CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
FEBRUARY 15, 2005 6:00 P.M.

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:
   1 - Government Code § 54956.9(b) - 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 to report.

Pledge of Allegiance Led by Council Member Richard Stadtherr
Invocation by Mayor Martinez

PRESENTATIONS
• Gil Meachum, Noon Rotary Club of Porterville, came forward and presented a $1,000 check to the Adult Literacy Program. Mr. Meachum then invited Council, staff, and audience members to the Ground Breaking at Centennial Plaza at Noon on February 23, 2005.
• City Manager’s Featured Project
   School Resource Officer: Police Chief Silver Rodriguez made a presentation on the concept and introduced Officers Marcial Morales and Sonia Silva.
• WRAP Awards
   California Integrated Waste Management Board Wrap Award Certificates of Appreciation presented to:
   • Save Mart Store #45
   • Save Mart Store #79
   • Mervyn’s Store #0251
   • Target Store #0698
   • Porterville Sheltered Workshop
   Tulare County Wrap Award and Check in the amount of $1,000 presented to:
   • Wildplaces Ecological Restoration and Education, Springville, CA

Noting the large number of audience members in attendance, Mayor Martinez advised that the Council would enforce the 3 minute maximum for speakers so as to accommodate as many individuals interested in speaking that evening.

ORAL COMMUNICATIONS
• Zack Tolson, 246 South Chestnut, spoke against the proposed Ordinance regulating skateboarders and in favor of the Skateboard Park.
• April Tolson, 246 South Chestnut, came forward, spoke against the proposed Ordinance regulating skateboarders, and read her letter of resignation from the Parks and Leisure Services Commission, copies of which she provided to Council.

• Dennis Townsend, a Springville resident, voiced support for allowing sectarian prayer during the invocation and requested that Council pass a resolution reinstating such prayer.

• Ce Ce Townsend, a Springville resident, came forward and voiced support for allowing sectarian prayer during invocations at Council Meetings.

• Barbara Black, 2279 West Garden, spoke against the proposed Ordinance regulating skateboarders.

• Margorie Di Carlo, a Springville resident, spoke in favor of allowing sectarian prayer.

• Leslie Lannin, 67 North Kessing, spoke against allowing sectarian prayer, instead suggesting a moment of silence.

• David Harris, 28593 Avenue 140, spoke in favor of sectarian prayer and requested that the Council reverse its decision not to allow such prayer.

• Mary Hodges, a Terra Bella resident, came forward as a member of Leadership Porterville Class 2004 to fulfill a class challenge.

• Megan Hanson, 36 East Cleveland, came forward as a member of Leadership Porterville Class 2004.

• Bethany Ambrosini, a Strathmore resident, came forward as a member of Leadership Porterville Class 2004.

• James Handley, 361 West Oak Avenue, voiced support for allowing sectarian prayer during invocations and warned Council to represent the wishes of the citizens.

The Council recessed for ten minutes.

• An individual came forward and voiced support for sectarian prayer during invocations.

• Peter Schalembier, 1591 North Salisbury, came forward as President of the Porterville Area Ministerial Association and spoke in favor of allowing sectarian prayer during invocations.

• Dave Mast, 1301 Jean Street, voiced support for allowing sectarian prayer during invocations and suggested that any and all “legally-defined religions” be allowed to participate.

• Rod Boland, a Strathmore resident, voiced support for allowing references to Jesus during invocations.

• Linda Morton, 617 South Plano, voiced concerns regarding the proposed annexations.

• Dr. Paul Israel, came forward and voiced support for allowing sectarian prayer during invocations at Council Meetings.

• Anthony Mock, 1407 West Thurman, voiced support for allowing sectarian prayer and requested that the Council advise for the record as to the manner in which the policy regarding invocations had been changed.

• Harry Kennedy, 844 West Kanai, voiced support for allowing sectarian prayer during invocations.

• Mark Hillman, 620 West Olive Avenue, voiced support for allowing sectarian prayer.

• Sidney Pedraza, 1125 West Glen Court, voiced support for allowing sectarian prayer during invocations.

• Bernice Gist, 727 West Morton Avenue, spoke in favor of allowing sectarian prayer during invocations.

• A Spanish-speaking individual came forward and voiced support for allowing sectarian prayer during invocations. Mayor Martinez translated his comments.

• Jonathan Casey, 828 North Patsy, voiced support for allowing sectarian prayer.

• Deborah Sierra, 617 North Main Street, came forward as the Chairperson for the 7th Annual Iris Festival, requested support for the event on April 23, 2005, and invited Council, staff and audience members to attend.
• Fran McElfish, 39 Carmelita Street, voiced support for allowing references to Jesus during invocations.

Mayor Martinez ended Oral Communications and advised the audience that another Oral Communications segment would take place later in the meeting.

Council Member West commented that he had heard quotations at a church service the previous Sunday which he believed to be appropriate. He then offered those quotations regarding Jesus and commented that Jesus was the Lord of his life.

Mayor Martinez stated that the Council appreciated hearing all of the different points of view. He encouraged the audience to also take advantage of other forms of communication with the Council, such as e-mail and written correspondence. He stated that the Council had been diligently looking for a solution to the issue so that all were treated equally and fairly. He then thanked everyone for being respectful.

The Council recessed for five minutes.

CONSENT CALENDAR

Items 5, 10, and 12 were removed.

1. CITY COUNCIL MINUTES OF FEBRUARY 1, 2005

Recommendation: That the Council approve the City Council Minutes of February 1, 2005.

Documentation: M.O. 01-021505
Disposition: Approved.

2. CLAIM - PAUL SIMMONS

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. 02-021505
Disposition: Approved.

3. CLAIM - MICHAEL HURTADO

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. 03-021505
Disposition: Approved.

4. BUDGET ADJUSTMENTS FOR THE 2004-05 FISCAL YEAR

Recommendation: That the Council approve the budget adjustments to increase the revenue estimate in the General Fund and the appropriation in the Parks budget by $62,000 to account for reimbursement from the State for the OHV Park, and authorize staff to modify the revenue and expenditure estimates.

Documentation: M.O. 04-021505
6. **STORM WATER MANAGEMENT PLAN (SWMP)**

**Recommendation:** That the Council authorize staff to negotiate for consulting services for the development of a Storm Water Management Plan.

**Documentation:** M.O. 05-021505

**Disposition:** Approved.

7. **APPROVAL OF RESOLUTION FOR RIGHT OF WAY PURCHASE - SCHELLHASE - MEMORY LANE WIDENING**

**Recommendation:** That the Council approve the resolution accepting Grant Deeds in fee for public street and underground utilities purposes from Shawn F. Schellhase.

**Documentation:** Resolution 19-2005

**Disposition:** Approved.

8. **AIRPORT HANGAR PURCHASE**

**Recommendation:** That the Council:
1. Authorize staff to submit a loan request for $118,000;
2. Adopt the resolution;
3. Authorize the Mayor to sign any and all forms necessary for the execution of the loan agreement; and
4. Authorize staff to accept the loan, if the interest rate is such that the Caltrans program requirements can still be achieved.

**Documentation:** Resolution 20-2005

**Disposition:** Approved.

9. **AUTHORIZE THE PUBLIC WORKS DIRECTOR TO APPROVE RIGHT OF WAY TAKES OF $1,000 OR LESS**

**Recommendation:** That the City Council:
1. Give the authority to the Public Works Director to approve right of way takes of $1,000 or less; and
2. Approve the Policy for Right of Way Takes of $1,000.00 or less.

**Documentation:** M.O. 06-021505

**Disposition:** Approved.

11. **APPROVAL FOR COMMUNITY CIVIC EVENT - PORTERVILLE CHAMBER OF COMMERCE IRIS FESTIVAL, APRIL 23, 2005**

**Recommendation:** That the Council approve the Community Civic Event Application and Agreement from Porterville Chamber of Commerce, subject to the Restrictions and Requirements contained in the application, agreement and Exhibit A of the Community Civic Event forms.
12a. AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN, EMPLOYEE BENEFIT TRUST FUND, AND THE PERSONNEL SYSTEM RULES AND REGULATIONS

Recommendation: That the City Council adopt the attached resolution amending the Employee Pay and Benefit Plan for Fiscal Years 2004-2005, the Employee Benefit Trust Fund, and the Personnel System Rules and Regulations, and authorize the Mayor to execute these and other documents necessary to implement the provisions thereof.

Documentation: Resolution 21-2005
Disposition: Approved.

12b. VACANCIES ON THE PARKS & LEISURE SERVICES COMMISSION

Recommendation: That the City Council continue this Item until March 15, 2005.

Documentation: M.O. 08-021505
Disposition: Continued.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Mayor Pro Tem Irish that the Council approve Items 1 through 4, 6 through 9, 11, 12a and 12b. The motion carried unanimously.

5. AWARD CONTRACT: 75-FOOT QUINT AERIAL LADDER TRUCK

Recommendation: That the Council award the contract for a 75-foot Quint Aerial Ladder Truck to Central States Fire Apparatus of Lyons, South Dakota, in the amount of $510,456.38 and authorize progress payments as required, during satisfactory construction of that equipment.

City Manager John Longley presented the item.

Council Member Stadtherr indicated that a staff report would not be necessary, rather he merely had been impressed with this vehicle and requested that Fire Chief Guyton describe its functions in greater detail.

Fire Chief Guyton then explained the various functions of the Quint Aerial Ladder Truck.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Irish that the Council award the contract for a 75-foot Quint Aerial Ladder Truck to Central States Fire Apparatus of Lyons, South Dakota, in the amount of $510,456.38 and authorize progress payments as required, during satisfactory construction of that equipment. The motion carried unanimously.

Disposition: Approved.

10. ISLAND ANNEXATION PROGRAM UPDATE

Recommendation: That the Council review and select a preference for considering public hearings for island annexations from the following options:
1. Hold Individual Public Hearings for Each Project;
2. Hold a Single Public Hearing for Projects 1 Through 4a; or

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report. Mr. Dunlap then summarized the three different options:

Option No. 1 - Hold Individual Public Hearings for Each Project:
This would be the most typical approach. As each project is completed, Staff would set a public hearing for consideration of that project. Notice would be sent to the property owners and residents of the affected island(s), as well as property owners within 300 feet of the boundary of the annexation area. City Council would consider adoption of an environmental document, prezoning, and adoption of a resolution of application for an annexation.

This method has the advantage of allowing the City Council to bring individualized attention to each proposed annexation area and also allows for the most conservative approach to expenditures for the island annexation project. However, several of the public information meeting attendees expressed a desire to be present during the consideration of any of the island annexation projects. Such an approach also has the potential to significantly impact a number of City Council agendas over a period of several months.

Option 2 – Hold a Single Public Hearing for Projects 1 Through 4a:
Each of the projects for which funding is clearly available could be presented to City Council at a single meeting. A venue would need to be found to ensure that there is adequate seating for the likely participants. This method would allow the Council to consider a large portion of the Island Annexation program at a single purpose meeting. Of course, substantial information would be presented for each individual project, as well as for the program as a whole. Comments from the audience could be solicited in terms of their support or opposition to the overall program as well as to any individual island.

Adequate funding is clearly available to bring each of these projects through to completion if they are authorized by City Council.

Option 3 – Hold a Single Public Hearing for Projects 1 Through 6:
As with Option 2, this allows the Council and the community to consider the island annexation program at both a City wide, and an individual neighborhood scale. Including Annexations 5 and 6 in a single public hearing would match Council action to the approach initiated by Staff for the public informational meetings. Unfortunately, funding availability for Annexations 5 and 6 is not guaranteed. If the lower estimate of $12,000 per project is accurate, no additional appropriation would be required. However, if the higher estimate of $15,000 per project is accurate, an additional $21,000 may be needed in order to bring the final two projects to LAFCO and to pay their State Board of Equalization filing fees.

Council Member Hamilton moved to approve Option No. 3, and Council Member Stadtherr seconded the motion.

Linda Morton, 617 South Plano, came forward and clarified with Council that prior to the approval of the annexations, a public hearing would take place. Ms. Morton then voiced opposition to the proposed annexations.
Council Action: Moved by Council Member Hamilton, seconded by Council Member Stadtherr that the Council approve Option No. 3. The motion carried unanimously.

Disposition: Approved.

12. TULARE COUNTY INDIAN GAMING INITIATIVE/SCHOOL RESOURCE OFFICER

Recommendation: That the Council:

1. Continue support for and fund the added School Resource Officer position in Fiscal Year 2005-2006; and
2. Approve the grant application seeking funding for a “Gang Officer” from the Tulare County Indian Gaming Local Community Benefit Committee.

Council Member Hamilton indicated that he had requested that Item 12 be pulled from Consent Calendar as he believed a conflict of interest might exist. After a discussion with the City Attorney, it was determined that Council Member Hamilton and Mayor Pro Tem Irish had no conflict of interest regarding Item 12.

Council Action: Moved by Council Member Stadtherr, seconded by Council Member West that the Council continue support for and fund the added School Resource Officer position in Fiscal Year 2005-2006 and approve the grant application seeking funding for a “Gang Officer” from the Tulare County Indian Gaming Local Community Benefit Committee. The motion carried unanimously.

Disposition: Approved.

Public Hearings

13. SKATEBOARD REGULATIONS

Recommendation: That the Council hold a public hearing, review and consider the proposed regulations and in particular, the effective date, and consider giving first reading to the ordinance.

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

The public hearing opened at 8:59 p.m.

Jeff Keele, 73 North Carmelita, came forward as both a member of the Parks and Leisure Commission and as a Porterville citizen to voice opposition to the proposed ordinance, asserting that the ordinance was unnecessary. He questioned the reference to “morals” in Section 18-60 and pointed out that several sections of the ordinance contained typographical errors, including: 1) Section 18-63 (A) - “are” should be “area”; 2) Section 18-63 (B) - he stated that the last sentence was a fragment; and 3) Section 18-68 (C) - on the fourth line, “of” should be “or”. He requested that the Council reject the proposed ordinance.

A discussion ensued as to whether staff and Council received the same copies of the Ordinance, as some appeared to be correct and others did not. It was then clarified that two copies of the proposed ordinance were attached to the staff report: one of which was marked “draft.” It was determined that the “draft” ordinance had no typographical errors, while the other ordinance had contained errors.

Dick Eckhoff, 197 North Main Street, voiced support for the ordinance and commented that unlike bicycles, skateboards “squirted” upon impact, which thereby posed a greater risk of injury to bystanders and/or property.
Devon Capshaw, 35880 Alta Drive, commented that he agreed with both of the previous speakers and warned of creating unnecessary heartache by enacting an ordinance regulating skateboarding activities prior to opening up the Park. He then voiced concern with charging violators of the ordinance with a misdemeanor, particularly kids.

The public hearing closed at 9:10 p.m.

Mayor Pro Tem Irish commented that the need for the ordinance had been brought forward in contemplation of increased numbers of skateboarders and skateboarding activity due to the opening of the Skateboard Park. He stated that the ordinance would address safety concerns raised by the business community and would somewhat confine the skateboarding to the Park. He pointed out that the proposed ordinance would not be implemented until such time as the Park opened, and not before. He then voiced concern with the possible limitations of the ordinance in that restrictions appeared to be confined to the Downtown Area.

Council Member Hamilton first thanked Mr. Keele for his comments and then stated that with regard to Section 18-60 - Purpose and Intent, he believed the reference to “...public peace, morals, safety, and general welfare...” was absolutely appropriate. He pointed out that currently, the City had areas in which signs were posted prohibiting skateboarding, but those signs were often ignored. He suggested that if the City allowed that type of abuse without any consequences, a bad moral precedent would be set for its youth. He then agreed with Mayor Pro Tem Irish’s concerns that the proposed ordinance was not broad enough in its scope in terms of the area to be regulated. He then stated that it appeared that many people had not understood the staff report in that, pursuant to Council’s direction, the ordinance would not take effect until the Park opened. Council Member Hamilton then commented that he believed that any delay in the Skateboard Park Project was attributed to improving the project rather than intentionally stalling it. He commented that he and other Council Members had visited other cities’ skateboard parks and were aware of numerous problems that had subsequently arisen, such as vandalism and graffiti. He stated that in order to address those issues, Council had requested that an ordinance be prepared. He then recommended that the Council pass the ordinance.

Council Member Stadtherr stated he would like to see Section 18-60 modified as he believed the reference to “morals” was unnecessary, stating for him it was more of a safety issue. He added that Section 18-68 (A) which stated that “[a] person who violates Section 18-3(A) shall be guilty of a misdemeanor” might be too strong. He suggested that this Section should be modified to “a person over the age of 18,” commenting that he did not wish to saddle a child with a misdemeanor charge. Council Member Stadtherr explained that for him, safety was the primary concern, citing for example the danger of skateboarders on sidewalks being struck by vehicles coming out of alleyways. He then voiced support for the proposed prohibition of skateboarding in the area bounded by Morton Avenue, Olive Avenue, D Street and Second Street and indicated that he would like to see the Skateboard Park opened as soon as possible.

In response to Mayor Pro Tem Irish’s question, City Attorney Julia Lew explained that “public peace, morals, safety, and general welfare of persons” was a term of art that generally explained the City’s police powers and authority to enact various regulations. She stated that if the Council took specific issue with that language, the phrase could be modified.

Mayor Pro Tem Irish stated that he did not have a problem with the word “morals” being included, as he felt it was appropriate.

Council Member Stadtherr responded that if the word “morals” was left in the ordinance, it seemed to imply that skateboarding itself was immoral.

In response to Mayor Martinez’s question, Police Chief Silver Rodriguez explained that the Police Department did not track statistics relating to accidents involving skateboarders, as generally these types of
accidents would not require police response. He indicated, however, that the Police Department would have
documentation if an accident had involved a vehicle. He added that the Police Department currently handled
skateboarding complaints by speaking with the individuals and counseling them. He stated that because
speaking with the individuals generally worked, the Department rarely issued citations.

Council Member West commented that the ordinance seemed very restrictive, however he agreed that
some type of regulations were needed. He then pointed out that the staff report indicated that enforcing the
proposed ordinance would take considerable staff time and effort. He questioned Chief Rodriguez whether
the resources were currently available to handle such demand.

Chief Rodriguez explained that the one of the primary duties of the Police Department was to enforce
all federal, state and local regulations. He stated that during times that the Department was overwhelmed, it
handled calls on a priority basis.

Council Member Hamilton stated that he believed the ordinance was intentionally drafted to be restrictive
so as to force skateboarding activity into the Skateboard Park.

In response to Mayor Martinez’s question, staff clarified that the proposed area for prohibition bounded
by Olive Avenue, Morton Avenue, Second Street and D Street included some residences, but primarily
consisted of commercial and office buildings.

A discussion then ensued as to viable surfaces for skateboarding during which it was suggested that fairly
smooth surfaces were needed.

At Mayor Martinez’s request, City Attorney Julia Lew elaborated on the proposed language set out in
Section 18-68 regarding a misdemeanor violation. She stated that the Section was drafted in such a way to
allow the City the flexibility to be weaker or stronger. Ms. Lew pointed out that this language could be revised
if the Council so desired.

Mayor Pro Tem Irish suggested that such changes could be made at a later date as the ordinance would
not take effect until the opening of the Skateboard Park. He then moved that the Council approve the
Ordinance, as amended to strike the word “morals” from Section 18-60. Mayor Pro Tem Irish’s motion failed
when nobody seconded his motion.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish
that the Council approve the Ordinance as drafted.

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

Mayor Martinez noted that the motion had failed and commented that he would like to see the ordinance
revised. He stated that Council Member Stadtherr had offered some valid comments.

Council Member Stadtherr suggested that “a person” in Section 18-68(A) could be changed to “an adult"
or other similar language as deemed appropriate by the City Attorney. He then commented that since the term
“morals” was not actionable, he did not have a problem with it.

City Attorney Julia Lew suggested that “a person” could be changed to “a person over the age of 18.”
It was confirmed that this change did not affect the City’s ability to confiscate a violator’s skateboard.

At Council’s request, Ms. Lew clarified for the record that Section 18-68(A) would read, “A person over the age of 18 who violates Section 18-63 shall be guilty of a misdemeanor.”

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member West that the Council adopt the ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE DELETING SECTION 20-1.1 OF CHAPTER 20, OF ARTICLE 1, OF THE PORTERVILLE MUNICIPAL CODE, AND ADDING CHAPTER 18, ARTICLE IV, CONCERNING THE USE OF SKATEBOARDS, as amended to revise Section 18-68(A) to read, “A person over the age of 18 who violates Section 18-63 shall be guilty of a misdemeanor.” The motion carried unanimously.

City Manager John Longley read the Ordinance by title only.

M.O. 12-021505 MOVED by Council Member West, Seconded by Council Member Hamilton to waive further reading of the Ordinance. The motion carried unanimously.

M.O. 13-021505 MOVED by Council Member Stadtherr, SECONDED by Council Member Hamilton to order the Ordinance to print. The motion carried unanimously.

Disposition: Approved.

14. CONDITIONAL USE PERMIT 1-2005 TO UPGRADE AN EXISTING TYPE 20, BEER AND WINE OFF-SALE LICENSE TO A TYPE 21, BEER, WINE AND DISTILLED SPIRITS OFF-SALE LICENSE AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR AN EXISTING MINI-MART LOCATED AT 809 EAST PUTNAM AVENUE (MOUNIB DAKHIL)

Recommendation: That the City Council:
1. Adopt the draft resolution conditionally approving Conditional Use Permit 1-2005; and
2. Authorize the Mayor to sign a Letter of Public Convenience or Necessity.

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

The public hearing opened at 9:36 p.m.

Linda Morton, 617 South Plano Street, came forward and asked whether the subject property was located near Murry Park and if it had been the location of a recent shooting.

Police Chief Silver Rodriguez advised the Council that a shooting incident had occurred several months prior at that location, however, that particular incident had in no way been caused by the business. He stated that in his Department’s assessment of that location, a records search had been conducted as to the number of calls and/or activities that had been addressed at the store. He stated an assessment had then been made as to whether those calls should be attributed to management, or not. He stated that his Department’s recommendations to the Planning Department had been based on those assessments.

The public hearing closed at 9:38 p.m.
Mayor Pro Tem Irish questioned the purpose of the Census Tract if the maximum licenses identified in the particular track had already been exceeded.

City Attorney Julia Lew explained that the limits were the State’s thresholds, which when exceeded triggered the additional requirement of a Letter of Public Necessity or Convenience. She explained that “creation of an undue concentration” simply triggered that additional step, and that it was at the Council’s discretion as to whether that additional step should be taken.

Council Member West commented that he agreed with Mayor Pro Tem Irish’s concerns regarding exceeding the maximum number of locations within that Census Tract. He added that the area in question was sensitive due to its proximity to the golf course, Murry Park and the swimming pool which was often used by children.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council deny the draft resolution conditionally approving Conditional M.O. 14-021505 Use Permit 1-2005 and do not authorize the Mayor to sign a Letter of Public Convenience or Necessity. The motion carried unanimously.

Disposition: Denied.

15. ORDINANCE PERTAINING TO DOOR-TO-DOOR SALES

Recommendation: That the Council hold the public hearing, consider the proposed regulations, and give first reading to the Ordinance.

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

The public hearing opened at 9:42 p.m.

Dick Eckhoff, Chairman of Downtown Porterville Association, 180 North Main, Suite A, came forward and thanked Council and staff for moving forward with the ordinance. He requested that the Council make the application fees in an amount comparable to that for regular City licenses and sufficient to cover the costs of operating the program. He also suggested requiring payment of an additional fee to operate in the Business Incentive Zone, as was required of other businesses in that Zone. As to Section 8-14(B), Mr. Eckhoff commented that a time frame should be set so that those individuals who chose to operate without a license could not simply cure that violation by immediately applying for one. Instead, he suggested, violators should be prohibited from applying for a license for a set period of time.

Russell “Buck” Fletcher, 1662 West Morton Avenue, questioned how the City would enforce the ordinance and voiced concern with enacting ordinances that would never be enforced.

The public hearing closed at 9:45 p.m.

In response to Mayor Pro Tem Irish’s question, Ms. Lew indicated that as currently written, if an individual had been caught operating without a license, the City could refuse to issue a license to that applicant. She stated that such action was not mandatory, but rather the ordinance was written to be permissive thereby allowing flexibility for consideration on a case by case basis.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Stadtherr that the Council adopt the ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE REPEALING CHAPTER 8 OF
Ordinance 1662  THE PORTERVILLE MUNICIPAL CODE IN ITS ENTIRETY AND REPLACING IT WITH NEW PROVISIONS OF CHAPTER 8 CONCERNING PEDDLERS, SOLICITORS AND CANVASSERS (DOOR-TO-DOOR SALES). The motion carried unanimously.

City Manager John Longley read the Ordinance by title only.

M.O. 15-021505  MOVED by Council Member West, SECONDED by Council Member Hamilton that the Council waive further reading of the Ordinance.

M.O. 16-021505  MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council order the Ordinance to print.

Disposition:  Approved.

16. CONDITIONAL USE PERMIT 2-2005 (NATE WOBROCK)

Recommendation:  That the City Council adopt the draft resolution approving Conditional Use Permit 2-2005.

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

The public hearing opened at 9:50 p.m.

Nate Wobrock, the applicant, 1451 Median Court, came forward and thanked the Council and the Planning Department for their support on this project.

The public hearing closed at 9:51 closed when nobody else came forward.

Council Member Hamilton commented that he appreciated the fact that someone in the community had the vision to build this preschool, as there were not enough in the area. He then questioned if the ratio of the proposed number of employees to students met State guidelines.

Mr. Wobrock responded that the State required one employee to every twelve students and indicated that Hoops Preschool was projected to have one employee to every ten students.

In response to Council Member West’s question regarding the proximity of the subject project to businesses that sold alcohol, Community Development Director Brad Dunlap explained that the proposed use was a sensitive use, and was adjacent to Zalud Park. He stated that the businesses located across Henderson Avenue that currently sold alcohol would not be in jeopardy with the proposed development of a preschool. However, he stated, if the alcohol licenses were discontinued in the future, a new user would need to re-apply.

COUNCIL ACTION:  MOVED by Council Member Stadtherr, SECONDED by Council Member Hamilton that the Council adopt the resolution approving Conditional Use Permit 2-2005. The motion carried unanimously.

Disposition:  Approved.

The Council recessed for five minutes.
17. PARKING COMMERCIAL VEHICLES IN RESIDENTIAL AREAS

Recommendation: That the Council:
1. Approve the proposed Ordinance amendment;
2. Give first reading to the Ordinance amending Chapter 17, Article XI, Section 17-11.7, Parking - Commercial Vehicles in Residential Districts, in the City Code; and
3. Direct the City Engineer to make the appropriate changes in the posted signs when the ordinance becomes effective.

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

The public hearing opened at 10:06 p.m. and closed at 10:07 p.m. when nobody came forward.

In response to Council Member West’s question, it was estimated that a standard pick-up truck weighed approximately 6,000 pounds or less.

Mayor Pro Tem Irish made a motion to approve Conditional Use Permit 2-2005. Council Member Hamilton seconded the motion, after which it was noted that Mayor Pro Tem Irish had inadvertently moved to approve the wrong item.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member West that the Council adopt the ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 17, Ordinance 1663 ARTICLE XI, SECTION 17-11.7, PARKING - COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS, OF THE CODE OF THE CITY OF PORTERVILLE. The motion carried unanimously.

City Manager John Longley read the Ordinance by title only.

M.O. 17-021505 MOVED by Council Member West, SECONDED by Mayor Pro Tem Irish that the Council waive further reading and order the Ordinance to print. The motion carried unanimously.

M.O. 18-021505 MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council direct the City Engineer to make the appropriate changes in the posted signs when the Ordinance becomes effective. The motion carried unanimously.

Disposition: Approved.

SCHEDULED MATTERS
18. AD ZONE SITE REVIEW 1-2005

Recommendation: That the City Council:
1. Adopt the draft resolution with findings and conditions approving AD Zone Site Review 1-2005; and
2. Authorize the Mayor to sign the right of entry or other document to facilitate construction while the property is in escrow as recommended by the City Attorney.

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

In response to Council Member Hamilton’s question, Mr. Dunlap confirmed that the property was currently in escrow.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council adopt the draft resolution with findings and conditions approving AD Zone Site Review 1-2005 and authorize the Mayor to sign the right of entry or other documents to facilitate construction while the property is in escrow as recommended by the City Attorney. The motion carried unanimously.

Disposition: Approved.

19. REQUEST TO SCHEDULE A STUDY SESSION TO DISCUSS VARIOUS PENDING GENERAL PLAN AMENDMENTS

Recommendation: That the City Council set a study session to discuss the processing of proposed General Plan Amendments.

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

A discussion ensued as to dates on which the Council Members might be available for the study session. It was determined that the Council Members needed to first review their calendars to determine whether any conflicts existed with their schedules.

Mayor Martinez directed Mr. Longley to have staff coordinate the study session date with the Council and set the study session accordingly.

Disposition: Direction provided to staff.

20. REQUEST FOR SPECIAL FIREWORKS PERMIT

Recommendation: That the City Council approve the request for a special fireworks permit to the Exchange Club of Porterville for Calendar Year 2005, give first reading to the draft Ordinance, and order it to print.

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

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council adopt the ordinance, being AN ORDINANCE OF THE CITY OF PORTERVILLE AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE.
AYES: West, Hamilton, Stadtherr, Martinez
NOES: None
ABSTAIN: Irish
ABSENT: None

City Manager John Longley read the Ordinance by title only.

M.O. 19-021505 MOVED by Council Member West, Seconded by Mayor Martinez that the Council waive further reading and order the Ordinance to print.

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

Disposition: Approved.

21. DISCUSSION ON INTERSECTION DESIGN STANDARDS

Recommendation: As directed by Council.

City Manager John Longley presented the item and indicated that a Member of the Council had requested that this item be placed on the agenda.

Council Member Stadtherr identified himself as being the requesting Council Member. He voiced concerns with dangerous conditions for bicyclists at certain intersections, noting the difficulty of cyclists crossing through traffic lights when vehicles had not triggered a green light. He stated that he was not currently requesting any action, however he wished to inform Council that he would be investigating options available to the City to address these concerns.

Disposition: No action requested.

22. UPDATE AND MODIFICATION ON BAT HOUSE PROJECT

Recommendation: For Council information only.

City Manager John Longley presented the item, indicating it was for informational purposes only.

In response to Council Member West’s question, Council Member Stadtherr explained that the proposed locations for the bat houses had been identified on a map included in the Memorandum provided to Council. Council Member Stadtherr commented that since the Memorandum had been drafted, he had been approached by a local high school Principal who had evinced interest in the school’s Agricultural Department becoming involved in the project in the future. He stated that the Council had achieved its objective of creating a spark of interest in the program for a small amount of money. He added that Southern California Edison was still committed to donating 16 utility poles.

Mayor Martinez commented that he had understood that staff would not have any involvement in the process.
City Manager clarified that the language included in the staff report had actually been excerpted from a transcript of the Council Meeting of January 18, 2005. He stated that staff had been directed to coordinate the $1,000 contribution to Porterville Sheltered Workshop, which actually involved the Deputy City Manager writing a letter to Porterville Sheltered Workshop informing it of Council’s direction. He then acknowledged that Council had directed that there not be significant staff involvement in the process, and that staff had adhered to that direction.

Council Member Stadtherr commented that the only staff involvement would be to access City property. He stated that he understood that Edison would install the poles, just as they would any other utility pole.

In response to Mayor Pro Tem Irish’s question, Council Member Stadtherr indicated that he had plans to meet with the County Health Department on Thursday, February 17th. He stated that since the Letter to the Editor by the County Health Department Official had appeared in the newspaper, he had obtained Rabies statistics from the California Department of Health Services. He stated that pursuant to this source, there were 7 cases of Rabies in California during a 10 year period, none of which had occurred in the San Joaquin Valley. He continued that he had also obtained information on West Nile Virus from the California Department of Health Services. He stated that the Department maintained a website which was updated on a weekly basis for California statistics on West Nile Virus. According to this website, in 2004, West Nile Virus had been detected in all counties within California and that there were 828 human infections of West Nile Virus in 23 counties in California. He stated that 27 of those infections were fatal, occurring in the Counties of Los Angeles, Kern, Orange, Riverside, San Bernardino and Tahama. He concluded that West Nile Virus posed a much greater risk to humans than did Rabies.

Mayor Martinez questioned if there was a particular set standard for the installation of the poles.

Public Works Director Baldo Rodriguez responded that utilizing an Edison power pole was overkill. He stated that staff would follow the procedure set forth in Chapter 18 of the Uniform Building Code for installation and added that because of the girth of the poles, they generally required a “direct bury.” He stated they were typically buried very deep which eliminated the need for use of a concrete base.

City Manager John Longley clarified that since the bat houses would be installed on City property, inspections would be necessary for liability purposes. He stated that he understood Council’s desire to limit staff’s participation in the project and indicated that minimum staff time would be involved.

Mayor Martinez questioned who would be in charge of ensuring that the bat houses were made to the specifications necessary for inhabitation.

Council Member Stadtherr responded that the bat houses were being build according to the recommendations from Bat Conservation International, which he asserted was fairly authoritative in its field. He then confirmed that in addition to his involvement with the project, the Porterville Breakfast Lions was the lead organization on the project. He stated that the Lions had passed a resolution last month naming the bat house program an official Lions Club Community Service Project, and would be reported to the Lions International as such. He then stated that the Leadership Porterville Class of 2005 had also adopted the program as an official project. Council Member Stadtherr stated that David Hillman from California Department of Forestry Explorer Scouts had also expressed an interest, but nothing formally had yet occurred. Lastly, he stated, Hoagies had signed on as a vendor and would be providing a complimentary lunch for those who participated on Saturday.

Mayor Pro Tem Irish requested that Council Member Stadtherr advise Council on the outcome of the upcoming meeting with Tulare County Health Department.
City Manager John Longley confirmed that he would also be in attendance at the meeting with the County and would take extensive notes.

Disposition: No action requested.

**ORAL COMMUNICATIONS**

- Dick Eckhoff, 197 North Main Street, thanked Council for passing the Ordinance regulating solicitors and voiced support for regulations on fixed-location vendors. He then requested that Council handle the Oral Communications segment differently so as to ensure that individuals wishing to speak on specific agenda items be afforded the opportunity to do so, rather than allowing one particular topic to dominate that designated time.

- Russell “Buck” Fletcher, 1662 West Morton Avenue, came forward on behalf of his mother to voice concern with Item No. 10 and the proposed annexations. He suggested that the City proceed with caution as to the annexations. He then offered his agricultural expertise to Council should it ever be needed, such as with the Bat House Program.

- Linda Morton, 617 South Plano, spoke against the proposed annexations and questioned whether the City had addressed the graffiti on the bridge at Plano Street and the Tule River.

- Felipe Martinez, 195 West Putnam, came forward on behalf of Porterville Exchange Club and thanked the Council for approving the Fireworks Permit. He then informed Council, staff, and audience members of a Crime Prevention Dinner to be held on March 11, 2005.

**OTHER MATTERS**

- Council Member Hamilton requested in light of the recent activity, that the issue of sectarian prayer versus non-sectarian prayer during invocations be placed on the next agenda, with options provided by staff.

- Council Member Stadtherr questioned the amount of staff time involved in estimating the cost of bike lanes, where appropriate, along Morton Avenue from Westwood Street to Granite Hills High School. After staff indicated that less than two hours of staff time would be involved, Council Member Stadtherr requested that staff provide that estimate.

- Council Member Stadtherr then requested that the Council consider hiring an energy consultant to advise on how the City could maximize energy efficiency. It was suggested that the item be considered in the future.

**ADJOURNMENT**

The Council adjourned at 10:45 p.m. to the meeting of March 1, 2005 at 6:00 p.m.

__________________________________________
Patrice Hildreth, Deputy City Clerk

SEAL

__________________________________________
Pedro R. Martinez, Mayor