manager

__________________________
By: Georgia Hawley, Chief Deputy City Clerk
PUBLIC HEARING

SUBJECT: CONSIDERATION OF OHV MOTOCROSS PARK COST OF SERVICE AND ADULT RIDER FEE ADJUSTMENTS

SOURCE: Parks & Leisure Services Department

COMMENT: At the last City Council meeting direction was given to schedule, for the next meeting, a review of a potential increase in the adult rider fee from $10.00 to $15.00 at the OHV Park To implement the direction, a public hearing has been scheduled for this agenda item.

It is understood that the increase in fee would increase revenue to the facility by approximately $15,000 annually based upon the rider activity over the past year. Potentially, this revenue could be used to cover any deficit that the operation of the facility may generate, reduce the reliance on State grant funds for operations revenue, or it could be used to cover the cost of a full-time employee.

The issues presented by the proposed adjustment in the adult rider fee are:

1. Should a fee be increased in advance of the fee analysis which is underway and should be completed in April, 2005? The fee analysis provides the necessary study to justify the level of the fee and the amount of City subsidy to the facility. The legal requirements for the establishment of fees are outlined in a memorandum from the City Attorney which has been attached to this report.

2. What target percentage of the total OHV Park revenue should the adult rider fee represent? Adult rider fees comprised 43% and 59% respectively of the total revenue for the last two years. Other revenue sources include State grant funding, youth rider fees, race contract revenue, and spectator fees.

3. Should a new position be added to the facility outside of the context of the hiring freeze? In general, some frozen positions are considered for restoration during the Council’s periodic hiring freeze review. During this period of the current fiscal year, adding full-time positions has not been proposed.

4. If staffing levels for rider safety should be considered, should other organizational arrangements be considered before making any final decision? Other organizational arrangements could include contracting the OHV Park’s maintenance and track preparation, reorganizing Parks and Leisure Services Department resources to perform the work, or reorganizing Parks & Leisure Services Department and Airport resources to perform the work.

ITEM NO.: 14
5. Should race promotion be given increased emphasis to maximize the advantage gained from increased fees? The previous race promoter, Central Valley Racing, conducted twelve races during the 2003-04 year. They did not request renewal of the contract for the current year and no other race promoters have recently pursued interest in utilization of the facility for races. Approaches to address promotion of racing at the OHV facility include making the operations and race promotion as a component of contracted services included with maintenance and track preparation, recruit and contract solely for a race promoter, place a higher priority on race promotion and marketing of the OHV facility as a staff activity.

Current OHV Park rider fees were last adjusted in July, 1998. The specified cost for service to be recovered through the OHV fees was, a 25% match for State OHV Grant, plus $21,000 for overhead expenses. The fee is $10.00 for adult riders, and $5.00 for those riders 17 years and under. A spectator fee of $2.00 per person is also charged. These fees, along with any race event proceeds, are the sources of locally generated revenue to support the facility. State grant funds are sought each year to supplement local revenue. The amount of revenue from grant funds and fees can be compared to the expenditures for the facility to derive a yearly balance generated by the facility. The most recent three years, along with the current projection for this year, are summarized below:

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<thead>
<tr>
<th>Fiscal Year</th>
<th>Grant Revenue</th>
<th>Fee Revenue</th>
<th>Total Revenue</th>
<th>Total Expenditure</th>
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<td>$97,000</td>
<td>$107,513*</td>
<td>($10,513)</td>
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* includes $15,513 of unused 2002-03 grant funds, to be returned to the State.

RECOMMENDATION: Council define direction for City staff after conducting the public hearing to receive public comment.

ATTACHMENTS: Draft Resolution Adjusting the OHV Motocross Park Cost for Service and Adult Rider Fee Memo, Memorandum from City Attorney Resolution No. 87-98, Adopting Certain Fees and Charges
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE ADJUSTING THE
OHV MOTOCROSS PARK COST FOR SERVICE
AND ADULT RIDER FEE

WHEREAS, the cost for service to be recovered from participant and spectator fees at the Porterville OHV Cycle Park has previously been established as, a 25% match for grant funds together with $21,000 for City overhead expenses; and

WHEREAS, the overhead expense portion of the cost for service will be changed with modifications to the manner of operation and maintenance of the facility.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville as follows:

1. The cost for service to be recovered from participant and spectator fees at the OHV Cycle Park shall be, a 25% match for grant funding plus $36,000 for overhead expenses.
2. The adult rider fee shall be adjusted to $15.00

PASSED AND ADOPTED, at a regular meeting of the Porterville City Council by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Manager

_____________________________
By: Georgia Hawley, Deputy City Clerk
MCCORMICK KABOT JENNER & LEW
MEMORANDUM

TO: Jim Perrine
FROM: Julia Lew
DATE: October 27, 2004
SUBJ: Calculation of Fees for Use and Services

Fees, rates and charges are defined statutorily in a number of ways. Often the terms are synonymous; however "rates" and "charges" are often used to refer to ongoing monetary exactions for use of a revenue-producing enterprise (e.g. parking lots, garbage disposal service), while "fees" generally refer to exactions for the costs of provided a particular service (e.g. water and sewer connection and service fees).

Cities have the authority to impose fees, charges, and rates under their police power authority pursuant to the California Constitution, Article XI, Section 7. A City may operate, maintain, repair or manage all or any part of a revenue-producing enterprise, and may prescribe, revise, and collect charges for the services, facilities, or water furnished by the enterprise. [See California Government Code §§ 54342, 54344.] A fee may not exceed the estimated reasonable cost of providing the service or facility for which the fee is charged, and fee exceeding such cost may be considered a special tax. [See Carlsbad Mun. Water Dist. v. QLC Corp., (1992) 2 Cal. App. 4th 479, 485. Fees, rates and charges must be reasonable, fair and equitable and must be proportionately representative of the costs incurred by the City. It is proper and reasonable to take into account incidental consequences that may be likely to subject the public to cost, as well as the expense of direct regulation. [See United Business Commission v. City of San Diego (1979) 91 Cal.App.3d 156, 165.]

Please feel free to contact me if you have any questions.
RESOLUTION NO. 87-98

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING CERTAIN FEES AND CHARGES FOR THE CITY OF PORTERVILLE

BE IT HEREBY RESOLVED by the City Council of the City of Porterville that the following Fees and Charges for the City of Porterville are hereby adopted:

<table>
<thead>
<tr>
<th>Fee Title</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult Ballfield Rental</td>
<td>$10.00 per hour</td>
</tr>
<tr>
<td>Cycle Park</td>
<td>$10.00 per adult rider</td>
</tr>
<tr>
<td>Cycle V</td>
<td>$5.00 per youth rider</td>
</tr>
<tr>
<td></td>
<td>$2.00 per spectator</td>
</tr>
<tr>
<td>Picnic Pavilion Rental Fees</td>
<td>$20.00 per use</td>
</tr>
<tr>
<td>Zalud House Admission</td>
<td>$2.00 per adult</td>
</tr>
<tr>
<td>Subdivision Street Tree Planting</td>
<td>Actual cost</td>
</tr>
<tr>
<td>Park Rental Fee for Commercial Use</td>
<td>$25.00 per use</td>
</tr>
</tbody>
</table>

Dated this 21st day of July 1998

[Signature]
Judith A. Gibbons, Mayor

ATTEST:

[C. G. Huffaker, City Clerk]
PUBLIC HEARING

SUBJECT: BUDGET ADJUSTMENT/CITIZENS' OPTION FOR PUBLIC SAFETY (COPS) PROGRAM FUNDING

SOURCE: Police Department

COMMENT: Despite the budget crisis, the State of California will continue to provide criminal justice agencies with the Citizens' Option for Public Safety (COPS) funding grants. The Police Department expects to receive approximately $100,000 from this grant source.

In view of the tight fiscal environment, the Police Department proposes to use these funds in support of personnel costs. The State requires the governing body of municipalities receiving such grants to conduct public hearings to receive public comment on the expenditure of these funds. In the effort to maintain the same level of services, the Police Department desires to expend the grant funds for a full-time police officer, a community services officer, and any necessary training or equipment.

RECOMMENDATION: That City Council:

1. Conduct the public hearing to receive public comment, and

2. Authorize use of these funds to offset costs for the full-time sworn officer, the community services officer, any necessary training or equipment, and

3. Approve an increase to the Police Department's 2004-2005 budget in the amount of the funds received from the grant.

ATTACHMENT: Draft Resolution

D.D. Appropriated/Funded C.M. Item No. 14
RESOLUTION NO. 2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACCEPTING CITIZENS’ OPTION FOR PUBLIC SAFETY (COPS) GRANT FUNDS AND APPROVING A BUDGET ADJUSTMENT TO THE POLICE DEPARTMENT BUDGET

BE IT HEREBY RESOLVED by the City Council of the City of Porterville as follows:

1. That the City of Porterville accept the 2004/2005 Citizens' Option for Public Safety (COPS) Grant Funds; and

2. That the Police Department appropriation be increased by the amount of the grant from COPS Funds received for Fiscal Year 2004/2005 to allow for the expenditure of those Grant Funds in support of a full-time Sworn Officer and a Community Services Officer and their operational costs.

ADOPTED this 16th day of November, 2004.

__________________________________
Pedro Martinez, Mayor

ATTEST:

John Longley, City Clerk

__________________________________
By Georgia Hawley, Deputy City Clerk
SUBJECT: TRAFFIC SAFETY ISSUE - OPENING OF EMERGENCY ACCESS GATE ON BEVERLY STREET BETWEEN DATE AVENUE AND UNION AVENUE

COMMENT: On September 23, 2004, Staff conducted a public information meeting with regard to the proposed Beverly Glenn Subdivision and neighborhood traffic circulation issues. On October 19, 2004, the Porterville City Council opened the public hearing for the Beverly Glen Tentative Subdivision Map. During the public hearing a number of nearby residents appeared before City Council to raise their concerns regarding the increase in traffic related to the proposed development and the ongoing development of River Springs Subdivision.

A memo is attached for Council’s review that provides some history of development in this area and provides a description of street standards along with a comment on current and projected traffic counts. At the October 19, 2004 meeting, City Council asked staff to review this traffic issue and provide alternative solutions that would allow for the opening of the gate.

POSSIBLE TRAFFIC CIRCULATION SOLUTIONS THAT WILL ALLOW OPENING OF THE GATE

1. Eliminate parking on the west side of Beverly Street, allowing for two lanes of traffic within a twenty (20) foot paved street width. Provide additional paving where the street is less than 20’ wide.

2. Install signs, striping and markers to implement one way north bound Beverly Street traffic between Date Avenue and Roby Avenue. Beverly Street between Roby Avenue and Olive Avenue is wide enough for one lane of traffic in each direction and parking on both sides.

3. Enforce the City’s Franchise Agreement with Southern California Edison and request that the power poles along the east side of Beverly Street be relocated. Widen the east side of Beverly Street by 12 feet for both north and south bound traffic.

PRELIMINARY COST ESTIMATES FOR EACH IMPROVEMENT & POTENTIAL DRAWBACKS TO EACH SOLUTION

1. Eliminating parking is an economical alternative. Estimated costs for City crews to paint curb red and/or place appropriate signs is $3000.
This alternative has the principal drawback of narrow lanes (10 feet in each direction). The narrow lanes provides a small margin for driver error. The proximity of the power poles to the edge of pavement, barbed wire fence and the topography, (Attached 1) contribute to the unsafe condition.

2. Create one way movement for north bound traffic. This alternative would cost approximately $4000 for City crews to provide striping, markers and necessary signs. In addition, advance notification signs would need to be placed at appropriate locations alerting traffic of circulation limitations.

The drawback to this alternative is the difficulty of enforcing one way traffic. There is a tendency to ignore one way traffic circulation notices in rural neighborhoods.

3. Notify Edison of the City desire to have the power poles relocated. Prepare plans and specification to widen the Beverly Street. To fully develop the street (curb, gutter, sidewalk), staff estimates a project cost of approximately $400,000. This effort includes overlaying the west side and other incidentals items of work.

A more economical solution is to widen the street by twelve (12) feet along the east side of Beverly Street after the poles have been relocated. Staff estimates a cost of $80,000 to $100,000 to widen Beverly Street by twelve feet. The additional twelve (12) feet will allow for a parking lane and a lane of traffic in each direction.

Funding has not been appropriated this fiscal year for alternative No. 3. Of the three possible solutions, the additional twelve (12) feet of pavement is safest and consistent with current design standards.

RECOMMENDATION: That City Council review and discuss the various possibilities and provide direction to Staff.

ATTACHMENTS: City Engineer Memo
MEMORANDUM

TO: Baldo Rodriguez, Public Works Director
FROM: Michael K. Reed, City Engineer
SUBJECT: Beverly Street Traffic Safety Issue - Emergency Access Gate

HISTORY

Attachment No. 1 is the previously provided development history for both Newcomb Street and Beverly Street. The purpose of the attachment is to reiterate how these two streets were developed to their current widths. From the attached history the following bullets are provided to focus on the reason the gate was installed:

- During the 1970’s, the County and City approved two phases of the Sherwood Manor Subdivision. These two phases constructed improvements consisting of curb, gutter and sidewalk on the west side of Beverly Street and 18 feet of paving (20 feet of total street width).
- The City approved River Springs Subdivision during the year of 1996. Conditions of approval required the developer to construct improvements consisting of curb, gutter, sidewalk on the east side of Beverly Street and 36 feet of paving (40 feet of total street width). The conditions of approval also required the installation of a temporary emergency access gate due to the creation of dead end streets longer than 600 feet without an alternative access. The gate was also necessary due to the inability to have two (2) lanes of Beverly Street traffic, north of the River Springs Subdivision. Connecting the street at the boundary of these two developments would create the potential for head on collisions.

DESIGN STANDARD AND POLICIES

Beverly Street is designated to be a collector street which accommodates twelve (12) foot wide travel lane in each direction and an eight (8) foot wide parking lane on each side of the street. City minimum width for a traffic lane is 10 feet when speeds are at or below 25 mph. However, it is more desirable to have a twelve (12) foot wide traffic lane in all cases.

Collector streets, once fully developed, have maximum capacity of 12,500 Average Daily Trips (ADT). Staff is assuming that the reduced travel lane widths and limited dirt shoulder widths reduce the capacity of Beverly Street by 70% (to
3750). The Circulation Element of the General Plan defines a Level of Service D as the minimum acceptable standard.

CURRENT TRAFFIC VOLUMES

Recent traffic counts indicate that Beverly Street between Roby Avenue and Union Avenue has 814 ADT and Newcomb Street, south of Roby Avenue has 2824 ADT. These trips are generated by the neighborhoods described in Attachment No. 1. Most of the Beverly Street traffic is disbursed in and out of the Sherwood Manor Subdivision at Union Avenue. Currently, Newcomb Street is the sole ingress and egress to the neighborhoods south of Heritage Avenue. Assuming that the traffic is evenly split between Newcomb Street and Beverly Street and the gate is opened, traffic could potentially increase from 814 ADT to 1819 ADT, an increase of 223 percent. A Level of Service A can be maintained even with the reduced capacity of 3750 ADT.

PROJECT TRAFFIC VOLUMES

The development of River Springs, Phase Three, currently under construction, will add an additional 37 homes to the area, generating approximately 353 ADT. Further adding the 19 single family residences proposed by the Beverly Glenn Subdivision will increase traffic by about 181 ADT. The next phase of River Springs has expired, and no additional traffic trips could be generated from the site without an independent analysis of its impact to the street system. It is estimated that the next phase of River Springs, if developed as previously proposed, will generate approximately 1017 ADT. The newly generated traffic could impact Beverly Street by 30% to 50% of the anticipated 1017 ADT if the gate is opened. Assuming 50% of the projected traffic uses Beverly Street, traffic will increase from the current 814 ADT to 2328 ADT. Beverly Street could see as much as a 286 percent increase in traffic. The increase in traffic and the assumed capacity reduction still equates to a Level of Service B.

POSSIBLE TRAFFIC CIRCULATION SOLUTIONS

If the gate were to be opened, there are traffic safety issues that need to be addressed. Some alternatives are listed in the following bullets:

- Eliminate parking on the west side of Beverly Street, allowing for two lanes of traffic within a twenty (20) foot paved street width.
- Install signs, striping and markers to implement one way north bound Beverly Street traffic between Date Avenue and Roby Avenue. The width of Beverly Street between Roby Avenue and Olive Avenue is ample for one lane of traffic in each direction and parking on both sides.
- Enforce the City’s Franchise Agreement with Southern California Edison by requesting the relocation of the existing power poles along the east side of Beverly Street. Widen the east side of Beverly Street to provide a
parking lane and a 12-foot travel lane for both north and south bound traffic.

ATTACHMENTS:
1. Development History of Newcomb Street and Beverly Street
2. Neighborhood Map
3. Street Cross Section - North View
4. Proposed Street Cross Section - North View
5. Digital Picture North View at Gate
6. Digital Picture North View of Gate
7. Digital Picture South View at Ditch Crossing
EXHIBIT “A”

History of Development of Newcomb Street and Beverly Street

Newcomb Street and Beverly Street were dedicated and improved in a number of stages over the course of approximately 100 years as development has occurred adjacent to the two streets.

1907 - Recording of the Putnam and Boatman Subdivision to create various large lots (ranging from 10 to 40 acres) along the east side of Newcomb Street and along both sides of Beverly Street. At that time, Newcomb Street was dedicated to a 30 foot width and Beverly Street was dedicated to a 50 foot width from Olive Avenue south a total of approximately one-half mile (to a point just south of the Heritage Avenue alignment). There does not appear to have been a minimum street construction requirement for this project.

1946 - County approval of Tract 68 to create 23 lots, including 6 lots with frontage onto the east side of Beverly Street. Construction of approximately 20 feet of pavement width along Beverly Street appears to have occurred with this project.

1948 - County approval of Tract 157 to create 48 lots along Clare Avenue and Roby Avenue between Newcomb Street and Beverly Street. The Newcomb Street Right-of-Way was widened to 50 feet. The Beverly Street Right-of-Way was not affected by the project. Construction of approximately 20 feet of pavement width along Beverly Street and Newcomb Street appears to have occurred with this project.

1955 - County approval of Tract 201 to create 11 lots along Roby Avenue, including 2 lots with frontage onto the east side of Beverly Street. The Beverly Street Right-of-Way was not affected by the project and remained at 50 feet in width. Construction of an additional 10 to 15 feet of pavement width along Beverly Street appears to have occurred with this project, bringing the total to 30 to 35 feet.

1972 - County approval of Tract No. 538 (Sherwood Manor No. 1) to create 69 lots between Newcomb Street and Beverly Street, south of Tract 157. Additional dedication along Newcomb Avenue was required to a total of 42 feet (one-half of an arterial width street). The Beverly Street Right-of-Way was not affected by the project. Construction of approximately 20 feet of pavement width along Beverly Street and Newcomb Street appears to have occurred with this project.

1976 - City approval of Sherwood Manor No. 2 to create 74 lots between Newcomb Street and Beverly Street, south of Tract No. 538. Additional dedication along Newcomb Avenue was required to a total of 42 feet (one-half of an arterial width street). The Beverly Street Right-of-Way was not affected by the project and remained at 50 feet in width. Construction of approximately 20 feet of pavement width along Beverly Street and Newcomb Street appears to have occurred with this project.
1988 - City approval of River Ranch Unit 1 to create 37 lots along Date Avenue and River Avenue, including 4 lots with frontage onto the west side of Newcomb Street. Additional dedication along Newcomb Avenue was required to a total of 42 feet (one-half of an arterial width street). Construction of approximately 32 feet of pavement width along Newcomb Street appears to have occurred with this project.

1991 - City approval of Beverly Glenn to create 20 lots along Date Avenue including 4 with frontage onto the west side of Beverly Street. This project expired prior to being carried out. If it had been constructed, it would have required the dedication of Beverly Street to 30 feet in width and the construction of approximately 20 feet in pavement width.

1993 - Widening of Newcomb Street generally from Olive Avenue South to Date Avenue was carried out by the City of Porterville in conjunction with a City sewer project. The project added approximately 8 feet of pavement to Newcomb Street to the current width.

1994 - City approval of River Ranch Units 2 and 3 to create 70 lots along Date Avenue, River Avenue and Lloyd Avenue including 2 lots with frontage onto the west side of Newcomb Street. Additional dedication along Newcomb Street was required to a total of 42 feet. Construction of approximately 32 feet of pavement width along Newcomb Street appears to have occurred with this project.

1996 - City approval of River Springs Planned Development to construct 174 lots including 23 lots designated for High Density Residential use (6 units per lot). Proposed lots have frontage on the east side of Newcomb Street and both sides of Beverly Street. Phases 1 and 2 consisting of 101 single family residential lots has been constructed. The Final Map for Phase 3, which consists of 37 single family residential lots has been submitted for review and is expected to be complete by 2005. Phase 4, consisting of all 23 High Density Residential lots and 13 single family residential lots has expired. As a component of the review of the River Springs Planned Development, the City commissioned a Traffic Impact Report which concluded that all intersections would continue to operate at or above the City adopted standard of Level of Service D upon completion of the project. The Traffic Impact Report also recommended closing the access from River Springs to Beverly Street due to the unusually narrow construction of Beverly Street. The subdivision was required to dedicate 42 feet of right of way along Newcomb Street and 30 to 60 feet along Beverly Street. When combined with the prior approval of River Ranch, this dedication yielded an 84 foot Right-of-Way for Newcomb Street with 64 feet of pavement width. As Beverly Glen had not been recorded and had not yet expired, the developer of River Springs was required to dedicate sufficient width for Lotas Street and Beverly Street to yield a minimum 51 foot right-of-way and to construct the entire street cross section from including curbs on both sides and sidewalk on one side. All earlier subdivisions were approved with the assumption that all improvements on the opposite side of a perimeter street would be the responsibility of a future developer.
1999 - City approval of River Breeze to construct 37 lots along River Springs Avenue on the west side of Newcomb Street. Additional dedication along Newcomb Street was required to a total of 42 feet. Construction of approximately 32 feet of pavement width along Newcomb Street occurred with this project.
55' RIGHT OF WAY SECTION (NORTH VIEW)

Relocated Power Poles (Typ)

NEW 12' Paved Travel Lane

30'

55'

22' ±

25'

12'

P.C.C. CURB & INTEGRAL GUTTER PER STD. PLAN C-1

SIDEWALK

S = 2.0%

S = 2.0%

S = 2.0%

6" NATIVE MATERIAL COMPACTED TO 95% R.C.
SEE CITY STD. C-13

4" MIN. CLASS 2 AGGREGATE BASE TO 95% R.C.

MIN. 2" ASPHALT CONCRETE

EG - Existing Ground

R/W - Right of Way

ATTACHMENT
ITEM NO.
SUBJECT: GENERAL PLAN REFERRAL - BURTON MIDDLE SCHOOL

SOURCE: Community Development Department

COMMENT: On September 7, 2004, the Burton School District submitted a request for a General Plan Referral for a proposed middle school to be located north of Olive Avenue and east of Elderwood Street. The District is required to carry out such consultation prior to purchasing land for the construction of a school. The City is required to respond to such request within 40 days, or the proposal is deemed to conform to the General Plan. The matter was originally scheduled for consideration at the October 19, 2004 City Council meeting (two days after the expiration of the review period). On October 14, 2004, City Staff requested, and District administration granted, a verbal extension of time to allow further discussion of the proposal between District and City Staff.

The site plan and locator maps (attached) submitted for review indicate that the school would be offset from Elderwood Street by a distance of 100 to 300 feet. This is intended to allow for future residential development between Elderwood Street and the school. It may not be feasible to retain agricultural use on such a narrow strip of land. For that reason, Staff recommends that the site be evaluated both in the context of the development of a school and for its likely facilitation of additional residential development on adjacent land.

The subject location is within the Urban Area Boundary which sets the limits of planning for the growth of the community under the General Plan. However, it is outside of the Urban Development Boundary which establishes the area appropriate for growth for a twenty-year period.

The Land Use Element of the General Plan designates the subject site for Agricultural Uses. This is intended to act as a “holding” zone which would generally discourage urban development until such time as the Urban Development Boundary is amended and the area is annexed into the City. The Land Use Element identifies a school site in the general vicinity of the subject site. Representatives of the Burton School District have indicated that the proposed school is in addition to the school identified on the Land Use Element.
The Circulation Element of the General Plan and the Water, Sewer and Storm Drain Master Plans are designed to provide adequate infrastructure to the limits of the current Urban Development Boundary. As the subject site is not within the Urban Development Boundary, these elements of the General Plan have not considered the extension of services to the proposed school site and anticipated residential development.

City Staff has met with the administration of the Burton School District to discuss this matter. In these meetings, District representatives have noted that there is a limited amount of vacant land within their District, on the East side of the Friant-Kern Canal. While not specifically authorized by the General Plan, the subject site is clearly preferable under several policies of the General Plan, to consideration of a site west of the Friant-Kern Canal.

The City Council has authorized Staff to begin the process of conducting a comprehensive update to the General Plan. The update will include an evaluation of both the Urban Development Boundary and the Urban Area Boundary. Although Staff expects that the evaluation will lead to an increase in the area of both boundaries, it is not possible to predict the likely extent or direction of such expansions. District representatives have made it clear that ongoing development in the westerly portion of the City will require construction of a new middle school on an accelerated schedule. It may not be possible for the District to delay purchase of land for a new school until after the City has completed its General Plan Update.

Staff has reviewed two drafts of a traffic impact study being prepared for the development of the proposed school. It is Staff’s intent with regard to this study to clarify the full extent of street improvements necessary to serve the school and to determine responsibility for carrying out such improvements. Items of particular concern include the peak hour impacts to Westwood Street, the new street proposed to intersect with Olive Avenue, and the substandard design and condition of several of the streets leading to the proposed school.

RECOMMENDATION: That Council:

1) Determine that the proposed Middle School does not conform to the City’s General Plan, while acknowledging that there may be no preferable sites, and

2) Authorize the Mayor to sign the attached letter describing the Council’s findings and indicating that the School District retains the responsibility to ensure that adequate infrastructure is provided to serve the proposed school.
ATTACHMENTS:

1) Letter requesting General Plan Referral
2) Location Map
3) Site Plan
4) General Plan Map
5) Letter to Burton School District
September 2, 2004

Bradley D. Dunlap
Community Development Director
City of Porterville
291 N. Main Street
Porterville, CA 93257

Re: Burton School District/Proposed New Middle School Project; Notification Pursuant to Public Resources Code §21151.2 and Government Code §65402

Dear Mr. Dunlap:

As you are aware, the Burton School District has been evaluating a parcel of property consisting of approximately 23.9 acres located generally at the southwest corner of the Thurman Avenue and North Elderwood Street alignments (consisting of a portion of APN 240-070-012) for a proposed new middle school site. This letter is to provide you with formal notice under Public Resources Code section 21151.2 and Government Code section 65402 regarding the possible acquisition of property for the proposed new middle school site. Copies of the Code sections are attached for your use.

Please process this notice in accordance with the above-referenced Code sections. If you have any questions, please contact Sally Mailand or me at Burton School District at (559) 781-8020. Thank you.

Sincerely,

Dr. Gary Mekeel
Superintendent

Enclosures: Government Code §65402
Public Resources Code §21151.2
CALIFORNIA GOVERNMENT CODE SECTION 65402

65402. (a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof.

Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

(c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the
planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency.

Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include the state, or county, or a city.

**CALIFORNIA PUBLIC RESOURCES CODE SECTION 21151.2.**

To promote the safety of pupils and comprehensive community planning the governing board of each school district before acquiring title to property for a new school site or for an addition to a present school site, shall give the planning commission having jurisdiction notice in writing of the proposed acquisition. The planning commission shall investigate the proposed site and within 30 days after receipt of the notice shall submit to the governing board a written report of the investigation and its recommendations concerning acquisition of the site.

The governing board shall not acquire title to the property until the report of the planning commission has been received. If the report does not favor the acquisition of the property for a school site, or for an addition to a present school site, the governing board of the school district shall not acquire title to the property until 30 days after the commission's report is received.
November 17, 2004

Gary Mekeel, Ed D., Superintendent
Burton School District
264 N. Westwood Street
Porterville, CA 93257

Dear Dr. Mekeel:

This is to inform you that the City Council of the City of Porterville has reviewed the District’s request for a General Plan Referral for a proposed middle school to be located north of Olive Avenue and west of Elderwood Street.

The Land Use Element of the General Plan designates the subject site for Agricultural Uses. This is intended to act as a “holding” zone which would generally discourage urban development until such time as the Urban Development Boundary is amended and the area is annexed into the City. The Land Use Element does identify a school site in the general vicinity of the subject site, however, it is our understanding that the current proposal is in addition to the site already identified. While the proposal does not specifically conform to the Land Use Element of the General Plan, it does conform to several policies within the General Plan which require urban development to occur on the east side of the Friant-Kern Canal. If the District has exhausted the possibilities on the east side of the Friant-Kern Canal, and within the Urban Development Boundary, the subject site may be the most appropriate available location.

The Circulation Element of the General Plan and the Water, Sewer and Storm Drain Master Plans are designed to provide adequate infrastructure to the limits of the current Urban Development Boundary. As the subject site is not within the Urban Development Boundary, these elements of the General Plan have not considered the extension of services to the proposed school site and anticipated residential development.

As the subject site has not been included in the City’s plans for the provision of services, it will be the responsibility of the Burton School District to ensure that adequate infrastructure is provided to the proposed school site. Particular attention should be paid to the provision of adequate streets and water service. It is likely to be advantageous to design the water system to meet City standards to allow transfer of the facilities to the City in the event of future annexation. As a regional provider, the City will provide sewer service to the site.

Thank you for the opportunity to review and comment on this proposal. If you have any questions regarding the City Council’s findings, please contact Bradley D. Dunlap, AICP, Community Development Director at (559) 782-7460.

Sincerely,

Pedro R. Martinez, Mayor
City of Porterville
SUBJECT: UPDATE REGARDING VARIOUS PROPOSED GENERAL PLAN AMENDMENTS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Over the past several months, City Staff has received applications and inquiries regarding an unusually large number of proposed General Plan Amendments. This would appear to confirm that a comprehensive General Plan Update has become essential. Staff has begun the process of conducting the comprehensive update to the General Plan. (A separate item in this agenda requests authorization to release a Request for Proposals for consultants for that project.)

State Law limits the City to a maximum of four Amendments to any Element of the General Plan in one calendar year. Within that limit, however, the Council has broad authority to combine separate proposals into a single amendment, to set a priority order for consideration of General Plan Amendments, or to choose not to give a hearing to a proposed amendment. It appears very likely that more than four proposals will be ready for consideration during 2005. In addition, Staff recommends that the City Council retain the ability to consider at least one General Plan Amendment within the last two months of the year, to be able to react to unforeseen needs. Please note that Staff has not prepared a detailed analysis of any of the projects under discussion and is not prepared to state whether we would recommend approval or denial of any of them at this time.

Several of the proposed Amendments could correct existing or potential land use conflicts and several could support appropriate, even desirable, development patterns. Unfortunately, some of the projects also could reduce already constrained inventories of land within certain Land Use designations. A review of the specific projects demonstrates a trend to propose conversions away from Industrial and High Density Residential land in favor of Commercial and Low Density Residential land. The City Council made a determination that there was an adequate supply of High Density Residential land at the time the Housing Element update was adopted earlier this year. Since then, approximately 12 acres of High Density Residential land was added to the City inventory through annexation, and approximately one acre was removed through a prior General Plan Amendment. The City’s economic development team has noted increasing difficulty in locating large (100± acres) available industrial properties to recommend to potential employers considering relocation to Porterville. The
difficulty appears to be caused both by a general limitation in the amount of vacant industrial property and by the historic practice of locating industrial property through the heart of the City along rail lines, with little consideration to adjacent land uses.

Staff is recommending that the City Council review each of the proposed General Plan Amendments to evaluate the following:

1) Does the proposed amendment change the vision for future development on other properties nearby? If so, is the changed vision one that can be resolved with a single action, or should it be considered in a community wide context? Projects which change the vision for an area in complex ways may be most appropriate to defer to the comprehensive General Plan Update.

2) Is the proposed amendment likely to create or worsen a shortage in a sensitive land use category? Such projects may be most appropriately deferred to the General Plan Update or modified to balance their inventory effects. Balance could be achieved by annexing land in the proper designation into the City or by proposing an amendment on land elsewhere to replace the reduced inventory. (For instance, a change from High Density Residential to Commercial might be balanced by making a change elsewhere from Rural Density Residential to High Density Residential).

3) Is the amendment likely to constrain development decisions on nearby properties? In general, it may be more appropriate to consider larger, more comprehensive proposals first to facilitate the creation of compatible neighborhoods.

4) Are any set of projects closely related by geography, land use effects, etc.? Such proposals may be appropriately combined into a single project for review by City Council.

The General Plan Amendments under consideration are as follows:

1) Comprehensive General Plan Update

This project will lead to the adoption of a thoroughly revised General Plan, beginning with the Land Use and Circulation Elements. It is unlikely that the process will be complete within 2005, however, the City Council may choose to defer one or more requests for General Plan Amendments to be considered within the context of the comprehensive update. This would help to preserve options during the update process and would reduce the potential to create
conflicts between individual proposals and city-wide policy decisions. However, most of the applicants and expected applicants for individual projects have indicated a desire to proceed within a shorter time period. Several property owners have expressed an interest in having their property evaluated for inclusion within the Urban Development Boundary and/or for a change in Land Use designation as a component of the comprehensive General Plan Update.

2) Riverwalk Marketplace Shopping Center

The City of Porterville has received application materials for a 64 acre, 640,000 sq.ft. regional commercial shopping center to be located on the northwest corner of State Highway 190 and Jaye Street. The application materials submitted are sufficient to allow processing of the environmental documents, but are not yet sufficiently complete to schedule a public hearing. The environmental scoping process is complete, and preparation of special studies (traffic, air quality, noise, etc.) is underway. The majority of the site is designated as General Commercial by the Land Use Element of the General Plan. The designation is appropriate for a regional shopping center. However, approximately 14 acres of the subject site is designated for High Density Residential Uses. The application materials include a General Plan Amendment to re-designate that portion of the subject site to Central Commercial. It may be necessary to identify land elsewhere that can be used to continue to meet the high density residential development potential required by the Regional Housing Needs Assessment prepared as a component of the recently adopted Housing Element of the General Plan.

3) Porterville Commercial Center

The City of Porterville has received application materials for a 10.7 acre, 75,000 sq.ft. commercial shopping center to be located on the northeast corner of State Highway 190 and Jaye Street (west and north of the existing Home Depot). Application materials are complete and the environmental scoping process is nearly complete. Special environmental studies are being prepared. An Environmental Impact Report with special studies (traffic, air quality, noise, etc.) is required, primarily due to the interaction of this project with the adjacent proposed Riverwalk Marketplace Shopping Center. The subject site is designated for Light Industrial Uses. The application materials include a General Plan Amendment to re-designate the site to General Commercial. It may be desirable when considering this project to address the need for readily available industrial land for economic development.
4) **Northwest corner of Jaye Street and Gibbons Avenue**

The City of Porterville has received application materials for a General Plan Amendment from Industrial to Low Density Residential for approximately 40 acres of vacant land located at the northwest corner of Jaye Street and Gibbons Avenue. The site is adjacent to the Sierra Meadows Subdivision which is currently under construction. The proposal has the potential to relieve a land use conflict between the developing Rural Density Residential Subdivision and future industrial development. However, it will be necessary to ensure that an appropriate transition is made from the remaining industrially designated land on the east side of Jaye Street to the proposed residential land. A landscaped berm, or similar feature along the west side of Jaye street may be appropriate. Staff is working with the developer/applicant to better define this issue. It may be desirable when considering this project to address the need for readily available industrial land for economic development.

5) **Prospect Street North of Henderson Avenue**

The Project Review Committee has provided comments regarding a General Plan Amendment from High Density Residential to General Commercial for approximately two acres of vacant land on the east side of Prospect Street, north of Henderson Avenue. This project has the potential to continue an unfortunate development pattern in the vicinity which has “stranded” vacant commercial land behind developed commercial frontages. Staff expects to continue to work with the developer/applicant to find a resolution to this issue.

6) **Daybell Nursery Site**

The Project Review Committee has provided comments regarding a possible General Plan Amendment from Heavy Commercial to High Density Residential for approximately 0.7 acres located at the southwest corner of Willow Avenue and E Street. The property owner is considering the conversion of a former nursery into apartments.

7) **Southwest Corner of Sunnyside and Bellevue**

The Project Review Committee has provided comments regarding a possible General Plan Amendment from Heavy Commercial to High Density Residential for approximately one acre of developed land located at the southwest corner of Sunnyside Street and Bellevue Avenue. The subject area consists of four parcels, each containing a single family or multiple family residence. The property owners for this site have had difficulty securing financing due to the status of the structures as “legal, non-conforming uses.” Residential land use would be consistent with uses to the east, west and south of the subject site.
8) **Northeast Corner of Prospect and Morton**

The Project Review Committee has provided comments regarding the formation of a Neighborhood Commercial node at the intersection of Morton Avenue and Prospect Street. This would permit approximately 2.5 acres of vacant land on the northeast corner of Morton Avenue and Prospect Street to be rezoned from PO (Professional Office) to C-1 (Neighborhood Commercial). Staff would recommend that the D (Design Overlay) Zone also be applied to the site. Development with retail commercial uses may be somewhat constrained by the presence of median islands in both Prospect Street and Morton Avenue. To facilitate access to the site, the developer may need to dedicate and improve sufficient width along Prospect Street to allow a u-turn movement for southbound trips on Prospect Street. In addition, it may be advisable to negotiate with the owner of the property to the east to secure an easement for vehicle access which would allow the two properties to share an existing driveway with access from both directions along Morton Avenue.

9) **Southwest Corner of Olive Avenue and Mathew Street**

The Project Review Committee has provided comments regarding a possible General Plan Amendment from High Density Residential to General Commercial for approximately 12 acres of vacant land at the southwest corner of Olive Avenue and Mathew Street. It may be necessary to identify land elsewhere that can be used to continue to meet the high density residential development potential required by the Regional Housing Needs Assessment prepared as a component of the recently adopted Housing Element of the General Plan.

**RECOMMENDATION:** That Council:

1) Review each of the pending and potential General Plan Amendments;

2) Determine whether it is advisable at this time to prioritize the General Plan Amendments, combine several projects into a single proposal, and/or to defer any of the proposals to the Comprehensive General Plan Update.

**ATTACHMENTS:**

1) Project Vicinity Maps
CITY COUNCIL AGENDA

November 16, 2004


SOURCE: CITY MANAGER

This staff report incorporates two matters on the subject of car washes. The Council may wish to address them sequentially.

Charitable Car Wash Permit Procedure

At a recent meeting, the City Council directed that an ordinance be prepared on the Delano model regulating “Charitable Car Washes”. The City Attorney has prepared the document and it is provided to the City Council in draft form. The Attorney will review the provisions with the Council and make modifications as appropriate before it is introduced for first reading.

Car Wash Sludge Drying And Containment Structure

A request has been received from a Council Member to address the matter of car wash sludge drying. The Public Works Director’s Office has reviewed this matter and has defined possible actions to address the issue.

Car wash owners have requested that the City allow the disposal of their car wash sludge directly into the treatment plant. The “sludge” is essentially a sand trap which collects small debris and oil. The City has refused this request because it may seriously destabilize the treatment plant process and because the sand significantly increases the wear on equipment. The City has learned that the Regional Water Quality Control Board has advised another nearby jurisdiction that discharge of the material into the plant is specifically prohibited.
The option for Porterville car wash owners at this point is to have the material disposed of at a facility such as the Waste Management Kettleman Hills Facility. This is expensive to car wash owners.

The City has been advised that the relative high level of impact fee for the development of a car wash should cover the cost of the disposal. In reviewing this matter however, it has been learned that the calculation of the impact fee is based upon the quantity and strength of material disposed of in the system. In making the calculations, car wash sludge was not anticipated.

Because of the course nature of the sand used for the car wash filter and the potential loading of oil requiring new treatment systems, it is likely that a more significant fee would be required to cover the process if quantities of car wash sludge were disposed to the system.

There is another option, however, because sludge can be transported to the County landfill if it has been dried prior to disposal. To accomplish this, a concrete containment structure must be constructed. This structure, if properly designed, will separate the liquid component of the sludge leaving the solids to dry. The separated liquid, not containing sand and oil, will flow to a collection point and then to the treatment plant.

City property is available for the structure, however, there would be a cost of between $18,000 and $25,000 to construct it. It is suggested that this be considered by the Council as either

- A joint private/public partnership, or

- A service where the City recovers the full cost of the construction and disposal through a fee.

RECOMMENDATIONS

Charitable Car Wash Procedure: Regarding the “Charitable Car Wash Permit Procedure” review the ordinance and provide the City Attorney direction for modification. Schedule a public hearing, widely noticed, to receive comment prior to action on the ordinance.

Car Wash Sludge Containment Structure: Regarding the containment structure, provide direction to the staff to pursue it as a public private partnership or in the capital program for this coming year with a fee based recovery for disposal at the facility.
ORDINANCE NO. ____________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING ARTICLE VI, SECTIONS 15-70 THROUGH 15-180 TO CHAPTER 15, ENTITLED “CHARITABLE CAR WASH PERMIT PROCEDURE”

WHEREAS, the City Council of the City of Porterville has determined that there has been a proliferation of charitable car washes within the City; and

WHEREAS, due to the lack of regulation, these operations have had a detrimental effect on the city’s environment because of the wastewater run-off, and on commercial car wash operations that must abide by City regulatory requirements concerning wastewater discharge requirements;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORTERVILLE, AS FOLLOWS, TO WIT:

SECTION 1. That Article VI is hereby added to Chapter 15 of Porterville Municipal Code, as follows:

Chapter 15

Article VI

CHARITABLE CAR WASH PERMIT PROCEDURE

Sections:

15-70 Definitions.
15-80 Permit required for charitable car wash.
15-90 Applications for permits.
15-100 Issuance and form of permits.
15-110 Term of permits.
15-120 Nontransferability of permits.
15-130 Manner of car wash.
15-140 Receipts.
15-150 Fund raising as a business.
15-160 Revocation of permit.
15-170 Violations.
15-180 Car washing as a business.

15-70 Definitions. For purposes of this chapter, the following definitions shall apply:

“Applicant” means a member of a charitable organization who applies for a car wash permit on behalf of the charitable organization.

“Charitable” means benevolent, civil, religious, educational, fraternal, patriotic, political, philanthropic or other similar purposes.

“Charitable car wash” means the request, directly or indirectly, of money, credit, property, financial assistance or other things of value, on the plea or representation that such money, credit, property, financial assistance or other things of value, or any portion thereof, will be used for a charitable or religious purpose, as those purposes are defined in this section, conducted by way of a car wash or similar service, in any place of business open to the public generally, on the city streets. “Charitable car wash,” as defined in this section, shall be deemed to have taken place when the request is made, whether or not the person making the request receives any contribution referred to in this section.

“Charitable organization” means and includes any governmental entity, nonprofit organization, trust or person which solicits or obtains contributions solicited from the public for charitable purposes or holds any assets for charitable purposes. Charitable purposes include, but are not limited to, the improvement and advancement of public safety, education, religion, the prevention of cruelty to children and animals, environmental protection, and other benevolent purposes which are exempt from taxation pursuant to California Revenue and Taxation Code Section 23701(d) or Internal Revenue Code Section 501(c)(3) or some other California Revenue and Taxation Code or Internal Revenue Code section: an organization which is a duly organized governmental or not-for-profit charitable, religious, civic, patriotic or community service organization; and the organization must have a Tax-exempt Identification number assigned to it.

“Contribution” means and includes: food, clothing, money, property, subscriptions or pledges and donations, including those under the guise of loans of money or property.

“Member” means a person who belongs to a charitable organization who is entitled to vote, elect officers of the organization or hold office. The term “member” shall not include those persons who are granted a membership solely for making a contribution as a result of the charitable contribution.

“Permit holder” means the charitable organization who has been granted a permit pursuant to this chapter for the purpose of conducting a charitable car wash.
“Person” means any individual, firm, partnership, corporation, company, association, society, organization, church, congregation, assembly or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

“Religious” or “religion” has the meaning established by the Supreme Court of the state or the Supreme Court of the United States.

“Residential property” means a building designed for or occupied by one or more families as a residence including single-family residences, duplexes and apartments.

15-80 Permit required for charitable car wash.

A. It is unlawful for any person to engage, directly or indirectly, in a charitable car wash without first obtaining a valid charitable car wash permit pursuant to the provisions of this chapter.

B. The car wash permit issued under this chapter to a charitable organization must be prominently displayed at the location where the car wash is conducted and shall be removed at the completion of the car wash.

15-90 Applications for permits.

A. Applications for charitable car wash permits shall be made to the finance department upon forms prescribed by the city. The application shall be declared to under penalty of perjury and filed with the finance department not less than five consecutive business days prior to the time at which the applicant wishes to conduct said car wash.

B. A nonrefundable application fee in the sum of five dollars an amount to be set by resolution shall be paid by the applicant. The application fee is shall be based solely upon the administrative costs in processing the application and issuing the permits.

C. Such applications shall contain the following information and documentation:

1. The full name, mailing address, principal business and telephone number of the charitable organization or institution, the names and addresses of the organization’s or institution’s principal officers and executives, and the address of the national, state and local headquarters, if any;

2. The nature of the relationship between the applicant and the permit holder, including whether the applicant is a volunteer, paid officer or employee, independent contractor or an agent of the permit holder;

3. The purpose for which the proceeds of the car wash are to be used;
4. The full name and address of the person or persons who will be in charge of conducting the car wash. The names and addresses of each individual who will actually be engaged in the car wash shall be on file at the agency/organization conducting the car wash and shall be made available to the city police department upon request at any time;

5. A short outline of the method or methods to be used in advertising the car wash, if any;

6. The time when such car wash will be held, including preferred dates and hours of the day for commencement and termination of the car wash;

7. A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement of the charitable organization by the city or any department or officer thereof;

8. Proof evidencing that the permit holder is a bonafide charitable organization;

9. Such supplemental information requested by the finance department as the finance department may require. The finance department may require that such information be updated during the time the permit is in force if changes occur subsequent to filing of the application in the planned dates and locations for the charitable car wash.

D. If, while the application is pending or during the term of any permit granted, there is a change in fact, policy or method that would alter the information to be given on the application, the applicant shall notify the finance director in writing thereof prior to five p.m. the day before such change.

E. The application documents shall be available for public inspection.

15-100 Issuance and form of permits.

A. The finance department shall issue the permit, unless it finds that:

1. Any statement made in the application is factually incorrect, and the applicant fails to correct the application after being requested to do so;

2. The applicant has not provided the information required by this chapter and fails to provide the missing information after being requested to do so;

3. The application indicates that the proposed car wash will violate any of
the requirements of this chapter and the applicant fails to amend the application to indicate compliance with said section after being requested to do so.

4. The applicant has violated any of the provisions of this Article within one year of the date the application is submitted, resulting in the imposition of a fine or the revocation of a prior permit.

B. Nothing set forth in this chapter shall be construed as granting to the finance department or any other person the authority to grant, deny, suspend, revoke or renew any permit by reason of disapproval or agreement with the philosophy, opinion or belief of the applicant, permit holder or person soliciting therefor, or for any other reason not specifically provided for in this section.

C. The finance department shall either issue or deny the requested permit within two consecutive business days after the date the application is made. In the event of denial, the finance department shall give the applicant a written notice which states with specificity the reasons therefor. In the event the finance department fails to act within the time prescribed, the permit shall be deemed issued.

D. The permit, if issued, shall include the following information:

1. The name and address of the permit holder;
2. The dates for which the permit is valid;
3. A statement of the charitable or religious purpose of the car wash;
4. A statement that the permit does not constitute an endorsement by the city, or any of its departments, officers or employees, of the purpose of the car wash;
5. A permit number; and
6. The signature of the finance director or his/her designee.

15-110 Term of permits. Permits issued under this chapter shall be valid only for the date specified in the application for the car wash and as stated on the permit.

15-120 Nontransferability of permits. No permit issued under this chapter shall be transferred or assigned, and any attempt at assignment or transfer shall be void.

15-130 Manner of car wash. A. Car washes held pursuant to permits under this chapter:

1. Shall take place between the hours of eight a.m. and six p.m.;

2. Shall be conducted for a one-day period only;
3. Shall not be conducted by any person under the age of sixteen years, unless supervised by an adult;

4. Shall not be conducted at any house, apartment or other dwelling nor an area zoned for residential use only;

5. Shall be conducted in an area zoned for commercial uses; and such location shall have a means of collecting the wash water and discharge same to the City sewer collection system. (this modification requested by Public Works)

6. Shall use biodegradable soaps or detergents, and shall not violate any of the provisions of Chapter 25, concerning wastewater discharge requirements;

7. Shall have a means in place to limit waste water or runoff such as pistol grip nozzle or similar apparatus affixed to each garden hose or water source;

8. Shall not allow any person to solicit cars or other contributions from a position in or on any public right-of-way, including but not limited to sidewalks, traffic islands, driveways or the like as to endanger that individual or others;

9. Shall not be conducted at any commercial property which has held a prior car wash in the past three-month period;

10. Shall not be conducted by a charitable organization which has held a prior car wash in the past one-month period. One application per Tax-exempt Identification Number, and one permit per Tax-exempt Identification Number, will be allowed per month.

B. It is unlawful for a permit holder, as defined herein, to:

1. Persistently and importunately request any donation from any member of the public after such member of the public expresses his or her desire not to make a donation;

2. Intentionally and deliberately obstruct the free movement of any person on any street, sidewalk or other public place or any place open to the public generally;

3. Upon request of any person contacted, the permit holder shall provide their name and a copy of the permit issued under this chapter;

4. Misrepresent their identity or the identity of the charitable organization conducting the charitable car wash for which he or she is an agent;
5. Misrepresent that the charitable car wash permit issued under this chapter is an endorsement by the city, or any department or employee thereof of the charitable car wash.

15-140  Receipts.  Any person receiving money or anything of value in excess of five dollars from any contributor by means of car wash made pursuant to a permit shall, upon request, give each contributor a written receipt signed by the solicitor showing plainly the name of the permit holder and the solicitor, the permit number, the date and the amount received.

15-150  Fund raising as a business.  An organization in the business of fund raising (seeking a profit and paying its solicitors), even if engaged by a nonprofit organization, shall be considered a “business” and must comply with this code. If such an organization is soliciting on behalf of a nonprofit organization, the nonprofit organization shall obtain a permit pursuant to Section 6.56:020: this Article.

15-160  Revocation of permit.  Any violation of this chapter by applicant or permit holder shall be cause for revocation of a permit issued pursuant to this chapter. Furthermore, any organization that violates this Article shall be ineligible for the issuance of a permit for a period of one year.

15-170  Violations.  Every person who, for himself or herself, or as the agent of another, commences, engages in or conducts car wash as provided in this chapter without procuring the permit as required under Section 6.56:020 this Article or who fails to comply with the conditions of this chapter Article shall be guilty of an infraction punishable by:

1. A fine not exceeding one hundred dollars for a first violation; and

2. A fine not exceeding two hundred dollars for a second violation within one year; and

3. A fine not exceeding five hundred dollars for each additional violation within one year.

15-180  Car washing as a business.  This chapter is expressly limited to charitable car washes. Any person, corporation, business or other entity who wishes to hold impromptu or temporary car washes on a for-profit basis, must comply with all city, county and state licensing or permitting requirements and do not fall within this chapter.

SECTION 2. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.

ADOPTED, SIGNED AND APPROVED this ______ day of ______________, 2004.
President of the Council and Ex-Officio Mayor of the City of Porterville

ATTEST:

Chief Deputy City Clerk and Clerk of the Council of the City of Porterville
SUBJECT: Consideration of Continuing The Hiring “Freeze” for City Positions

SOURCE: CITY MANAGER

Background & Status: Since February 4, 2003, the City has been on a hiring “freeze”. When the “freeze” was initially approved, it precluded the re-hiring of personnel when a position was vacated. The City Manager had some general authority for contractual and safety reasons to rehire. From a financial perspective, the freeze has been beneficial in its impact, potentially saving the City an estimated $600,000 in all funds. Subsequent to the initial, interim “freeze”, the Council determined that sworn public safety personnel would not be subject to the limitation. The savings from this program have been very beneficial in a time of financial stress due to State action.

The impact of the freeze has resulted in a reduction in the organizations ability to meet service requirements. These reductions have not been uniformly visited upon departments, but are instead a function of departments in which employees have retired or otherwise left employment. Often these impacts are lost in the “chafe”, but they are real. The result is pot holes not being filled or public information being provided by personnel less familiar with specific programs. This has an impact in terms of public perception and upon employees who have to shoulder a greater load or leave what is viewed as important work undone.

The Council authorized the City Manager to allow the replacement of positions where there are contractual compliance issues or where it is a matter of public or employee safety. This authority has been used where documentation has been provided to support the exception and restoration.

Currently, the city has 18 positions subject to the freeze. They are enumerated below:

(1) Account Clerk II
(4) Clerical Assistant II
  1 - Parks and Leisure Services
  1 - Police
  1 - Public Works (Engineering)
  1 - Public Works (Field Services)
(3) Field Service Worker I/II
  1 - Fire (Airport)
  1 - Field Services (Streets)
  1 - Field Services (Refuse - Graffiti)
(2) Field Service Worker III
  1 - Field Services (Streets)
  1 - Field Services (Water)
(1) Field Services Supervisor  
   1 - Field Services (Water)  
(1) Field Services Shop Superintendent  
(2) Library Assistant  
(3) Parks Maintenance Worker I/II  
(1) Records Clerk (Police)

**Reason for the “Freeze”:** The rationale for the continuing hiring freeze is the large sums lost to State action. Last year, the amount lost was approximately $975,000.00. This year, the impact is slightly reduced and is reflected in the City’s projected Structural Deficit of $445,500. Next year, the estimated structural deficit is $312,807 with a cash loss of about $718,784. It is only in Fiscal Year 2006/07 that the City should be “whole” from State raids.

In this regard, the good news is that State Proposition 1A passed resoundingly, providing some protection to and leverage by local government. The bad news is that as a result of losses from State action, pent up needs within the organization will increase this year and next. Those dependent on the City budget will potentially have much greater expectation of the magnitude of restoration in 2006/07 than actually proves to be the case.

There is, therefore, a basic need to retain a conservative “hedge” to a transitional budget which creates the rationale for the continuation of the hiring “freeze”.

**City Manager & Department Director Reviews:** During past reviews the Council has authorized the restoration of positions as recommended by the departmental directors. The city manager and departmental directors have reviewed the current status of City staffing. They determined that before a complete restoration is recommended, the mid-year budgetary review should be completed. The recommendation may be for position modifications in some cases rather than restoration to improve service delivery in light of financial constraints.

At this meeting, the staff recommends that the following restoration occur:

- Add project engineers who support projects to the same re-hire provision now applying to sworn public safety personnel. This will support the Council’s priority for the completion of specific projects.

- Because of the critical status of staffing and the need to efficiently receive and process development applications, authorize the hiring of a Public Works Clerical II position.

- The flexing of positions from I to II status in departments has been uniformly suspended as an aspect of the freeze. This action may be interpreted by the Council to be consistent with the evaluation process, essentially changing step increases for some positions from 5 to 10. Step increases have not been frozen and it is recommended that flexing be restored and not subject to the freeze. Applying the flexing would not be automatic, but based upon the performance of the employees.
As has been pointed out, there is need for improved supervision of the OHV facility and the Sports Complex. It is proposed that this be accomplished by modifying one current Park Maintenance Worker II to a III, and then allowing the hiring of a Park Maintenance Worker II, which is currently frozen. The explanation is provided in an attached memorandum from the Park and Leisure Services Director.

**Travel Curtailment:** At the same time that the hiring freeze initially applied, a curtailment in travel was approved. This has carried forward. Essentially, job related travel continues, especially training. In addition, meeting with representatives in Sacramento continues. The number of individuals attending conventions, conferences, and other travel has been reduced for some savings. This scrutiny is proposed to be continued.

**RECOMMENDATION:**

Continue the hiring freeze until February 28, 2005. Allow the restorations outlined in the staff report including project engineers rehire authority, hiring a public works Clerical II position, authorizing the restoration of flexing for maintenance positions, and upgrading a Park Maintenance Worker to a III status and hiring a II.

Relative to travel, the City Manager should continue to scrutinize travel to assure that there is direct benefit to the City for training, representation, and receiving information.
MEMORANDUM

To: John Longley, City Manager
From: Jim Perrine, Parks & Leisure Services Director
Date: November 9, 2004
Subject: Proposed Parks Maintenance Staffing Changes

I request to be authorized to promote one Parks Maintenance Worker II to Parks Maintenance Worker III, hire a new Parks Maintenance Worker I/II, and promote qualified Parks Maintenance Worker I personnel to Parks Maintenance Worker II. With this staffing change I would assign a Parks Maintenance Worker III to the primary duties of overseeing maintenance of all OHV Park and Sports Complex facilities.

The track preparation at the OHV Motocross Park requires knowledge and skills to address safe riding conditions. The track must be prepared and reviewed prior to practice riding to make sure that the approaches and landings for the jumps have not deteriorated. The soil of the track must also be of proper moisture condition to provide traction, and to avoid either the generation of excess dust or the creation of mud holes.

Currently, the OHV Motocross Park is maintained by very dedicated part-time staff and it is not a part of Parks Maintenance. I propose to implement changes to the OHV Motocross Park by utilizing Parks Maintenance staff. With the proximity of the OHV Motocross Park to the Sports Complex there exist some commonality and potential for shared staffing.

In the future, once the Four Wheel Drive OHV Park is constructed there will be further need for maintenance staffing in the same geographical proximity. Additionally, maintenance of the Sports Complex fields is worthy of focused oversight to better ensure safe playing conditions. The staffing assigned to the OHV Park and Sports Complex facilities would benefit from having a lead maintenance worker to oversee the variety of maintenance activities. This has the potential to reduce reliance on the part-time OHV Motocross Park track preparation personnel.

Parks Maintenance Worker I/II is a flexibly assigned staffing position depending upon qualifications. The ability to promote a qualified Parks Maintenance Worker that was initially hired at the low entry level provides recognition of learned skills that were not apparent at the time of hiring.
CITY COUNCIL AGENDA

November 16, 2004

SUBJECT: Consideration Of Minimum (Skeletal) Staffing For City Facilities During Holiday Period and Canceling The First Meeting In January

SOURCE: CITY MANAGER

Because of a focus on projects, the continuing routine workload and the impact of the hiring freeze in many departments, significant quantities of vacation and administrative leave have been accumulated. Management recommends that this time be utilized for leave and vacation and not be carried over or paid out when it is in excess of maximum accumulated amounts.

To provide a maximum opportunity for utilization, the City Manager is suggesting that minimum staffing be allowed between Wednesday, December 22, 2004 and Thursday, December 30, 2004. This year, for Christmas and New Years, Friday, December 24th, and Friday, December 31st are scheduled as City Holidays.

Minimum staffing means that the City will be open to pay utility bills, all operational public safety personnel will work regular shifts, but other City offices may close if personnel are not available for staffing.

In addition, because staffing may not be available to compile an agenda during this period, it is recommended that the first meeting of the Council scheduled for January 4, 2005 be canceled.

As a point of information, the staff has scheduled the annual Manager and Director budget retreat for the 4th & 5th of January 2005. The goal is to have a report and recommendations to the Council on mid-year budget review by the January 19, 2005 Council Meeting or the first meeting in February.

Recommendation:

(1) Authorize minimum staffing for City facilities between Wednesday, December 22, 2004 and Thursday, December 30, 2004;

(2) Cancel the January 4, 2005 City Council Meeting.

Item No. 20
CITY COUNCIL AGENDA: NOVEMBER 16, 2004

SUBJECT: DISCUSSION ON CODES PERTAINING TO VISIBILITY OF JUNK FROM ANY PUBLIC RIGHT-OF-WAY

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Staff was recently requested to prepare an agenda item for Council discussion regarding the storage or keeping of junk on residentially zoned properties when visible from the public right-of-way. Currently, the Municipal Code states:

Section 3302. 50) Definitions, Junk

"Junk: Articles that have outlived their usefulness in their original form, and are commonly gathered up and sold to be converted into another product either of the same or of a different kind; e.g. old iron, or other base metals, old rope, rags, waste paper, etc., and empty bottles and all articles discarded and no longer used as a manufactured article composed of any one or more of the materials mentioned. Worn out and discarded material in general that may be turned to some use."

Section 3302. 51) Junk yard

"Junk yard: An area, yard or building where junk is bought or sold, exchanged, stored, baled, packed, disassembled, sorted, processed or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, bottles, appliances and furniture. A "junk yard" includes vehicular wrecking/dismantling yards and any area for the storage, keeping or abandonment of "junk."

As currently written, the Code defines junk, and where it is allowed to occur. Section 1202 A. (3) and (18) allows the establishment of auto wrecking and parts storage, and junk yards with the approval of a conditional use permit in the M-2 (Heavy Manufacturing) Zone. As such, junk storage, etc. would not be allowed on any residentially zoned property regardless of where on the property it is located. As a related matter, when there is junk, there are often one or more inoperable vehicles. Regulations pertaining to inoperable vehicles are as follows:

Section 17-17 Parking and storing prohibited

"It shall be unlawful and a misdemeanor for any person to abandon, park, store or leave or permit the abandonment, parking, storage or leaving of
any licensed vehicle of part thereof which is in an abandoned, wrecked, dismantled or inoperative condition upon any private property or public property not including highways within the city for a period in excess of ten (10) days unless such vehicle or part thereof is completely enclosed within a building in a lawful manner where it is not plainly visible from the street or other public or private property, or unless such vehicle is stored or parked in a lawful manner on private property in connection with a business of a licensed dismantler, licensed vehicle dealer or a junkyard.”

Section 17-17.3 Exceptions.

“This article shall not apply to:

(a) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, or located behind a solid fence six (6) feet in height or which is not plainly visible from a highway.”

The authority to enforce the Code regarding the inoperable vehicles is relatively clear, however, it does not address situations where the primary problem is expired registration tags when the vehicle(s) sits in the driveway for prolonged periods of time collecting dirt, spider webs and becoming generally unsightly. Pursuant to the exception cited above, inoperable vehicles would simply need to be kept screened by a solid six (6) foot tall fence with no maximum limit on number or placement other than the fact that a six (6) foot tall fence is not allowed in the front setback.

OPTIONS:

1. Maintain the current language in the code and provide clarification on interpretation to Staff.

2. Direct staff to prepare a revised draft ordinance to expressly state that junk is not allowed in specific zones. This may need some revision or clarification of the definition on junk.

3. Direct staff to prepare a revised draft ordinance that would liberalize the requirements of the Code.

RECOMMENDATION: That the City Council consider the existing Code language regarding junk and provide appropriate direction to Staff.
CITY COUNCIL AGENDA

November 16, 2004

SUBJECT: Consideration of Request Regarding Bicycle Transportation Account

SOURCE: CITY MANAGER

A Member of the Council has requested consideration of a Porterville Blue Skies Coalition proposal regarding the Bicycle Transportation Account. Attached is the letter from the Blue Skies Coalition for the Council’s consideration.
Porterville Blue Skies Coalition

...a community-based group dedicated to finding workable solutions to the area’s air quality problems and sharing these solutions with government, industry and the community

November 8, 2004

Porterville City Council
291 N. Main Street
Porterville, CA 93257

Honorable Mayor and Council Members:

As part of our efforts to identify ways to improve air quality in the Porterville area the Porterville Blue Skies Coalition has been working on identifying and prioritizing possible streets that could be cheaply and easily enhanced with Class II bicycle lanes and seeking funding sources to pay for the enhancement. In identifying these streets we took into consideration the following criteria:

1) Street is wide enough to accommodate lanes without loss of parking or traffic lanes.
2) Street connects residential areas with schools, shopping or employment centers.
3) Street is not heavily traveled.

The Coalition is pleased to report that we have identified two sources of funding that combined would pay for over 25 miles of Class II bicycle lanes at a cost to the City of under $2,000.

Bicycle Transportation Account:
Bicycle Transportation Account (BTA) funds are available and the Coalition is confident, based on a recent, similar award to the City of Exeter, that a grant application submitted by the City of Porterville would be acted upon favorably. In our research for this grant the Coalition identified fourteen street sections. Based on cost estimates provided by TCAG the cost for conversion of all fourteen street sections on the attached list is $23,000. BTA funding requires a 10% match. This means that the cost to the City of Porterville for 6.7 miles of bicycle-friendly streets would be $2,300.00. (Actually less, as the Coalition has already lined up $500.00 in private donations towards this effort.) We have attached a prioritized list showing fourteen short street segments that we have identified as being favorable candidates for enhancement using the criteria listed above. These segments are also featured on the attached map.

San Joaquin Valley Air Pollution Control District:
As part of its Mobile Source Emission Reduction Incentive Program the San Joaquin Valley Air Pollution Control District (SVAPD) is making available funding for the development of comprehensive bicycle transportation networks. The maximum incentive available is $150,000.00. Using the TCAG cost estimates this would be sufficient for 19 miles of Class II bike lanes based on a cost figure of $1.50 per foot as stated in the City’s staff report at the February 3, 2004 meeting. Funds for this effort will be awarded on a first-come, first-serve basis to all applications that meet the criteria and requirements – no competition with other applications. The Coalition is prepared to hand deliver the application for the City when the District opens its doors on the first day of the grant acceptance window.

P.O. Box 212
Porterville, CA 93258

info@blueskiescoalition.org
www.blueskiescoalition.org
With the combination of the two grants the Coalition feels we are in a uniquely favorable position to take a major step towards stemming the further decay of our local air quality. If we were successful in obtaining these grants, and the Coalition sees no reason why we shouldn’t, we will be in a position to not only crisscross the City with bicycle lanes that will serve as routes for commuting to school, work and shopping, we will have also put in place a feeder network that will connect to the future Rails to Trails and Tule River Parkway Class I bike paths, further promoting physical recreation and healthier lifestyles.

If a CEQA document is required to make this effort go forward we recommend that staff include funding for the document as part of the grant application. The decision as to whether or not to devote staff time to developing a CEQA document could be deferred until such time as we know whether or not the grant has been awarded. Staff time and effort will only be committed when we know that funding is secure. As to the question of whether or not this would be a higher priority than other projects, we would ask the Council to review which prioritized projects are funded, and which are not. If funding for bicycle lanes were obtained we would argue that funded projects should have priority over unfunded projects.

With respect to Circulation Element issues, the July 1993 Circulation Element calls for proposed bike routes (page 5-36 through 5-38). From the “routes” identified it is clear that the Element was not using current CalTrans terminology with regards to paths vs. lanes vs. routes as CalTrans defines a Class III Route as being shared by bicycles and vehicle traffic, and the routes identified in the 1993 Element specifically include the Santa Fe Railroad right-of-way and the Tule River, neither of which has vehicle traffic. Based on this we interpret the term “route” as used in the 1993 Element to have a more generic meaning and it is our opinion that bicycle lanes could be placed on those streets identified in the 1993 Element, particularly Morton, Newcomb and Success Drive, without waiting for an amended Circulation Element.

We therefore ask that the Porterville City Council take the following action:

- Direct staff to apply for Bicycle Transportation Account Funds in the amount of $20,700 ($23,000 x 90%) and authorize expenditure of the remaining $1,800. Donors identified by the Coalition will match with $500 for the total of $23,000.

- Direct staff to prepare an application for SJVAPCD funding and have this application ready to submit when the funding window opens in January 2005.

The Coalition welcomes the opportunity to assist the Council and staff in this effort and is prepared to assist staff in the preparation of the grant applications if so directed by the Council.

Sincerely,

Porterville Blue Skies Coalition
Attachments

I) Bicycle Transportation Account
   a) List of suggested bike routes
   b) Map of suggested bike routes
   c) Sample resolution – City of Exeter
   d) Agenda – Tulare County Association of Governments 11/18/2003
   e) TCAG letter to Cal-Trans 11/19/2003

II) San Joaquin Valley Air Pollution Control District
   a) Grant information flyer – Bicycle Infrastructure Component
## Porterville Blue Skies Coalition
### Suggested Routes for Bike Transportation Account Grant

<table>
<thead>
<tr>
<th>PRIORITY</th>
<th>STREET</th>
<th>FROM</th>
<th>TO</th>
<th>LENGTH (miles)</th>
<th>FACILITY</th>
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<th>FUNDING</th>
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<td>Date</td>
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<td>0.46</td>
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</tr>
<tr>
<td>3</td>
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<td>4</td>
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<td>Indiana</td>
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<td>$200</td>
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<td>Putnam</td>
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<td>$200</td>
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<td>E Street</td>
<td>Porter</td>
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<td>Plano</td>
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<td>13</td>
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<td>$600</td>
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**TOTAL COST**: $23,000

### Cost Estimates:

- **BTA**: Bicycle Transportation Account
- **CMAQ**: Congestion Mitigation & Air Quality
- **Local**: City of Porterville
- **TDA**: Transportation Development Act

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>Cost Estimate</th>
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<tbody>
<tr>
<td>Class I</td>
<td>$100,000 per mile</td>
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<tr>
<td>Class II</td>
<td>$5,000 per mile</td>
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<td>Class II+</td>
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<td>Class III</td>
<td>$500 per mile</td>
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**Local Match**: Minimum of 10%
<table>
<thead>
<tr>
<th>City Dist No.</th>
<th>Agency</th>
<th>County</th>
<th>Project Title</th>
<th>Project Description</th>
<th>BTA $</th>
<th>Local $</th>
<th>Other $</th>
<th>Total $</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>City of Seaside</td>
<td>Monterey</td>
<td>Seaside/Sand City Commuter Link Bicycle/Pedestrian Trail</td>
<td>Construct a Class I Bikeway along Del Monte Boulevard from Fremont Boulevard to Monterey city limits near Canton Del Rey in the cities of Seaside and Sand City.</td>
<td>$ 551,000</td>
<td>$ -</td>
<td>$ 149,000</td>
<td>$ 700,000</td>
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<tr>
<td>6</td>
<td>City of Clovis</td>
<td>Fresno</td>
<td>Class II Bikeways on Various Collector and Arterial Streets</td>
<td>Design and construct a Class II Bikeway on Locan Avenue from Gettysburg Avenue to Gould Canal; Minnewawa Avenue from Alluvial Avenue to Nees Avenue; Teague Avenue from Minnewawa Avenue to Peach Avenue; Peach Avenue from Clovis Old Town Trail to Shepherd Avenue; Alluvial Avenue from Willow Avenue to Peach Avenue; Sierra Avenue from Armstrong Avenue to Temperance Avenue.</td>
<td>$ 202,680</td>
<td>$ 22,520</td>
<td>$ -</td>
<td>$ 225,200</td>
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<tr>
<td>6</td>
<td>City of Selma</td>
<td>Fresno</td>
<td>UPRR Class I Bike Path, Phase I</td>
<td>Construct a Class I Bikeway between West Front Street and the Union Pacific Railroad from North Street to Floral Avenue.</td>
<td>$ 251,100</td>
<td>$ 3,205</td>
<td>$ 24,695</td>
<td>$ 279,000</td>
</tr>
<tr>
<td>6</td>
<td>City of Exeter</td>
<td>Tulare</td>
<td>Construct Class II Bicycle Lanes and Shoulder Widening on Selected Links</td>
<td>Construct a Class II Bikeway on Belmont Avenue from Glazo Avenue to Chestnut Street.</td>
<td>$ 80,000</td>
<td>$ 7,000</td>
<td>$ -</td>
<td>$ 67,000</td>
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<tr>
<td>7</td>
<td>City of Burbank</td>
<td>Los Angeles</td>
<td>Beachwood Avenue Enhanced Class III Bikeway Project</td>
<td>Construct a Class III Bikeway on Beachwood Drive from Riverside Drive to Clark Avenue; Clark Avenue from Beachwood Drive to Mariposa Street; and Mariposa Street from Clark Avenue to Chandler Boulevard. The project will include enhanced Class III Bikeway features such as directional and route signage and pavement stenciling. The project includes the installation of new traffic signals at Beachwood/Alameda, Beachwood/Verdugo, and Beachwood/Olive, and an upgraded bike signal detection at Mariposa/Magnolia.</td>
<td>$ 265,500</td>
<td>$ 29,500</td>
<td>$ -</td>
<td>$ 295,000</td>
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<td>7</td>
<td>City of Pasadena</td>
<td>Los Angeles</td>
<td>Bikestation Pasadena</td>
<td>Design and construct a bike-transit facility near one or more of the Metro Gold Line Stations in the City of Pasadena.</td>
<td>$ 180,000</td>
<td>$ 20,000</td>
<td>$ -</td>
<td>$ 200,000</td>
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<td>7</td>
<td>City of Long Beach</td>
<td>Los Angeles</td>
<td>Bikestation Long Beach</td>
<td>Construct a bike-transit facility in the Locust Plaza in the City of Long Beach.</td>
<td>$ 303,000</td>
<td>$ 125,000</td>
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<td>$ 428,000</td>
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<td>7</td>
<td>City of Oxnard</td>
<td>Ventura</td>
<td>Oxnard Boulevard Bicycle and Pedestrian Facility</td>
<td>Construct a Class I Bikeway east of Oxnard Boulevard along the east side of the Union Pacific Railroad Santa Barbara Subdivision between Vineyard Avenue and the Oxnard Transportation Center.</td>
<td>$ 585,000</td>
<td>$ 179,700</td>
<td>$ 885,300</td>
<td>$ 1,650,000</td>
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<tr>
<td>8</td>
<td>City of Corona</td>
<td>Riverside</td>
<td>East-West Connector Route Bicycle Facility Improvements</td>
<td>Construct a Class II Bikeway on Promenade Avenue from Buchanan Street to SR 91 Freeway Bridge; Cresta Road from Promenade Avenue to Parkridge Avenue; Parkridge Avenue from Harmon Street to Cota Street; Cota Street from Parkridge Road to River Road; Joy Street from E. Grand Boulevard to Parkridge Avenue; E. Sixth Street from Promenade Avenue to E. Grand Boulevard; W. Sixth Street from E. Grand Boulevard to W. Grand Boulevard. Construct a Class III Bikeway on Sixth Street from E. Grand Boulevard to W. Grand Boulevard and on Main Street from Sixth Street to N. Main Corona Metrolink Commuter Rail Station via Harmon Street.</td>
<td>$ 270,306</td>
<td>$ 30,034</td>
<td>$ -</td>
<td>$ 300,340</td>
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</tbody>
</table>

Page 2 of 3
BEFORE THE CITY OF EXETER, STATE OF CALIFORNIA

IN THE MATTER OF ADOPTING THE
TULARE COUNTY REGIONAL BICYCLE TRANSPORTATION PLAN

WHEREAS, a Tulare County Regional Bicycle Transportation Plan has been prepared and approved by Caltrans to establish various goals and policies regarding bicycle transportation and identify potential future improvements within the County of Tulare and all of the member cities; and

WHEREAS, the City of Exeter adopts the Tulare County Regional Bicycle Plan; and

WHEREAS, the City of Exeter understands that the Bicycle Transportation Account (BTA) funds require a 10% local match; and

WHEREAS, The Tulare County Regional Bicycle Plan is consistent with the State Department of Transportation guidelines; and

NOW, THEREFORE BE IT RESOLVED, that the City adopts the Tulare County Regional Bicycle Plan with Attachment A.

The foregoing Resolution was adopted upon motion of Councilman , seconded by Councilman , at a regular meeting held on the 25th day of November, 2003, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

CITY OF EXETER

By __________________________

By __________________________
AGENDA ITEM

SUBJECT:

Adoption of the City of Exeter Bicycle Plan.

REQUEST(S):

Approve Resolution No. xxxx

SUMMARY:

In 2002/03, the Tulare County Association of Governments (TCAG) prepared and has received Caltrans approval for the Tulare County Regional Bicycle Transportation Plan. In order to be eligible for Bicycle Transportation Account (BTA) funds, the City of Exeter must have an adopted Bicycle Plan that is approved by Caltrans. TCAG staff customized the Regional Bicycle Plan and condensed it to include only the portions / projects within the City of Exeter.

TCAG staff will be assisting the City of Exeter in the preparation for the application of BTA funds. The application for BTA funds is being to fund the construction of four routes within the City limits. The routes include Class II facilities on SR 65, Visalia/Palm/Buena Vista, Belmont and Chestnut streets. Class II bicycle facilities are described as a delineated bikeway with stenciling and white signs. The Belmont route also includes the paving of the west shoulder for a portion of the route.

The total cost of the bicycle improvements is estimated at $73,400 with a 10 percent local match equaling $7,340. This project will establish over six miles of Class II lanes within the city limits of Exeter.

ALTERNATIVES:

Adopt the City of Exeter Bicycle Plan or hold for a later date.

Prepared by: Dennis Mills, TCAG staff
November 19, 2003

David Priebe
Bicycle Facilities Unit, MS-1
Division of Local Assistance
California Department of Transportation
PO Box 942874
Sacramento, CA 94274-0001

Re: Matching funds for Bicycle Transportation Account (BTA) funds

Dear David:

The City of Exeter is excited to apply for Bicycle Transportation Account (BTA) funds from the California Department of Transportation. The BTA funds will be used to establish the first bicycle facilities for this central valley city. The City of Exeter understands and commits to provide the 10% local matching funds for the construction of bike lanes within the city. The total BTA grant request is equal to $58,000 and the City is committed to pay $6,000 for the 4.5 miles of Class II bicycle facilities.

Thank you for the opportunity to submit an application for the BTA funds. Please contact Dennis Mills (559-733-6291) or myself if you have any questions or need additional information.

Yours very truly,

City Manager or Public Works Director
BICYCLE INFRASTRUCTURE COMPONENT

What is the Program?
The San Joaquin Valley Air Pollution Control District (SJVAPCD) will pay you to reduce emissions from the development of a comprehensive bicycle transportation network. The expansion of bicycle transportation facilities may provide air quality improvements by providing an alternative to motorized vehicular travel for short distance commuters. The SJVAPCD is providing incentives to municipalities, government agencies, public education, private companies and organizations in the development of:

▲ Class I Bicycle Path
▲ Class II Bicycle Lane

Why is the SJVAPCD Offering These Incentives?
The purpose of the Mobile Source Emission Reduction Incentive Program's Bicycle Infrastructure Component is to assist the SJVAPCD in achieving air quality standards by the promotion of bicycles as a safe and viable transportation alternative. The widespread practice of commuter bicycling for the direct replacement of vehicle travel has significant benefits for the air quality by reducing motor vehicle emissions, fuel consumption and vehicle miles traveled within the San Joaquin Valley.

How Much Money Can I Get?
The incentive amounts for projects will be generally based on ARB calculation methodologies for emission reduction. The resulting cost effectiveness value for each project will have a direct effect on the funding determination. Funds will be awarded on a first-come, first-serve basis to all applications that meet the criteria and requirements while program funds are available. In addition, projects are subject to maximum funding caps shown at right.

<table>
<thead>
<tr>
<th>Category</th>
<th>Maximum Incentive</th>
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<tbody>
<tr>
<td>Class I Bicycle Path</td>
<td>$100,000 ($50,000/mile)</td>
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<tr>
<td>Class II Bicycle Lane</td>
<td>$150,000</td>
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</table>

How Do I Know If I Am Eligible For Funding?
Municipalities, government agencies, public education, private companies and organizations may apply to receive an incentive under this program. Funds are available for eligible bicycle infrastructure projects that meet specific program criteria as follows:

▲ The bicycle project must contribute to the development of a widespread alternative transportation network of paths, lanes and routes for commuter bicycling. The project should eliminate barriers or gaps within the general bicycle transportation network in the community.
▲ Project sites should target areas where there is a high demand or necessity for bicycle facility development or improvement. These locations should exhibit high traffic flow and commuter travel to areas of frequent activity such as primary/secondary schools, shops, colleges, churches, libraries, downtown community parks and centers.
▲ The bicycle infrastructure development will directly support and augment commuter bicycle travel within the geographic boundaries of the SJVAPCD. This verifies that the reduction of vehicle trips and emissions will result within the San Joaquin Valley.

San Joaquin Valley Air Pollution Control District
1990 East Gettysburg Avenue
Fresno, California 93726-0244
(559) 230-5800 • Fax (559) 230-6064

Draft 2004
What's the Catch?

**There is no catch.** We're paying you to help us clean up the air. However, to achieve this goal, your project must demonstrate that emission reductions claims are real and verifiable within the San Joaquin Valley. Applicants must prove that vehicle trips are actually being replaced and once the bicycle facility is developed, the reductions continue over time. We'll need the following from you:

- Specific project information including detailed bicycle infrastructure description for the location's potential to effectively increase commuter bicycle travel. Include the location's proximal activity centers and travel frequency data for both bicycle and motor vehicles.
- The project must provide supportive documentation or data to validate the emission reduction claims in the form of records, project maps, design lay out, blue prints, reports, surveys, visual models or displays.
- Simple annual reports will be required for 5 years from the beginning of bicycle transportation facility operations. The reports shall include such information as the average vehicle miles traveled replaced by commuter bicycling and the average number of daily commuter bicyclists utilizing the bicycle facility. These reports help us know that we are indeed improving air quality with valuable public dollars.

How Do I Apply?

Applications will be evaluated and approved on a **first-come, first-serve basis** until program funds are exhausted. In the event that proposals are submitted on the same day, proposals will be funded in the order of the best overall cost-effectiveness until funds are exhausted. The process is as follows:

1. Send an application and detailed project description to the SJVAPCD. The application will require contact information and specific information to assess the bicycle transportation facility's potential to replace vehicle trips.
2. SJVAPCD staff reviews the application and supportive documents to determine eligibility. It is important to include all the required documentation and supportive data for this program. You will be notified if more information is needed.
3. If the application meets minimum criteria, an incentive amount will be determined for the proposed electronic or telecommunications technology.
4. Applicants will be notified of application approval or denial. Upon approval of the application, the SJVAPCD will prepare a simple contract for signature by the applicant and SJVAPCD.
5. The applicant implements the bicycle transportation facility into service within 1 year of contract execution.
6. The applicant submits equipment invoice, receipts, and SJVAPCD Claim(s) for Payment form. The SJVAPCD issues payment upon verification that the system has been placed into service.
7. As mentioned above, the applicant will submit simple annual reports. The SJVAPCD maintains the right to monitor the project periodically to ensure emission reductions are occurring.

Where Do I Get an Application?

You can receive an application by calling the SJVAPCD at (559) 230-5858. For general information about the program, you can call (559) 230-5800 or visit the SJVAPCD website at [www.valleyair.org](http://www.valleyair.org).
PORTERVILLE PUBLIC FINANCING AUTHORITY

SUBJECT: ANNUAL MEETING OF THE PORTERVILLE PUBLIC FINANCING AUTHORITY

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - REDEVELOPMENT

COMMENT: In 1992, the Porterville Public Financing Authority was formed designating the City Council members as directors. According to the Authority’s By-laws, an annual meeting is to be held each year to report on the progress of the Redevelopment Projects being funded by Bond Issue #1 issued in December 1992. A status report for these projects is provided as an attachment to this agenda item.

RECOMMENDATION: That the City Council, sitting as the Porterville Public Financing Authority, hold a public meeting in accordance with the Authority’s By-laws, accept public comment, and approve the 2004 Status Report for the Redevelopment Bond Issue #1 Projects.

**PORTERVILLE REDEVELOPMENT AGENCY**
**Bond Issue No. 1**
**Status Report**
**As of November 1, 2004**

1992 Total Bond Issue: $6,185,000

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redevelopment Fund</td>
<td>$4,682,242</td>
</tr>
<tr>
<td>Low and Moderate Income Housing Fund</td>
<td>$1,170,561</td>
</tr>
</tbody>
</table>

### REDEVELOPMENT FUND

**Streetscape:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Street – Morton Avenue to Olive Avenue (includes conversion of Main Street, Second Street and Hockett Street to two-way traffic)</td>
<td>Complete</td>
</tr>
<tr>
<td>Putnam Avenue and Olive Avenue – Hockett Street to Second Street</td>
<td>Design Phase Complete</td>
</tr>
<tr>
<td>Street and Pedestrian Lighting of side streets</td>
<td>Construction Documents Complete</td>
</tr>
<tr>
<td>Alley Lighting – Morton Avenue to Olive Avenue</td>
<td>Construction Documents Complete</td>
</tr>
<tr>
<td>Street Furnishings</td>
<td>Phase I Complete; Additional Phases to be accomplished as funds become available</td>
</tr>
<tr>
<td>Main Street – Olive Avenue to Orange Avenue</td>
<td>Design Phase Complete</td>
</tr>
</tbody>
</table>

**Parking Lots – Construction and Acquisition:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second/Harrison</td>
<td>Complete</td>
</tr>
<tr>
<td>Hockett/Oak</td>
<td>Site was acquired by the City of Porterville and construction completed for a Transit Center on site utilizing alternative funding source.</td>
</tr>
<tr>
<td>Second/Olive and adjacent lots</td>
<td>Complete</td>
</tr>
<tr>
<td>Railroad – Fourth, Morton to Thurman</td>
<td>Phase I Complete (Morton to Harrison) One parcel has been sold in 2003-04.</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Building Renovation:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Incentive Program</td>
<td>14 Façade Renovations Complete</td>
</tr>
<tr>
<td>Building Assistance:</td>
<td></td>
</tr>
<tr>
<td>Chamber of Commerce Office Complex</td>
<td>Complete</td>
</tr>
<tr>
<td>Loan Repayment:</td>
<td></td>
</tr>
<tr>
<td>City Loan Repayment – Risk Management Fund</td>
<td>Complete</td>
</tr>
</tbody>
</table>

### LOW AND MODERATE INCOME HOUSING FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low and Moderate First-Time Homebuyer Program HOME Grant Match No. 1 (1994)</td>
<td>Complete ($250,000 expended)</td>
</tr>
<tr>
<td>Low and Moderate First-Time Homebuyer Program HOME Grant Match No. 2 (Year 2002)</td>
<td>Complete ($121,951 expended)</td>
</tr>
<tr>
<td>Low Income First-Time Homebuyer Casas Buena Vista Homebuyer Assistance*</td>
<td>Allocated $564,492, Expended 03/04 $136,000, Available Balance: $428,492</td>
</tr>
<tr>
<td>Casas Buena Vista Project Common Area Improvements, Utilities, Meeting Expenses, Escrow Costs</td>
<td>Allocated $260,000, Expended $230,377, Available Balance: $29,623</td>
</tr>
<tr>
<td>Multifamily Rental Construction Program:</td>
<td></td>
</tr>
<tr>
<td>Project #1: St. James Place** Construction scheduled for completion Nov 04 RDA Match for HOME grant complete</td>
<td>Readjusted Allocation: $114,415, Expended 03/04 $114,415</td>
</tr>
<tr>
<td>Project #2: Date Avenue Apartments Infrastructure</td>
<td>Complete ($115,000 expended)</td>
</tr>
<tr>
<td>Implementation Plan</td>
<td>Complete ($24,364 expended)</td>
</tr>
</tbody>
</table>

*Bond funds remaining in Multifamily Program were reallocated to the Casas Buena Vista Homebuyer Assistance Program ($186,000)

**Reallocated $139,575 to Casas Buena Vista Project, St. James Project commitment of $254,000 was realized utilizing HOME program income.

Note: Bond funds have been allocated toward the highest priority projects as detailed in the Redevelopment Strategic Plan. Projects detailed in the Redevelopment Strategic Plan with a lower priority ranking are not included in this Status Report due to lack of available funds.