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

ORAL COMMUNICATIONS
None.

CLOSED SESSION:
A. Closed Session Pursuant to:
2 - Government Code § 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: One Case.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
No action was reported at this time.

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

PRESENTATION
• Employee of the Month - Jose Ortiz
• City Manager’s Featured Projects for January, 2005
  1. St. James Place
  2. Tule River Parkway, Phase 2
  3. Milo Street Project

ORAL COMMUNICATIONS
• John Duran, 476 North “E” Street, came forward and protested a bill he received from the City for concrete repairs to sidewalk area adjacent to his residence. He requested that the Council respond to him either via mail or via telephone. City Manager John Longley requested that City Attorney Julia Lew meet with the Public Works Department to advise on a course of action.
• John Eby, Pastor of First Baptist Church, came forward, apologized for missing the invocation, and offered a prayer.
• Dennis Townsend, 633 North Westwood Street, came forward and requested that the Council reconsider its decision to restrict the content of invocations at City Council Meetings.
• CeCe Townsend, Springville resident, came forward and voiced support for reversing Council’s decision regarding restricting references to specific deities during invocations at City Council Meetings.
• Mr. Davis, 32737 Maverick Drive, Springville, came forward and voiced support for removing the restrictions on content of invocations at City Council meetings.
• Chris Ferrel, Lighthouse Chapel, 35811 Rio Vista, Springville, came forward and voiced support for removing the restrictions on content of invocations at City Council meetings.
• Myra Alvarado, 331 South Beverly Street, came forward and again requested that the Council reconsider its decision regarding the opening of the gate on Beverly Street.
• April Tolson, 246 South Chestnut, spoke regarding Item No. 17 and spoke against over-regulating skateboarders and voiced concern with the lengthy duration of the skateboard park project. City Manager John Longley clarified that staff had recently been authorized to proceed with retaining a consultant for the design preparation. He pointed out that the process was underway and that the submission of a proposal would likely be made for consideration for the next fiscal year budget. Mayor Pro Irish pointed out that because the project was moving forward, the draft ordinance was now being considered.
• The following members of the Leadership Porterville Class 2004, then came forward to be included on the public record as a requirement of their participation in Leadership Porterville:
  • Nathan Delk, 330 Lindley Drive.
  • Mary Hodges, 22146 Avenue 96, Terra Bella
  • Donna Schendel, 76 North “H” Street
  • Kerry Reynolds, 2091 West Della Street
  • Judy Sarber, 32162 River Island Drive, Springville
  • Stephanie Gibson, 291 South Reservation Road
• Donette Silva-Carter, 998 North Roberta, Facilitator for Leadership Porterville, came forward and acknowledged the accomplishments of the Class of 2004.
• Dick Eckhoff, 197 North Main, requested that he be allowed to speak when Item No. 18 was before Council.
• Russell “Buck” Fletcher, 1662 West Morton Avenue, commented generally on the annexation of his mother’s property.

**CONSENT CALENDAR**

With respect to Item No. 1, Mayor Martinez and Mayor Pro Tem Irish both noted for the record that because neither had attended the City Council Meeting of December 14, 2004, both would abstain from that specific portion of the vote.

1. CITY COUNCIL MINUTES OF DECEMBER 7, 2004; DECEMBER 14, 2004; AND DECEMBER 21, 2004


Documentation: M.O. 01-011805
Disposition: Approved.
2. **CLAIM - JOAN VANDERHORST**

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.

**Documentation:** M.O. 02-011805  
**Disposition:** Approved.

3. **APPROVE FINAL PLAN, AUTHORIZE INSTALLATION OF TEMPORARY PROJECT IDENTIFICATION SIGN, AND AUTHORIZE ADVERTISING FOR BIDS FOR CENTENNIAL PLAZA PHASE 1**

Recommendation: That the City Council consider the initial phase of Centennial Plaza, and approve the following:

1. Approve the final initial phase plan, and authorize $9,000 for electrical service provisions;
2. Accept the donation, and authorize the installation of a temporary project identification sign;
3. Authorize negotiations with CSET, and advertising for bids for the funded elements of work.

**Documentation:** M.O. 03-011805  
**Disposition:** Approved.

4. **ACCEPTANCE OF FINAL SUBDIVISION MAP - SIERRA MEADOWS SUBDIVISION (NICHOLSON & SMEE, LLC)**

Recommendation: That the City Council:

1. Approve the final map of Sierra Meadows Subdivision;
2. Accept all offers of dedications shown on the final map and by separate instruments; and
3. Authorize the City Clerk to file said map with the County Recorder.

**Documentation:** M.O. 04-011805  
**Disposition:** Approved.

5. **ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-170-033 - COMISION HONORIFICA AMERICANA, INC. - ORANGE AVENUE RECONSTRUCTION PROJECT**

Recommendation: That the City Council:

1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Comision Honorifica Mexicana Americana, Inc., in the amount of $18,000, 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.

**Documentation:** Resolution 1-2005  
**Disposition:** Approved.
6. ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-165-007 - ALBERTA VILLEGAS PADILLA & ALICE C. VILLEGAS GUZMAN - ORANGE AVENUE RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Authorize staff to make payment to Alberta Villegas Padilla and Alice C. Villegas Guzman, owners of the property, in the amount of $1,000; and
2. Accept the Grant Deed and authorize staff to record with the County Recorder.

Documentation: Resolution 2-2005
Disposition: Approved.

7. APPROVE RESOLUTION PROTESTING SALE OF CERTAIN TAX-DEFAULTED PROPERTIES, AND AGREEMENT TO PURCHASE THE PARCELS FOR THE TAX LIEN VALUE FROM TULARE COUNTY TAX COLLECTOR

Recommendation: That the City Council approve a resolution objecting to the sale of certain tax-defaulted parcels, and approve an Agreement to be offered to the County of Tulare for purchase for the tax lien value the properties for public purpose use.

Documentation: Resolution 3-2005
Disposition: Approved.

8. CONDITIONAL USE PERMIT 8-2004 AND “D” OVERLAY SITE REVIEW 2-2004 (DON FORRESTER) UPDATE ON ADDED CONDITIONS OF APPROVAL

Recommendation: That the City Council direct staff to forward the findings back to the City Council once the subject project, and the Indiana Street Project between Morton Avenue and Olive Avenue, have been completed and are in operation.

Documentation: M.O. 05-011805
Disposition: Approved.

9. ZONING ORDINANCE AMENDMENT 3-2004 SIGN CODE UPDATE

Recommendation: That the City Council direct staff to continue working with the committee considering the sign code recommendations and set the matter for public hearing when the group has prepared a recommendation.

Documentation: M.O. 06-011805
Disposition: Approved.

10. FIBAR PLAYGROUND FALL MATERIAL PERFORMANCE REPORT

Recommendation: That the City Council receive the staff report and approve the continued use of Fibar Wood Safety Surface for future applications and when upgrading or designing new playgrounds.

Documentation: M.O. 07-011805
Disposition: Approved.
11. CITY OF PORTERVILLE EMERGENCY OPERATIONS PLAN, RESOLUTION OF ADOPTION

Recommendation: That the City Council adopt a resolution adopting the City of Porterville’s Disaster Plan dated December 2003.

Documentation: Resolution 4-2005
Disposition: Approved.

12. THIS ITEM HAS BEEN PULLED.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Hamilton that the Council approve Item Nos. 1 through 11. The motion carried unanimously.

PUBLIC HEARING

Mayor Martinez then noted because a large percentage of the audience was in attendance for Item No. 15, that the City Manager present that item first.

15. CONDITIONAL USE PERMIT 10-2004 - PROPOSED CHURCH (CHURCH OF CHRIST OF PORTERVILLE)

Recommendation: That the Council:
1. Adopt the draft resolution approving the Negative Declaration prepared for Conditional Use Permit 10-2004; and

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

The public hearing opened at 7:46 p.m.

Dennis Townsend, Townsend Architectural Group, 633 North Westwood Street, came forward on behalf of the applicant and spoke in favor of the Council approving the Conditional Use Permit as amended to strike Conditions 3 and 4 relating to the required construction a six foot tall concrete block wall. Mr. Townsend also voiced concern with the inclusion of Condition 12 pertaining to the removal of electrical poles at the applicant’s expense. He stated that because the City had already agreed to take care of that, Condition 12 should be removed.

Tom Elford, 2245 West Thurman Avenue, Chairman of the Building Committee for Church of Christ, came forward and spoke in favor of the Council approving the C.U.P., and voiced concern regarding the Condition of construction of a block wall, particularly along the east property line. He contended that a block wall would not only increase the likelihood of graffiti, but also would create a sense of unwelcomeness for the church.

Monte Moore, 327 North Cottage, spoke in favor of the Council approving the Conditional Use Permit.

Russell “Buck” Fletcher, 1662 West Morton Avenue, spoke in favor of the Conditional Use Permit.
The public hearing closed at 7:53 p.m.

In response to Council Member West’s question, Mr. Dunlap confirmed that fencing choices were available to applicants, however, staff had been previously directed to address the sensitive relationship between church properties and residential properties. In order to do so, he stated, staff had incorporated the use of a block wall as a buffer between those properties. He then went on to explain the benefits of block walls relating to sound attenuation. He stated that the Code expressly required the use of a buffer for commercial and industrial uses adjacent to residences, however, he pointed out, a church was not a commercial or industrial use, but rather a “non-residential” use, and therefore that relationship was not specifically addressed in the Code.

Council and staff then discussed the distance from the residences to the proposed parking lot, and the proposed location for the additional buildings planned in the future.

Council Member Hamilton voiced opposition to requiring that the applicant construct a block wall at this time, pointing to the distance from the proposed development to the property line adjacent to the residential properties. He also voiced concern with requiring the applicant to relocate utility poles, asserting that the City had already planned on moving them that month. He then voiced concern with the applicant using the undeveloped property for overflow parking and questioned if the applicant could guarantee that this would not happen.

Community Development Director Brad Dunlap explained that the condition pertaining to the block wall had been included because it was consistent with what had previously been done with the Jehovah’s Witness Church immediately to the west. He pointed out that in the event the Henderson Street Project was to stall, it would be upon the applicant to relocate those utility poles.

Mayor Pro Tem Irish commented that the Council was sending mixed signals and suggested that the specific development requirements for those situations in which “non-residential” property abutted residential property should be clearly set out, such as through an ordinance. He then stated that while he believed the applicant should be required to construct the block wall now, he stated that since that standard had not been enforced consistently throughout the community, it would not be fair to require the wall at this stage in the subject development.

Council Member Hamilton stated that he agreed with Mayor Pro Tem’s comments, except his suggestion to require C.U.P.s for all church properties. He then stated that he would be in favor of requiring construction of the block wall at that time if the area currently proposed for development abutted residential. However, he stated, approximately 150 feet separated the two.

Mayor Pro Tem Irish pointed out that both the property immediately to the east of the church property was zoned R-1, as well as the property to the south to which Council Member Hamilton referred. He then voiced concern with not requiring a buffer along the eastern property line. He again voiced support for standardizing the requirements in the future.

Monte Moore, 327 North Cottage, came forward and questioned how many complaints the City had received from residents due to noise caused by adjacent churches.

Council Member Hamilton commented that the City had received one major complaint regarding noise.

Mayor Pro Tem Irish responded that the City had received complaints, but never from church parishioners. He explained that this was why staff had been directed to address such relationships in the
future, so as to avoid similar situations. He stated that many larger cities in the area, such as Visalia and Fresno, were now requiring a block wall buffer between church properties and residential properties.

In response to Mayor Martinez’s question, Mr. Townsend came forward and explained that a six-foot tall wooden fence was currently in place along the south property line for the benefit of the residents. He stated that along the east property line, the developer proposed heavy landscaping, including hedges, trees, and bushes. He pointed out that since development of the site to the east was currently unknown, Council should not require a block wall at that time, as it might never be needed.

Greg Shelton, 888 North Williford Drive, came forward and commented that he believed the complaint received by the City in the past related to the church on Morton Avenue near Matthew Street. He cautioned over proceeding without a buffer between residential properties and churches, citing noise issues.

Staff confirmed that block walls were utilized primarily as a light and sound buffer between commercially-zoned properties and residential properties.

Council Member Stadtherr suggested that a berm might be used to attenuate sound instead of a block wall.

Council Member Hamilton commented that he believed requiring construction of the block wall at that time was prohibitive to the project, and therefore he support approving the item without that condition. He then stated that a block wall would likely be required in future development phases on the property and therefore suggested that the applicant should budget accordingly.

City Attorney Julia Lew clarified that since a C.U.P. would be required upon further development, Council could simply defer the block wall condition until that time.

Council Member West voiced support for waiving the block wall requirement now.

Mayor Pro Tem Irish commented that while budgetary constraints were important to the applicant, those constraints were not of concern to him in determining whether or not the block wall should be required at this time. He then moved to approve the C.U.P. without the condition of the block wall only in order to be fair.

Council Member West seconded Mayor Pro Tem Irish’s motion.

Council Member Hamilton clarified that Mayor Pro Tem Irish moved to approve the C.U.P., striking Conditions 3 and 4, but keeping Condition 12 regarding the utility poles.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member West that the Council adopt the draft resolution approving the Negative Declaration prepared for Conditional Use Permit 10-2004 and adopt the draft resolution approving Conditional Use Permit 10-2004, as amended to strike Conditions 3 and 4. The motion carried unanimously.

Disposition: Approved.

Mayor Pro Tem Irish requested that staff bring a draft ordinance to Council that would address future situations involving the development of church properties adjacent to residential properties.

The Council recessed for ten minutes.
13. SUNRISE VILLA PHASE ONE (ZENZ & O’SULLIVAN)

Council Member West and Council Member Stadtherr stated for the record that they each resided within 500 feet of the proposed development, and therefore recused themselves from the meeting and left the Council Chambers.

Recommendation: That the City Council:
1. Adopt the draft resolution approving the Negative Declaration for Sunrise Villa Phase One Tentative Subdivision Map; and
2. Adopt the draft resolution approving Sunrise Villa Phase One Tentative Subdivision Map.

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

The public hearing opened at 8:31 p.m.

Jim Winton, 150 East Morton Avenue, came forward as a representative for developer Zenz & O’Sullivan and indicated that all conditions were acceptable to the applicant.

The public hearing closed at 8:32 p.m.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council adopt the draft resolution approving the Negative Declaration for Sunrise Villa Phase One Tentative Subdivision Map and adopt the draft resolution approving Sunrise Villa Phase One Tentative Subdivision Map.

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

Disposition: Approved.

Mayor Pro Tem Irish requested that staff provide a positive/negative analysis on landscape maintenance districts for future subdivisions brought before Council.

14. MEADOW BREEZE PHASES TWO AND THREE TENTATIVE SUBDIVISION MAP (SMEE BUILDERS)

Recommendation: That the City Council:
1. Adopt the draft resolution reaffirming the Negative Declaration (City Council Resolution 38-2004) prepared for Meadow Breeze Phase One Tentative Subdivision Map; and
2. Adopt the draft resolution approving Meadow Breeze Phase Two and Three.

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

The public hearing opened at 8:35 p.m.
Jim Winton, 150 West Morton Avenue, came forward as a representative of applicant Smee Builders and voiced support for approving the item. He then informed Council of the status of right of way dedications with Tulare County.

In response to Mayor Pro Tem Irish’s question, Mr. Winton explained that Castle Avenue would become a 3/4 street allowing two-way traffic and parking along the south side.

The public hearing closed at 8:39 p.m.

Council Member Hamilton voiced concern with Castle Avenue not being fully developed as a full street.

In response to Mayor Pro Tem Irish’s question, Mr. Winton confirmed that the County of Tulare owned the property to the north of Castle Avenue. Mr. Winton pointed out that as a 3/4 street, or a “partial” street, Castle Avenue would provide for two-way traffic, but would not provide for parking on the undeveloped side to the north. He explained that there would be no loss in travel way or travel width, only in the ability to park on the undeveloped side of the road. He stated that the property to the north of Castle Avenue, adjacent to the proposed development, was zoned R-A 43 and confirmed that the Williamson Act was not applicable. He further explained that because the Urban Development Boundary of the City ran down the middle of Castle Avenue, the City would be unable to annex that property in order to fully develop the street.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Hamilton that the Council adopt the draft resolution reaffirming the Negative Resolution 9-2005 Declaration (City Council Resolution 38-2004) prepared for Meadow Breeze Phase One Tentative Subdivision Map. The motion carried unanimously.

Resolution 10-2005 MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council adopt the draft resolution approving Meadow Breeze Phase Two and Three. The motion carried unanimously.

Disposition: Approved.

16. ZONE CHANGE 6-2004 (STEVE VANG) - CONTINUED PUBLIC HEARING

Recommendation: That the City Council direct staff to prepare an agenda item for “D” Overlay Site Review 5-2004 in conjunction with the continued public hearing for Zone Change 6-2004 and present it to City Council for review on February 1, 2005.

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

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council direct staff to prepare an agenda item for “D” Overlay Site Review 5-2004 in conjunction with the continued public hearing for Zone Change 6-2004 and present it to City Council for review on February 1, 2005. The motion carried unanimously.

Disposition: Continued.

SCHEDULED MATTERS
17. SKATEBOARD REGULATIONS

Recommendation: That the City Council review the sample ordinance concerning the use of skateboards and provide further direction to staff. Upon additional direction and comments, a finalized ordinance can be brought back for consideration for first reading.

City Manager John Longley introduced the item, and City Attorney Julia Lew presented the staff report.

In response to Council Member West’s question, Ms. Lew clarified that exactly when the ordinance went into effect would be dependent upon when Council wished to proceed. For example, she explained that if the Council wished to give first reading of the ordinance at the next meeting, the ordinance would be effective upon thirty days after adoption.

Mayor Pro Tem Irish pointed out that if the Council desired, it could make the ordinance effective as of the ribbon cutting at the skate park. He then pointed out that in contemplation of a large number of adolescents going to the park, Council had brought this item forward in order to provide safety measures. He then questioned if the City needed to physically post signs on all City properties.

With respect to the effective date, Ms. Lew responded that she would verify if the City Charter provided Council with the authority to make the effective date fall later than thirty days. She then stated that signs would need to be posted at properties such as public parking lots, however, she did not believe signage would not be required on sidewalks. She pointed out that from an enforcement standpoint, posting was recommended on all properties, with the exception of roadways and sidewalks. Ms. Lew then clarified that the Council could also determine whether or not signs for posting on private property would be made available through the City, at the property owners’ cost. She stated that a reasonable standard could be applied and suggested that guidelines as to lettering size and/or sample language could be made available to private property owners if the Council desired to do that. Ms. Lew explained that trespass and common law issues existed regarding skateboarding without consent on private property, but that the ordinance would also specifically make such activity a municipal violation.

City Manager John Longley clarified with Ms. Lew that the ordinance did expand the Code to a certain extent by providing Council with more leeway in the future to designate other areas by resolution or by posting.

Council directed staff to bring the resolution back to Council for public hearing and first reading at the second meeting in February, 2005.

A discussion then ensued on whether or not rollerblades were considered skateboards, and if language should be added which included rollerblade activities.

Disposition: Continued - Direction provided to staff.

18. ORDINANCE PERTAINING TO DOOR-TO-DOOR SALES

Recommendation: That the City Council review the sample ordinance repealing Chapter 8 in its entirety and replacing it with new provisions of Chapter 8 concerning peddlers, solicitors and canvassers (door to door sales) and providing direction to staff. Upon additional direction and comments, a finalized ordinance can be brought back for consideration for public hearing and first reading.
City Manager John Longley presented the item, and City Attorney Julia Lew presented the staff report.

Dick Eckhoff, Downtown Porterville Association, 118 North Main Street, came forward and voiced support for the ordinance. He then confirmed with staff that the ordinance did not address fixed-location sales, but that it issue would be addressed at a later point. As to the fee structure, Mr. Eckhoff pointed out that because downtown businesses paid an additional fee to conduct business downtown, itinerant vendors should also be required to pay a fee if they intended to operate downtown. He then confirmed with staff that language requiring the personal identification or permit to be displayed on the vendor had been included in the draft ordinance. Mr. Eckhoff then questioned if non-profit organizations were exempt from the proposed process.

City Attorney Julia Lew clarified that non-profit organizations would be required to inform the City in writing as to when and where the proposed sales activity was to occur. She stated that although the City could not designate the type of charitable organization that was allowable, the City could require that all charitable organizations wishing to participate in the activities covered by the proposed ordinance provided certain reasonable information to the City.

In response to Mr. Eckhoff’s question regarding the distinction between door to door sales and deliveries, Ms. Lew explained that such determination depended on the character of the actual activity.

Council Member Stadtherr suggested that one way in which the distinction might be made would be to determine when the sale of the item actually took place, before or after the delivery person left the place of business. As to charitable organizations, he questioned if the City should require 501c paperwork to prove that the charitable organization was actually a charity.

City Attorney Julia Lew stated that the City could require some sort of evidence proving a particular organization was a charitable organization.

Council Member Hamilton confirmed with Ms. Lew that the application fee for door to door sales would be in addition to the business license fee. He then voiced concern with Mr. Eckhoff’s suggestion that the door-to-door vendors be required to pay an additional fee for activity in the downtown area. He suggested that this might drive such vendors away who actually might be benefitting downtown businesses.

Pete McCracken, 657 Village Green, commented that most Girl Scout and Boy Scout units did not have a specific exemption, but instead would need to get such proof from their council. He voiced concern with this requirement and requested clarification as to what documentation would be required.

A discussion then ensued as to the accessibility of tax documents and tax identification numbers for non-profit organizations, such as Boy Scouts. It was determined that because many organizations were not formally organized as 501c organizations, a broader approach could be made in requiring other evidence as proof of non-profit status.

Council directed staff to amend the draft ordinance to include language requiring charitable organizations to present evidence of such status and to bring the ordinance back for public hearing and first reading at the February 15, 2005 meeting.

Disposition: Continued - Direction provided to staff.

19. PARKING COMMERCIAL VEHICLES IN RESIDENTIAL AREAS
Recommendation: That the City Council set a public hearing for February 15, 2004 as the time and place to discuss and take comment related to the modification of Section 17-11.7 of the City of Porterville Traffic Ordinance 1162.

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

Council directed staff to set a public hearing for February 15, 2005 as the time and place to discuss and take comment related to the modification of Section 17-11.7 of the City of Porterville Traffic Ordinance 1162.

Disposition: Approved - Direction provided to staff.

20. UPDATE ON THE CAR WASH SLUDGE DRYING AND CONTAINMENT STRUCTURE

Recommendation: That the Council receive the report.

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

In response to Mayor Pro Tem Irish’s question, Mr. Longley clarified that the commercial car wash owners had identified the sewer discharge fee as a major issue. He stated that staff was waiting on additional information from the Regional Water Quality Control Board (“RWQCB”) so as to provide Council with a cost recovery analysis on the part of the City, as well as to provide an option in which the City could accept the material and dispose of it as required.

Council Member Hamilton pointed out that this item arose because the City could not accept the sludge from the local car washes as the sand in the sludge proved detrimental to the turbines at the facility.

Staff clarified that currently commercial car wash operators had to contract with haulers to remove the sludge and transport it out of the area. In response to Council Member West’s question, staff clarified that residual materials from oil changes were also hauled by contracted haulers, but that this was a different situation which was highly regulated and contained much more easily.

Mr. Longley then pointed out that while the staff report had indicated a specific date for the item to be returned – which he hoped would be met – he suggested instead that the Council direct staff to bring the item back at a time after the information had been received from RWQCB.

Mayor Martinez confirmed with staff that the item had come about due to the discussion of the car wash ordinance.

Council then directed staff to bring the item back to Council for consideration once the information had been received from RWQCB.

Disposition: Continued - Direction provided to staff.

21. QUARTERLY PORTFOLIO SUMMARY

Recommendation: That the City Council accept the Quarterly Portfolio Summary as of December 31, 2004 in accordance with SB 564 and SB 866.
City Manager John Longley presented the item, and Deputy City Manager Darrel Pyle presented the staff report.

Council Member Hamilton questioned why the Tulare County Investment Pool had not been performing well, to which Mr. Pyle explained that staff had planned on speaking with the County about the performance of the investments. Mr. Pyle then explained that while the Local Agency Investment Fund had continued to grow, the County’s portfolio had held flat, yet it still outpaced the Local Agency Investment Fund, which was the source from which the funds were moved. Therefore, he pointed out, the City was still ahead in that particular investment.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that the Council accept the Quarterly Portfolio Summary as of December 31, 2004 in accordance with SB 564 and SB 866. The motion carried unanimously.

Disposition: Approved.

22. INTERIM FINANCIAL STATUS REPORTS

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

City Manager John Longley presented the item, and Deputy City Manager Darrel Pyle presented the staff report. Mr. Pyle explained that since the distribution of Council’s agendas, the grant activity spreadsheet had been updated to also reflect pending grant activity. He explained that this brought the bottom line in terms of grants and loans to approximately $30,000,000.

In response to Mayor Pro Tem Irish’s question, Mr. Pyle confirmed that Council had not yet approved the grant for the Zalud House, instead Council had only approved the application.

Pertaining to the grant status summary sheet, Council Member Hamilton clarified with staff that if nothing was listed in the “Match” column, that meant that no match was required.

In response to Mayor Pro Tem Irish’s question, Mr. Pyle explained that the revenue decrease in UUT funds from 2003 to 2004 was attributable to under-collecting on the part of some of the phone companies. He explained that at the time the budget had been adopted, staff had been unable to identify the source of this decrease. He stated that staff had consulted with the City Attorney and other consultants who identified actual reductions in the cost of electricity and natural gas, as well under-collecting on the part of some of the larger cellular companies who did not want to participate in collecting this tax on their bill. He stated that staff had taken steps to ensure that all funds that could be collected, would be collected. Mr. Pyle then addressed the decrease in sales tax, which he attributed to the Bradley-Burns portion of the sales tax.

Mayor Pro Tem Irish requested that staff provide a three-year or five-year comparison pie chart in future reports so that Council could see where revenues were five years ago.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that the Council accept the interim financial status reports as presented. The motion carried unanimously.

Disposition: Approved.

23. CONSIDERATION OF BAT HOUSE PROGRAM
Recommendation: To be determined by Council.

City Manager John Longley presented the item explaining that a study session had been held on December 14, 2004 regarding the possibilities, advantages and disadvantages of using bats as a form of natural insect control. He stated that the presentation was geared towards the concern of the spread of West Nile Virus through mosquitoes. Mr. Longley stated that a Council Member had requested that this item be placed on the agenda for discussion.

Council Member Stadtherr explained that while the use of bats for mosquito abatement was not a complete solution, it could be one of the tools used by the City. He stated that this course of action would be a much more cost effective approach, particularly when considering the cost of joining a mosquito abatement district. He then suggested various locations for installation of the bat houses including the Tule River Parkway, the waste water treatment facility, the golf course, and the sports complex, among other places. He stated that the Army Corps of Engineers had plans on installing bat houses at Bartlett Park, with Porterville High School students building the houses and Edison donating the poles. He suggested that if the program received enough publicity, perhaps in one year, the program could be turned over to the public for expansion onto private properties.

Council Member West suggested that bat houses could also be installed a Murry Park.

Council Member Stadtherr agreed, suggesting that the houses could be installed in the new section to be developed between Corona Drive and Plano Street. He then suggested that bat houses could also be installed near storm water basins.

Mayor Pro Tem Irish voiced concern with the bats not inhabiting the houses, citing a personal unsuccessful experience.

Council Member Hamilton explained that the bat houses needed to meet very particular specifications, otherwise they would not be inhabited.

Mayor Martinez voiced concern with whether or not the bats in the Porterville Area were an Endangered Species.

Council Member Stadtherr stated that the City had received a $1,000 bid for 32 houses from Porterville Sheltered Workshop. He then explained that the main concern was positioning the houses properly for successful inhabitation, stating that the houses should receive an appropriate amount of sunlight for warmth in the cooler months, and the appropriate amount of shade for cooling in the warmer months. He suggested that 2 houses could be installed near each other at 16 different locations, one in the sun, the other in the shade. He stated that the installation cost would depend on how the houses were mounted.

Mayor Pro Tem Irish suggested that rather than the City funding $1,000, the public should take the lead and fund the first set of bat houses. He contended that if the program proves to be successful, the City could then perhaps get involved.

Council Member Hamilton commented that he agreed with Council Member Stadtherr in that if the City initiated the effort, the public would be more likely to become involved.

Council Member West stated that in pursuing the construction of the bat houses the City would be making efforts to protect the public from West Nile Virus. He stated that the effort might prove successful, but even if it did not, the City had not invested a great deal of money.
Council Member Hamilton agreed that the cost was pretty minimal for the program.

Mayor Martinez confirmed that if the houses were unsuccessful, they could simply be taken down. He again voiced concern with the potential of local bat species being on the Endangered Species List, citing issues with the Valley Elderberry Longhorn Beetle.

Mayor Pro Tem Irish stated that if the Council proceeded, the funds should come out of the Council’s budget. Council Members Hamilton and West agreed.

A discussion then ensued on various bat environments and habitats.

Mayor Pro Tem Irish commented that he did not wish to utilize staff time nor public funds to proceed with this program.

Council Member Hamilton commented that Council Member Stadtherr had actually performed most of the research on the topic to date. He then voiced support for proceeding with the program, commenting that he believed it to be a minimal investment for a potential benefit to the City.

Greg Shelton, 888 North Williford Drive, came forward and voiced support for pursuing the involvement of Cub Scouts or the like for assistance with the installation of the bat houses.

City Manager John Longley voiced agreement with Mr. Shelton’s suggestion and clarified that the Council could direct staff to appropriate $1,000 out of the Council’s budget for payment to Porterville Sheltered Workshop for purchase of materials to build 32 bat houses, and also direct staff to coordinate installation efforts through non-profit organizations.

Pete McCracken, 657 Village Green, came forward and commented that the Council should proceed cautiously, as the use of bat houses in suburban and urban areas were likely to pose different problems than use in rural areas. He warned of drawing bats into residential areas.

Council Member Stadtherr commented that the premise behind bat houses was to draw the bats away from residences and other make-shift habitats and into the bat houses. He then pointed out that timing was of some importance, as the bats would soon be coming out of hibernation and seeking housing.

Cathy Capone, 806 West Westfield Avenue, came forward and voiced support for the Bat House Program, citing the positive effects of bats such as the reduction of the mosquito population.

Community Development Director Brad Dunlap suggested that the Eagle Scouts might be interested in participating in this project.

A discussion then took place regarding bat guano and where the responsibility would lie in cleaning up the guano.

Greg Shelton came forward and cautioned Council over using old utility poles that might be donated from Southern California Edison, suggesting that those poles might rot in a short period of time.

Mayor Pro Tem Irish questioned if Council could first determine whether there was any interest from the Boy Scouts before proceeding with the allocation of funds.

Pete McCracken, came forward as a Sierra District Chairman of the Boy Scouts, and stated that he would communicate the City’s interests to the Eagle Scout Advisor and the Advancement Chair, and also
to the Council Headquarters in Fresno. He stated that he would report back to Council as soon as he obtained any information.

Council Member West voiced support for moving forward on the project.

Council Member Stadtherr moved to authorize the expenditure of $1,000 of Council’s funds for the purchasing materials for the construction of bat houses by Porterville Sheltered Workshop.

Council Member West seconded the motion.

Mayor Pro Tem Irish spoke against spending the $1,000 when the City might be able to proceed at no expense with the assistance of non-profit organizations. He stated that he would support the project if no funds were needed from the City.

Council Member Stadtherr pointed out that the labor was being donated, however, funds were needed to purchase the materials.

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Council Member West that the Council authorize the allocation of $1,000 from Council’s budget for the purchase of materials for the construction of 32 bat houses by Porterville Sheltered Workshop, and to direct staff to coordinate efforts with non-profit organizations. The motion carried unanimously.

Disposition: Approved.

24. CONSIDERATION OF DISCHARGE OF WASTE WATER TO STORM DRAINS BY CHARITABLE CAR WASHES

Recommendation: For Council discussion.

City Manager John Longley presented the item and stated that a Council Member had requested that the matter be placed on the agenda for discussion.

Council Member Hamilton acknowledged that he appreciated Mayor Martinez requesting that the matter be placed on the agenda as he believed the topic should be further discussed. He then pointed out that he could not have brought the matter back as he had not been on the prevailing side of the previous vote on the ordinance.

Mayor Martinez stated that he could see both sides of the issue and that he had hoped that some resolution would have come out of the meeting that he and Mayor Pro Tem Irish had attended between the charitable organizations and the commercial car washes. He stated that one of the non-profit organizations in attendance believed that regulating the car washes as had been previously proposed would detrimentally affect their ability to raise funds. He commented that while that particular organization did not see an alternative, he stated that perhaps that organization needed to think outside of the box. Mayor Martinez stated that there were many ideas that had come out of the meeting.

Mayor Pro Tem Irish agreed that many ideas had been discussed, and contended that it was mainly the business community that came up with the alternatives. He stated that some of the non-profits were encouraged by the suggestions, while others did not wish to consider any alternatives whatsoever. He commended the Mayor for attempting for find a resolution that would please all the parties, but stated that he did not believe that pleasing everybody was possible. He then stated that he believed that there were
solutions, as car washes were not the only mechanism for raising funds, and that some organizations would simply have to learn to color outside of the box. He stated that a comment had been made that the City would need to find a solution, but he stated this was not the City’s job.

At the request of Mayor Martinez, Mr. Longley then reviewed the issues that had come out of the meeting. He stated that the issues that had been discussed related to the use of aggressive soliciting, the use of biodegradable soaps, and voluntarily containing the discharge at the sites. He stated that from the car wash owners perspective, their main issue had primarily been the impact fees that they were required to pay, while the non-profits were not.

Mayor Martinez stated that the ordinance that had previously been before Council needed to be adjusted to better fit the needs of Porterville.

At the Mayor’s request, Public Works Director Baldo Rodriguez commented that he would be contacting the City of Chula Vista to obtain a copy of their ordinance on charitable car washes and that perhaps between the two, Delano and Chula Vista, an appropriate ordinance for Porterville could then be drafted. He stated that Mayor Pro Tem Irish was correct in that it appeared at the meeting that the commercial car wash owners had extended a hand to assist the non-profits. However, he stated, because of the nature of the type of one of the charitable organizations that had was present, that being Victory Outreach, they firmly believed that their people would only benefit from physical activity. He stated that staff had met with Victory Outreach representatives following the meeting and discussed a program in which the participants could pick up shopping carts. He stated that while Victory Outreach representatives had evinced an interest in that program, to date, they had not contacted the City. He stated that staff had ultimately mailed the information to Victory Outreach along with a request that they visit the City’s Field Services, yet they had not taken the City up on the offer.

Council Member Stadtherr commented that he supported the ordinance, but believed it needed some revisions until the Council as a whole agreed with the language. He stated that the Mayor had previously objected to the six month ban for violating the ordinance, so he suggested that this was one area that could be revised, such as reducing that penalty to a three month ban.

Mayor Pro Tem Irish suggested that if Council could adjust Porterville’s ordinance by using the ordinances from Delano and Chula Vista.

Council Member Hamilton agreed, but stated that he would prefer to receive copies of the sample ordinances at least two weeks prior to the Council Meeting, so as to have time to review them.

Pete McCracken, 657 Village Green, came forward and stressed that the Council proceed cautiously. He stated that the ordinance previously before Council had two separate issues. The first issue, he contended, was an environmental issue that dealt with pollution of the ground water. He stated that the other issue was the financial impact on the charitable organizations. He suggested that the Council consider an ordinance only directed at the pollution of storm drains, and then a second ordinance on charitable car washes.

Mr. Longley commented that this was precisely the point and that staff had been working on characterizing and defining approaches regarding the discharge into storm drain water, which might have regulatory aspects. He stated that this would be developed over the next twelve to eighteen months, and that this was not being handled with a broad brush approach, but from a very technical base, one aspect of which was charitable car washes.
Mayor Pro Tem Irish stated that as was discussed at the meeting, this issue could not linger without resolution.

Council Member West then voiced concern with how the City would regulate discharge from the eastside of the City.

After discussion on the agency that controlled water discharge from the eastside, it was determined that such discharge was already regulated by the City.

Council then, as a whole, directed staff to provide to Council copies of the sample ordinances from Chula Vista and Delano via memorandum. After the Council had ample time to review the ordinances, the matter could then be placed back on the agenda.

Disposition: Continued - Direction provided to staff.

**ORAL COMMUNICATIONS**

- Dick Eckhoff, 197 North Main Street, came forward to comment on various items. With respect to Item 17, he made general comments as to the different characteristics of skateboards versus rollerblades; On Item 18, Mr. Eckhoff pointed to a situation on Olive Avenue and confirmed with Council that it was being addressed; Regarding Item 19, he voiced support for addressing aggressive solicitors. As to Item 23, Mr. Eckhoff voiced support for the Bat House Program and the involvement of Eagle Scouts. Mr. Eckhoff then requested that the City re-stripe the parking spaces on the side streets in the downtown area, citing potential traffic safety issues.
- Pete McCracken, 657 Village Green, spoke regarding Item No. 19 and clarified with staff that parking an 11,000 lb (gross vehicle weight) U-Haul truck at his residence overnight would likely not be considered a violation of the proposed Code. Staff explained that general exemptions would included when the item was brought back to Council.
- Russell “Buck” Fletcher, 1662 West Morton Avenue, spoke in favor of the Bat House Program pointing to the benefits of bat guano’s use as a natural fertilizer.
- Cathy Capone, 806 West Westfield Avenue, invited Council, staff and audience members to a guided tour walk along the Tule River to take place Saturday, January 22, 2005 from 10:00 a.m to 12:00 p.m., commencing at the Jaye Street Park and Ride Lot.

**CLOSED SESSION**


City Attorney Julia Lew reported that the Council had accepted Mr. Galvez’s counter-offer of $95,000 and approved the resolution accepting a Grant Deed in fee for the real property located at APN 245-040-017.

Documentation: Resolution 11-2005
Disposition: Approved.

**OTHER MATTERS**

- Council Member Hamilton commented that:
  1. That the City of Farmersville had a code enforcement officer which was funded by CDBG funds. He requested that staff look into whether this would be a viable option for Porterville.
2. Congressman Devin Nunes had been appointed to the Ways and Means Committee and suggested that Council should write a congratulatory letter.
3. He supported the idea of lighted ball fields in Porterville.
   • Mayor Martinez informed the Council that he would be attending a conference on Sister Cities this weekend.

ADJOURNMENT
The Council adjourned at 10:41 p.m. to the meeting of January 25, 2005 at 6:00 p.m.

Patrice Hildreth, Deputy City Clerk

SEAL

Pedro R. Martinez, Mayor