Call to Order: 5:00 p.m.
Roll Call: Council Member Irish, Council Member Martinez (arrived late), Mayor Pro Tem Hamilton, Council Member Stadtherr, Mayor West

ORAL COMMUNICATIONS
None

SCHEDULED MATTER

1. FARM MANAGEMENT AGREEMENT

Recommendation: That City Council provide direction to staff.

The City Manager presented the agenda item and Public Works Director Baldo Rodriguez presented the staff report on the City’s Farm Management Agreement with Robert Nuckols. The staff report included the following options for Council’s consideration:

Option 1: Continue with the existing contract for the remaining years left on the contract;
Option 2: Contract with the current farm manager with modifications and/or adjustments to the present agreement;
Option 3: Prepare and distribute RFPs for a new contract after modifications/adjustments have been made to the present agreement;
Option 4: Prepare and distribute RFPs to lease the land under an alternative farm agreement which removes City managerial controls.

Concluding his presentation, Mr. Rodriguez informed everyone that John Baker, Superintendent of the Waste Water Treatment Facility, was present to answer any questions that the Council might have.

Mayor West requested comments from the Council Members prior to receiving public commentary.

Mayor Pro Tem Hamilton inquired as to why staff pulled the farming operations costs of $126,297 from the 05/06 Budget resulting in a projected $96,231 net loss, rather than a $222,528 net loss. Staff indicated that the “typical” farming costs were removed so as to identify those costs that were fixed. It was stated that the identified costs were a part of the Budget, but not a part of the farming contract. Mayor Pro Tem Hamilton noted that the $126,297 in fixed costs should have also been taken out of the overall farming costs figure of $512,578.
At Council’s request, Mr. Nuckols came forward and answered questions pertaining to the 05/06 Budget. Referring to the Budget Analysis, Mr. Nuckols noted that the figures provided for FY 04/05 were derived at the end of Fiscal Year 2005. He indicated that as of June 30, 2005, 21,000 bales of oat hay and 340 tons of alfalfa hay remained on site at the farm, and that he had already been paid for processing that hay. He pointed out that because the unsold hay was an asset, it should have been reflected as such in the Budget figures. He asserted that it was unfair to only include the expenditure of processing the hay but not include the value of the remaining inventory in stock. A discussion then ensued as to how processing costs were calculated, during which it was stated that a per-acre methodology was currently employed. Various alternative methods of tracking costs were discussed.

Mr. Nuckols indicated that in the past there had been some problem with the alfalfa bales being light, but that problem had been remedied, pursuant to the request of Mr. Baker. He stated that alfalfa bales were currently averaging 117 lbs versus the previous 106 lb average.

At Mayor Pro Tem Hamilton’s request, Mr. Baker proceeded to explain the various elements of the farming operations and compare Porterville’s operations to other cities. He stated that the only other realistic comparison for Porterville would be the City of Tulare in that they too were operating under a Cease and Desist Order. He indicated that Tulare’s waste water flows were somewhat commensurate with Porterville’s, which were slightly more than 5 million gallons per day. He elaborated that during the last two months, Porterville’s flows had been 5.1 million, noting that the Cease and Desist Order limited flow to no more than 5.3 million gallons. He predicted that in the near future, Porterville would violate the Cease and Desist Order, primarily attributing the increase in flow to growth. He emphasized the importance of moving forward quickly with the expansion of additional agricultural acreage. Mr. Baker then informed everyone of specific elements of the Cease and Desist Order to which the City was required to adhere. A discussion ensued as to the various nuances of that particular type of farming, such as soil amendments, like nitrogen, as well as crops and cultivation issues. With respect to the degree of management oversight, Mr. Baker indicated that while most cities had minimal oversight, Porterville’s was significant.

Mayor Pro Tem Hamilton confirmed with staff that Mr. Nuckols performed some of the operational elements itemized as Nos. 1 through 5 in the staff report at cost, while other tasks he did not. Mayor Pro Tem Hamilton also questioned whether the City might be able to perform operations cheaper than a private entity.

Mr. Baker noted that labor operations were generally billed at approximately $11 per hour, not $26 per hour, and the equipment was billed at the negotiated rate. He pointed out that the invoices submitted to the City by Mr. Nuckols were thoroughly itemized and routinely checked by him for accuracy.

A discussion of the expenses itemized in the Farming Operations Budget Analysis ensued. It was stated that the increase in the rent expense was attributed to contractual annual CPI increases. Staff noted an error in the Analysis with regard to Expense Item 26-Rent for the 2005/2006 Budget. It was stated that $56,861 should actually be $53,400. As to Expense Item No. 34, Mayor Pro Tem Hamilton inquired why the materials expense budgeted for 2005/2006 was less than the actual for 2004/2005 and requested clarification as to the significant variances. Mr. Baker responded that the variance in 2004/2005 was likely
the result of the increased cost for fuel. He then elaborated on the process by which the Budget was prepared, indicating that it was a joint process between City staff and the farm manager.

Expense Item No. 62-Debt was discussed next, during which staff indicated the figure represented CIEDB debt. Bryan Styles, Field Services Manager, elaborated that the variances year to year in debt expense were attributed to the CIEDB payment schedule and earned interest in the amount of $90,000. In response to Mayor Pro Tem Hamilton’s question on where that $90,000 went, staff indicated that the money was placed in sewer revenue, so as not to skew the farming revenue figures.

Council Member Irish questioned why some of the $90,000 in earned interest had not been applied to offset some of the farming costs. Mr. Styles responded that the money remained in the same Fund, but was separated out so as to keep the revenue separated from the farming operations to allow for accurate analysis. He added that those funds were still available for use.

Council Member Stadtherr commented that if the $90,000 had been included in the farming revenue, the actual farming operation analysis would be clouded. He agreed that the $90,000 could be made a separate line item. He then noted the resourceful methods employed by Australian officials in managing water and sewer, as relayed by Council Member Irish, and inquired as to the viability of those same methods in solving some of Porterville’s water problems. He suggested other possible uses for “grey” water, including irrigation for schools or the golf course, or even for flushing toilets.

Mr. Baker again emphasized the significance of abiding by the Cease and Desist Order. He indicated that staff had been researching additional ways in which the City could pursue long term reclamation. He stated that the reclamation area had been established in 1987, and estimated the waste water flow to have been approximately 3.5 million gallons per day at that time. He added that the City’s discharge had grown at an average rate of over 3% per year. A discussion ensued regarding the potential for meeting the requirements of the Cease and Desist Order by expanding the City’s irrigable land.

Council Member Irish compared Porterville’s population in 1987 to its current population and commented on the importance of moving forward.

Council Member Martinez clarified with staff that the City of Porterville initiated farming operations so as to meet the requirements of the Cease and Desist Order. It was pointed out that if the City had not taken such action, a growth/building moratorium would have been placed on the City. A discussion ensued regarding the 23 monitor wells and the requirements of the Regional Water Board. Mr. Baker informed the Council that the wells monitored the quality, condition and elevations in the water, the results of which were then reported to the Regional Board on a quarterly basis. He then spoke of the Board’s disapproval of the City raising the water level under the existing Teapot Dome Land Fill and pointed out that through good management of the City’s percolation ponds and reclamation area, the level had been reduced to historic lows. He emphasized that a monumental effort had been required to achieve that result. Mr. Baker stated that the City was on the right track toward compliance, but indicated that the cost was excessive.

At Mayor Pro Tem Hamilton’s request, Mr. Baker then informed the Council of some prospective solutions for the water issues facing Porterville. He emphasized the importance of proper planning for water and transportation corridors in anticipation of growth. He spoke of the necessity for expanding the Waste Water Treatment Facility in the future and cautioned over expansion at the current location, instead
recommending that it be moved toward the reclamation area near the Airport. He discussed some of the benefits of relocating the Facility and suggested an incentive program for utilization of the grey water so as to expand its uses beyond only agriculture.

Mr. Nuckols came forward and requested that the Budget be revised so as to remove the infrastructure costs. He commented that as the Budget was currently structured, the farming operation appeared to incur severe losses, which was inaccurate. He then clarified for everyone that the $74,000 figure was not his net profit, but rather a gross figure from which approximately $40,000 in irrigation costs was deducted. He voiced concern over the public perception of that $74,000 being his net management fee, when in reality, he netted far less.

Mayor West confirmed with City Attorney Julia Lew that the Study Session could run over schedule and that the Closed Session portion of the Council Meeting that evening could begin a little late, if necessary.

Greg Shelton, 888 North Williford Drive, came forward and voiced concern with several facets of the current Farming Agreement, such as lack of control over the end use of the waste water and the lack of a cap on costs. He spoke in favor of opening up the Agreement to bid, and letting the market dictate the price.

At Mayor Pro Tem Hamilton’s request, Mr. Baker explained the restrictions placed on uses of undisinfected secondary effluent by the Department of Health Services (“DHS”). He clarified that DHS prohibited the use of the effluent in pastures used for grazing lactating cows so as to avoid exposure of the cows’ udders to the effluent, which ultimately might contaminate the milk. He noted that the prohibition did not relate to growing crops used as feed, which was what Porterville did.

Council Member Stadtherr pointed out that the primary purpose of the City’s farming operation was to discharge its waste water, and because of that circumstance, it placed extraordinary requirements on the farm manager. He commented that he believed both parties desired adjustments to the current contract and voiced support for removing some of the sewer operations out of the farming operations line item, so actual costs could be more accurately tracked.

Council Member Stadtherr then moved that the Council approve Option No. 2 and direct staff to work with Mr. Nuckols to increase the transparency in the budget.

Mayor Pro Tem Hamilton commented that it was Council’s responsibility to ensure that the farming operation ran as lean and efficiently as it could.

Council Member Irish voiced support for proceeding with an outside audit prior to making any decisions about the current agreement. It was pointed out that the audit conducted by Mr. Steve Presley would be completed in November 2005.

Mayor West confirmed with staff that the three-year period of the current contract would end in December 2005. He then voiced agreement with Council Member Stadtherr’s comments in that Option No. 2 would be the best way to proceed.
Mayor Pro Tem Hamilton commented that the contract term should be adjusted to fall in line with the Fiscal Year. A discussion ensued as to the timeline in the farming operations.

City Manager John Longley indicated that the contract allowed for the flexibility of changing the term to coincide with the fiscal year.

Mayor West commented that he favored that the Council approve the continuation of the current contract, and once the results of the independent audit were available, make modifications to the contract and offer it to Mr. Nuckols. In the event Mr. Nuckols did not agree to the new terms of the contract, staff would be automatically authorized to prepare and distribute RFPs for a new contract. Mayor West clarified that direction to staff would also include working with Mr. Nuckols to identify and separate farming costs from waste water costs, and also emphasized the importance of keeping the Council informed and involved in the process. He stated that the item should then return to the Council for approval.

Mayor Pro Tem Hamilton questioned how the Council would be assured that the terms of the agreement were competitive if the City did not proceed with an RFP. He voiced concern with simply dictating to Mr. Nuckols what the new terms of the contract would be and telling him to either take it or leave it.

Mr. Nuckols voiced support for the status quo until such time as the audit was completed.

Mr. Longley pointed out that the timeline for modifying the contract would be extended to July 1, 2006 if the term was adjusted to coincide with the fiscal year calendar. He suggested that the item could be brought back before the Council post-audit, with staff recommendations for contract modifications.

Council Member Stadtherr commented that extending the contract term to June 30th would be one of the modifications that the Council could make so as to provide the City enough time to digest the audit. He then clarified that he and Mayor West were basically moving in the same direction. He stated that he was not looking for a long-term contact, but did not believe a resolution could be achieved as early as December. He voiced support for keeping the contract with the current farm manager, extending the term to coincide with the fiscal year, and directing staff to work with Mr. Nuckols to address some of the issues with the current operational budget. He indicated that after the audit was completed, the City would be better informed so as to make the appropriate modifications.

Mayor Pro Tem Hamilton commented that he did not believe that the Council was authorizing the extension of the term of the contract that evening, especially before seeing the results of the audit. He indicated that the Council would be maintaining the contract until December, and considering a new contract, with the possibility of initiating an RFP.

Mayor West agreed with Mayor Pro Tem Hamilton’s synopsis of the discussion and Council Member Stadtherr’s motion.

Council Member Irish seconded Council Member Stadtherr’s motion, as restated by Mayor Pro Tem Hamilton.
City Attorney Julia Lew indicated that she understood the direction to be to withhold Council action until such time as the audit was completed in November, and then bring the item back to the Council for consideration.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Irish that the Council authorize that the current contract with Mr. Nuckols be maintained until December 2005; and direct staff to meet with Mr. Nuckols to discuss modifications to the contract, and upon completion of the audit, to bring the item back before the Council with recommendations for modifications.

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

Disposition: Direction provided to staff.

ADJOURNMENT
The Council adjourned at 6:17 p.m. to the Closed Session portion of the regular meeting of September 6, 2005.

Patrice Hildreth, Deputy City Clerk

ATTEST:

Kelly West, Mayor