CITY COUNCIL AGENDA
PORTERVILLE, CALIFORNIA
OCTOBER 4, 2005 6:00 P.M.

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

ORAL COMMUNICATIONS
None

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

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that no action had been taken.

Pledge of Allegiance Led by Mayor Pro Tem Cameron Hamilton
Invocation - one individual participated.

PRESENTATION
Employee of the Month - M’chelle Powers

ORAL COMMUNICATIONS
• Donette Silva-Carter, Porterville Chamber of Commerce, 93 N. Main Street, informed everybody of a presentation to the Red Cross for victims of Hurricane Katrina to take place at First Friday Coffee on October 7th; and invited everyone to the Porterville Community Festival to take place on Saturday, October 8th from 12:00 p.m. to 6:00 p.m. on Hockett Street from Cleveland Avenue to Morton Avenue.
• Dick Eckhoff, Downtown Porterville Association, requested the opportunity to speak on Item 23 when the matter was before the Council; voiced support for Item 24; and noted that commercial trucks were also parking on the frontage road near the Rockwell building.
• Alana Garton, 379 N. Hockett Street, voiced a grievance due to City’s cancellation of a scheduled wedding at Zalud Garden for October 8th and the manner in which City staff handled the situation.
• Mary McClure, 2329 Joseph Court, voiced concerns with the lack of notice to residents regarding street closures for the Porterville Community Festival event scheduled for October 8th; and requested Council assistance in resolving the parking issue discussed in Item 22.
• Carrie Ducker, 1761 McComb Avenue, voiced concern with the safety of students due to the Henderson Avenue Street closure, and requested Police Patrols to enforce traffic laws; and spoke against Item 18 citing concerns with displacing poverty-stricken individuals currently utilizing the hotels/motels as residences.
• Dennis Jenkins, 670 E. Poplar Road, Space 106, spoke against proposed restrictions on hotels/motels, voicing concern with displacing low income individuals.

**CONSENT CALENDAR**

Items 4, 5, 15, and 16 were removed for further discussion.

1. CITY COUNCIL MINUTES JULY 19, 2005 AND AUGUST 16, 2005

   Recommendation: That the Council approve the City Council Minutes of July 19, 2005 and August 16, 2005.

   Documentation: M.O. 01-100405
   Disposition: Approved.

2. BUDGET ADJUSTMENTS FOR THE 2005/2006 FISCAL YEAR

   Recommendation: That the Council accept the revised budget projections for Fiscal Years 2006-07 and 2007-08.

   Documentation: M.O. 02-100405
   Disposition: Approved.

3. ASSISTANCE TO FIREFIGHTERS’ GRANT PROGRAM 2005 - NEGOTIATED BIDS

   Recommendation: That the City Council authorize staff to purchase firefighting equipment under the negotiated bid process for all purchases subject to the terms and conditions of the Grant funding.

   Documentation: M.O. 03-100405
   Disposition: Approved.

6. ACCEPTANCE OF THE MITIGATION WELL PROJECT

   Recommendation: That the City Council:
   1. Accept the Project as complete;
   2. Authorize the filing of the Notice of Completion; and
   3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

   Documentation: M.O. 04-100405
   Disposition: Approved.

7. SCHEDULING A PUBLIC HEARING FOR THE REVISED DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

   Recommendation: That the City Council schedule December 6, 2005 as the date for a Public Hearing to hear testimony regarding the proposed new 11% goal.

   Documentation: M.O. 05-100405
   Disposition: Approved.
8. APPROVAL OF RELOCATION CLAIM FOR RENTAL ASSISTANCE OR DOWN PAYMENT ASSISTANCE FOR PROPERTY LOCATED AT APN 261-093-019 TENANTS JOSE C. MOLINA AND SANTOS CARRANZA GONZALES

Recommendation: That the City Council:
1. Approve the Claim for Rental Assistance or Down Payment Assistance; and
2. Authorize staff to make an advance payment in the amount of $2,100 to Jose C. Molina and Santos Carranza Gonzales, tenants.

Documentation: M.O. 06-100405
Disposition: Approved.

9. INTENT TO SET A PUBLIC HEARING FOR REIMBURSEMENT AGREEMENTS FOR CONCRETE IMPROVEMENT CONSTRUCTION BY THE CITY - WILLIFORD DRIVE STREET RECONSTRUCTION AND DRAINAGE PROJECT

Recommendation: That the City Council:
1. Set a Public Hearing for October 18, 2005, according to the Mitigation Fee Act, for the establishment of the concrete reimbursement fee; and
2. Authorize staff to notify all affected property owners of the Public Hearing, via certified mail, including the concrete reimbursement amount.

Documentation: M.O. 07-100405
Disposition: Approved.

10. CALHOME PROGRAM APPLICATION

Recommendation: That the City Council:
1. Adopt the draft resolution approving the submittal of a CalHome Program funding application to the California Department of Housing and Community Development;
2. Authorize the Mayor to execute all documents pertaining to the CalHome Program; and
3. Authorize the Community Development Director to execute, in the name of the City of Porterville, project drawdown requests, and all other administrative documents required by the California Department of Housing and Community Development for administration of the CalHome Program.

Documentation: Resolution 144-2005
Disposition: Approved.

11. APPROVAL FOR COMMUNITY CIVIC EVENT PORTERVILLE UNIFIED SCHOOL DISTRICT BUTTERFIELD HISTORY DAY - OCTOBER 21, 2005

Recommendation: That the Council approve the Community Civic Event Application and Agreement from Porterville Unified School District, subject to the Restrictions and Requirements contained in the Application, Agreement, and Exhibit A.

Documentation: M.O. 08-100405
Disposition: Approved.
12. DOWNTOWN HOLIDAY DECORATIONS

Recommendation: That the Council retain Christmas Decor by Kaylor Landscape to prune the tree, remove inoperative lights, furnish and install new lights, as well as removal of the lights after the holiday season. Cost of the tree pruning is to be charged to Street Tree Maintenance with the Parks and Leisure Services Department and the balance is to be charged to City Council Community Promotions.

Documentation: M.O. 09-100405
Disposition: Approved.

13. INFORMATION ON STATUS OF CURBSIDE RECYCLING


14. UPDATE ON JOHNSON CONTROLS PROJECT

Recommendation: That the Council accept the update on the Johnson Controls project.

Documentation: M.O. 10-100405
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council approve Item Nos 1 through 3, and 6 through 14. The motion carried unanimously.

4. ACCEPTANCE OF THE PORTERVILLE HERITAGE CENTER

Recommendation: That the City Council:
1. Accept the Project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, less any funds that may be due to the City as part of a settlement agreement, and provided no stop notices have been filed.

City Manager John Longley presented the item and the staff’s revised recommendation. He indicated that staff recommended that $36,250 be held by the City until resolution of outstanding issues, and that the Council authorize the release of $239,484.15.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council accept the Project as complete; authorize the filing of the Notice of Completion; and authorize the release of $239,484.15, provided no stop notices have been filed, and retain the amount of $36,250 until resolution of the outstanding issues. The motion carried unanimously.

Disposition: Approved.

5. ACCEPTANCE OF SLUDGE BED EXPANSION PROJECT
Recommendation: That the City Council:
1. Accept the Project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

City Manager John Longley requested that the item be continued until the next regular meeting, currently scheduled for October 18, 2005.

Disposition: Continued to October 18, 2005.

Council Member Stadtherr noted that pursuant the Council’s protocol, items brought forth by Council Members were to be placed under Scheduled Matters, and since he had requested Item Nos 15 and 16, those Items should be moved to Scheduled Matters.

Item Nos. 15 and 16 were moved to Scheduled Matters.

PUBLIC HEARINGS

17. SUNRISE VILLA PHASE 2 & 3

Recommendation: That the City Council:
1. Adopt the draft resolution approving the Negative Declaration for Sunrise Villa Phase 2 & 3 Tentative Subdivision Map; and
2. Adopt the draft resolution approving Sunrise Villa Phase 2 & 3 Tentative Subdivision Map.

Council Member Stadtherr noted a conflict of interest, recused himself from the discussion, and left the Council Chambers.

City Manager John Longley presented the item, and called on Project Manager Susan Duke for the staff report. Ms. Duke introduced Senior Planner Julie Boyle who presented the staff report.

The public hearing opened at 7:32 p.m.

• Jim Winton, business address of 150 W. Morton Avenue, came forward on behalf of Applicant Tom O’Sullivan, and requested that the Council approve the item.
• Ruth Smith, 644 West Theta, voiced concern with traffic circulation throughout neighborhood, and spoke against approval without first addressing traffic issues.
• John Doyle, 651 W. Theta, voiced concern with safety due to increased traffic.
• Marsha Allen, 622 W. Theta, voiced concern with traffic issues and requested addition of a 4-way stop at Villa and Theta; a 4-way stop at Bel Air and Villa; and no parking allowed on Villa between Henderson and Mulberry.
• Eleanor Forrester, 606 W. Mulberry, voiced concern with traffic safety issues and a perceived lack of vision with respect to recreation planning, spoke of the need for updating General Plan, and provided the Council with a letter signed by residents voicing concerns.
• Keith Hanson, 397 W. Mulberry, voiced concern with a perceived lack of plan for Villa Street.
• Herb Forrester, 606 W. Mulberry, voiced concern with the potential impact in the area due to improper development, and voiced support for the addition of a recreational area.
• Norman Smith, 590 W. Theta, voiced concern with not maintaining integrity of the neighborhood.
The public hearing closed at 7:52 p.m.

At the request of Council Member Irish, staff addressed some of the concerns raised by residents that evening. Public Works Director Baldo Rodriguez indicated that stop signs were not typically installed in situations in which two designated “residential” streets intersected. He stated that staff could run traffic counts, and if the counts showed that one or more of the streets were taking a larger than normal load, a stop sign could be considered. Mr. Rodriguez clarified that in the case of the many stop signs on Westfield Avenue between Newcomb Street and Westwood Street, Westfield was designated as a “collector” street, not a “residential” street. Mr. Rodriguez then confirmed for Council Member Irish that staff would look at ways in which stop signs could be utilized at appropriate intersections so as to mitigate some of the safety concerns.

Council Member Irish commented that if staff could address the safety issues with the use of stop signs where appropriate, that would satisfy his concern on the safety issue. He then commented that during discussions with the developer, the issue of backing out had been discussed and that the developer had worked with the City to minimize the number of lots that would have to back out.

Mayor Pro Tem Hamilton clarified with the staff the lots which required backing out onto Villa Street, and questioned whether the use of hammerhead driveways had been discussed with the developer. He also clarified for the benefit of everyone that no water shortage problem existed. At Mayor Pro Tem Hamilton’s request, Developer/Applicant Tom O’Sullivan addressed the Council, indicating that in the subject development, incorporating hammerhead driveways into the design would prove very difficult.

Council Member Martinez questioned how the proposed development fit into the City’s Circulation Element. City Engineer Mike Reed came forward and explained the difference between the designations of “local” and “collector” streets, indicating that local streets carried less than 12,000 vehicles per day, and collector streets carried more than 12,000. He stated that all of the streets in the proposed development were “local” streets. He added that Villa Street between Henderson Avenue and Olive Avenue was designated as a “collector” street, and that Mulberry Street was also designated as a collector street, adding that a stop sign would be installed for northbound traffic at Mulberry.

Mayor West voiced support for a stop sign at Theta and Villa. In response, Mr. Rodriguez requested that staff first be allowed to run the traffic counts, which would provide the speeds of vehicles, as well as the volume of traffic. He indicated that Cal Trans put out traffic warrants in situations in which traffic on a principal street was held up for minimal traffic on an opposing street. He then indicated that a major study suggested that stop signs actually did not reduce traffic speeds, as individuals were likely to believe the stop sign to be inappropriate, and therefore were likely to speed up to make up the time spent stopping.

In response to Council Member Martinez’s question, Parks & Leisure Services Director Jim Perrine discussed the City’s plans in terms of proposed recreational facilities. Mr. Perrine indicated that the City’s current General Plan did not provide for any park facilities in that quadrant of the City.

Mayor West clarified with staff the situations in which the City was responsible for maintaining sidewalks and repairing damaged areas. He then confirmed that staff would proceed with a traffic count.

Mayor Pro Tem Hamilton moved that the Council approve staff’s recommendation. He then commented that with regard to the comments made that evening pertaining to General Plan issues, the concerned residents should definitely attend and participate in the upcoming General Plan Meeting on October 11, 2005.

Council Member Irish seconded Mayor Pro Tem Hamilton’s motion, with the caveat that it be amended
to direct staff to consider and determine the stop sign placement before the subdivision was completed. A discussion ensued as to the requirements for a traffic study. Mr. Rodriguez commented that some of the applicable streets were not yet there, thereby making it impossible to conduct traffic counts on them. He indicated that staff would proceed with traffic counts on the existing streets leading into the subject area. He explained that the full build-out would first need to occur before meaningful testing could take place. Council Member Irish commented that he believed staff would proceed as they desired.

Mayor West commented that he did not feel comfortable voting on the item at that time, due to the concerns raised by the residents.

Council Member Irish commented that the Council also had an obligation to the developer, whose project had already been delayed for about 3 months.

City Manager John Longley requested that staff be allowed to address any further questions that Mayor West had that evening.

In response to a concern raised by an audience member regarding recreation, Mayor Pro Tem Hamilton commented that recreation would be addressed during the General Plan Update, and was not a part of the proposed development.

Mr. Rodriguez clarified that staff would immediately set up traffic counts on the existing streets in that neighborhood to determine the volume and speeds of traffic. He added that the true picture would come when counts could be run on the streets following completion of the development.

Mayor West requested that the traffic issues be addressed. He commented that he understood the resident’s concerns as he too lived in that area. He then cautioned over approving the project without first requiring that the issues raised be addressed. He then commented that staff could at least conduct traffic studies on the adjacent streets.

Mayor Pro Tem Hamilton commented that staff had already indicated that those studies would occur.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council adopt the draft resolution approving the Negative Declaration for Sunrise Villa Phase 2 & 3 Tentative Subdivision Map; and adopt the draft resolution approving Sunrise Villa Phase 2 & 3 Tentative Subdivision Map.

Ayes: Irish, Hamilton
Noes: Martinez, West
Abstain: Stadtherr
Absent: None

Disposition: Tie Vote.

The Council recessed for ten minutes.

Mayor West informed everybody that it had not been his intent to kill the project with his vote against Item No. 17. He indicated that he had intended on merely continuing the item so as to allow for the traffic issues to first be addressed.

COUNCIL ACTION: MOVED by Mayor West, SECONDED by Council Member Martinez that the
Council reconsider Item No. 17.

M.O. 13-100405

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

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council adopt the draft resolution approving the Negative Declaration for Resolution 145-2005 Sunrise Villa Phase 2 & 3 Tentative Subdivision Map; and adopt the draft resolution approving Sunrise Villa Phase 2 & 3 Tentative Subdivision Map.

Resolution 146-2005

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

Disposition: Approved.

18. CONSIDERATION OF DRAFT REGULATIONS LIMITING CONTINUOUS AND CUMULATIVE OCCUPANCY OF HOTELS, MOTELS AND MOTOR HOTELS

Recommendation: That the City Council hold a public hearing, consider the draft ordinance and approve 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 8:46 p.m.

- Dick Eckhoff, address on record, voiced support for the proposed ordinance.
- Elva Beltran, a Terra Bella resident, spoke against the proposed ordinance, citing concerns with displacing under-privileged residents.
- Carrie Ducker, 1761 McComb Avenue, questioned the impetus of the item and spoke against it.
- Ernie McAllister, (address inaudible), spoke against the ordinance, voicing concerns with creating homelessness.

The public hearing closed at 8:53 p.m.

Council Member Irish commented that with the proposed Ordinance, the Council was attempting to address a zoning issue. He spoke of the complexity of the issue and the difficult challenges it posed to the Council.

Council Member Stadtherr stated that he did not believe a motel was the proper environment in which to raise a child and that something needed to be done. He then noted that it was curious that there were no motel owners present.

Mayor Pro Tem Hamilton commented that the owners were maximizing their profits at a minimum standard for those who had to live in the motels. He then spoke of the duration of assistance provided by charitable organizations for underprivileged individuals and stated that the Council was attempting to correct a standards issue. He stated that there were programs available to low-income families, such as Section 8, but the use of hotels or motels as homes were not a solution. He then commented on crime rates and indicated that the current situation
needed to be addressed.

Council Member Martinez agreed that motels were no place to raise a family, and stated that he did not think that any of the individuals were there by choice. He stated that before the Council proceeded in addressing the zoning issue, he believed that the bigger issue of why individuals were living in those conditions needed to first be addressed. At the same time, Council Member Martinez stated that he also did not believe it was right that some individuals continuously lived at the motels, voicing displeasure with the motel owners for taking advantage of the individuals. He indicated that responsibility for the current situation lied not only with the affected individuals and the motel owners, but also with the City. He stated that the Council first needed to determine what the City could do in working with other agencies to address homelessness before proceeding with the Ordinance. He then asked staff if there was enough low-income housing in the City.

City Manager John Longley indicated the City made a significant effort in the area of affordable housing. He stated that there were a large number of market-ready units developed, including several large projects of affordable units constructed in the last few years. Mr. Longley stated that it would be difficult to ascertain whether the significant efforts undertaken by the City would be sufficient to address the specific needs of the motel patrons.

Mayor West agreed with Council Member Martinez’s comments and added that the Council needed to put a human face on the problem. He stated that it would be cold hearted to pass the Ordinance and kick the affected families out onto the street. He then questioned what the City was doing to help the homeless in the community.

Mayor Pro Tem Hamilton indicated that the Council was in a Catch-22, as without any type of Ordinance, the City had no means of requiring the motel owners to bring their properties up to standard. He stated that without the Ordinance, the families would continue to live in poverty and be abused by the property owners. He indicated that by allowing the situation to continue, the City was not addressing the problem. He added that Social Services had been left out of the equation, pointing out that the situation before them was why the Department had been set up.

Council Member Martinez reiterated his contention that the City first had to find a solution for the affected individuals before moving forward with addressing the issue of substandard conditions with the various motel owners.

City Attorney Julia Lew clarified for the Council that the proposed Ordinance was in a preliminary stage and open to modifications.

Council Member Irish commented that he would not have a problem in bringing the item back. He then noted that the motel rates would increase once the property owners were forced to make the necessary improvements. He added that although he supported continuing the item, it would need to be addressed at some point.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council direct staff to continue the matter until the first meeting in January, M.O. 14-100405 2006. The motion carried unanimously.

Mayor Pro Tem Hamilton noted that at least one of the motels had appeared to bring up their standards and that he appreciated the effort.

Mr. Longley added that there were actually a couple of motels that had worked towards improving their properties.
19. BUDGET ADJUSTMENT/CITIZENS’ OPTION FOR PUBLIC SAFETY (COPS) PROGRAM FUNDING

Recommendation: That the City Council:
1. Conduct the public hearing to receive public comment;
2. Authorize the use of the COPS grant funds to offset costs for the full-time Sworn Officer, the Community Services Officer, and all necessary training, equipment, and overtime costs; and
3. Approve an increase to the Police Department’s 2005-2006 Budget in the amount of $100,000.

City Manager John Longley presented the item, and called on Police Chief Silver Rodriguez for the staff report. Chief Rodriguez then introduced Police Captain Chuck McMillian, who presented the staff report.

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

• Dick Eckhoff, address on record, clarified that the Program funded an existing position and did not entail creating an additional position.

The public hearing closed at 9:11 p.m.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council authorize the use of the COPS grant funds to offset costs for the full-time Sworn Officer, the Community Services Officer, and all necessary training, equipment, and overtime costs; and approve an increase to the Police Department’s 2005-2006 Budget in the amount of $100,000.

Disposition: Approved.

City Attorney Julia Lew requested that Item 21 be heard next, explaining that the item was technically an Administrative Hearing.

21. RESOLUTION OF NECESSITY PERTAINING TO THE ACQUISITION OF A PORTION OF PROPERTY (APPROXIMATELY 85 SQUARE FEET OF PROPERTY) LOCATED AT THE NORTHWEST CORNER OF MULBERRY AVENUE AND PLANO STREET (APN #248-010-005) FOR THE PROPOSED TRAFFIC SIGNAL NO. 8 PROJECT

Recommendation: That the City Council:
1. Hear testimony from the owners and/or their representative(s), if they appear at the hearing and request to be heard;
2. Adopt the Resolution of Necessity; and
3. Authorize the City Attorney to take all appropriate action necessary to acquire said property on behalf of the City of Porterville.

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

Mayor West invited Mr. Richardson to come forward and address the Council.

• John Richardson, 27349 Avenue 138, came forward and voiced concern with removing large
quantities of dirt from the roadway bed, which he asserted would impact the flood irrigation activities on his property. He then voiced opposition to City Attorney Julia Lew’s statement that it was necessary for the City to take the property. He provided pictures of the area in question to the Council, after which a discussion ensued as to the viability of a dirt berm versus a asphalt or cement berm.

In response to comments made during the discussion, Public Works Director Baldo Rodriguez came forward and pointed out that Mr. Richardson’s property was already flooding into the County. He questioned why, if Mr. Richardson was already controlling some of the water with his berm, he had issues with the effectiveness of the City’s proposed berm. He then clarified that a retaining wall would cost substantially more money than would a dirt berm, yet both did the same job. He commented that the parties had already had the discussion regarding the berm.

Mr. Richardson disagreed and stated that he had not seen anything on the berm.

Mr. Rodriguez clarified that his discussion had taken place through the City Attorney, and that he had informed Ms. Lew that staff was not opposed to constructing and maintaining a berm. He stated that with regard to Mr. Richardson’s water run-off, the installation of a storm drain was also a part of the project. Mr. Rodriguez then commented that it was unclear to him as to why Mr. Richardson opposed the matter, considering that the City had proposed to build a berm on City right-of-way and maintain it. He stated that there had been an issue with regard to Mr. Richardson’s olive trees, and that the City had agreed to pay for the removal of an olive tree. Mr. Rodriguez questioned why Mr. Richardson believed the berm proposed by the City would not work.

City Attorney Julia Lew clarified that she and Mr. Richardson’s attorney had discussed the City building a berm on the City’s right-of-way, and that both had agreed that would not be the way to proceed. She stated, however, if the Council chose to do that, or staff recommended it, then the City could proceed that way. Ms. Lew then indicated that the discussion with regard to the berm could be continued, but that the issue before the Council that evening was whether or not the property was needed for the project. She stated that the action recommended that evening would not stop the discussions.

Mayor Pro Tem Hamilton questioned whether the City could construct the berm on Mr. Richardson’s property, and then abandon it.

Ms. Lew indicated that Mayor Pro Tem Hamilton’s suggestion could be explored, but that there might be a gift of public funds issue. She then clarified that the item was procedurally an administrative hearing, and she wanted to be sure that Mr. Richardson had the ability to provide the Council with all of his comments. Mr. Richardson was then invited to come forward if he had any further comments.

Council Member Irish questioned why Mr. Richardson couldn’t construct a berm similar to his existing berm on the backside of his property.

Mr. Richardson responded that there was not enough room to do so, explaining that a power pole was located in that area, which prevented him from turning around with his tractor. He stated that the most cost effective way for the City to proceed was to purchase one of his trees, and reimburse him in an amount equal to what he would have earned from the tree for a one year period, per the interest rate calculation. Mr. Richardson stated that he had never been offered the option of the City building a berm and maintaining it, and that this option sounded pretty good to him. He then clarified that he had never had a conversation with Mr. Rodriguez and that he had only spoken with the City Attorney that afternoon at 4:00 p.m.
Council Member Irish then inquired whether Mr. Richardson would hold the City liable in the event he were to incur tree loss subsequent to the City’s construction of a berm.

Mr. Richardson indicated that he would not think so, as he currently flood irrigated his property, pointing out that olive trees could withstand flooding.

Mayor West confirmed with Mr. Richardson that if the City built a berm and maintained it, he would sign the agreement.

Ms. Lew stated that if Mr. Richardson was willing to do that, she could draft something that would basically release the City.

Mr. Longley stated that Mr. Richardson had called him and he had indicated the City’s intention was to build a berm. He stated that the issue might be the actual definition or specifications of a berm, as Mr. Richardson had voiced concern with footings and foundation.

Mayor West voiced support for building the same type of berm that currently existed on Mr. Richardson’s property, which was a dirt berm. A discussion ensued as to where the berm was needed.

City Attorney Julia Lew clarified that while the current discussion was productive for the project, the issue before the Council that evening was to determine whether or not the property was necessary for the project.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council adopt the Resolution of Necessity; and authorize the City Attorney to take all appropriate action necessary to acquire said property on behalf of the City of Porterville. The motion carried unanimously.

Disposition: Approved.

SCHEDULED MATTERS
20. CONSIDERATION OF FARM MANAGEMENT AGREEMENT TERMINATION

Recommendation: That the City Council:
1. Direct staff to complete the audit of the farming operation; and
2. Provide recommendations at the November 15, 2005 City Council Meeting to modify the existing Farm Management Agreement to benefit the City.

City Manager John Longley presented the item and the staff report.

Council Member Irish commented that he would not be satisfied enough to proceed until the audit was completed. A discussion ensued as to possible dates to bring the item back following the completion of the audit. Staff indicated that it was anticipated that the item would return to Council at the November 15, 2005 meeting, at which point Council Member Irish indicated that he would be out of town at that Meeting. Scheduling a special session on November 29, 2005 was then discussed, during which Council Member Martinez indicated that he would be out of town on that date.

Council Member Martinez asked Mayor Pro Tem Hamilton to reiterate his concerns as to planting seasons.

Council Member Stadtherr voiced support for bringing the item back before the Council once a full report was completed.
Mayor Pro Tem Hamilton commented that waiting until the audit was complete was fine with him, however, the City would continue to lose $500,000. He stated that the audit would merely tell the Council how the City lost the $500,000. He then indicated that the Farming Agreement allowed for the City to extract itself from the Contract at the end of 3 years, with 90 days notice. This fact, Mayor Pro Tem Hamilton asserted, would not change. He then stated that he did not believe that the City could modify the contract. A discussion ensued as to whether or not a modification to the contract would technically be terminating the contract.

Mayor West voiced support for waiting until the audit was completed so as to determine the operation’s actual losses and clarified with staff that the City selected the types of crops to be grown.

A discussion ensued during which Mr. Longley indicated that staff expected farming expenditures for FY 2005/2006 to exceed farm revenues by approximately $220,000, adding that expenditures had exceeded revenues each year by more than $250,000. Mr. Longley stated that the audit would glean the loss attributed to the farming operation versus the loss attributed to the purchase of the property, development of bonds, etc.

Council Member Irish noted in the staff report that the City had anticipated a loss at the time of the original negotiations for the Agreement, and indicated that when it returned to the Council for consideration, he would like to have a cap identified, and exactly what the City would do and wouldn’t do presented.

Mayor Pro Tem Hamilton inquired whether the Council Members, as businessmen, would continue as a party in the same contract.

Mayor West indicated that he would not be able to answer that question until the numbers were known for certain, which would be provided by the audit.

Council Member Martinez requested that Farm Manager Bob Nuckols be afforded the opportunity to come forward and address the Council.

• Bob Nuckols, came forward and asserted that farming expenditures must be separated out from all other expenditures. He voiced concern that he as the Farm Manager carried the blame for the large deficit, while costs that were not associated with farming were included in the Farm Budget. He stated that the actual farming operation was not really performing that badly, but the figures, as currently shown, skewed the actual results.

Mayor Pro Tem Hamilton commented that he was sorry that Mr. Nuckols felt as though the public perception was that he was to blame for the deficit, however, the Council had never stated that the deficit was his fault. Rather, Mayor Pro Tem Hamilton commented, the City had entered into a contract that did not benefit the City, nor Mr. Nuckols. A discussion ensued as to the custom projects not related to farming that Mr. Nuckols performed.

At the Mayor’s request, Deputy City Manager Darrel Pyle explained the level of detail that could be expected with the audit.

Mayor Pro Tem Hamilton commented that the Council was to have had that level of detail all along, and voiced concern that the Council had not ever received it.

Mr. Pyle confirmed that Mayor Pro Tem Hamilton’s concerns would be looked into.
Mr. Longley added that Waste Water Treatment Facility Supervisor John Baker was currently preparing a very detailed breakdown of all farming activities, percolation pond operations, and marketing and management elements. He added that staff would utilize this breakdown to modify the Budget, and draft a new Farm Agreement.

Mayor Pro Tem Hamilton again voiced support for terminating the Farm Agreement that evening, which he asserted would ensure that the Council would rectify the situation. He then clarified his contention that the City would not make changes to operations in the middle of a crop season.

Council Member Martinez confirmed with Mr. Nuckols that he believed the current Farm Agreement could work, however the farming costs needed to be separated out. A discussion ensued as to the time frame involved in modifying the Farm Agreement once the audit had been completed. Mr. Longley projected that negotiations could commence immediately after the audit results were received, however, if the Farm Agreement was cancelled that evening, it was uncertain as to who would be able to farm the property within 90 days.

At Mr. Longley’s request, Public Works Director Baldo Rodriguez estimated that a solid RFP would take at least 60 days to draft. A discussion as to the expected RFP process and timeline continued, during which Mr. Longley voiced concern with cancelling the Agreement that evening, commenting that he did not believe anything would be gained by the action.

Mayor West voiced support for staff’s recommendation.

Mayor Pro Tem Hamilton commented that action should have been taken long before, and noted that instead, the Council would be postponing action even further.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Council Member Stadtherr that the Council direct staff to complete the audit of the farming operation; and provide recommendations at the November 15, 2005 City Council Meeting to modify the existing Farm Management Agreement to benefit the City.

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

Disposition: Approved.

22. REQUEST TO ADDRESS CONCERNS IN REGARD TO PROPERTY LOCATED AT 379 N. HOCKETT STREET

Recommendation: That the City Council direct staff to provide the property owner with the following options for resolution of the matter:
1. Continue enforcement of the City Standards for PO use at 379 N. Hockett Street, which would allow non-medical uses with the existing number of parking spaces;
2. Provide property owner with the option to remodel garage to allow access to/from the alley. This action may require improvements to alley per City Standards;
3. Lease two (2) public parking lot spaces to property owner at rate determined to be fair market value for construction of a parking space and with an annual lease rate to cover on-going maintenance of the parking spaces to bring property into compliance with parking standards. (Note: It is estimated that current fair market value per space is $2,021.40.)
City Manager John Longley presented the item, and Project Manager Susan Duke presented the staff report. Ms. Duke noted that option No. 3 contained a typographical error in that “two (2) parking spaces” should actually read “one (1) parking space.”

Mr. Longley clarified that if the property was used for anything other than a medical office, then option No. 1 of the staff report would apply.

At Mayor West’s invitation, property owner Mary McClure came forward and addressed the Council.

- Mary McClure, indicated that when she had purchased the property in question, it had been zoned Professional Office (PO) and that it was still zoned PO. She stated that she remodeled the building and utilized it as her office for two years. She asserted that when she had attempted to sell or lease the property, the City had cost her two sales and two leases by denying business licenses to potential applicants. Ms. McClure then contended that the property on the northeast corner of Harrison Avenue and D Street, on which the church is located, was not owned by a non-profit organization, but rather an individual. She equated her situation to that of the church, who was not required to develop parking spaces and instead allowed to use the City lot. She then alleged that the Zalud House also did not have sufficient parking.

Mayor Pro Tem Hamilton commented that whether or not the church was in compliance would be investigated. A discussion then ensued as to how many parking spaces Ms. McClure’s property currently had and the options available for various types of uses, such as a spa.

Mayor West commented that he had attended several meetings with staff and Ms. McClure and that he believed staff always found something different with which Ms. McClure to be required to comply. A discussion ensued as to exactly which items Mayor West had referred. Mayor West commented that Ms. McClure had first been required to place lever handles on her panel doors; and then she was required to address water runoff from the roof. It was pointed out that those requirements pertained to finalizing the construction permit.

Mayor Pro Tem Hamilton commented that the items raised by the Mayor pertained to a completely different issue than was currently before the Council.

Ms. McClure came forward and indicated that the impetus of her problems was being charged $75 by the City to officially change her property from Residential to PO. She stated that she had refused to pay the $75 because she had already been zoned PO.

Public Works Director Baldo Rodriguez indicated that one comprehensive list had been provided to Ms. McClure and that the list had been reviewed with her. He stated that there were items that had not been addressed, and that she had acted to take care of those remaining items. Contrary to the Mayor’s belief, Mr. Rodriguez stated, there was not one list after another, but rather one comprehensive list from the start. He indicated that once Ms. McClure had complied with all of the building requirements, she had been notified of such and informed that there remained an outstanding parking issue. He stated that he had always discussed that the parking issue was a planning matter that would need to be addressed.

In response to Mayor Pro Tem Hamilton’s request, staff indicated that the $75 fee was to allow the PO use in that area and represented a permit for that purpose. Mr. Longley stated that while the property had been zoned PO, Ms. McClure’s office had been operated as a home occupation. He indicated that Ms. McClure’s office operated as an existing non-conforming residential use in the area. Noting that it had been some time since he had reviewed the issue, Mr. Longley stated that he could not exactly recall the nuances of the matter.
Council Member Irish stated that Ms. McClure had not been treated differently than anyone else, but the circumstances were not good. He then confirmed that the City had not before rented a parking space to anyone else.

Council Member Martinez commented that he believed the issue was about promoting business and voiced support for finding a solution to promote business growth. He questioned whether an exception could be made, as a City parking lot was so close to the subject property. Staff indicated that if the Council so desired, Ms. McClure could file for a variance.

Ms. McClure voiced concern with what she perceived to be unwarranted and unequally-applied scrutiny by City staff to any of her projects.

Mayor West commented that no other individual had been asked to lease a parking space from the City and noted that the issue needed to be resolved. He voiced concern with requiring Ms. McClure to develop a parking space when the City’s lot was next to the property. He then spoke of parking lot lights shining in on surrounding residents due to the City not building a block wall.

Mayor Pro Tem Hamilton commented that the City needed to stay consistent with its application of requirements. He noted that perhaps the City should review changing the requirements so that all Business-Professional Offices were required to have 1 parking space per 300 sq. ft. rather than Medical Offices being required to have 1 parking space per every 200 sq. ft. It was clarified that square footage was calculated using the gross floor area and included storage areas.

Mr. Rodriguez clarified that the figure of $2,021.14 stated in the staff report as fair market value for a parking space was merely the cost to build the space and did not represent the proposed lease amount. He stated that any lease would be negotiable.

Mayor West commented that Ms. McClure should be able to use the City parking lot.

Mayor Pro Tem Hamilton responded that the issue was not whether Ms. McClure had the right to use the City parking lot, as she indeed had the same right as anyone else. The issue, he stated, pertained to Zoning Ordinance requirements that mandated having a certain amount of parking spaces. He then spoke in favor of changes the standards in square footage requirements.

City Manager John Longley pointed out that Ms. McClure could proceed with virtually any type of use except Medical without any changes. He then stated that if the Council so desired, staff could return with a revision to the Zoning Ordinance. He then clarified that if the Council wished to proceed with the use as a variance, Ms. McClure would be required to file a Variance Application. A discussion then ensued as to the status of the adjacent church. Mr. Longley indicated that staff had sought to determine that day whether the church had continuously operated, because if it had not operated for a 1 year period, the church would lose its legal non-conforming status. He indicated that research showed thus far that it had operated on a continuous basis.

Mayor West questioned why, if the City was requiring the church and Ms. McClure to comply, was the Zalud House not in compliance. Mr. Longley indicated that he believed the City was in compliance. He stated that the property on which the parking lot sat was gifted to the City by Mrs. Pearl Zalud. He stated that while the lot was a public lot available to everyone, it was built to serve the Zalud House.

Council Member Irish commented that he did not have a problem with Ms. McClure obtaining a variance, since there was an adjacent parking lot available and he understood Ms. McClure’s predicament.
Mr. Longley explained the process by which staff would proceed if the Council wished to proceed with a variance.

Ms. Lew clarified that if the Council proceeded with the variance, it would create a situation in which variances would need to be applied in similar situations. She warned that such action could ultimately create a situation in which the exception might become the rule, and in that case, she would recommend that, in the alternative, the rule be changed.

Mr. Longley clarified with Mayor Pro Tem Hamilton that he would like to instead change the Zoning Ordinance to modify the requirement for parking spaces in PO from 1 space for every 200 sq. ft. to 1 space for every 300 sq. ft. He stated that staff could prepare a draft Zoning Ordinance for the Council’s review at the next meeting, noting that it would also require a public hearing.

Mayor Pro Tem Hamilton moved that the Council change the Zoning Ordinance pertaining to the requirement of parking spaces for PO Medical from 1 space for every 200 sq. ft. to 1 space for every 300 sq. ft.

Council Member Stadtherr seconded Mayor Pro Tem Hamilton’s motion.

City Attorney Julia Lew clarified that the process by which the Ordinance would return to Council.

Council Member Irish noted that he would like to know the potential impact City-wide due to the proposed change. It was stated that the parking space standard likely dated back to the 1970s.

**COUNCIL ACTION:**

MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council direct staff to bring back to the Council at the next Regular Meeting, a preliminary draft Zoning Ordinance modifying the requirement for parking spaces from one (1) space for every two hundred (200) sq. ft. to one (1) space for every three hundred (300) sq. ft. for PO Medical uses, and provide an analysis of potential impacts of such change in the staff report.

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

Disposition: Direction provided to staff.

23. ENVIRONMENTAL REVIEW OF THE CITY OF PORTERVILLE DOWNTOWN PARKING PROJECT - PHASE 2

Recommendation: That the City Council:
1. Adopt the resolution approving a Negative Declaration for the City of Porterville Downtown Parking Project - Phase 2;
2. Direct staff to proceed with working drawings and specifications in preparation for the award and construction of this project; or
3. Direct staff to prepare an agenda item requesting approval of a Resolution of Intent to Abandon a portion of Oak Avenue, and set a public hearing in relation thereto; and
4. If Council should decide against the abandonment and closure of Oak Avenue, direct staff to proceed with working drawings and specifications in preparation for the award and construction of Element No. 1 of the Project (parking lot improvements), as well as intersection and street improvements along Oak Avenue between Hockett Street and Division Street.

City Manager John Longley presented the item, and Deputy City Manager Darrel Pyle presented the staff report.

The Council recessed for 5 minutes.

Audience members were invited to come forward and address the Council.

- Jim Cone, 118 North Second Street, spoke against the proposed closure of Oak Avenue.
- Pam Hughes, 177 North Main Street, spoke of the approximately 65-70 signatures she had collected from business owners opposing the street closure, voiced concern that the Downtown Porterville Association had endorsed the project, alleging members had not been polled and some were opposed; and voiced concern with losing customers due to patrons being forced to travel an extra block down to Olive Avenue to circle back around to find parking on Main Street.
- An unidentified individual came forward and spoke of the formation of a group of downtown property owners in 1991 that had raised money to purchase the Frontier property to address parking and access issues.
- Dorothy Olson, downtown property owner, spoke against a pedestrian mall voicing concerns with pigeons, problems attracting patrons due to inclement weather, and eliminating vehicular access to some tenants thereby inhibiting their ability to receive repairs, fire assistance, etc.
- Felipe Martinez, came forward as President of the Board of El Futuro Credit Union, and spoke in opposition to the street closure, citing the need to utilize the street as a thoroughfare.
- Dick Eckhoff, came forward and read Ms. Renay Sprague’s letter in the record as follows:

  Dear Councilmen: I am writing you today as I will be out of town and unable to attend the October 4 City Council Meeting to address the pedestrian mall that has been presented to you for your consideration. I use Oak Avenue quite often to cut across Main Street, but I feel the benefits far outweigh the inconvenience of having to drive around to Olive and get back and forth. This seems to be little time expense on my part and this opportunity you have to utilize funding for such a wonderful improvement would be hard to outweigh with such a small inconvenience. I have seen documents that were passed out to people to sign saying that they were not in favor of this development idea, but they give no reason for not wanting it. I have heard that some think that they will lose customers over this. I just don’t understand how this improvement would affect someone wanting to shop on Main Street. The improvement has parking spaces, something that all merchants can use, and makes for a safer shopping environment. I wish I had time to go stand in front of a major store and pass out papers for people to sign in favor of it, who have no idea of what it even looks like, so you can have the numbers in favor of this project. But, I am a busy businesswoman at this time and just haven’t had the opportunity to do something like that. As a member of Downtown Porterville Association, it is very disappointing to have conducted our own special information meetings and placed this item on the Agenda at least a couple of
times to get input for the BIA businesses, and then to have all of this hoopla against it. I am certain you know exactly what I mean. I urge you to approve this wonderful opportunity to start turning back the aging process of downtown with a pedestrian mall project, and thank you for considering a positive point of view. Sincerely, Renay Sprague.

Mr. Eckhoff then spoke in favor of closing Oak Street for a pedestrian mall, asserting that alternate routes would only cause an additional 25 seconds southbound, and 55 seconds northbound. He then contended that safety issues currently existed at the intersection of Main Street and Oak Avenue, and commented that a pedestrian mall would create a more inviting environment for downtown patrons.

Mayor Pro Tem Hamilton reminisced of the ill-effects on his former Main Street business when Main Street had been made a one-way street. He voiced concern with the potential negative effects on downtown merchants due to the closure of Oak Street, and questioned what would be accomplished with a pedestrian mall. He then indicated he was not in favor of closing Oak Street.

Council Member Stadtherr commented that if Main Street merchants only depended on Main Street parking, those businesses were doomed. He stated that the key was to open up more parking on the backside, and noted that cities with pedestrian malls were often the most pleasant cities. He then voiced support for developing more parking between Division and Hockett Streets, providing more signage directing patrons to parking lots, and then considering the closure of Oak Street. He then spoke in favor of approving Element No. 1, and postponing Element No. 2.

Mayor Pro Tem Hamilton noted that Fresno had attempted a pedestrian mall and it had not been successful.

Council Member Irish commented that he had watched the flow of traffic on Oak Avenue between 9:45 a.m. and 11:00 a.m. and again between 3:30 p.m. and 4:45 p.m. and had noted quite a bit of vehicular traffic, as well as pedestrian traffic from the Transit Center. He indicated that he viewed the proposed pedestrian mall as an overall project in conjunction with the Transit Center. A discussion then ensued as to the proposed surface treatments, width and grade of Oak Avenue. Council Member Irish then spoke in favor of a temporary barricade of Oak Avenue so as to gauge any effects on merchants.

Mayor Pro Tem Hamilton commented that he would be willing to experiment with the temporary barricade, but not for a lengthy period of time.

Council Member Stadtherr stated that he did not believe a short term closure of the street would provide accurate data, and reiterated his desire to first see improvements to existing parking lots before considering closing Oak Avenue. A discussion ensued as to the current use of downtown City parking lot west of Main Street.

Mayor West noted the large opposition to the street closure and pedestrian mall, mainly from business owners and stated that he sided with the business owners. He commented that it would be a big mistake to proceed, cautioning that business owners would suffer.

Council Member Martinez clarified with staff that approximately 3 to 4 parking spaces would be created on Main Street with the closure of Oak Avenue. Mr. Pyle noted that the proposed project’s impetus had been staff’s awareness of the availability of FTA §5307 funds and the opportunity those funds provided. Mr. Pyle explained that it the Council decided to proceed with only Phase I, Phase II, being the closure of Oak Avenue, would likely not be funded, at least by those FTA funds in the near future.
In response to Mayor West’s question, Mr. Pyle indicated that public meetings had been held prior to pursuing the FTA funding. He elaborated that the DPA had placed the item on their Agenda, and that some negative commentary had been received.

Council Member Martinez commented that he did not believe the inconvenience of having to drive a block further was that significant. He indicated that he believed that if the downtown merchants were providing a product that individuals sought, they would find them, citing the popularity of the Dutchman’s Frontier Restaurant in Ducor as an example. He commented that Downtown Porterville needed some innovation and creativity and that the proposed project provided that. He then attributed the opposition to an unwillingness to change.

COUNCIL ACTION: 

MOVED by Council Member Martinez, SECONDED by Council Member Irish that
the Council adopt the resolution approving a Negative Declaration for the City of
Porterville Downtown Parking Project - Phase 2; direct staff to proceed with working
drawings and specifications in preparation for the award and construction of this
project; direct staff to prepare an agenda item requesting approval of a Resolution of
Intent to Abandon a portion of Oak Avenue, and set a public hearing in relation thereto.

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

Resolution 149-2005

MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton
that the Council adopt the resolution approving a Negative Declaration for the City
of Porterville Downtown Parking Project - Phase 2; and defer the portion of the
Project pertaining to the Pedestrian Mall on Oak Avenue for further study.

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

Disposition: Approved as to Element No. 1 only.

24. CONSIDERATION OF A DRAFT ORDINANCE ADDRESSING NEGLECT OF REAL PROPERTY

Recommendation: That the City Council review the draft ordinance, provide additional input, and direct that
the ordinance be brought back to the Council on October 18, 2005 for consideration and
first reading.

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

In response to Mayor Pro Tem Hamilton’s question, Ms. Lew indicated that enforcement would be handled on a complaint basis, and that there would be no legal grandfathering of any business. She then stated that “unsightly” was a subjective term and that standards would need to be set and equally applied. She then noted that the Ordinance really would address severely deteriorated exteriors and clearly unmaintained properties.
Mayor Pro Tem Hamilton voiced support for the Ordinance.

Council Member Stadtherr agreed with Mayor Pro Tem Hamilton.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council direct staff bring the draft ordinance back to the Council on October 18, 2005 for consideration and first reading. The motion carried unanimously.

Disposition: Approved.

25. ELIMINATING TRUCK PARKING ALONG OLIVE AVENUE, PLANO STREET AND WESTWOOD STREET

Recommendation: That the Council direct the Public Works Director to:

1. Advertise in the local newspaper informing interested parties that a meeting will be held to discuss the City’s intent to prohibit parking along the Olive Avenue, Plano Street, and Westwood Street corridor, and that the City welcomes input on alternative parking arrangements;

2. Transmit a formal letter requesting the Tulare County Board of Supervisor’s approval to prohibit commercial truck parking and the stationing of trailers along that portion of Olive Avenue located in the County; and

3. Prepare a staff report with recommendations related to commercial truck parking along the Olive Avenue, Plano Street and Westwood Street corridors based on input received at the above-mentioned public meeting and based on the response received from the Tulare County Board of Supervisors.

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

Council Member Irish commented that the trucks in question would merely be moved from one side of the City to the other.

Mayor Pro Tem Hamilton voiced concern with causing trucks to relocate into residential areas, to which somebody pointed out that commercial trucks were not allowed in residentially zoned areas. He then commented that he had not witnessed trucks parking along thoroughfares in other cities, citing Tulare as an example where trucks parked in large terminals.

Council Member Martinez agreed, pointing out that the City of Dinuba also prohibited trucks parking on streets. He then spoke of the dangers posed by parked trucks, particularly in the evenings and during foggy conditions.

At Mayor West’s request, Police Chief Silver Rodriguez informed the Council that at the present time, the Police Department was not enforcing the Ordinance pertaining to the parking prohibition of commercial vehicles in residential districts, primarily due to posting requirements to which the City has not adhered.
Council Member Irish questioned whether there were cities that simply banned truck parking within city limits. A discussion ensued during which the City Attorney indicated that she could research how other local cities were handling the situation.

**COUNCIL ACTION:** MOVED by Council Member Martinez, SECONDED by Council Member Stadtherr that the Council direct the Public Works Director to advertise in the local newspaper informing interested parties that a meeting will be held to discuss the

**M.O. 19-100405** City’s intent to prohibit parking along the Olive Avenue, Plano Street, and Westwood Street corridor, and that the City welcomes input on alternative parking arrangements; transmit a formal letter requesting the Tulare County Board of Supervisor’s approval to prohibit commercial truck parking and the stationing of trailers along that portion of Olive Avenue located in the County; and prepare a staff report with recommendations related to commercial truck parking along the Olive Avenue, Plano Street and Westwood Street corridors based on input received at the above-mentioned public meeting and based on the response received from the Tulare County Board of Supervisors. The motion carried unanimously.

**Disposition:** Approved.

26. **JAYE STREET CORRIDOR IMPROVEMENT PROJECT (COP REFINANCE)**

Recommendation: That the Council approve the proposed financing schedule and authorize staff to move forward with the refinancing.

City Manager John Longley presented the item, and Deputy City Manager Darrel Pyle presented the staff report. Mr. Pyle introduced John Fitzgerald of Fitzgerald & Associates and indicated Mr. Fitzgerald was available to answer any questions that the Council might have.

In response to Council Member Irish’s question, Mr. Pyle indicated that the funds would be put towards infrastructure along the Jaye Street Corridor to accommodate commercial and retail development in that area. He elaborated that funds would include improvements on Indiana Street for a low water crossing, and the relocation to the north of the frontage road currently located next to The Home Depot, a new railroad crossing on Main Street, street improvements to Scranton, South Jaye, Indiana and Gibbons to accommodate the additional traffic, as well as interchange improvements on Highway 190 at Jaye Street.

Public Works Director Baldo Rodriguez estimated that staff might be ready to commence work in approximately 6 months on Jaye Street.

Mr. Pyle then proceeded to explain the process by which staff would like to proceed, with one environmental document that would encompass all separate improvements. He indicated that construction would be completed in phases, but that in order to proceed most expeditiously, it would be handled as one master project with one environmental document.

Mayor Pro Tem Hamilton confirmed that $881,000 was the cost of issuance and that the City would not be required to cut a check, but rather the money would come from proceeds.

John Fitzgerald of Fitzgerald & Associates came forward and indicated that the proposed refinance was based on the same structure as the original issuance. He indicated that the overall percentage cost of issuance was
approximately the same as it was in 1998, and that it included various aspects like the cost of legal work, printing, trustee work, verification, and the marketing of the securities generating the Fund. He stated that the proposed refinance was a win-win for the City. A discussion ensued as to the new debt service payment, during which it was stated that the original issuance had a 5.2% interest rate, and the new issuance’s rate would be on average 4.4%.

Council Member Irish voiced support for having a list of the exact projects towards which the funds would be applied. A discussion ensued as to the effects of the refinance on the City’s revenue stream, and how the drawdowns and debt service payments technically functioned. It was stated that the funding could occur as early as December 2005.

In response to a question posed by Mayor Pro Tem Hamilton, Senior Planner Julie Boyles explained the timeline for the environmental reports on the Jaye Street/Highway 190 commercial developments.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council approve the financing schedule and authorize staff to move forward with the refinancing.

M.O. 20-100405

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

Disposition: Approved.

27. APPOINTMENT OF TWO (2) ADDITIONAL MEMBERS TO THE GENERAL PLAN ADVISORY COMMITTEE

Recommendation: That the City Council appoint the additional two individuals to the General Plan Update Advisory Committee.

City Manager John Longley presented the item, and Acting Community Development Director Susan Duke presented the staff report.

Mayor Pro Tem Hamilton voiced support for including representatives from the agricultural community, yet acknowledged the concern by some Council Members in making the Committee too large and cumbersome. He noted that the agricultural community had been inadvertently omitted when the Committee had been established and pointed out that agriculture comprised about 60% of the community. He then indicated that a large community might be beneficial as some Committee members might not be available to attend all meetings.

Mayor West noted that agriculture was a large part of the Porterville community.

Mayor Pro Tem Hamilton moved that the Council appoint the two additional members to the General Plan Update Advisory Committee pursuant to staff’s recommendation.

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

Council Member Martinez suggested that the Council open up the appointments to any other segments of the community that might not be represented on the Committee.
COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that
the Council appoint Mr. Eric Borba and Mr. Paul Paulin as representatives of the
agricultural community to the General Plan Update Advisory Committee.

M.O. 21-100405

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

Disposition: Approved.

28. CONSIDERATION OF RESCHEDULING REMAINING MAXIMUS FEE SCHEDULE PUBLIC HEARINGS REGARDING BUILDING, RECREATION, AND ALL OTHER FEES

Recommendation: That the Council set November 15, 2005 as the date to hold a public hearing to consider the Planning and Building Division Fees, and set December 6, 2005 as the date to hold a public hearing to consider the Recreation and all remaining Fees and Schedules.

City Manager John Longley presented the item, and Deputy City Manager Darrel Pyle presented the staff report.

Council Member Stadtherr moved that the Council approve staff’s recommendation.

Council Member Irish seconded Council Member Stadtherr’s motion.

At Mayor Pro Tem Hamilton’s request, Mr. Pyle updated the Council on the status of recent discussions with the development community regarding the proposed increases. Mr. Pyle indicated that staff’s recommendation regarding the adoption of the fees might change, depending on the final outcome of those continuing discussions.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Irish that the Council set November 15, 2005 as the date to hold a public hearing to consider the Planning and Building Division Fees, and set December 6, 2005 as the date to hold a public hearing to consider the Recreation and all remaining Fees and Schedules. The motion carried unanimously.

Disposition: Approved.

29. ADOPTION OF RESOLUTION REQUESTING THE COOPERATION OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT AND THE BUILDING INDUSTRY OF TULARE AND KINGS COUNTIES

Recommendation: To be determined by the Council.

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

Mayor Pro Tem Hamilton commented that the proposed resolution set up more bureaucracy. He then confirmed with Council Member Stadtherr that Rule 9510 would set up a revenue source for the Air Quality Board.
Council Member Stadtherr indicated that the item had resulted from a lunch he had attended with Bob Keenan of the Building Industry Association. He stated that he believed the proposed resolution would encourage the mutual cooperation of the parties to resolve the issues.

At the Council’s invitation, Mr. Greg Woodard came forward. He stated that as a member of the Building Industry Association, he opposed the proposed resolution. He commented briefly of the outstanding issues between the District and the BIA and requested that a copy of the proposed resolution be provided to the BIA so it could be reviewed.

Mayor Pro Tem Hamilton moved that the Council deny the adoption of the proposed resolution.

Council Member Irish seconded Mayor Pro Tem Hamilton’s motion and questioned why the City should resolve to encourage the cooperation of two separate entities. He commented that he did not know why the City of Porterville should get involved.

Council Member Stadtherr noted that the Resolution did not favor one party over the other, but merely acknowledged the necessity of resolving the differences between the parties.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council deny the adoption of a resolution requesting the cooperation of the San Joaquin Valley Air Pollution Control District and the Building Industry of Tulare and Kings Counties.

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

Disposition: Approval of Resolution Denial.

30. FINANCIAL AUTHORIZATION FOR A STUDY GROUP TO TRAVEL TO CARSON, NV TO LOOK AT THE SUPER WAL-MART

Recommendation: To be determined by Council.

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

Council Member Stadtherr commented that he had proposed the item in the event the Council wanted more information.

Mayor Pro Tem Hamilton questioned what would be gained by traveling to Carson City, NV, suggesting it was proposed only due to the boundary dispute that had ensued there.

Council Member Irish commented that if Council Member Stadtherr wished to travel to that location, he should go, but not at the taxpayers’ expense.
Council Member Martinez stated that there were other means of gathering information on that particular location.

Disposition: No action taken.

31. CONSIDERATION OF FIELD TRIP TO VIEW HILLSIDE DEVELOPMENT

Recommendation: That the Council authorize staff to:
   1. Schedule a special study session for hillside development to take place on Monday, October 31, 2005; and
   2. Budget the monies available to support the consultant and the chartered bus.

City Manager John Longley presented the item and the staff report.

Council Member Irish indicated that he had been a part of the meeting with Consultant Mark Rogers, during which he had provided a great deal of insight. He stated that Community Development Director Brad Dunlap had also attended that meeting and was also impressed. He spoke in favor of approving the item. A discussion ensued as to the cost of the trip.

Mayor Pro Tem Hamilton suggested two separate trips with the Council Members so as not to constitute a meeting and possibly save money on the cost of the chartered bus. He also stated that perhaps only the two representative on the Hillside/Eastside Development Committee should attend. He questioned the necessity of the entire Council traveling down south at a cost of $4,000.

- Greg Woodard, Woodard Homes, came forward and spoke in favor of approving the trip. He commented that it would be best if the trip included the entire Council and members of the public, so that when the item came before the Council, the effort would have been unified. He added that a group of hillside developers had hired the consultant for feasibility studies at an initial cost of approximately $30,000, and believed that funding the trip was something the Council should do.

Mr. Longley indicated that the travel and bus expense would be distributed amongst travel accounts for the Council and participating departments. He stated that the consulting fees would come out of a professional services line item. A discussion ensued as to the proposed date of October 31, 2005. Council Member Martinez noted that because that date fell on a Monday, he would be unable to attend.

Council Member Irish indicated that October 31, 2005 was the only day available to all of the parties at the developer meeting, and noted that he would need to take a day off of work to attend the meeting.

Council Member Stadtherr requested that the Council attempt to reschedule the meeting to accommodate Council Member Martinez.

Council Member Martinez suggested that the trip be videotaped.

Mayor Pro Tem Hamilton requested that Council Member Martinez attempt to procure the day off from work.
COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council authorize staff to schedule a special study session for hillside development to take place on Monday, October 31, 2005; and budget the monies available to support the consultant and the chartered bus. The motion carried unanimously.

Disposition: Approved.

15. RESOLUTION OPPOSING THE DECISION IN NEWDOW V. CONGRESS OF THE UNITED STATES (E.D. CAL. 2005), NO. CIV. S-05-17

Recommendation: That the City Council consider the resolution opposing the recent Federal Court action.

City Manager John Longley presented the item and the staff report.

Council Member Martinez informed everyone that he had requested the item and spoke in its favor.

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Council Member Irish that the Council approve the Resolution Opposing the Decision in Newdow v. Congress of United States (E.D. Cal. 2005), No. Civ. S-05-17. The motion carried unanimously.

Disposition: Approved.

16. RESOLUTION REGARDING THE ADVERSE ECONOMIC IMPACTS OF THE FRIANT WATER USERS ISSUE DIVERTING WATER FROM TULARE COUNTY AGRICULTURE TO FISHERY RESTORATION

Recommendation: That the Council adopt the proposed resolution and authorize the transmittal of the document to all appropriate parties.

City Manager John Longley presented the item, and noted that the item had been requested by a Council Member.

Council Member Irish moved that the Council adopt the proposed resolution.

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

Council Member Stadtherr voiced opposition to the proposed resolution, noting that it appeared to him to be judicial activism.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council adopt the Resolution Regarding River Flow and Release Issues Raised in a Recent U.S. District Court Ruling.

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

**ORAL COMMUNICATIONS**

- Greg Shelton, 888 N. Williford Drive, voiced concern with adding individuals to the General Plan Update Advisory Committee when he had previously been denied due to the large size of Committee; voiced caution with the ordinance language proposed in Item 24 addressing property negligence; and spoke in opposition to the Council’s decision on Item 20.

**OTHER MATTERS**

- Council Member Martinez requested that other organizations be allowed the opportunity to also participate on the General Plan Update Advisory Committee.
- Mayor Pro Tem Hamilton thanked the Council for approving the trip to Washington, D.C. and updated everyone on the trip and the meetings that took place. He then informed the Council of a recent meeting with legislators and water districts regarding the Success Dam Remediation, during which the City was requested to support a request – via resolution – for an additional 6,000 acre feet of water at Success Lake.
- Julia Lew requested a quorum on either October 10th or October 11th for a very brief meeting to address a procedural requirement related to the Hillside Interim Urgency Ordinance. It was decided that a mutually convenient time for those available to participate would be coordinated through Mr. Longley’s Secretary, Carol Bodine.

**ADJOURNMENT**

The Council adjourned at 12:24 a.m. to the meeting of October 18, 2005

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Patrice Hildreth, Deputy City Clerk

SEAL

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Kelly West, Mayor