The Parks and Leisure Services Commission recently reviewed and discussed Chapter 19 of the Municipal Code. As a result of their review a modification to Section 19-5 has been recommended to the City Council.

The Commission observed that the Code has not been updated since adoption in 1977, and that changes in the status of local school districts have evolved over the intervening period. When the code was written, Porterville Elementary School District and Porterville High School District served the entirety of the City corporate boundary. These districts have since unified into the current Porterville Unified School District. In addition, the City corporate boundary now extends into the jurisdictional area of Burton School District and the Alta Vista School District. The Commission feels that the intent of the Section 19-5 was to provide the opportunity for each school district to have an ex-officio representative to the Parks and Leisure Services Commission. The Commission specifically recommends the modification of Section 19-5 to provide for ex-officio member status for both the Porterville Unified School District and the Burton School District. At the time of the Commission meeting, the boundary of Alta Vista School District was simply overlooked. Staff recommends that the City Council consider more generic language within Section 19-5 for each elementary, high school, or unified school district to be provided the opportunity to appoint an ex-officio member, without specifying the districts by name.

Some Commission discussion also occurred in regard to the roles and duties of the Commission, as defined in Section 19-8, versus the authority of individual members serving on the Commission. By majority vote, the Commission indicated their interpretation of Section 19-8 to mean the powers of the Commission as a body and not the authority of individual members. The Commission has requested that their interpretation of Section 19-8 be forwarded to the City Council along with the recommendation to modify Section 19-5.

The City Attorney has provided a memorandum addressing the points discussed by the Commission. The City Attorney’s opinion appears to be consistent with the majority interpretation of the Commission regarding Section 19-8.
**RECOMMENDATION:** Approve first reading of an Ordinance modifying Section 19-5 of the Municipal Code to provide for all elementary, high school, or unified school districts with jurisdiction areas within the City corporate boundary to be given the opportunity to annually appoint an ex-officio member to the Parks and Leisure Services Commission.

**ATTACHMENTS:** Draft Ordinance
June 15, 2005 City Attorney Memorandum
Municipal Code Sections 19-1 through 19-8
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING ARTICLE I, SECTION 19-5 OF CHAPTER 19, ENTITLED “EX OFFICIO MEMBERS” (OF THE PARKS AND LEISURE SERVICES COMMISSION)

WHEREAS, Section 19-5 of Article 1, Chapter 19 of the City of Porterville Municipal Code currently provides that there shall be one representative from the elementary school board and one representative from the high school board (the two boards in existence at the time the regulations were adopted in 1977), appointed by their respective agencies to serve as ex officio, non-voting members of the Parks and Leisure services commission; and

WHEREAS, since the adoption of these regulations the elementary school district and the high school district have been combined to form Porterville Unified School District, and two other (elementary/high school) school districts with schools within the jurisdictional limits of the City have been created.

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

SECTION 1. That Chapter 19, Article 1, Section 19-5 of the Porterville Municipal Code is hereby amended as follows:

19-5 Ex Officio Members.

One representative from the board of trustees of each school district (elementary, high school, and/or unified) within the jurisdictional boundaries of the City shall be selected annually by their respective agencies to serve as ex officio, non-voting, members of the commission.

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

ADOPTED, SIGNED AND APPROVED this ______ day of __________, 2005.

______________________________
President of the Council and
Mayor of the City of Porterville

ATTEST:

______________________________
Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
This is prepared in response to a request for an opinion from this office concerning interpretation of the City’s regulations governing the Parks and Leisure Services Commission regulations due to issues that arose at the most recent Commission meeting.

**Role of Parks and Leisure Services Commission and the roles of the individual members of the Commission.** It is my understanding that there was some confusion with regard to the roles and responsibilities of the Commission. Under Chapter 19 of the Municipal Code, the Commission is made up of seven voting members that are selected by the Mayor with the consent of the City Council. Ex officio (non-voting) members from the elementary and high school districts are also selected by the district boards to serve annually. The Commission serves in an advisory capacity to the City Council, meaning that the body’s decisions become recommendations to the City Council, and the advisory body does not have the power to enact legislation or make determinations that are within the City Council’s powers. However, the Commission does have explicit power under Section 19(g) to “take initiative in planning for future park and leisure areas and facilities” and to take initiative in bringing existing areas up to standard. The Commission can also, per section 19-8 (I), recommend policy concerning the Parks and Leisure to the city council, and under section 19-8(j), define objectives and goals of the Parks and Leisure Services Department.

At the most recent Commission meeting, there was apparently some debate concerning who has the powers enumerated in Chapter 19 (whether it is the Commission, acting as a body, or the individual members themselves). Consequently the Parks and Leisure Services Director and the Commission have requested clarification under the existing regulations. Absent any explicit powers enumerated in the regulations given to the individual members, the powers belong to the Commission itself. The body takes action and makes decisions (consistent with the powers granted to the Commission by the regulations) by a majority vote of a quorum of the body. It is each commissioner’s prerogative and responsibility to present his or her opinions on matters presided over by the body, however those opinions and views do not become the Commission’s recommendation unless affirmed by a majority vote of the body. This is consistent with the powers of the City Council as a body, as opposed to the individual City Council members, as well as the role of a Corporate Board of Directors, versus action by the Corporation.
Roles of Ex Officio Members Appointed by the School Districts. The Commission and Department Director also requested clarification concerning the roles of the ex officio members of the Commission appointed by the school districts. Under the existing code provisions, the ex officio members are appointed annually by the school district boards. They are not voting members of the commission, as set forth pursuant to Section 19-2 (which references that the 7 voting members of the commission are selected by the Mayor with consent of the Council) and Section 19-7 which notes that 4 members constitute a quorum. As there seemed to be some confusion with the role of the ex officio members, the non-voting status is clarified in the proposed modifications to Section 19-5.

A copy of Municipal Code Sections 19-1 through 19-8 is attached for your reference.
ARTICLE I. IN GENERAL

Editor's note—Sections A and B of Ord. No. 1114, enacted August 5, 1977, repealed former §§ 19-1—19-21, regulating the use of the parks generally, and enacted in lieu thereof the provisions set out in §§ 19-1—19-8. Said former sections were derived from Ord. Code §§ 3412.1—3412.21. With permission from the city former §§ 19-22—19-22.2 have been redesignated § 19-9.

Sec. 19-1. Definitions.
For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Commission: The word “commission” refers to the parks and leisure services commission.

Department: The word “department” refers to the parks and leisure services department.

Director: The word “director” refers to the director of parks and leisure services. (Ord. No. 1114, § B, 8-5-77)

Sec. 19-2. Parks and leisure services commission created; composition; function.
There is hereby created a park and leisure services commission, and shall be composed of seven (7) members, who shall be residents of the City of Porterville. The park and leisure services commission shall serve in an advisory capacity to the city council. (Ord. No. 1114, § B, 8-5-77)

Sec. 19-3. Appointment.
Said commission members shall be appointed by the mayor with the consent of a majority of the city council. (Ord. No. 1114, § B, 8-5-77)

Sec. 19-4. Term of office and compensation.
Terms for all commissioners shall be four (4) years, excepting the terms for the first appointees to the commission shall be as follows: Four (4) commissioners shall be appointed to four-year terms and three (3) commissioners shall be appointed to two-year terms commencing July 1, 1977. The terms of commissioners first appointed shall be determined by lot at an organizational meeting of the commission, to be held and conducted within a reasonable time after said appointments. Commissioners shall serve at the pleasure of the city council and may be removed by a majority vote of the city council at any time and for any reason. Members of the commission shall serve without compensation. No member of the commission shall serve more than two (2) consecutive four-year terms. (Ord. No. 1114, § B, 8-5-77)

Sec. 19-5. Ex officio members.
One representative of the elementary school board of trustees and one representative of the high school board of trustees shall be selected annually by their respective agencies [to serve as ex officio members of the commission]. (Ord. No. 1114, § B, 8-5-77)

Sec. 19-6. Vacancies.
Vacancies occurring otherwise than by expiration of terms shall be filled by appointment as in the first instance, such appointees to serve for the unexpired term of the vacant office. (Ord. No. 1114, § B, 8-5-77)

Sec. 19-7. Meetings; records; quorum.
The commission shall hold meetings regularly and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings and records of the commission shall be public. Four (4) members shall constitute a quorum for the transaction of business. (Ord. No. 1114, § B, 8-5-77)

Sec. 19-8. General powers and duties of commission.
The commission:

(a) Shall advise the city council and the director on the management and control of parks, parkways and public grounds except as otherwise provided;
(b) May establish all reasonable rules and regulations for the protection of rights and property vested in the city and under control of the parks and leisure services department for the use, care and management of all parks, squares, avenues, grounds or recreation centers, and for the governing, use and enjoyment of any building, structure, equipment, apparatus or appliances therein; which rules and regulations shall be posted in some conspicuous place in the park, square, avenue, grounds or recreation center, or in or near the building, structure, equipment, apparatus or appliance to which the rule or regulation applies;

(c) May call upon the police department to assist in enforcing all ordinances, rules and regulations governing parks, squares, avenues, grounds or recreation centers as have been or may hereafter be established;

(d) Shall recommend schedules of charges for the golf course, swimming pools and all special services;

(e) Shall give due attention and study to park and leisure services as they affect the welfare of the people;

(f) Shall interpret the leisure and park services of the department to the community;

(g) Shall take initiative in planning for future park and leisure areas and facilities, as well as determining means of bringing present areas and facilities up to an acceptable standard;

(h) Shall serve as a sounding board against which the director and staff may test their plans and ideas;

(i) Shall recommend policy to the city council keeping in mind that the adoption of policy is the prerogative of the city council and that the director must have a free hand to carry on the work of the department within the framework of these policies;

(j) Shall define the objectives and goals of the department. (Ord. No. 1114, § B, 8-5-77)

Sec. 19-9. Driving automobile, golf cart, etc., within confines of golf course.

(a) Restricted. It shall be unlawful for any person, other than a person engaged in the performance of his duties as a municipal employee, or a person who has hired from the Porterville Golf Course manager or golf professional a golf cart, to operate or drive any motorcycle, automobile, golf cart or other vehicle within the confines or upon the Porterville Municipal Golf Course excepting therefrom that portion of said golf course designed and utilized for public parking.

(b) “Golf cart” defined. For purposes of this section a “golf cart” is any vehicle, electric or gasoline propelled, that is customarily utilized in the playing of the game of golf.

(c) Penalty. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. (Ord. No. 1093, § A, 6-15-76)

Sec. 19-10. Presence upon golf course when closed to public declared unlawful.

(a) It shall be unlawful for any person to enter upon the Porterville Municipal Golf Course for the purpose of playing or practicing the game of golf or to play or practice the game of golf on any day when said golf course is closed to play to the general public.