Call to Order
Roll Call

ORAL COMMUNICATIONS
This is the opportunity to address the Council on any matter scheduled for Closed Session.

CLOSED SESSION:
A. Closed Session Pursuant to:
   1- Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   2- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   4- Government Code Section 54957 - Public Employment - Golf Course Manager.
   5- Gov. Code § 54957 - Public Employee Performance Evaluation - Title: City Manager.

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Council Member Ron Irish
Invocation

PRESENTATIONS
Employee Service Awards

ORAL COMMUNICATIONS
This is the opportunity to address the Council on any matter of interest, whether on the agenda or not. Please address all items not scheduled for public hearing at this time.

CONSENT CALENDAR
All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar.

1. City Council Minutes November 1, 2005
   Re: Approval of City Council Meeting Minutes.

2. Claims - Guadalupe L. Garcia; Elroy L. Garcia and Esperanza Jimenez; Nicanor L. Jimenez; Abraham S. Ojeda; Micaelina V. Jimenez; and, Guadalupe L. Garcia, Daniel S. Lopez, minor, Imelda L. Sanchez, minor, and Yanelli S. Lopez
Re: Rejecting claims of individuals, and survivors of deceased individuals, involving a head-on collision on State Route 65 between the claimant’s vehicle and Porterville Police Officer Michael Zamora’s vehicle on May 23, 2005 while Officer Zamora was off duty.

3. **Authorization to Advertise for Bids - Skate Park Project**
   Re: Authorization to accept the probable estimate of cost ($374,461.20) by the designer of the Skate Park, Site Design, Inc., and authorization to advertise for bids on this project.

4. **Authorization to Advertise for Bids - Traffic Signal No. 8 (Plano Street & Mulberry Avenue)**
   Re: Approving the plans and project manual for the traffic signal at Plano Street and Mulberry Avenue and authorizing the staff to advertise for bids.

5. **Authorization to Reject All Bids and Re-Advertise Heritage Center Tiny Tots Playground Project**
   Re: Consideration of rejecting the two bids for this project which exceed the engineer’s estimate, and authorizing staff to modify the plans and specifications and re-advertise for the base project work and separately for the combined alternate ‘A’ and ‘B’ work.

6. **Intent to Vacate a Portion of Willow Avenue Related to the Development of Long’s Drug Store on Hockett Street (Smith’s Enterprises)**
   Re: Consideration of resolutions of intent to vacate a portion of Willow Avenue between “D” Street and the mid-block alley between “D” Street and Hockett Street, and to vacate an easement for irrigation purposes in the same location between Hockett Street and the mid-block alley between “D” Street and Hockett Street, and setting the public hearing for January 17, 2006.

7. **Request for One (1) Temporary Modular Structure to be Utilized as a Sales Office**
   Re: Consideration of a temporary sales office for Pacific Union Homes on Lot 46 of Claremont Terrace which is generally located south of Castle Avenue and west of Salisbury Street.

8. **Authorization for Access to District Sales Tax Information**
   Re: Authorization for MBIA Municiservices Co. to conduct audits of the one-half (½) cent district sales tax, and providing notification to the State Board of Equalization of that decision.

9. **Amendments to Employee Pay and Benefit Plan, Employee Benefit Trust Fund and Employee Retirement System**

10. **Addendum to M.O.U. Between City/P.C.E.A., and Amendment to City Council Resolution No. 67-2005**
    Re: Consideration of accepting the Addendum to the May 3, 2005 MOU of the Porterville City Employees’ Association to extend the MOU by one year to provide a retirement benefit in lieu of a salary increase and increasing the maximum carry-over of accumulated vacation hours each calendar year.

11. **CalTIP Board Member Resolution**
    Re: Designating Linda Clark as the City’s designee for representation on the California Transit Insurance Pool (CalTIP) Board of Directors.
12. Christmas Tree Recycling  
Re: Providing information to Council regarding the City sponsored Christmas Tree Recycling Program on Monday, Dec. 26, through Sunday, Jan. 8, in the south parking lot of the Fairgrounds, with information also on the American Foresters tree pick-up service program.

13. Status Update of Ordinance to Regulate Construction, Operation and Maintenance of Wireless Communications Towers  
Re: Report to Council regarding the status of the moratorium and the intention to bring back the permanent standards within the next two months.

A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible

PUBLIC HEARINGS
Re: A review of the findings and comments made regarding this project which is a proposed 75,000± shopping center on a 10.7± acre site located between Poplar Avenue and Springville Avenue, and Jaye Street and the existing Home Depot Store, which will also allow additional public comments to be included in the record.

15. Tentative Parcel Map 5-2005 and Conditional Use Permit 10-2005  
Re: Consideration of the development of five professional office buildings located on the east side of Pearson Drive, south of Morton Avenue, and the approval of a conditional use permit to allow multiple lot condominiums to be constructed.

16. Initiation of Annexation 454 (Wastewater Discharge Requirement 05-01-103)  
Re: Continuation of this hearing to January 17, 2006, to allow a zone change to be included with this item.

SCHEDULED MATTERS
17. Farm Management Agreement  
Re: Consideration of modifications to the Farm Management Agreement with Robert Nuckols for the remaining two years of his Agreement.

18. Draft Ordinance Amending Sections 19-2, 19-3, 19-4, 19-5 and 19-7 of Chapter 19, Article 1, of the Porterville Municipal City Code Concerning Participation by Porterville Unified School District on the Parks and Leisure Services Commission  
Re: Amending the City Code eliminate ex-officio members from the Parks and Leisure Services Commission and provide for an eighth voting member from Porterville Unified School District.

19. Consideration of Implementation of New Police And Fire Hirings and Literacy Program Support  
Re: Setting a schedule for the hiring of additional police and fire fighters, and the allocation of literacy funding in conjunction with the passage of the Public Safety Sales Tax and Utility User’s Tax from annexed areas.

20. Consideration of Preliminary Proposal for Infrastructure and Operational Enhancements  
Re: Consideration of the Preliminary Proposal from Johnson Controls, and request that the item be returned for consideration by Council after the new Administrative Services Manager is hired.
21. **Off-Highway Vehicle Park Insurance**
   Re: Ratifying the liability insurance coverage through Save the Tracks, Inc. for casual/practice riding at the OHV Park in the amount of $8,491.88.

**ORAL COMMUNICATIONS**

**OTHER MATTERS**

**CLOSED SESSION**
   Any Closed Session Items not completed prior to 7:00 p.m. will be considered at this time.

**ADJOURNMENT** - to the meeting of January 17, 2006

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Chief Deputy City Clerk at (559) 782-7442. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.
Call to Order at 6:00 p.m.
Roll Call: Council Member Irish, Council Member Martinez (arrived late), Mayor Pro Tem Hamilton, Council Member Stadtherr, Mayor West

ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. Closed Session Pursuant to:
   2- Government Code Section 54957 - Public Employment - Golf Course Interim Manager.
   3- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   4- Government Code Section 54956.9(a) - Conference with Legal Counsel - Existing Litigation: Porterville Citizens for Responsible Hillside Development v. City of Porterville et al.

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 Council Member Pete Martinez
Invocation - one individual participated.

PRESENTATION
   Employee of the Month - Clyde Tillery
   Mayor Pro Tem Hamilton presented Mr. Tillery with a Certificate.

PROCLAMATION
   Gilbert Ynigues
   Mayor West presented Mr. Ynigues with the Proclamation.

ORAL COMMUNICATIONS
   • Greg Shelton, 888 N. Williford Drive raised concerns with Item 15, specifically subsection (d) of Ordinance 1682; and voiced concern with the draft Minutes of the Parks & Leisure Services Commission provided in the staff report for Item 18.
   • Linda Woods, a Sacramento resident and property owner at 347 W. Mulberry, came forward and voiced opposition to the proposed development, Item 12.
Dick Eckhoff, Chairman of the Downtown Porterville Association, 180 N. Main Street, voiced agreement with staff’s recommendation regarding Item 22 and spoke in favor of a thorough study prior to making any changes.

CONSENT CALENDAR

Items 4 and 6 were removed for further discussion.

1. CITY COUNCIL MINUTES OF SEPTEMBER 6, 2005 AND SEPTEMBER 6, 2005

Recommendation: That the City Council approve the City Council Minutes of September 6, 2005 and September 6, 2005.

Documentation: M.O. 01-110105
Disposition: Approved.

2. REQUEST TO FILE LATE CLAIM - JOHN DURAN

Recommendation: That the City Council reject said request and direct the City Clerk to give the claimant proper notification.

Documentation: M.O. 02-110105
Disposition: Approved.

3. BUDGET ADJUSTMENT

Recommendation: That the City Council:
1. Authorize staff to accept the grant funds; and
2. Authorize a budget adjustment to the Fire Department in the amount of $2,000.

Documentation: M.O. 03-110105
Disposition: Approved.

5. AWARD OF CONTRACT - WELL NO. 29 PROJECT

Recommendation: That the City Council:
1. Award the Well No. 29 Project to Zim Industries, Inc. in the amount of $358,275;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs.

Documentation: M.O. 04-110105
Disposition: Approved.

7. STATUS REPORT -- CURBSIDE RECYCLE SELECTION COMMITTEE

Recommendation: Presented for informational purposes only.
8. AGREEMENT WITH BURTON SCHOOL DISTRICT

Recommendation: That the Council approve the Agreement between the City of Porterville and Burton School District for the provision of special services for the City After-School Program.

Documentation: M.O. 05-110105

Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Martinez that the Council approve Items 1 through 3, 5, 7 and 8. The motion carried unanimously.

4. AUTHORIZATION TO ADVERTISE FOR BIDS - HERITAGE CENTER TOT PLAYGROUND

Recommendation: That the City Council:
1. Approve the estimated costs and project; and
2. Authorize staff to advertise for bids on the project.

City Manager John Longley presented the item.

In response to Council Member Irish’s inquiry, Parks & Leisure Services Director Jim Perrine indicated that the original gates that had been installed with the project needed to be replaced because they did not meet fire code requirements.

In response to questions posed by the Council, Fire Chief Frank Guyton advised the Council that the original plans had changed half way through the project. He indicated that the use of the occupancy also changed after construction had been started, which necessitated the implementation of additional Codes, which caused the change before the Council that evening. He then informed the Council that the change in occupancy of the building had necessitated the addition of panic hardware on the playground gates.

In response to Council Member Irish’s comments pertaining to the trash enclosure, Mr. Perrine explained that the original plan, as proposed by his predecessor had been to share a trash enclosure with the school. He voiced concern with potential liability in obtaining keys to the school’s storage area, particularly in the event the City leased the building to another party.

Council Member Irish commented that because staff had overlooked several items, the City would bear the brunt of spending an additional $77,000. He then requested that when future projects were presented to the Council, that staff present cost estimates believed to be as close to the final figure as possible.
Mr. Longley indicated that the amount included the playground and stated that the expenditure was more a result of staging, rather than an additional expenditure. Staff added that the Tot Lot was never a part of the original project and was always going to be a separate component. It was also pointed out that the project was under budget in an amount greater than the $77,000.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council approve the estimated costs and project; and authorize staff to advertise for bids on the project.

**M.O. 06-110105**

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

Disposition: Approved.

6. **SALE OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF MAIN STREET AND THURMAN AVENUE**

**Recommendation:** That the City Council approve the sale of the approximate 8,800 square foot parcel located at the southeast corner of Main Street and Thurman Avenue to the Porterville Redevelopment Agency and authorize the Mayor to sign all necessary documents to complete the transaction.

Mayor Pro Tem Hamilton confirmed with staff and noted for the record that only one offer had been received by the City.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council approve the sale of the approximate 8,800 square foot parcel located at the southeast corner of Main Street and Thurman Avenue to the Porterville Redevelopment Agency and authorize the Mayor to sign all necessary documents to complete the transaction. The motion carried unanimously.

Disposition: Approved.

**PUBLIC HEARINGS**

9. **SEWER USER SURCHARGE FEES FOR INDUSTRIAL DISCHARGERS**

**Recommendation:** That the City Council:

1. Open the Public Hearing and accept public comments; and
2. Adopt the resolution setting new sewer user surcharge rates for Industrial Users.
City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

The public hearing opened at 7:26 p.m. and closed at 7:27 p.m. when nobody came forward.

Mayor Pro Tem Hamilton confirmed with staff that the fee increase would affect only one user, that being Foster Farms. Staff confirmed that Foster Farms had been notified of the public hearing.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council adopt the resolution setting new sewer surcharge Resolution 156-2005 rates for Industrial Users. The motion carried unanimously.

Disposition: Approved.

10. CONDITIONAL USE PERMIT 6-2005 - 102 FEET HIGH COMMUNICATIONS TOWER (JAMES STRACHAN)

Recommendation: That the City Council:
1. Adopt the draft resolution approving the Negative Declaration prepared for Conditional Use Permit 6-2005; and
2. Adopt the draft resolution conditionally approving Conditional Use Permit 6-2005 subject to conditions of approval.

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

The public hearing opened at 7:29 p.m.

• James Strachan, a Fresno resident and representative of applicant Ubiquitel, came forward and spoke in favor of the Council’s approval of the C.U.P., adding that interference with Clevenger Ford’s frequency, as was suggested by Mr. Clevenger, was not possible.
• Ethel Quiram, 1028 N. Highland Drive, owner of the subject property, voiced support for approving the tower, noting that the City could utilize the tower for its own communication system.
• Truman Clevenger, 701 North Main Street, came forward in opposition of the proposed communications tower, citing the possibility of interference to his business’s satellite transmissions to Detroit. He pointed to the 30-foot limitation on signage and questioned why a 102-foot tower should be allowed. He then warned that the dealership – along with the taxes it generated – might relocate into the County.

The public hearing closed at 7:36 p.m.

Council Member Irish voiced concern with potential frequency interference and locating such a tall structure in such close proximity to Downtown.
Mayor Pro Tem Hamilton commented that few conditions had been included in the C.U.P, such as to address aesthetics. He voiced support for camouflaging the towers, and commented that he would not be opposed to the tower if additional conditions were in place.

Council Member Martinez agreed with Mayor Pro Tem Hamilton’s concerns with respect to aesthetics. He then confirmed with staff the next nearest tower of similar height was located in a County pocket near Cloverleaf and Olive Avenue.

In response to a question posed by the Council, applicant representative James Strachan came forward and indicated that the tower had been designed in conjunction with staff. He stated that the decision had been made to design a co-location facility, meaning that various carriers could be located on the same tower, thereby eliminating the need for additional towers in the area. He then proceeded to address the proposed height, explaining such height was necessary due to interference caused by tree coverage at 60 to 65 feet. He stated that camouflaging a 102-foot tower would prove to be a difficult task. Mr. Strachan then indicated that the frequencies utilized by the towers were FCC certified and monitored on a daily basis, and commented that Porterville currently did not have enough sites to provide signals and coverage to all of the cell phone users. He then confirmed that the project was time sensitive and that the majority of the construction would need to be completed prior to the end of 2005, otherwise funding would be lost.

Mayor Pro Tem Hamilton noted the contributions of Mr. Clevenger to the City and commented that his concerns were possibly legitimate concerns.

A discussion ensued as to two differing schools of thought: building a lesser number of taller, co-location towers; or building a greater number of shorter, camouflageable towers.

City Attorney Julia Lew clarified that in the event the C.U.P. was approved and the Council then later adopted an ordinance regulating cell towers, the ordinance would govern cell towers for future applications. She pointed out that the Council’s action that evening should be based on objective criteria, indicating that the action would set precedent for future similar applications until an ordinance was in place. Ms. Lew then clarified for the Council that the C.U.P. would be effective until such time as the applicant allowed the permit to lapse.

Mayor West voiced concern with losing a business that generated such a large amount of tax revenue for the City.

Mayor Pro Tem Hamilton voiced support for continuing the item until the next meeting, so as to allow him more time to review the matter.

In response to a question posed by Mayor West, applicant representative James Strachan came forward and clarified that Ubiquitel was proposing two towers, with the capability of supporting 6 carriers. He then indicated that the frequency employed by the tower would not interfere with Clevenger Ford’s frequency, as long as the dealership operated within its frequency ranges. He added that if any interference occurred, under FCC law, the tower would be required to cease and desist operations until mitigation measures eliminated the problem.
Council Member Irish agreed with Mayor Pro Tem Hamilton’s comments as to bringing the item back at a later date.

Council Member Stadtherr voiced concern with jeopardizing the project if the Council continued the matter. He then moved that the Council approve staff’s recommendation.

Council Member Martinez seconded Council Member Stadtherr’s motion, and again suggested that the Council could add conditions to the permit that evening. He then questioned why, if time was of the essence, had the applicant come to the Council so late in the year.

Mr. Strachan again came forward and offered a time line of events.

A brief review of the conditions took place, after which Mr. Truman Clevenger again came forward and addressed the Council. He spoke of the pressures placed on local business owners to make efforts to beautify the City, and that he did not believe allowing the construction of a 100-foot tower would serve to beautify Porterville.

Mayor West commented that while a 100-foot tower might not be that attractive, but it would serve the community, just as an auto dealership or furniture store served the community.

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Council Member Martinez that the Council adopt the draft resolution approving the Negative Resolution 157-2005 Declaration prepared for Conditional Use Permit 6-2005; and adopt the draft Resolution 158-2005 resolution conditionally approving Conditional Use Permit 6-2005 subject to conditions of approval.

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

Disposition: Approved.

The Council recessed for ten minutes.

11. CONDITIONAL USE PERMIT 7-2005 - 100 FEET HIGH COMMUNICATIONS TOWER (RIDGE COMMUNICATIONS)

**Recommendation:** That the City Council:
1. Adopt the draft resolution approving the Negative Declaration prepared for Conditional Use Permit 7-2005; and
2. Adopt the draft resolution conditionally approving Conditional Use Permit 7-2005 subject to the conditions of approval.

City Manager John Longley presented the item and Community Development Director Brad Dunlap presented the staff report.
The public hearing opened at 8:26 p.m. and closed at 8:27 p.m. when nobody came forward.

Council Member Stadtherr referred everyone to the Site Plan A-2A attached to the staff report, and clarified with staff that the three areas identified on the map as “Future Carrier” did not represent future tower locations, but rather locations for the mechanical and service equipment of future carriers.

Mayor Pro Tem Hamilton commented that during initial discussions, the Council had suggested aesthetics be included, however, he noted that nothing pertaining to aesthetics had been included in the C.U.P. He questioned how the issue aesthetics had been dropped, to which staff responded that negotiations were still open and had proceeded with a co-location tower, upon receiving no feedback.

Council Member Irish pointed out that co-location towers were more profitable for the tower owners and that the Council should have been more wary.

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Council Member Martinez that the Council adopt the draft resolution approving the Negative Resolution 159-2005 Declaration prepared for Conditional Use Permit; and adopt the draft resolution conditionally approving Conditional Use Permit 7-2005 subject to conditions of approval.

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

Disposition: Approved.

12. **CONDITIONAL USE PERMIT 8-2005 (MARY MCCLURE)**

**Recommendation:** That the City Council adopt the draft resolution approving Conditional Use Permit 8-2005.

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

The public hearing opened at 8:36 p.m.

- Mark Hillman, Hillman Building Designers, came forward on behalf of applicant Mary McClure and spoke in favor of the Council approving the C.U.P. He then noted a typographical error in Finding No. 2 of the draft resolution, being the inappropriate reference to a church.
- Mary McClure, 23149 Josef Court, the applicant, spoke in favor and requested that the Council approve the C.U.P.
- Linda Woods, a Sacramento resident and property owner at 347 West Mulberry came forward in opposition to the proposed development, citing soil and environmental issues, and safety concerns.
The public hearing closed at 8:41 p.m.

Mayor Pro Tem Hamilton voiced disappointment that no pocket park had been included in the plans.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council adopt the draft resolution approving Conditional Use Resolution 161-2005 Permit 8-2005, as amended to correct the typographical error by removing reference to a church in Finding No. 2.

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

Disposition: Approved.

**SECOND READINGS**

13. **ORDINANCE 1672, ZONE CHANGE 5-2005 (ANNEXATION 455)**

Recommendation: That the City Council give Second Reading to Ordinance No. 1672, waive further reading, and adopt said Ordinance.

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

**COUNCIL ACTION:** MOVED by Council Member Martinez, SECONDED by Mayor Pro Tem Hamilton that the Council give Second Reading to Ordinance No. 1672, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 05-2005 (PRE-ZONING) CONSISTING OF TWO UNINCORPORATED ISLANDS CONSISTING OF 4.2± ACRES AND FOUR (4) PARCELS AND 141.0± ACRES AND APPROXIMATELY 293 PARCELS GENERALLY LOCATED SOUTH OF NORTH GRAND AVENUE AND GENERALLY WEST OF PROSPECT STREET IN THE NORTHERLY PORTION OF THE COMMUNITY. The motion carried unanimously.

Mr. Longley read the Ordinance by title only.

Disposition: Approved.

14. **ORDINANCE 1673, ZONE CHANGE 6-2005 (ANNEXATION 456)**
Recommendation: That the City Council give Second Reading to Ordinance No. 1673, waive further reading, and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council give Second Reading to Ordinance No. 1673, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 06-2005 (PRE-ZONING) CONSISTING OF THREE UNINCORPORATED ISLANDS CONSISTING OF: 11.1± ACRES AND APPROXIMATELY 35 PARCELS; 25.7± ACRES AND APPROXIMATELY 41 PARCELS; AND 89.8± ACRES AND 211 PARCELS LOCATED SOUTH OF OLIVE AVENUE AND WEST OF JAYE STREET IN THE SOUTHERLY PORTION OF THE COMMUNITY. The motion carried unanimously.

Mr. Longley read the Ordinance by title only.

Disposition: Approved.

15. ORDINANCE 1682, NEGLECT OF REAL PROPERTY

Recommendation: That the City Council give Second Reading to Ordinance No. 1682, waive further reading, and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council give Second Reading to Ordinance No. 1682, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING SECTION 18-26 TO CHAPTER 18, OFFENSES – MISCELLANEOUS, OF THE PORTERVILLE MUNICIPAL CODE CONCERNING NEGLECT OF REAL PROPERTY. The motion carried unanimously.

Mr. John Longley read the Ordinance by title only.

Disposition: Approved.

SCHEDULED MATTERS

It was decided to consider Item No. 23 next.

23. AUTHORIZATION TO PREPARE AND EXECUTE DOCUMENTS RELATED TO THE REFUNDING OF CERTIFICATES OF PARTICIPATION
Recommendation: That the City Council adopt the draft resolution authorizing the preparation, circulation, and execution of the documents related to the COP refinance.

City Manager John Longley presented the item, and Deputy City Manager Darrel Pyle presented the staff report. He indicated that the City’s bond attorney, Mr. Brian Quint, and the City’s underwriter, Mr. John Fitzgerald of Fitzgerald Public Finance Group, were present to answer any questions that the Council might have.

Mr. Longley added that he also requested the Council consider hiring a financial advisor, which had an estimated cost of approximately $5,000.

Mayor Pro Tem Hamilton voiced concern with the Jaye Street reconstruction not being mentioned, when that had been the Council’s motivation for proceeding with the refunding the COPs. He commented that he would like to tie the refunding to the Jaye Street reconstruction project.

City Manager John Longley indicated that such language would be included in the Offering Statement.

Council Member Irish confirmed with staff that the City would have a three-year time frame in which to spend the funds. A discussion ensued as to how the accounts would operate and generate interest. Council Member Irish requested a detailed breakdown of the projects and estimated costs of each, to which Deputy City Manager Darrel Pyle responded that the Council would be provided a breakdown on or about November 18, 2005.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED BY Council Member Martinez that the Council adopt the draft resolution authorizing the preparation, circulation, and execution of the documents related to the COP refinance and to direct staff to provide the Council with a breakdown of the prioritization of projects and the projected funding. The motion carried unanimously.

Disposition: Approved.

16. REQUEST FOR A ONE (1) YEAR EXTENSION OF TIME FOR A TEMPORARY USE PERMIT FOR REMOTE CONTROL CAR TRACK

Recommendation: That the City Council adopt the draft resolution approving a one (1) year extension of time commencing on November 1, 2005 and terminating on November 1, 2006.

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

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council adopt the draft resolution approving a one-year extension of time for a Temporary Use Permit for a Remote Control Car Track, commencing on November 1, 2005 and terminating on November 1, 2006. The motion carried unanimously.
17. CONSIDERATION OF RETAINING A CONSULTANT TO ASSIST WITH STATE AND LOCAL GOVERNMENT AFFAIRS

Recommendation: That the Council authorize the preparation and distribution of an RFQ/RFP for Legislative Consulting Services.

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

Council Member Irish commented that time was not of the essence on the matter, and suggested that the Council need not take action before the first of the year.

Mayor Pro Tem Hamilton commented that there were some projects that he would like to pursue, such as the low water crossing on Indiana. He then spoke in favor of looking for a consultant, yet questioned the fairness to the RFP process when the City was already in receipt of a fairly low bid.

Mayor West agreed with the comments made by Council Member Irish, and spoke in favor of taking no action until 2006. A discussion ensued as to the time frames for various grant cycles and the effect on the City’s ability to secure those grants if the Council waited until after the first of the year. It was stated that the focus of the item had been towards state agencies and not federal.

Council Member Stadtherr moved that the Council authorize staff to prepare and distribute an RFP/RFQ for Legislative Consulting Services. The motion failed for lack of a second.

Disposition: Continued to an unspecified date.

City Attorney Julia Lew noted an error in the staff recommendation for Item 16, in that it requested approval of draft resolution, when in fact the document was actually an Ordinance. Ms. Lew then recommended that the Council reconsider the Item and advised on the appropriate method of doing so.

16. REQUEST FOR A ONE (1) YEAR EXTENSION OF TIME FOR A TEMPORARY USE PERMIT FOR REMOTE CONTROL CAR TRACK

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Mayor Pro Tem Hamilton that the Council adopt the draft ordinance, give first reading by title only, waive further reading, and order the Ordinance to print, being AN Ordinance 1683 ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ISSUING AN EXTENSION OF A TEMPORARY USE PERMIT FOR THE CONTINUED OPERATION OF A REMOTE CONTROL RACE TRACK AS A HOBBY/RECREATIONAL USE. The motion carried unanimously.

City Manager John Longley read the ordinance by title only.

Disposition: Approved.
18. GOLF COURSE MANAGEMENT

Recommendation: That the City Council direct staff to:
1. Keep the Municipal Golf Course open;
2. Retain the Course Enterprise Fund;
3. Prepare and initiate a recruitment effort for a Golf Pro;
4. Include provisions for the Golf Pro to utilize full discretion and authority in the scheduling of tee times to promote and broaden the opportunities for golf play; and
5. Include seasonal rates, limitations on monthly and annual pass use, and City residency as part of the next golf fee analysis.

City Manager John Longley presented the staff report, and Parks and Leisure Services Director Jim Perrine presented the staff report.

Council Member Stadtherr questioned the cause for the significant increase in depreciation from FY 01-02 to FY 02-03 as reflected on the Golf Course Ten-Year Revenues and Expenditures Analysis. Staff was unable to pinpoint the exact cause.

A discussion ensued as to why the Commission had recommended maintaining the Enterprise Zone for the Golf Course. It was suggested that if maintained in the Enterprise Zone, the figures could be scrutinized and tracked much more closely. Deputy City Manager Darrel Pyle added that the benefit of a balance sheet would disappear if the account was merged into the General Fund.

The Council invited Mr. Shelton to come forward.

- Greg Shelton, address on record, Parks & Leisure Services Commissioner, voiced support for maintaining the Enterprise Zone, as it allowed for greater scrutiny, yet suggested the 9% administration fee be taken out. In that event, he noted the possibility of generating a positive cash flow if green fees were increased. Mr. Shelton also spoke against recruiting a Golf Pro.

Mr. Longley noted that the administrative fee was basically a journal entry, in that it was charged to the Fund, and then funded by the General Fund. He indicated that this was also the case with the Airport, another Enterprise Zone.

A discussion ensued as to the measures taken the previous year and how those measures proved unsuccessful in making the Golf Course self-sustaining.

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

- Mary McClure, address on record, questioned whether the Golf Course had ever been opened up to private enterprise, to which staff indicated that it had not.

- Fernando Martinez, 292 South Plano Street and President of the Men’s Golf Club Association and the Mexican-American Golf Association, questioned why the Golf Course
was suddenly losing money, asserting it had been profitable in the past. He suggested that something was amiss with the figures provided in the staff report.

Council Member Martinez spoke in favor of keeping the Course and of a golf professional – or knowledgeable individual – at the Course, and offered an anecdote of how he had personally benefitted from the patience and skills of the pro at the Porterville Golf Course.

Council Member Irish moved to approve the recommendation of the Parks & Leisure Services Commission.

Council Member Martinez seconded the motion.

Mayor Pro Tem Hamilton voiced distress that a member of the public had made accusations of fraudulent activities in the revenue and expenditure accounts of the Golf Course, and stated that he would like the matter investigated. He then commented that staff had brought nothing new to the table regarding bringing the Course into the black; that it would not be allowed to continue in the same fashion, and that something would be done to correct the situation.

Mayor West voiced concern with including residency as a part of the next fee analysis, as referenced in No. 5 of the staff recommendation.

City Manager John Longley clarified the motion, after which a discussion ensued as to various options for the future of the Course, including opening it up to private enterprise. It was stated that while some discussions had taken place the previous year regarding private enterprise, no action had been taken as concerns had been raised due to the deterioration of Delano’s Golf Course when taken over by the private sector.

After the Council confirmed with staff that the Golf Course fees would be brought back for the consideration in the near future, it was decided to not take action on No. 5 of the staff recommendation.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Council Member Martinez that the Council direct staff to (1) keep the Municipal Golf Course open; (2) retain the Course Enterprise Fund; (3) prepare and initiate a recruitment effort for a Golf Pro; and (4) include provisions for the Golf Pro to utilize full discretion and authority in the scheduling of tee times to promote and broaden the opportunities for golf play.

M.O. 08-110105

Council Member Irish voiced concern with protocol concerning a Commissioner coming before the Council without the support of the Commission, or the Chairperson. He suggested that in the future, Commissioners wishing to address the Council should do so along with the Chairperson.

Disposition: Approved.

19. ADOPTION OF RESOLUTION EXPRESSING CONCERN ON RIVER FLOW AND RELEASE ISSUES

Recommendation: To be determined by the Council.
City Manager John Longley presented the item and the staff report.

Mayor Pro Tem Hamilton commented that the proposed resolution was a statement of support for the Central Valley Project’s Friant Division in their ongoing litigation over water. He requested that the Council support the resolution.

Council Member Irish voiced support for the resolution.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council adopt the resolution expressing concern on river flow and release issues. The motion carried unanimously.

Disposition: Approved.

The Council recessed for ten minutes.

20. **CANCELLATION OF JANUARY 3, 2006 CITY COUNCIL MEETING**

Recommendation: To be determined by the Council.

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

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council direct staff to cancel the City Council Meeting M.O. 09-110105 scheduled for January 3, 2006. The motion carried unanimously.

Disposition: Approved.

21. **ASSEMBLYMEMBER MAZE REQUEST FOR LEGISLATIVE REMEDIES NECESSARY FOR THE CITY OF PORTERVILLE**

Recommendation: Informational report only.

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

Mayor Pro Tem Hamilton thanked Mr. Maze for his support regarding a local bachelor degree program, and suggested that the Council request that the $50,000 amount be increased.

Disposition: Informational item only.

22. **CONSIDERATION OF TWO HOUR PARKING ALONG THURMAN AVENUE**

Recommendation: That the City Council take no action on this matter.
City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

A discussion ensued as to why the city parking lot was not being utilized, during which it was stated that trees excreting a sap-like substance were the likely culprit. Staff confirmed that the trees were to be diagnosed and treated.

Council Member Stadtherr moved that the Council approve staff’s recommendation. The motion failed for lack of a second when it was pointed out that no action needed to be taken to proceed with staff’s recommendation.

Disposition: No action taken.

The Council adjourned at 9:55 p.m. to a Meeting of the Porterville Redevelopment Agency.

PORTERVILLE REDEVELOPMENT AGENCY AGENDA
November 1, 2005

Roll Call: Agency Member Irish, Agency Member Martinez, Vice-Chairman Hamilton, Agency Member Stadtherr, Chairman West

WRITTEN COMMUNICATIONS
None

ORAL COMMUNICATIONS
• Vern Onstine, property owner at 311 Second Street, voiced concern that a parking lot was not required as a part of the development proposed in Item No. PRA-1, stating that patrons would likely use his lot.

PUBLIC HEARING
PRA-1. SALE OF PROPERTY LOCATED IN PROJECT AREA #1

Recommendation: That the Porterville Redevelopment Agency approve the sale of the approximate 8,800 square foot parcel located at the southeast corner of Main Street and Thurman Avenue and authorize the Chairman to sign all necessary documents to complete the transaction.

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

Vice-Chairman Hamilton confirmed with staff that the proposed building was approximately 15,000 square feet, and that since its location was within Parking District No. 2, no parking was required. A discussion ensued as to the proposed design elements of the development and the number of existing public parking spaces in the immediate proximity.
At the request of Vice-Chairman Hamilton, City Attorney Julia Lew clarified the process by which the City and the Redevelopment Agency had followed with regard to the property.

City Manager/Agency Secretary John Longley stated for the record that on June 17, 2003, the Council had directed staff to market the property to local developers for the construction of a park and develop the commercial portion. He stated that the RFP had been noticed in a local newspaper on July 26, 2003, and based on that notice, one proposal had been received. Mr. Longley indicated that since that time frame, negotiations had been ongoing with Ennis Commercial Properties. He added that the Agency’s legal counsel had confirmed the actions to be in compliance with State regulations.

Mayor West agreed with comments made by Mr. Onstine regarding the likelihood of creating a parking problem.

AGENCY ACTION: MOVED by Member Stadtherr, SECONDED by Vice-Chairman Hamilton that the Redevelopment Agency approve the sale of the approximate 8,800 square foot parcel located at the southeast corner of Main Street and Thurman Avenue and authorize the Chairman to sign all necessary documents to complete the transaction. The motion carried unanimously.

Disposition: Approved.

The Porterville Redevelopment Agency adjourned at 10:08 p.m. to a Meeting of the Porterville Public Financing Authority.

It was noted by the City Attorney that Item PRA-1 had actually been scheduled as a Public Hearing, and that the Council would need to reconvene the Meeting of the Redevelopment Agency, take public comment, and then re-consider and take action on Item PRA-1.

The Porterville Financing Authority adjourned at 10:09 p.m. to a Meeting of the Porterville Redevelopment Agency. It was noted that all Agency Members were still present.

PRA-1. SALE OF PROPERTY LOCATED IN PROJECT AREA #1

Recommendation: That the Porterville Redevelopment Agency approve the sale of the approximate 8,800 square foot parcel located at the southeast corner of Main Street and Thurman Avenue and authorize the Chairman to sign all necessary documents to complete the transaction.

The public hearing opened at 10:09 p.m.

• Vern Onstine, property owner at 311 Second Street, voiced concern that a parking lot was not required as a part of the development proposed in Item No. PRA-1, stating that patrons would likely use his lot.
• Greg Shelton, address on record, questioned the viability of the project at such a high cost per square foot.
Dick Eckhoff, Downtown Porterville Association, 180 North Main, commented that the DPA supported the project design as proposed, and expressed concerns regarding parking.

The public hearing closed at 10:13 p.m.

**AGENCY ACTION**: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Redevelopment Agency rescind its prior action and approve Resolution PRA-2005-02 the sale of the approximate 8,800 square foot parcel located at the southeast corner of Main Street and Thurman Avenue, and authorize the Chairman to sign all necessary documents to complete the transaction. The motion carried unanimously.

Disposition: Approved.

The Porterville Redevelopment Agency adjourned at 10:14 p.m. to a Meeting of the Porterville Public Financing Authority.

**PORTERVILLE PUBLIC FINANCING AUTHORITY AGENDA**

November 1, 2005

Roll Call: Member Irish, Member Martinez, Vice-Chairman Hamilton, Member Stadtherr, Chairman West

**WRITTEN COMMUNICATIONS** - None

**ORAL COMMUNICATIONS** - None

**SCHEDULED MATTER**

PFA-1 AUTHORIZATION TO PREPARE AND EXECUTE DOCUMENTS RELATED TO THE REFUNDING OF CERTIFICATES OF PARTICIPATION

Recommendation: That the Porterville Public Finance Authority Board adopt the draft resolution authorizing the preparation, circulation, and execution of the documents related to the COP refinance.

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

**BOARD ACTION:** MOVED by Vice-Chairman Hamilton, SECONDED by Council Member Stadtherr that the Porterville Public Finance Authority Board adopt the draft resolution authorizing the preparation, circulation, and execution of the documents related to the COP refinance. The motion carried unanimously.

The Porterville Public Finance Authority Board adjourned at 10:17 p.m. to a Meeting of the Porterville City Council.
ORAL COMMUNICATIONS

• Greg Shelton, address on record, spoke regarding Item 18, suggesting that the Golf Pro recruitment effort be expanded to also include interested “non-card-carrying” qualified individuals; and questioned the necessity of requiring the Parks & Leisure Services Commissioner to attend Council Meetings each time he wished to put forth a viewpoint in opposition to that of the Commission.

• Joe Guerrero, 342 South F Street, voiced displeasure with what he perceived as the Council’s desire to rush through items; suggested that Commissioners be required to attend Council Meetings; and voiced displeasure with only two Council Members attending the Hillside Development Field Trip on Monday, October 31, 2005.

• Pete McCracken, 657 Village Green, suggested that the Chairs of all City Commissions be required to attend those City Council Meetings in which pertinent Commission issues were to be addressed.

• Dick Eckhoff, address on record, voiced support with proceeding proactively on important items such as hillside development and communication towers.

OTHER MATTERS

• Council Member Irish voiced disappointment that only two Council Members had attended the Hillside Development Field Trip on October 31, 2005, and thanked staff for their efforts; He indicated that he would not be in attendance at the November 15, 2005 Meeting and thanked the Fire Department, Mr. Eckhoff and Council Members for their efforts on Measure H. He then suggested that Mayor West and Mayor Pro Tem Hamilton agree to participate in a debate on Measure H.

• Mayor West indicated he did not wish to participate in the debate.

• Mayor Pro Tem Hamilton commented that he would agree to debate Mr. McIntire.

• Aaron Burgin, Porterville Recorder reporter, came forward and requested that the Mayor and Mayor Pro Tem agree to debate, asserting it was their duty.

City Attorney Julia Lew clarified that as a Council, the Council Members could not participate, but that each individual Council Member could decide to participate as an individual private citizen.

ADJOURNMENT

The Council adjourned at 10:33 p.m. to the meeting of November 15, 2005

______________________________  Patrice Hildreth, Deputy City Clerk

SEAL

______________________________  Kelly West, Mayor
SUBJECT: CLAIMS - GUADALUPE L. GARCIA; ELROY L. GARCIA AND ESPERANZA JIMENEZ; NICANOR L. JIMENEZ; ABRAHAM S. OJEDA; MICAELINA V. JIMENEZ; AND, GUADALUPE L. GARCIA, DANIEL S. LOPEZ, MINOR, IMELDA L. SANCHEZ, MINOR, AND YANELLI S. LOPEZ

SOURCE: Administration/City Clerk Division

COMMENT: Robert Gray Williams, with Perez, Williams & Medina, Attorneys at Law, has filed six claims on behalf of the following:

- Guadalupe Lopez Garcia
- Nicanor Lopez Jimenez
- Abraham Sanchez Ojeda
- Micaelina Vasquez Jimenez
- Elroy Lopez Garcia and Esperanza Jimenez
- Guadalupe Lopez Garcia, Daniel Sanchez Lopez, minor, Imelda Lopez Sanchez, minor, and Yanelli Sanchez Lopez

These claims have been filed against the City and Porterville Police Department for personal injury. The claimant’s are alleging that on May 23, 2005, Porterville Police Officer Michael Zamora, Jr., deceased, negligently, carelessly and recklessly operated a vehicle while intoxicated and crossed into the southbound lane of State Route 65 while on his way home. Officer Zamora’s GMC Yukon collided head-on with a Dodge Caravan occupied by Guadalupe Garcia, Nicanor Lopez Jimenez, Abraham Sanchez Ojeda, Micaelina Vasquez Jimenez, Elroy Lopez Jimenez, and Efrain Ojeda Sanchez.

Elroy Lopez Garcia and Esperanza Jimenez, father and mother of Elroy Lopez Jimenez, deceased, and Guadalupe Lopez Garcia, Daniel Sanchez Lopez, minor, Imelda Lopez Sanchez, minor, and Yanelli Sanchez Lopez, widow and minor children of Efrain Ojeda Sanchez, deceased, are claiming funeral and burial expenses plus additional items as stated on the attached claims. Guadalupe Lopez Garcia, Nicanor Lopez Jimenez, Abraham Sanchez Ojeda, and Micaelina Vasquez Jimenez are claiming personal injuries, medical expenses, wage loss and loss of earning capacity and other economic and non-economic damages not yet known. All the claimants are claiming that the City
and Police Department are responsible due to negligently, carelessly and recklessly hiring, training and failing to supervise its officers and employees, including but not limited to Police Officer Zamora.

The amount being claimed as of the date of this claim is stated as a Superior Court Unlimited Civil Case.

RECOMMENDATION: That the Council reject said claims and refer the matter to the City's insurance adjustor, and direct the City Clerk to give the claimants proper notification.

Attachment: Claim Forms (6)
CLAIM FORM (AMENDED)
(Please Type Or Print)

CLAIM AGAINST CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT
(Name of Entity)

Guadalupe Lopez Garcia SS # None

Claimant’s Name

Claimant’s Date of Birth Telephone # (559) 804-5438

Claimant’s Address 41129 Frances Drive, Orosi, California 93647

Address where Notices about Claim are to be sent, if different from above:
Perez, Williams & Medina, 1432 Divisadero, Fresno, California 93721

Date of Incident/Accident/Arrest 5-23-05

Date Injuries, Damages or Losses were discovered 5-23-05

Location of Incident/Accident/Arrest: State Route 65, 316 feet north of Road 200

What did Entity or Employee do to cause this Loss, Damage or Injury?

PLEASE SEE ATTACHMENT

What are the Names of the Entity’s Employees who caused this Injury, Damage or Loss (if known)?
The public employee causing injury to claimant is Officer Michael Zamora, Jr.
The identity of other public employees who may have caused injury to claimant is presently unknown to claimant.

What specific Injuries, Damages or Losses did Claimant receive? PLEASE SEE ATTACHMENT

What amount of money is claimant seeking, or if amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must respond whether it is a "limited civil case" [see Government Code 910(4)]

Amount exceeds $10,000.00. Jurisdiction over the claim will rest in Superior Court. This claim is an Unlimited Civil Case, NOT a Limited Civil Case

How was this amount calculated (please itemize)?

Date Signed 12/01/05 Signature: ROBERT GRAY WILLIAMS

If signed by Representative:
Representative’s Name Robert Gray Williams, Esq.
Address 1432 Divisadero, Fresno, CA 93721
Telephone # (559) 445-0123
Relationship to Claimant Attorney
ATTACHMENT TO CLAIM FORM

What did Entity or Employee do to cause this Loss, Damage or Injury?

This claim is based upon the following events and circumstances: That on May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees including Officer Michael Zamora, Jr., deceased, negligently, carelessly and recklessly operated (while under the influence of alcoholic beverages) a 2005 GMC Yukon at approximately 70 mph northbound on State Route 65 and crossed into the southbound lanes of State Route 65 causing the vehicle to collide head-on with a 1987 Dodge Caravan occupied by claimant, Guadalupe Lopez Garcia.

That prior to May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees, negligently, carelessly and recklessly, hired, trained, and failed to properly supervise its officers and employees including but not limited to Porterville Police Officer Michael Zamora, Jr., deceased.

What specific injuries, Damages or Losses did Claimant receive?

As a proximate result of the negligent acts by Porterville Police Officer Michael Zamora, Jr., deceased, and other employees of the City of Porterville and Porterville Police Department whose identities are presently unknown, Guadalupe Lopez Garcia, sustained severe injuries including large flap laceration to the forehead, multiple fractures and other injuries to other areas of her body, resulting in past and future hospital and medical expenses. In addition, claimant has also sustained wage loss and loss of earning capacity and other economic and non-economic damages not presently known.
CLAIM FORM (AMENDED)
(Please Type Or Print)

RECEIVED
DEC 12 2005

CENTRAL SAN JOAQUIN VALLEY
RISK MANAGEMENT AUTHORITY

CLAIM AGAINST CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT
(Name of Entity)

Nicanor Lopez Jimenez  SS# None
Claimant's Name

Claimant’s Date of Birth [redacted]  Telephone # (559) 804-5438

41129 Frances Drive, Orosi, California 93647
Claimant’s Address

Address where Notices about Claim are to be sent, if different from above:
Perez, Williams & Medina, 1432 Divisadero, Fresno, California 93721

Date of Incident/Accident/Arrest: 5-23-05

Date Injuries, Damages or Losses were discovered: 5-23-05

Location of Incident/Accident/Arrest: State Route 65, 316 feet north of Road 200

What did Entity or Employee do to cause this Loss, Damage or Injury?
PLEASE SEE ATTACHMENT

What are the Names of the Entity's Employees who caused this Injury, Damage or Loss (if known)?
The public employee causing injury to claimant is Officer Michael Zamora, Jr.
The identity of other public employees who may have caused injury to claimant is presently unknown to claimant.

What specific Injuries, Damages or Losses did Claimant receive? PLEASE SEE ATTACHMENT

What amount of money is claimant seeking, or if amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(1)]

Amount exceeds $10,000.00. Jurisdiction over the claim will rest in Superior Court. This claim is an Unlimited Civil Case, NOT a Limited Civil Case.

How was this amount calculated (please itemize)?

Date Signed: 12/12/05
Signature: ROBERT GRAY WILLIAMS

If signed by Representative:
Representative's Name: Robert Gray Williams, Esq.
Address: 1432 Divisadero, Fresno, CA 93721
Telephone #: (559) 445-0123
Relationship to Claimant: Attorney
ATTACHMENT TO CLAIM FORM

What did Entity or Employee do to cause this Loss, Damage or Injury?

This claim is based upon the following events and circumstances: That on May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees including Officer Michael Zamora, Jr., deceased, negligently, carelessly and recklessly operated (while under the influence of alcoholic beverages) a 2005 GMC Yukon at approximately 70 mph northbound on State Route 65 and crossed into the southbound lanes of State Route 65 causing the vehicle to collide head-on with a 1987 Dodge Caravan occupied by claimant, Nicanor Lopez Jimenez.

That prior to May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees, negligently, carelessly and recklessly, hired, trained, and failed to properly supervise its officers and employees including but not limited to Porterville Police Officer Michael Zamora, Jr., deceased.

What specific injuries, Damages or Losses did Claimant receive?

As a proximate result of the negligent acts by Porterville Police Officer Michael Zamora, Jr., deceased, and other employees of the City of Porterville and Porterville Police Department whose identities are presently unknown, Nicanor Lopez Jimenez, sustained severe injuries including brain trauma, lung contusions, liver trauma, broken left femur, and other injuries to other areas of his body, resulting in past and future hospital and medical expenses. In addition, claimant has also sustained wage loss and loss of earning capacity and other economic and non-economic damages not presently known.
CLAIM FORM (AMENDED)

(City of Porterville and Porterville Police Department)

Claim Against: City of Porterville and Porterville Police Department

Claimant's Name: Abraham Sanchez Ojeda

SS #: None

Claimant's Date of Birth: Telephone #: (559) 804-5438

Address: 41129 Frances Drive, Orosi, California 93647

Address where Notices about Claim are to be sent, if different from above:
Perez, Williams & Medina, 1432 Divisadero, Fresno, California 93721

Date of Incident/Accident/Arrest: 5-23-05

Date Injuries, Damages or Losses were discovered: 5-23-05

Location of Incident/Accident/Arrest: State Route 65, 316 feet north of Road 200

What did Entity or Employee do to cause this Loss, Damage or Injury?

PLEASE SEE ATTACHMENT

What are the Names of the Entity's Employees who caused this Injury, Damage or Loss (if known)?
The public employee causing injury to claimant is Officer Michael Zamora, Jr.
The identity of other public employees who may have caused injury to claimant is presently unknown to claimant.

What specific Injuries, Damages or Losses did Claimant receive?

PLEASE SEE ATTACHMENT

What amount of money is claimant seeking, or if amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(1)]

Amount exceeds $10,000.00. Jurisdiction over the claim will rest in Superior Court. This claim is an Unlimited Civil Case, NOT a Limited Civil Case

How was this amount calculated (please itemize)?

Date Signed: 12-5-05

Signature: ROBERT GRAY WILLIAMS

If signed by Representative:
Representative's Name: Robert Gray Williams, Esq.
Address: 1432 Divisadero, Fresno, CA 93721
Telephone #: (559) 445-0123
Relationship to Claimant: Attorney
ATTACHMENT TO CLAIM FORM

What did Entity or Employee do to cause this Loss, Damage or Injury?

This claim is based upon the following events and circumstances: That on May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees including Officer Michael Zamora, Jr., deceased, negligently, carelessly and recklessly operated (while under the influence of alcoholic beverages) a 2005 GMC Yukon at approximately 70 mph northbound on State Route 65 and crossed into the southbound lanes of State Route 65 causing the vehicle to collide head-on with a 1987 Dodge Caravan occupied by claimant, Abraham Sanchez Ojeda.

That prior to May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees, negligently, carelessly and recklessly, hired, trained, and failed to properly supervise its officers and employees including but not limited to Porterville Police Officer Michael Zamora, Jr., deceased.

What specific injuries, Damages or Losses did Claimant receive?

As a proximate result of the negligent acts by Porterville Police Officer Michael Zamora, Jr., deceased, and other employees of the City of Porterville and Porterville Police Department whose identities are presently unknown, Abraham Sanchez Ojeda, sustained severe injuries including massive head trauma, fractures to right first rib posteriorly, lower rib fractures and other injuries to other areas of his body, resulting in past and future hospital and medical expenses. In addition, claimant has also sustained wage loss and loss of earning capacity and other economic and non-economic damages not presently known.
CLAIM FORM (AMENDED)
(Please Type Or Print)

RECEIVED
DEC 12 2005

CITY OF PORTERVILLE DEPUTY CITY CLERK

CLAIM AGAINST _CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT_
(Name of Entity)

Claimant's Name _Micaelina Vasquez Jimenez_ SS #: None

Claimant's Date of Birth 804-5438
Telephone # (559 )

Claimant's Address 41129 Frances Drive, Orosi, California 93647

Address where Notices about Claim are to be sent, if different from above.

Perez, Williams & Medina, 1432 Divisadero, Fresno, California 93721

Date of Incident/Accident/Arrest: 5-23-05

Date Injuries, Damages or Losses were discovered: 5-23-05

Location of Incident/Accident/Arrest: State Route 65, 316 feet north of Road 200

What did Entity or Employee do to cause this Loss, Damage or Injury?

PLEASE SEE ATTACHMENT

(Use back of this Form or separate sheet if necessary to answer this Question in Detail)

What are the Names of the Entity's Employees who caused this Injury, Damage or Loss (if known)?
The public employee causing injury to claimant is Officer Michael Zamora, Jr.
The identity of other public employees who may have caused injury to claimant is presently unknown to claimant.
What specific Injuries, Damages or Losses did Claimant receive? PLEASE SEE ATTACHMENT

(Use back of this form or separate sheet if necessary to answer this question in detail)

What amount of money is claimant seeking, or if amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(1)]

Amount exceeds $10,000.00. Jurisdiction over the claim will rest in Superior Court. This claim is an Unlimited Civil Case, NOT a Limited Civil Case

(Use back of this form or separate sheet if necessary to answer this question in detail)

How was this amount calculated (please itemize)?

Date Signed: ROBERT GRAY WILLIAMS

If signed by Representative:
Representative's Name _Robert Gray Williams, Esq._
Address 1432 Divisadero, Fresno, CA 93721
Telephone # (559) 445-0123
Relationship to Claimant _Attorney_

1/03 Revision
ATTACHMENT TO CLAIM FORM

What did Entity or Employee do to cause this Loss, Damage or Injury?

This claim is based upon the following events and circumstances: That on May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees including Officer Michael Zamora, Jr., deceased, negligently, carelessly and recklessly operated (while under the influence of alcoholic beverages) a 2005 GMC Yukon at approximately 70 mph northbound on State Route 65 and crossed into the southbound lanes of State Route 65 causing the vehicle to collide head-on with a 1987 Dodge Caravan occupied by claimant, Micaelina Vasquez Jimenez.

That prior to May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees, negligently, carelessly and recklessly, hired, trained, and failed to properly supervise its officers and employees including but not limited to Porterville Police Officer Michael Zamora, Jr., deceased.

What specific injuries, Damages or Losses did Claimant receive?

As a proximate result of the negligent acts by Porterville Police Officer Michael Zamora, Jr., deceased, and other employees of the City of Porterville and Porterville Police Department whose identities are presently unknown, Micaelina Vasquez Jimenez, sustained severe injuries including massive head trauma, paraplegia and other injuries to other areas of her body, resulting in past and future hospital and medical expenses. In addition, claimant has also sustained wage loss and loss of earning capacity and other economic and non-economic damages not presently known.
CLAIM FORM (AMENDED)
(Please Type Or Print)

CLAIM AGAINST

CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT

Guadalupe Lopez Garcia, Daniel Sanchez Lopez, minor, Imelda Lopez Sanchez, minor and Yanelli Sanchez Lopez

SS # None

Claimant’s Name

Guadalupe: ; Daniel: ; Imelda: ; Yanelli: ;

Claimant’s Date of Birth

Telephone # (559) 804-5438

Claimant’s Address

41129 Frances Drive, Orosi, California 93647

Address where Notices about Claim are to be sent, if different from above:

Perez, Williams & Medina, 1432 Divisadero, Fresno, California 93721

Date of Incident/Accident/Arrest: 5-23-05

Date Injuries, Damages or Losses were discovered: 5-23-05

Location of Incident/Accident/Arrest: State Route 65, 316 feet north of Road 200

What did Entity or Employee do to cause this Loss, Damage or Injury?

PLEASE SEE ATTACHMENT

What are the Names of the Entity’s Employees who caused this Injury, Damage or Loss (if known)?

The public employee causing injury to claimants' decedent, Efrain Ojeda Sanchez, is Officer Michael Zamora, Jr. The identity of other public employees who may have caused injury to claimants' decedent are presently unknown to claimants.

What specific Injuries, Damages or Losses did Claimant receive?

PLEASE SEE ATTACHMENT

What amount of money is claimant seeking, or if amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)]

Amount exceeds $10,000.00. Jurisdiction over the claim will rest in Superior Court. This claim is an Unlimited Civil Case, NOT a Limited Civil Case

How was this amount calculated (please itemize)?

Date Signed: 12/2/05

Signature: ROBERT GRAY WILLIAMS

If signed by Representative:

Representative’s Name Robert Gray Williams, Esq.

Address 1432 Divisadero, Fresno, CA 93721

Telephone # (559) 445-0123

Relationship to Claimant Attorney
ATTACHMENT TO CLAIM FORM

What did Entity or Employee do to cause this Loss, Damage or Injury?

This claim is based upon the following events and circumstances: That on May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees including Officer Michael Zamora, Jr., deceased, negligently, carelessly and recklessly operated (while under the influence of alcoholic beverages) a 2005 GMC Yukon at approximately 70 mph northbound on State Route 65 and crossed into the southbound lanes of State Route 65 causing the vehicle to collide head-on with a 1987 Dodge Caravan occupied by claimants’ decedent, Efrain Ojeda Sanchez.

That prior to May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees, negligently, carelessly and recklessly, hired, trained, and failed to properly supervise its officers and employees including but not limited to Porterville Police Officer Michael Zamora, Jr., deceased.

What specific injuries, Damages or Losses did Claimant receive?

As a proximate result of the negligent acts by Porterville Police Officer Michael Zamora, Jr., deceased, and other employees of the City of Porterville and Porterville Police Department whose identities are presently unknown, Efrain Ojeda Sanchez, deceased, sustained fatal injuries.

The relationship of the claimants to decedent, Efrain Ojeda Sanchez, deceased, is as follows:

Guadalupe Lopez Garcia - Widow
Daniel Sanchez Lopez - Minor Son
Imelda Lopez Sanchez - Minor Daughter
Yanelli Sanchez Lopez - Minor Daughter

As a further proximate result of the negligent acts of the agents and/or employees of the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, including Officer Michael Zamora, Jr., deceased, claimants have sustained damages for funeral and burial expenses, the loss of love, society, comfort, support, protection, and services, income, inheritance rights and other economic and non-economic damages not presently known, as a result of the death of Efain Ojeda Sanchez.
CLAIM AGAINST CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT
(Name of Entity)

Claimant's Name Eloy Lopez Garcia and Esperanza Jimenez S.S. # None

Claimant's Date of Birth [Covered] & [Covered] Telephone # (559) 804-5438

Claimant's Address 41129 Frances Drive, Orosi, California 93647

Address where Notices about Claim are to be sent, if different from above:
Perez, Williams & Medina, 1432 Divisadero, Fresno, California 93721

Date of Incident/Accident/Arrest: 5-23-05

Date Injuries, Damages or Losses were discovered: 5-23-05

Location of Incident/Accident/Arrest: State Route 65, 316 feet north of Road 200

What did Entity or Employee do to cause this Loss, Damage or Injury?

PLEASE SEE ATTACHMENT

What are the Names of the Entity’s Employees who caused this Injury, Damage or Loss (if known)?
The public employee causing injury to claimants' decedent, Eloy Lopez Jimenez, is:

Officer Michael Zamora, Jr. The identity of other public employees who may have caused injury to claimants' decedent are presently unknown.

What specific Injuries, Damages or Losses did Claimant receive?

PLEASE SEE ATTACHMENT

Amount exceeds $10,000.00. Jurisdiction over the claim will rest in Superior Court. This claim is an Unlimited Civil Case, NOT a Limited Civil Case

How was this amount calculated (please itemize)?

Date Signed: 12-12-05

Signature: ROBERT GRAY WILLIAMS

If signed by Representative:

Representative's Name Robert Gray Williams, Esq.

Address 1432 Divisadero, Fresno, CA 93721

Telephone # (559) 445-0123

Relationship to Claimant Attorney
ATTACHMENT TO CLAIM FORM

What did Entity or Employee do to cause this Loss, Damage or Injury?

This claim is based upon the following events and circumstances: That on May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees including Officer Michael Zamora, Jr., deceased, negligently, carelessly and recklessly operated (while under the influence of alcoholic beverages) a 2005 GMC Yukon at approximately 70 mph northbound on State Route 65 and crossed into the southbound lanes of State Route 65 causing the vehicle to collide head-on with a 1987 Dodge Caravan occupied by claimants’ decedent, Eloy Lopez Jimenez.

That prior to May 23, 2005, the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, and its agents and/or employees, negligently, carelessly and recklessly, hired, trained, and failed to properly supervise its officers and employees including but not limited to Porterville Police Officer Michael Zamora, Jr., deceased.

What specific injuries, Damages or Losses did Claimant receive?

As a proximate result of the negligent acts by Porterville Police Officer Michael Zamora, Jr., deceased, and other employees of the City of Porterville and Porterville Police Department whose identities are presently unknown, Eloy Lopez Jimenez, deceased, sustained fatal injuries.

The relationship of the claimants to decedent, Eloy Lopez Jimenez, deceased, is as follows:

- Eloy Lopez Garcia - Father
- Esperanza Jimenez Ojeda - Mother

As a further proximate result of the negligent acts of the agents and/or employees of the CITY OF PORTERVILLE and PORTERVILLE POLICE DEPARTMENT, including Officer Michael Zamora, Jr., deceased, claimants have sustained damages for funeral and burial expenses, the loss of love, society, comfort, support, protection, and services, income, inheritance rights and other economic and non-economic damages not presently known, as a result of the death of Eloy Lopez Jimenez.
COUNCIL AGENDA: DECEMBER 20, 2005

SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – SKATE PARK PROJECT

SOURCE: Parks and Leisure Services Department

COMMENT: Site Design, Inc. has prepared a final cost estimate and design for the Skate Park Project. The project consists of the 15,000 square foot concrete skate park on the west side of Veterans Park. The estimate of probable construction cost including 10% contingency is $374,461.20.

Presently there is $359,500 available in the Skate Park grant and related matching funding. The Porterville Rotary Club has also pledged $15,000 in financial support. Upon completion of this second phase of the comprehensive project, modifications to the irrigation system and planting of landscape materials will be needed. This work will be designed during the construction of the Skate Park.

RECOMMENDATION: That the City Council:
1. Accept the probable estimate of cost, and
2. Authorize staff to advertise for bids on the project.

ATTACHMENT: Estimate of probable cost
Porterville Skate Park  
Porterville, California  
Project No. 05-008-S

### Probable Construction Cost

<table>
<thead>
<tr>
<th>Pay Item No.</th>
<th>Description</th>
<th>Approximate Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Total Amount</th>
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<tbody>
<tr>
<td>00000 - General</td>
<td>Mobilization - 10% of Estimate</td>
<td>1.00</td>
<td>LS</td>
<td>$31,205.10</td>
<td>$31,205.10</td>
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<td></td>
<td>Construction Contingencies - 10% of Estimate</td>
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<td>$31,205.10</td>
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<td>02220 - Demolition</td>
<td>Clearing and Grubbing</td>
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<td>SF</td>
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<td>$9,990.00</td>
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<td>02300 - Earthwork</td>
<td>Grading Cut - on-site earthwork</td>
<td>56.00</td>
<td>CY</td>
<td>$12.00</td>
<td>$672.00</td>
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<td></td>
<td>Grading Fill - on-site earthwork</td>
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<td>$9,624.00</td>
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<td></td>
<td>Import fill - off-site delivery, includes hauling and traffic</td>
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<td>CY</td>
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<td>$41,030.00</td>
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<td>02440 - Sign Graphics</td>
<td>Signage at entry - metal sign with tubular steel post, fabrication and installation</td>
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<td>EA</td>
<td>$2,500.00</td>
<td>$2,500.00</td>
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<tr>
<td>02700 - Storm Drainage</td>
<td>Floor Drain - 6&quot; round with 8&quot; round strainer</td>
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<td>$1,250.00</td>
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<td>Storm Drain Manhole (D-1)</td>
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<td>Landscape area Inlet Christy V-76</td>
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<td>Drain Line - 6&quot; SDR 35</td>
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<td>Drain Line - 8&quot; SDR 35</td>
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<td>$50.00</td>
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<td>Connection to Existing Manhole</td>
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<td>Bench - Complete</td>
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<td>Stabilized D.G. path</td>
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<td>Total Amount</td>
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<td>03300 - Cast-In-Place Concrete</td>
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<td>18</td>
<td>Top deck - 4&quot; w.w.f. reinforced concrete over a.b.</td>
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<td>$5.90</td>
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<td>Banks - 6&quot; rebar reinforced concrete over a.b.</td>
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<td>Flat bottom - 6&quot; rebar reinforced concrete over a.b.</td>
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<td>Ledge - average 1'-6&quot; high rebar reinforced concrete over a.b.</td>
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<td>Turndown wall - complete, rebar reinforced concrete, varying heights</td>
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<td>26</td>
<td>2&quot; round sch. 40 steel pipe</td>
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<td>$9,269.00</td>
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<td>05500 - Metal Fabrications (free standing rail)</td>
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<td>LF</td>
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<td>Fencing - chainlink roll gate</td>
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<td>EA</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
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</tbody>
</table>

**Total Estimate**

$374,461.20

---

Project Manager/Consultant: [Signature] 12/13/05

Public Works Director: [Signature] 12-13/05

City Engineer: [Signature] 12-13/05

City Manager: [Signature] 12-13/05

Page 2
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS - TRAFFIC SIGNAL NO. 8 (PLANO STREET & MULBERRY AVENUE)

COMMENT: Plans and Project Manual have been completed for the construction of the traffic signal at Plano Street and Mulberry Avenue. The project is funded by a "Safe Route To School" (SR2S) grant with an 11.5% local match.

The engineer’s estimate of probable cost is approximately $308,105.60 which is $139,000 more than what is available in the grant. A grant in the amount of $92,000 is available from a Work Force Housing Incentive Grant Program and Caltrans District 6 has indicated that additional funds may be available from other County-wide unused funds. Prior to the award of the contract, Caltrans asks that the City inform Local Assistance, District 6 of the actual bid amount so that a determination can be made on the availability of additional funds needed to construct the project. As of this writing, Caltrans is optimistic that an additional $50,000 can be found to augment the City's SR2S grant.

If the County-wide unused funds are not available, there appears to be some savings associated with the negotiation of Date Avenue right of way, primarily funds that will become available upon property sales. The proximity of the proposed Date Avenue improvements to existing dwellings has forced the City to purchase entire lots. Sale of the property or properties can be attributed to this project.

This project was approved in the 2005/2006 budget and Local Transportation funds, the "Work Force" grant or Local Transportation Funds will be used for the City’s local match.

A Council member asked that the matter of roundabouts, specifically the cost and status of same throughout the valley, be brought forth for Council discussion. To satisfy this request, a memo addressing the history of the SR2S grant specific to the Plano/Mulberry intersection along with a current estimate of probable cost to construct a roundabout is included as an attachment. A previous staff report addressing the physical status and consideration of roundabouts in other cities in the valley is also included as an attachment.

RECOMMENDATION: That the City Council:

1. Approve the Plans and Project Manual for Traffic Signal No. 8; and

2. Authorize staff to advertise for bids to construct a traffic signal at the intersection of Plano Street and Mulberry Avenue with appurtenances.

ATTACHMENTS: Engineer’s Estimate
Locator Map
Memo - Continuing Discussion on Roundabouts
May 3, 2005 City Council Agenda Item
# City of Porterville

**TS#8 - Plano / Mulberry Signallization**  
**Engineer's Opinion of Probable Cost**

<table>
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<tr>
<th>ITEM</th>
<th>QTY.</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
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<td>Clearing &amp; Grubbing</td>
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<td>3</td>
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<td>EA</td>
<td>Remove and Salvage Roadside Sign</td>
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<td>4</td>
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<td>5</td>
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Subtotal $280,096.00  
Contingency @ (10%) $28,096.60  
**Total** $308,105.60

Date: 12-12-05  
Prepared by: David Peters, P.E. - Project Engineer  
Reviewed by: Michael K. Reed, City Engineer  
Reviewed by: Baldomero Rodriguez, Public Works Director  
Reviewed by: John Longley, C.B. Manager
Date: December 12, 2005

To: John Longley - City Manager

From: Baldo Rodriguez - Public Works Director

Subject: Continuing Discussion on Roundabouts.

This memo is a follow-up to a councilmember’s request for further comment on roundabouts in general and specifically about a roundabout at the intersection of Plano Street and Mulberry Avenue.

A brief history is provided regarding the events leading to the award of a “Safe Routes to School” (SR2S) grant. In May 2002, Mr. Harold Hill, Public Works Director, and Dr. John Snavely, Porterville Unified School District Superintendent, recognized the need for a traffic calming device at the intersection of Plano Street and Mulberry Avenue. Their decision was based on the fact that Los Robles Elementary School is in a rural setting, that the steep grade of Lewis Hill enhances speeds in the vicinity and that young children do not always make the right decisions when crossing the intersection.

In a collaborative effort between the City and Porterville Schools, a “Safe Routes to School” grant application was prepared and submitted for Caltrans consideration. The application was deemed appropriate and worthy by Caltrans and authorization to proceed with a traffic signal project was approved in November 2002. At the time of the application and approval to proceed, the topic of roundabouts had not been discussed, at least not to my knowledge.

Plans and project manual for the construction of a traffic signal are complete and in the office of the Public Works Director. Authorization to proceed with project advertisement is scheduled for Council action on 20 December 2005. The design engineer estimates approximately $300,000 to construct the traffic signal. An additional $35,000 has been spent in design and administrative costs. The construction cost is significantly higher than one would expect for signalizing one intersection. Three main factors contribute to the high cost; 1) substantial street work must be performed to eliminate a west side x-gutter, 2) eliminating the x-gutter requires the construction of a storm drain system, and 3) continued price increases on all major construction materials.

On July 27, 2005, an engineer’s estimate of $115,000 was presented to Council to construct a roundabout at Plano Street and Mulberry Avenue. A current construction estimate puts this figure at $140,000 which includes $15,000 for additional right of way from all four corners. The engineer’s estimate for design and survey work is an additional $25,000. Further, the estimate is contingent upon being able to construct a 60’ diameter roundabout without having to purchase the entire southwest property. It should be noted that purchasing additional right of way from the northwest corner will require a herculean effort. The 60’ diameter roundabout should be large enough to accommodate school buses and delivery trucks. A more thorough analysis using truck turning templates must be performed to arrive at the correct roundabout size.
Discussion On Roundabouts
Page 2 of 2

To summarize, the design and construction estimate to install a traffic signal at Plano Street and Mulberry Avenue is $335,000. Under normal circumstances, the SR2S grant would pay for $295,000 of the total cost. In our specific situation, the SR2S grant will pay for $240,000 and the City will use a “Work Force” grant and local funds to cover the remaining costs.

The design and construction estimate to install a roundabout at Plano Street and Mulberry Avenue is $165,000. This estimate is based on a 60' diameter roundabout and not having to purchase the entire lot located on the southwest corner. The SR2S grant cannot be used to design and construct a roundabout at this same location but, if the roundabout had been the original design choice, the grant would have paid $145,000 of the total cost.

In closing, a staff report was prepared for Council’s review on May 3, 2005 which identified 8 valley cities and their response to two questions related to roundabouts. The two questions were; 1) does your City have roundabouts?, and 2) are roundabouts included in your decision making process? Including the City of Porterville, 22% of the cities had roundabouts and 78% included roundabouts in their decision making process. The entire staff report is attach for Council’s review.

A survey was performed of these same cities during the week of December 12, 2005 with the results remaining the same with one exception. The City of Hanford now considers roundabouts in their traffic control decision making process.
SUBJECT: CONSIDERATION OF ROUNDABOUTS ON ALL FUTURE STREET INTERSECTION PROJECTS

SOURCE: Public Works Department

COMMENT: A council member asked staff to comment on whether we should include roundabouts in the decision making process when considering street intersection reconstruction. Staff is of the opinion that roundabouts should be considered as a traffic calming and efficiency option along with conventional stop signs or traffic signals simply as a matter of thoroughness.

It has been shown that roundabouts can be constructed at significantly less cost than a traffic signal, provided right of way acquisitions are not excessive. From the literature that staff has reviewed, it has been shown that roundabouts have a place in the designer’s kit provided vehicle speeds, volume and size of vehicles (i.e., large trucks) match the capability of the roundabout.

Because roundabouts are a new concept to the Engineering Division, staff developed a matrix to better understand how roundabouts are viewed by cities located in Tulare County and Kings County. The matrix shows the response to two fundamental questions: 1) does your City have any roundabouts?; and 2) are roundabouts included as a traffic calming option in the decision making process?

<table>
<thead>
<tr>
<th>City</th>
<th>Does your City have any roundabouts?</th>
<th>Are roundabouts included in your decision making process?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dinuba</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Exeter</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Lindsay</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Tulare</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Visalia</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Woodlake</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Hanford</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Lemoore</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

RECOMMENDATION: For information only.
SUBJECT:  AUTHORIZATION TO REJECT ALL BIDS AND RE-ADVERTISE HERITAGE CENTER TINY TOTS PLAYGROUND PROJECT

SOURCE: Parks & Leisure Services Department

COMMENT: On November 28, 2005, staff received two bids for the Heritage Center Tiny Tots Playground Project. The project consists of erecting the playground equipment and installing landscaping in the tot area, as well as alternate bids ‘A’ and ‘B’ which entails installation of landscaping in the planters surrounding the multi-purpose room and construction of a trash enclosure to accommodate the facility.

Continuing the protocol set by the City Council of rejecting bids over ten percent (10%) of the engineer’s estimate, staff is recommending rejection of all bids and re-advertising the project.

The base bid for the project received from the lowest bidder, Hobbs Construction, a Fresno based company, was $56,954.10. Their price is 11% over the engineer’s estimate of $50,722.28, one percent over the threshold, which equates to $507.22.

Staff has consulted with the project’s designers to determine if any portion of the project included in the base cost could be eliminated to lower the cost of the project. The designers and staff have concurred that the project was previously reduced to the bare minimum, and the only alternative would be to eliminate the concrete work. This would result in a safety risk for the children in the program.

Re-advertisement and a new bid process may not yield lower bids because of the escalation in cost of building materials from week to week, and the intensity of construction activity. Modification of the project design, re-advertising and re-bidding will cost considerably more than the $507.22 overage of the estimate.

An option for Council to consider is to accept the base bid of the lowest bidder and, with limited modification to the plans and project manual, conduct a separate bid process for the work currently indicated as alternates ‘A’ and ‘B’. This work may attract more interest from landscape contractors.

RECOMMENDATION: In accordance with City Council policy it is recommended:

1. That City Council reject all bids for the construction of Heritage Center Tiny Tots Playground.

2. That City Council authorize staff to modify the plans and specifications and re-advertise for the base project work, and separately for the combined alternate ‘A’ and ‘B’ work.

ITEM NO.: 5
## BID SUMMARY

<table>
<thead>
<tr>
<th>Company</th>
<th>Base Bid</th>
<th>Alternate ‘A’</th>
<th>Alternate ‘B’</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sierra Range Construction</td>
<td>$81,852.42</td>
<td>$15,936.19</td>
<td>$27,342.58</td>
<td>$125,131.19</td>
</tr>
<tr>
<td>Visalia, CA</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hobbs Construction</td>
<td>$56,954.10</td>
<td>$24,728.00</td>
<td>$10,575.00</td>
<td>$92,257.10</td>
</tr>
<tr>
<td>Fresno, CA</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Designer’s Estimated Cost</td>
<td>$50,722.28</td>
<td>$13,530.20</td>
<td>$13,709.58</td>
<td>$77,962.06</td>
</tr>
</tbody>
</table>
SUBJECT: INTENT TO VACATE A PORTION OF WILLOW AVENUE RELATED TO THE DEVELOPMENT OF LONG'S DRUG STORE ON HOCKETT STREET (Smith's Enterprises)

SOURCE: Public Works Department - Engineering Division

COMMENT: The City has received a request to vacate a portion of Willow Avenue between "D" Street and the mid-block alley between "D" Street and Hockett Street. This portion of Willow Avenue lacks City standard public improvements. This public street is part of the Map of the Town of Porterville, recorded November 9, 1888. Development plans for the new Long's Drug Store ends the need for this segment of Willow Avenue. The City has authority to vacate this street segment under Section 8320, Part 3, Division 9 of the Streets and Highways Code of the State of California. Staff believes that there are no problems with any reversionary rights.

An easement will be retained for ingress, egress, parking and public utilities over and across the north 45 feet of said proposed vacation segment. The easement maintains the public link between "D" Street and Hockett Street and allows for City services to continue in, over and across the parking areas adjacent to the proposed development.

The City has also received a request to vacate an easement for irrigation purposes generally located between the Hockett Street and the mid-block alley between "D" Street and Hockett Street. This easement was dedicated to the City while processing Parcel Map 3850, recorded November 20, 1990. Staff research reveals the lack of irrigation pipelines within this easement or the need for such improvements.

All fees have been paid, and after Council takes action, the utility companies will be notified of the intent to vacate said portion of Willow Avenue. An easement will be retained for utilities, if any, that may exist within this segment of Willow Avenue.

RECOMMENDATION: That the City Council:

1. Pass a Resolution of Intent to Vacate a portion of Willow Avenue and an easement for irrigation purposes; and

2. Set the Council Meeting of January 17, 2006, or soon thereafter, as the time and place for a public hearing.

ATTACHMENTS: Resolutions, Legal Descriptions, Locator Maps
RESOLUTION NO. ______-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
OF INTENTION TO VACATE AND CLOSE TO PUBLIC USE
A PORTION OF WILLOW AVENUE

SECTION 1: The Council of the City of Porterville, California, pursuant to
Division 9, Part 3, Section 8320, of Streets and Highways Code of the State of
California, does hereby resolve as follows, to-wit:

That it is the intention of the Council of the City of Porterville to vacate, abandon,
and close to public use that certain public road located in the City of Porterville, County
of Tulare, State of California, known generally as an unimproved City standard road
segment between "D" Street and the mid block alley between "D" Street and Hockett
Street, and situated within a portion of the Southeast quarter of Section 26, Township
21 South, Range 27 East , Mount Diablo Base and Meridian.

SECTION 2: A map or plan of said public road intended to be vacated,
abandoned and closed to public use is on file in the office of the City Clerk of the City of
Porterville, reference to which is hereby made.

SECTION 3: That the public convenience and necessity requires the reservation
of easements and rights of way for structures enumerated, if any, in Section 8340 of the
California Streets and Highways Code.

SECTION 4: Notice is further given that on Tuesday, the 17th day of January,
2006, at 7:00 p.m., or as soon thereafter as the matter can be heard, in the Council
Chambers in the City Hall in the City of Porterville, at 291 North Main Street, is hereby
fixed for the time and place for hearing any objections to the vacation, abandonment
and closing to public use of said easements way.

__________________________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

______________________________
By: Georgia Hawley, Chief Deputy City Clerk
Abandonment Request
Willow Avenue

That portion of Willow Avenue lying between a line connecting the Southwest corner of Lot 17 of Block 55 of the City of Porterville, County of Tulare, State of California, as per map recorded in Book 3, of Maps, at Page 18, Tulare County Records, and the Northwest corner of Lot 32 of Block 56 of said City of Porterville and the West line Parcel No. 2 and the Southerly prolongation of said West line of Parcel Map No. 3850, in the City of Porterville, County of Tulare, State of California, as per map recorded in Book 39, at Page 53 of Parcel Maps, Tulare County Records.

Reserving unto the City of Porterville an easement for ingress, egress, parking, and public utilities over and across the North 45.00 feet thereof.
SCALE: 1" = 30'
ALL DISTANCES ARE IN FEET
AND DECIMALS THEREOF
RESOLUTION NO. ________-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
OF INTENTION TO VACATE AND CLOSE TO PUBLIC USE AN
EASEMENT FOR IRRIGATION LINE PURPOSES

SECTION 1: The Council of the City of Porterville, California, pursuant to
Division 9, Part 3, Section 8320, of Streets and Highways Code of the State of
California, does hereby resolve as follows, to-wit:

That it is the intention of the Council of the City of Porterville to vacate, abandon,
and close to public use that certain easement for irrigation line purposes in the City of
Porterville, County of Tulare, State of California, and known as an easement no longer
necessary due to the orderly development of Long's Drug Store, of which easement is
generally located between Hockett Street and the mid block alley between Hockett
Street and "D" Street, and situated within a portion of the Southeast quarter of Section
26, Township 21 South, Range 27 East, Mount Diablo Base and Meridian.

SECTION 2: A map or plan of said public easement intended to be vacated,
abandoned and closed to public use is on file in the office of the City Clerk of the City of
Porterville, reference to which is hereby made.

SECTION 3: That the public convenience and necessity requires the reservation
of easements and rights of way for structures enumerated, if any, in Section 8340 of the
California Streets and Highways Code.

SECTION 4: Notice is further given that on Tuesday, the 17th day of January,
2006, at 7:00 p.m., or as soon thereafter as the matter can be heard, in the Council
Chambers in the City Hall in the City of Porterville, at 291 North Main Street, is hereby
fixed for the time and place for hearing any objections to the vacation, abandonment
and closing to public use of said easements way.

______________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

______________________________
By: Georgia Hawley, Chief Deputy City Clerk
October 5, 2005

Abandonment of Irrigation Easement

Abandonment of that easement to the City of Porterville for irrigation line purposes dedicated on Parcel No. 2 of Parcel Map No. 3850, in the City of Porterville, County of Tulare, State of California, as per map recorded in Book 39, at Page 53 of Parcel Maps, Tulare County Records.
SUBJECT: REQUEST FOR ONE (1) TEMPORARY MODULAR STRUCTURE TO BE UTILIZED AS A SALES OFFICE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: Pacific Union Homes is requesting the temporary use of a 12'x44' modular structure for a period of 6.5 months to be utilized as a sales office on Lot 46 of Claremont Terrace single family residential Subdivision. The subject site is in the R-1 (One Family Residential) Zone generally located south of Castle Avenue and west of Salisbury Street.

The request indicates the use of the temporary modular structure as a sales office until the model homes, under construction, are completed. In conjunction with the modular unit, landscaping is proposed in front of the modular unit (Lot 46) and additional landscaping is proposed along the adjacent Lot 45. The applicant has stated that on removal of the modular unit, a majority of the landscaping will remain.

Section 7-3.3 of the City Code empowers the City Council to conditionally approve temporary structures. Section 7-3.3 also provides the City Council the discretion to determine the type and location of the structure, period of time that the structure will be allowed, and other conditions deemed pertinent by the City Council.

RECOMMENDATION: That the City Council:

1. Adopt the attached resolution and conditions of approval for the temporary modular structure for a period of time expiring on June 20, 2006.

ATTACHMENTS:

1. Locator Map, construction plan and landscaping plan.
2. Letter of request
3. Draft Resolution
Planning Division  
City of Porterville  
291 N. Main Street  
Porterville, CA 93257

November 8, 2005

Re: Request for Temporary Use for Claremont Terrace Temporary Sales Trailer

Dear Planning Division Representative:

This letter is to serve as a formal request of a Temporary Use Permit for a sales trailer for Claremont Terrace.

We are targeting to occupy the trailer and open to the public by December 10th and estimate to conduct business from this trailer for approximately 6.5 months while the model homes are under construction. Once the models are completed we will be moving our sales office into its permanent location in the 3rd car garage of the single story model. We plan to remove the trailer at this time and will fence up the area until we are ready to sell the lot in production. You will receive the final layout of our sales office along with final landscape plans with our model complex submittal sometime early January 2006.

We appreciate your time to review our request. If I can be of any further assistance in this matter please do not hesitate to contact me at (925) 314-3811 or at azelaya@pacificunionhomes.com.

Sincerely,

Astrid Zelaya  
Marketing Coordinator

PACIFIC UNION HOMES, INC.  
675 Hartz Avenue, Suite 300, Danville, California 94526  Tel. (925) 314-3800  Fax (925) 314-3850
RESOLUTION NO. ________

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING ONE (1) TEMPORARY
MODULAR STRUCTURE FOR PACIFIC UNION HOMES TO BE LOCATED ON LOT 46
OF CLAREMONT TERRACE SUBDIVISION GENERALLY LOCATED SOUTH OF
CASTLE AVENUE AND WEST OF SALISBURY STREET

WHEREAS: The Porterville City Council, on December 20, 2005, conducted a public
meeting to consider a request to place one (1) temporary modular structure on Lot 46 of Claremont
Terrace Subdivision generally located south of Castle Avenue and west of Salisbury Street; and

WHEREAS: The proposed temporary 12' x 44' modular structure is intended to be
utilized for a sales office until model homes can be built; and

WHEREAS: That the temporary modular structure shall be allowed for a period of time
expiring on June 20, 2006. Any additional time after this date would require an extension of time
to be granted by the City Council; and

WHEREAS: Chapter 7, Section 7-3.3 of the City Code empowers the City Council to
approve temporary structures in conjunction with residential, commercial or industrial development
or in times of stress or emergency; and

WHEREAS: The City Council has thoroughly reviewed and examined the request for the
temporary structure.

NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that
the request for the temporary modular structure to be utilized for a sales office, located on Lot 46 of
Claremont Terrace Subdivision, is approved subject to the following conditions:

1. That the temporary modular structure shall be allowed for a period of time expiring
   on June 20, 2006. Any additional time after this date would require an extension of
time to be granted by the City Council.

2. Compliance with access laws (both State and Federal) is required.

3. Compliance with all applicable codes is required.

4. School Development fees and all other City fees are due at the time of building
   permit issuance.

ATTACHMENT
ITEM NO. 3
5. Modular unit must have approval listing with the State of California.

6. Signs require a separate permit.

7. The developer/applicant shall pay all applicable fees according to the Municipal Code and State Law.

8. That the landscaped area shall be on an automatic watering system.

__________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By ________________________
Georgia Hawley, Chief Deputy City Clerk
COUNCIL AGENDA: DECEMBER 20, 2005

SUBJECT: AUTHORIZATION FOR ACCESS TO DISTRICT SALES TAX INFORMATION

SOURCE: Department of Finance - Administration

COMMENT: In 1995, the City Council adopted Resolution #48-95 which designated Municipal Resource Consultants (now MBIA MuniServices Company) as Porterville’s authorized representative to examine sales tax records. Those auditing services are still being provided to day.

In order to allow them access to audit revenues of the City’s recent voter-approved sales tax measure, the State Board of Equalization requires a Resolution designating MBIA as such authorized representative. MBIA will audit local business sales tax return information to ensure that the one-half (½) cent district sales tax is being collected and properly reported for Porterville.

RECOMMENDATION: That City Council authorize MBIA MuniServices Company to conduct audits of the one-half (½) cent district sales tax and notify the State Board of Equalization of that decision with an adopted and signed resolution.

Attachment: Resolution Authorizing the State Board of Equalization to Release District Sales Tax Information to MBIA MuniServices Company

D.D. Appropriated/Funded C.M. Item No. 8
RESOLUTION NO. _____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE EXAMINATION OF TRANSACTIONS (SALES) AND USE TAX RECORDS

WHEREAS, pursuant to Ordinance No. 1684 of the City of Porterville and Section 7270 of the Revenue and Taxation Code, the City of Porterville (herein referred to as City or District) entered into a contract with the State Board of Equalization to perform all functions incident to the administration and operation of the Transactions and Use Tax Ordinance; and

WHEREAS, the District deems it desirable and necessary for authorized representatives of the District to examine confidential transactions and use tax records of the State Board of Equalization pertaining to transactions and use taxes collected by the Board for the District pursuant to that contract; and

WHEREAS, Section 7056 of the Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board of Equalization records and establishes criminal penalties for the unlawful disclosure of information contained in or derived from, the transactions and use tax records of the Board;

NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:

Section 1. That the City Manager or an officer or employee of the District designated in writing by the City Council of the City of Porterville to the State Board of Equalization is hereby appointed to represent the District with authority to examine transactions and use tax records of the Board pertaining to transactions and use taxes collected for the District by the Board pursuant to the contract between the District and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of the District's transactions and use taxes by the Board pursuant to the contract.

Section 2. That MBIA MuniServices Company is hereby designated to examine the transactions and use tax records of the Board of Equalization pertaining to transactions and use taxes collected for the District by the Board. The person or entity designated by this section meets all of the following conditions:

a) has an existing contract with the District to examine those transactions and use tax records;

b) is required by that contract to disclose information contained in, or derived from those transactions and use tax records only to the officer or employee authorized under Section 1 (or Section 2) of this resolution to examine the information;
c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;

d) is prohibited by that contract from retaining the information contained in, or derived from those transactions and use tax records after that contract has expired.

Section 3. That this resolution supersedes all prior resolutions of the City of Porterville adopted pursuant to subdivision (b) of Revenue and Taxation Section 7056.

BE IT FURTHER RESOLVED that the information obtained by examination of Board records shall be used only for purposes related to the collection of District's transactions and use taxes by the Board pursuant to the contracts between the District and Board.

Introduced, approved and adopted this 20th day of December, 2005.

_______________________________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By: ______________________________
Georgia Hawley, Chief Deputy City Clerk
COUNCIL AGENDA – December 20, 2005

SUBJECT: AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN, EMPLOYEE BENEFIT TRUST FUND AND EMPLOYEE RETIREMENT SYSTEM

SOURCE: Administrative Services/Human Resources

COMMENT: City representatives have recently concluded Meet and Confer Sessions on matters within the scope and purview of the Meyers-Milias-Brown Act with the Management and Confidential Series (M.C.S.) employee group, and a written Memorandum of Understanding (M.O.U.) has been executed with representatives of the M.C.S. The protracted M.O.U. (Multi-year Agreement) covers matters pertaining to wages, benefits and working conditions.

City Council acceptance and approval of an executed M.O.U. is most commonly demonstrated by Council authorization to change or amend, when applicable, those documents as are necessarily known to implement the points of agreement contained in the M.O.U. Additionally, non-safety management employees, which are not represented, are also covered by the attached resolution which will achieve the aforementioned.

RECOMMENDATION: That the City Council adopt the attached resolution amending the Employee Pay and Benefit Plan for Fiscal Years 2005-06 and 2006-07, the Employee Benefit Trust Fund, and the Employee Retirement System, and authorize the Mayor to execute these and other documents necessary to implement the provisions thereof.

ATTACHMENT: Draft Resolution
RESOLUTION NO. _____-2005


WHEREAS: The City Council has determined and reiterated that an Employee Pay and Benefit Plan, Classification Plan, Personnel System Rules and Regulations, Health Plan, and Retirement Plan are essential for the proper administration of the City’s affairs, including employee recruitment and retention, and for proper supervision of City Employees; and

WHEREAS: The City Council recognizes the necessity of amending and/or changing the contents of such plans and regulations from time to time, and of executing instruments to implement and to keep the provisions thereof current, and to maintain the relevancy of same; and,

WHEREAS: There has been concurrence on a Memorandum of Understanding with the Management and Confidential Series employee group for Fiscal Years 2005-06 and 2006-07, covering provisions to amend the Employee Pay and Benefit Plan, the Employee Health Plan Document, and the Employee Retirement System, as they relate to employees holding positions represented by such recognized employee organization.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan, the Employee Health Plan Document, and the Employee Retirement System, for employees holding positions designated in the Management and Confidential Series are hereby amended as follows:
I. CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CalPERS)

The City of Porterville will amend its contract with CalPERS, effective 07-01-06, or as soon thereafter as possible, to provide all eligible Local Miscellaneous Retirement Group Employees with the 2.7% @ age 55 Full Formula retirement benefit, providing that, through the election process, a majority of all eligible Miscellaneous Retirement Group Employees verify their willingness to participate in said plan.

The City will pay the additional 1% of the employee’s share of the monthly retirement contribution, computed as a percentage of salary, i.e., 8%, and the difference in the employer’s monthly contribution increase.

II. EMPLOYEE PAY AND BENEFIT PLAN, AND EMPLOYEE BENEFIT TRUST FUND (HEALTH PLAN DOCUMENT).

CONTRIBUTION RATE ADJUSTMENT

The City will continue to pay 100% of the employee only monthly contribution rate for medical, dental and vision coverage.

Effective 01-01-06 the City will pay 75% of the Management and Confidential Series Employees’ dependent monthly contribution rate for medical coverage, and the employee will pay 25% of said costs.

Management and Confidential Series Employees who retire after 01-01-06 will pay 70% of the monthly contribution rate for themselves and their eligible spouse; and the City will contribute 30% of said costs, for so long as timely and continuous monthly premium payments are made by or on behalf of the eligible retiree and/or by their eligible spouse. Medical Plan benefit coverage for retirees and eligible spouses will be effective until they reach the age of 65. The monthly costs shall be 102% of the established insurance premium contribution rates, and such rates are subject to change.

Rates will be reviewed annually by the City beginning in April of each year, and adjusted on the first day of July each year, or as soon thereafter as possible, according to the actuarially established contribution rates, and consistent with the percentage rates outlined above.

Effective 01-01-06, the Employee Pay and Benefit Plan, Section III, A, Health and Life Insurance, shall be amended for all Management and Confidential Series Employees as follows:
5. Monthly Contribution Rates

<table>
<thead>
<tr>
<th></th>
<th>City Pays</th>
<th>Employee Pays</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee/Single Coverage</td>
<td>$300.00</td>
<td>-0-</td>
<td>$300.00</td>
</tr>
<tr>
<td>Employee + 1</td>
<td>$450.00</td>
<td>$150.00</td>
<td>$600.00</td>
</tr>
<tr>
<td>Employee + 2 or more</td>
<td>$675.00</td>
<td>$225.00</td>
<td>$900.00</td>
</tr>
<tr>
<td>Retiree/Single Coverage</td>
<td>$ 90.00</td>
<td>$210.00</td>
<td>$300.00</td>
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<tr>
<td>Retiree + Spouse</td>
<td>$180.00</td>
<td>$420.00</td>
<td>$600.00</td>
</tr>
</tbody>
</table>

III. ALTERNATIVE WORK SCHEDULE

The City will allow some modifications to departmental hours of operations, so long as the current level of service is delivered to customers. This could be implemented on a trial basis, and may include 9-80 schedules or 4-10 schedules where feasible by department with extended hours available to the public, i.e., from 7:30 a.m. to 5:30 p.m. Monday through Friday.

If at any time during the trial period of an alternate work schedule it becomes apparent that demonstrable impacts of the plan are not in the best interest of the City, or the safety and welfare of the residents thereof, or the health, safety and welfare of the employees assigned thereto, and parties to this Memorandum of Understanding do hereby agree, at the request of either party, to meet and confer at the earliest time possible in an effort to reach concurrence for an equitable and reasonable resolution of any work schedule impacts demonstrably adverse to said interests of the City, the residents thereof, or the employees involved. Said adverse impacts may include, but are not limited to, problems associated with declining productivity, staffing shortages, overtime costs, budget reductions, sick leave usage, accidents and injuries attributed to fatigue, significant increases in errors and/or accuracy, or applicable changes to state or federal regulations affecting any operational premises upon which the alternate work schedule is based.

In the absence of equitable and reasonable solutions for the resolve of adverse impacts attributed to the alternate work schedule, or in the event the parties hereto fail to reach concurrence for the resolve of same within a reasonable period of time, then, and in that event, the City shall declare the trial period terminated, and provide each employee involved in the alternative work schedule written notice of the effective termination date. Immediately upon termination of the alternate plan, work schedules will automatically revert to conventional 5-8 scheduling.
IV. VOLUNTARY DONATION OF PAID LEAVE

The Employee Pay and Benefit Plan, Section III, D, 7, Use of Vacation Time, shall be amended as follows:

(f) Management and Confidential Employees may voluntarily donate their accrued vacation time to other employees who are experiencing a catastrophic event and have exhausted all leave balances. In no circumstances shall the vacation leave of the employee who is donating the leave incur a negative balance, nor shall the leave balance fall below a sufficient number of hours (40) to cover unanticipated emergencies of the donator.

V. MAXIMUM VACATION ACCUMULATION

The Employee Pay and Benefit Plan, Section III, D, 1, shall be amended to increase the maximum accumulation of vacation hours allowed to be carried over each calendar year by forty (40) hours for all Management and Confidential Employees, working on a full-time non-shift basis, to wit:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Max. Accumulation</th>
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</thead>
<tbody>
<tr>
<td>1 – 5</td>
<td>160</td>
</tr>
<tr>
<td>6 – 15</td>
<td>200</td>
</tr>
<tr>
<td>Over 15</td>
<td>240</td>
</tr>
</tbody>
</table>

VI. STATEMENT OF CONTINUING BENEFITS AND WORKING CONDITIONS

Benefits and working conditions as were previously agreed upon through the Meet and Confer process, and subsequently approved and implemented by appropriate authority, shall, unless herein expressly modified or eliminated, remain in effect until such time as they are subsequently modified or eliminated through the Meet and Confer process and similarly approved by appropriate authority.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

Attest: Kelly West, Mayor

Georgia Hawley, Chief Deputy City Clerk
SUBJECT: ADDENDUM TO M.O.U. BETWEEN CITY/P.C.E.A., AND AMENDMENT TO CITY COUNCIL RESOLUTION NO. 67-2005

SOURCE: ADMINISTRATIVE SERVICES/HUMAN RESOURCES

COMMENT: On May 17, 2005, the Porterville City Council was informed that representatives of the City of Porterville and the Porterville City Employees’ Association (P.C.E.A.) had reached concurrence on matters within the scope and purview of the Meyers-Milias-Brown Act, and had executed a Memorandum of Understanding (M.O.U.) setting forth those matters of mutual agreement. The City Council thereupon accepted the M.O.U. and approved the implementation thereof by adoption of Resolution No. 67-2005.

On December 6, 2005, representatives of the City of Porterville met with representatives of the P.C.E.A. and concurred regarding an addendum to the M.O.U. and amendments to Resolution No. 67-2005, to extend the term of the M.O.U. by one year to provide their members with the 2.7% @ age 55 retirement benefit in lieu of a salary increase, and increase the maximum carry-over of accumulated vacation hours each calendar year.

RECOMMENDATION: That the City Council accept the Addendum to the M.O.U. with the P.C.E.A., executed on May 3, 2005; and adopt the attached Draft Resolution amending Resolution No. 67-2005.

ATTACHMENTS: Draft Resolution
RESOLUTION NO. _____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE AMENDING CITY COUNCIL RESOLUTION
NO. 67-2005, THE EMPLOYEE PAY AND BENEFIT PLAN,
AND THE EMPLOYEE RETIREMENT SYSTEM

WHEREAS: Pursuant to the provisions of Section 3500, et. Seq., of the Government Code, representatives of the City of Porterville met and conferred with representatives of the Porterville City Employees' Association (P.C.E.A.) and reached concurrence on matters within the scope and purview of the Meyers-Millas-Brown Act, and thereupon executed a Memorandum of Understanding (M.O.U.), dated May 3, 2005, setting forth such matters of mutual agreement; and, thereafter, the Porterville City Council accepted the M.O.U. and approved the implementation thereof by adoption of Resolution No. 67-2005; and

WHEREAS: On December 6, 2005, representatives of the City of Porterville met with representatives of the P.C.E.A. and concurred to amend their above referenced M.O.U., by execution of an addendum to the M.O.U., setting forth certain changes and additions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan and the Employee Retirement System, for employees holding positions designated in the General Series are hereby amended as follows:

I. WAGES

Section I., A. of Resolution No. 67-2005, and Section II, A., Position Pay Plan Schedule of the Employee Pay and Benefit Plan, shall be amended to reflect no salary increase for General Series Employees, effective January 1, 2006.

II. CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CalPERS)

The City of Porterville will amend its contract with CalPERS, effective 07-01-06, or as soon thereafter as possible, to provide all eligible Local Miscellaneous Retirement Group
Employees with the 2.7% @ age 55 Full Formula retirement benefit, providing that, through the election process, a majority of all eligible Miscellaneous Retirement Group Employees verify their willingness to participate in said plan.

The City will pay the additional 1% of the employee’s share of the monthly retirement contribution, computed as a percentage of salary, i.e., 8%, and the difference in the employer’s monthly contribution increase.

III. **MAXIMUM VACATION ACCUMULATION**

A. The Employee Pay and Benefit Plan, Section III, D, 1, shall be amended to increase the maximum accumulation of vacation hours allowed to be carried over each calendar year by forty (40) hours for all General Series Employees, working on a full-time non-shift basis, to wit:

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<td>1 – 5</td>
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<td>6 – 15</td>
<td>200</td>
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<tr>
<td>Over 15</td>
<td>240</td>
</tr>
</tbody>
</table>

B. The Employee Pay and Benefit Plan, Section III, D, 2, shall be amended to increase the maximum accumulation of vacation hours allowed to be carried over each calendar year by forty (40) hours for all General Series Employees, working on a shift basis (including Communications Dispatchers, Community Services Officers, and Records Clerks), to wit:

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<th>Years of Service</th>
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<td>328</td>
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</tbody>
</table>

IV. **STATEMENT OF CONTINUING BENEFITS AND WORKING CONDITIONS**

Benefits and working conditions as were previously agreed upon through the Meet and Confer process, and subsequently approved and implemented by appropriate authority, shall, unless herein expressly modified or eliminated, remain in effect until such time as they are subsequently modified or eliminated through the Meet and Confer process and similarly approved by appropriate authority.
BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

_______________________________
Kelly West, Mayor

Attest:

_______________________________
Georgia Hawley, Chief Deputy City Clerk
COUNCIL AGENDA: December 20, 2005

SUBJECT: CALTIP BOARD MEMBER RESOLUTION

SOURCE: Administration (Transit)

COMMENTS: On January 20, 2004, the City Council approved staff joining the California Transit Insurance Pool (CALTIP) for Liability Coverage and Vehicle Physical Damage Coverage for the City’s transit fleet. By doing so, during the first fiscal year (FY 2004-05) of our membership, the City realized a $30,000 savings in premiums over coverage previously purchased in the open market by Sierra Management. In July, 2005, the second premium payment was made to CalTIP for an additional $17,000 less than during FY 2004-05.

Every member of CalTIP is represented on the Board of Directors and plays an active role in the organization. The Board generally meets two or three times each year to conduct business, in addition to individual committee meetings for specific areas of interest. In addition to stabilizing the insurance market by becoming a member of this transit insurance pool, we receive the added benefits of excellent claims adjustors and an extremely professional management group directing the pool.

CALTIP staff, in an effort to finalize all formal documents of its members, has asked each entity to supply them with a Resolution designating that entity’s representative to serve as a Board member of CalTIP. Our staff member attending these Board meetings is Linda Clark; additionally, Linda serves on the Finance and Administration Committee. The costs incurred in attending the CalTIP meetings are reimbursed to the City of Porterville by CalTIP.

RECOMMENDATION: That the City Council:

1. Approve the attached Resolution designating Linda Clark as the City’s designee for representation on the CalTIP Board of Directors; and

2. Authorize the Mayor to execute the Resolution for submission to CalTIP.

DD Appropriated/Funded CM

Item No. 11
RESOLUTION NO. ____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE DESIGNATING THE
CITY’S REPRESENTATIVE TO THE CALTIP
BOARD OF DIRECTORS

Whereas, the City Council acted on January 20, 2004, approving the City of Porterville’s membership in the California Transit Insurance Pool (CalTIP); and

Whereas, the City of Porterville wishes to designate a representative of the City of Porterville to attend the CalTIP Board of Directors meetings and represent the City in its best interests;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that Linda Clark shall be the designated CalTIP representative for the City of Porterville and, as such, is hereby authorized to be the CalTIP Board Member on behalf of the City of Porterville.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute any documents as are necessary to implement the provisions hereof.

____________________________________
Kelly E. West, Mayor

Attest:

John Longley, City Clerk

By __________________________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: CHRISTMAS TREE RECYCLING

SOURCE: Public Works Department - Field Services Division

COMMENT: For the fifteenth year, the City of Porterville is sponsoring a Christmas Tree Recycling program. This program provides city residents a convenient method to recycle discarded trees free of charge. Since its inception in 1991, this program has diverted more than 190 tons of material, which is equivalent to approximately 21,200 trees.

This year's event will run from Monday, December 26 through Sunday, January 8, and will again be held at the south parking lot of the Porterville Fairgrounds. Hours of operation will be as follows:

- Tuesday through Friday, Dec. 27 - 30 3 - 7 PM
- Tuesday through Friday, Jan. 3 - 6 3 - 7 PM
- Monday, Dec. 26 8 - 4 PM
- Saturday through Monday, Dec. 31 - Jan 2 8 - 4 PM
- Saturday through Sunday, Jan. 7 - 8 8 - 4 PM

To compliment the City's program, the Society of American Foresters will again be offering tree pick-up service. For a small donation to their Arbor Day Fund, members of the Society will pick-up Christmas trees and deliver them to the City's recycling event.

RECOMMENDATION: Informational only.
SUBJECT: STATUS UPDATE OF ORDINANCE TO REGULATE CONSTRUCTION, OPERATION AND MAINTENANCE OF WIRELESS COMMUNICATIONS TOWERS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Over the course of the past few months the City Council has considered the approval of three separate wireless communications towers, one of which was located in the Single-Family Residential Zone. The Council denied the conditional use permit proposing to locate the tower in the residential zone. As per the Council's direction, staff brought back an interim urgency ordinance to preclude such applications in residential zones pending the adoption of a permanent ordinance to regulate wireless communications towers in residential zones.

The interim ordinance temporarily prohibits this use until staff has had time to study and address these issues and develop permanent standards for Council consideration. City staff understands the growing need for these wireless communications services and intends to introduce permanent standards to the City Council within approximately the next two months.

City staff is still studying and addressing these issues to develop permanent standards.

RECOMMENDATION: That the City Council receive and file this report.

Attachments:

1.) Interim Ordinance of the City of Porterville Prohibiting the Use of residentially zoned land for the construction, operation, and maintenance of towers for wireless communications
ORDINANCE NO. _____

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE PROHIBITING THE USE OF RESIDENTIALLY ZONED LAND FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF NEW TOWERS FOR WIRELESS COMMUNICATIONS

BE IT ORDAINED by the City Council of the City of Porterville, as follows, to wit:

SECTION 1: The City Council of the City of Porterville herewith finds that there is a current and immediate threat to the public health, safety, or welfare, arising from the lack of procedures for determining the appropriateness of locations for wireless communications towers, and from a lack of sufficient authority and controls to allow the City to impose appropriate and necessary conditions and regulations upon wireless communications towers within the City of Porterville.

SECTION 2: The City Planning staff is presently studying the potential and appropriate City zoning locations, procedures and policies for the approval of the use of land for the purpose of constructing, operating and maintaining new wireless communications towers, and are developing proposed ordinances concerning the zoning, permitting, and regulation of wireless communications towers.

SECTION 3: The City of Porterville does further herewith find and determine that allowing the use of residentially zoned land for the purpose of constructing, maintaining and operating a new wireless communication tower prior to the adoption of procedures concerning the zoning and regulation of wireless communications towers will result in that threat to public health, safety or welfare being exacerbated.

SECTION 4: That the City of Porterville does further herewith find and determine that there are significant public health, safety or welfare concerns relating to issues concerning:

(a) Appropriate locations for wireless communications towers;

(b) Appropriate availability of sites for the development of wireless communications towers;

(c) Appropriate procedures to provide for public input and comment on the siting of wireless communications towers;

(d) Appropriate mechanisms being in place to impose appropriate and necessary conditions upon wireless communications towers; and
(e) Appropriate opportunities for the public, and the City Council to consider and address all impacts upon the immediate neighborhood and the community at large resulting from wireless communications towers.

All of which gives rise to a need to complete the study, within a reasonable time, of the potential and appropriate City zoning procedures and policies for approving the use of land for the purpose of constructing and operating a wireless communications tower, and in order to protect the public safety, health or welfare it is necessary to prohibit the use of residentially zoned land for the purpose of constructing and operating a wireless communications tower until such time as said study is completed and the City Council has determined, what new and additional, if any, procedures and policies are necessary and appropriate to put in place.

SECTION 5: This Ordinance shall remain in full force and effect for a period of forty-five (45) days from and after its passage and adoption.

SECTION 6: The City Council does herewith direct the City staff to prepare and submit to the City Council, for consideration of approval and issuance by the City Council, a written report describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report shall be submitted to the City Council at least 10 days prior to the expiration of this Ordinance.

SECTION 7: For the reasons set forth hereinabove, the City Council of the City of Porterville does herewith declare and determine that it is necessary to protect the public safety, health or welfare by adopting this Ordinance as an urgency measure to take effect immediately upon passage and adoption.

PASSED, ADOPTED AND APPROVED this ____ day of ____________, 20____

__________________________
Mayor

ATTEST:

__________________________
Chief Deputy City Clerk
PUBLIC HEARING

SUBJECT: PORTERVILLE COMMERCIAL CENTER DRAFT ENVIRONMENTAL IMPACT REPORT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: This staff report summarizes the findings of the Environmental Impact Report and comments received during the formal comment period. The General Plan Amendment and Zone Change, as described as part of the project description, will be presented to Council for public hearing at the next regularly scheduled meeting (January 17, 2006). The applicant’s request for a “D”-overlay, Conditional Use Permit, and Tentative Parcel Map are pending the outcome of the General Plan Amendment and Zone Change. The information presented tonight is for Council’s information only and allows the public an opportunity to have comments added to the record.

On November 9, 2005, the City Clerk gave notice of a public hearing to consider approval of an Environmental Impact Report regarding the development of a commercial site at the northeast corner of State Route 190 and Jaye Street in southwest Porterville. The Governor’s Office of Planning and Research State Clearinghouse approved the City’s request for a shortened review period pursuant to Section 21091 of the Public Resources Code, and the document was publicly circulated to interested parties and agencies from November 10 to December 10, 2005. See Attachment 3.

The proposed project is bounded by Poplar Avenue on the south, Jaye Street to the west, Springville Avenue to the north, and an existing Home Depot store and vacant lot to the east. The project will require the following actions from the City: a General Plan amendment to change the General Plan land use designation from Industrial to General Commercial; a change in zoning from M-1, Light Manufacturing, to C-2 ‘D’, Central Commercial with a Design Review Overlay; filing of a Tentative Parcel Map to create appropriate commercial parcels; abandoning a road right-of-way; and issuance of a Conditional Use Permit to permit the sale of gasoline and alcoholic beverages. Also, a development agreement between the City and the developer will be approved as a condition of approval.

The project proposes to construct a 75,000± square foot shopping center on a 10.7± acre site. Potential retailers and restaurants have not yet been identified, but the site plan shows three fast food pads for restaurant tenants, three general retail buildings and a free standing fuel station. The project area is surrounded by land which is currently developed for commercial or industrial uses, or which is in the development process. The project does not include the Home Depot store and associated parking area. State Route 190 lies south of and adjacent to Poplar Avenue south of the project, and State Route 65 is .75 miles to the west. Currently the project area is vacant.
The following parties commented on the Draft Environmental Impact Report: the San Joaquin Valley Air Pollution Control District, California Department of Water Resources, the City's Parks and Leisure Services Director, and the project proponent's legal representative, Matthew Francois. These comments are included as Attachments 4, 5, 6, and 7. City staff has talked with Caltrans regarding receipt of anticipated comments, and though they are not available for publication with the staff report, they will be provided to Council and made publicly available as soon as they are received.

RECOMMENDATION: For Council's information only and to allow the public to have comments included into the record.

ATTACHMENTS:
1. Vicinity map
2. Executive Summary of Draft EIR
3. Draft EIR- City Council Only
4. Letter from the Governor's Office of Planning and Research State Clearinghouse
5. Letter from the San Joaquin Valley Air Pollution Control District
6. Letter from the Department of Water Resources
7. Memo from Jim Perrine, Parks & Leisure Services Director
8. Letter from Cassidy, Shimko, Dawson and Kawakami

Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration, available for public review in the Community Development Department or the City's website, www.ci.porterville.ca.us.
DRAFT
ENVIRONMENTAL IMPACT REPORT

for the

Porterville Commercial Center Project

Submitted by
Quad Knopf
5110 West Cypress Avenue
P.O. Box 3699
Visalia, California 93278
(559) 733-0440

November 2005
DRAFT
ENVIRONMENTAL IMPACT REPORT

PORTERVILLE
COMMERCIAL CENTER PROJECT

November 2005

Lead Agency:
City of Porterville
291 N. Main Street
Porterville, CA 93257
Contact Person: Bradley Dunlap, AICP
Phone: (559) 782-7460
Fax: (559) 781-6437

Consultant:
Quad Knopf, Inc.
P. O. Box 3699
Visalia, CA 93278
Contact: Stephen J. Peck, AICP
Phone: (559) 733-0440
Fax: (559) 733-7821

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EXECUTIVE SUMMARY

Project Description

The proposed Project is the construction of a 75,000 square foot shopping center on a 10.7 acre site in the City of Porterville in Tulare County, California (see Figure ES-1). The project includes the development of three fast food pads for restaurant tenants, and these general retail spaces. The property is currently designated and zoned industrial. The project includes the changing of the General Plan designation and zoning to commercial, filing of a Tentative parcel Map to create appropriate commercial parcels; and issuance of a Conditional Use Permit to permit the sale of gasoline and alcoholic beverages. It will involve construction of retail and restaurant space, as well as construction of one gasoline service station. The station will consist of sixteen pumps and at least four underground storage tanks (USTs).

The Project site is bounded by Poplar Street to the south, Jaye Street to the west, West Springville Avenue to the north, and an existing Home Depot Store and vacant lot on the east. State Route 190 lies south of and adjacent to Poplar Avenue south of the project, and State Route 65 is 0.75 mile to the west. Currently the project area is vacant. Figure ES-1 shows Porterville’s location in central Tulare County, and Figure ES-2 shows the project site location in Porterville.

Project Objective

The objective of the proposed project is to build and operate an economically viable and competitive commercial center within the City of Porterville and in compliance with applicable laws and regulations, optimally using available public roads for access and mitigating any environmental impacts to the extent feasible as required by CEQA.

Summary of Impacts and Mitigation Measures

Section 15123(b)(1) of the Guidelines for Implementation of the California Environmental Quality Act (State CEQA Guidelines) provides that the summary shall identify each significant effect with proposed mitigation measures that would reduce or avoid that effect. This information is summarized in Table ES-1, Summary of Potential Impacts, Mitigation Measures, and Mitigation Monitoring Program, at the end of this Executive Summary.

Potential Areas of Controversy and Issues to be Resolved

The following environmental factors were identified as potentially significant in the Initial Study:

- Aesthetics
- Air Quality
- Hazards and Hazardous Materials
- Hydrology/Water Quality
- Noise
- Public Services
- Transportation/Traffic

Porterville Commercial Center
Draft Environmental Impact Report

November 2005
ES - 1
- Utilities/Service Systems
- Cumulative Impacts
- Adverse Environmental Effects on Human Beings

**Alternatives to the Proposed Project**

Section 15126.6 of the State CEQA Guidelines requires the EIR to describe a reasonable range of alternatives to the project or to the location of the project which would reduce or avoid significant impacts, and which could feasibly accomplish the basic objectives of the project, and to evaluate the comparative merits of the alternatives. Alternatives that would reduce or avoid significant impacts represent environmentally superior alternatives to the proposed project. However, if the environmentally superior alternative is the 'no project" alternative, the EIR must also identify an environmentally superior alternative among the other alternatives.

The EIR evaluates the following alternatives:

- **No Project** - With this alternative, the shopping center would not be built. This alternative does not achieve the basic objective of the project, although traffic and air quality impacts would not occur in the near future. Eventually, however, the project area would probably be built out in accordance with the General Plan, which designates the area for industrial development.

- **The Reduced Project Size Alternative** is, based upon the analysis contained and documented in this EIR, determined to be environmentally superior, although it only partially achieves the project objective of operating an economically viable shopping center, does not eliminate all significant impacts.

- **Alternate Site** – Under this alternative an alternate site in the City of Porterville is evaluated. Relocating the proposed project to downtown Porterville would be economically infeasible because the amount of land required for development is not available. Moreover, the downtown area lacks adequate parking space.
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<td>AESTHETICS</td>
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<tr>
<td>Impact #3.1.1: Visual Compatibility</td>
<td>3-3</td>
<td><strong>Mitigation Measure #3.1.1:</strong> The north and west elevations of the Porterville Commercial Center will be designed to minimize views of urban development and will be landscaped with trees and shrubbery. A licensed landscape architect will design a landscaping plan to achieve these goals. Outdoor billboards shall be excluded from the site.</td>
<td>Less than Significant</td>
<td>City of Porterville</td>
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<td>Impact #3.1.2: Light and Glare</td>
<td>3-3</td>
<td><strong>Mitigation Measure #3.1.2:</strong> A light plan will be developed by a registered illumination engineer. Lighting will be designed to avoid direct exposure of lighting elements and associated glare into adjacent areas. No more than a 0.25 footcandle increase shall be detected offsite on adjacent properties.</td>
<td>Less than Significant</td>
<td>City of Porterville</td>
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<td>AIR QUALITY</td>
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| Impact #3.3.1: Emissions From Construction Activities | 3-12 | **Mitigation Measure #3.3.1:** Regulation VIII optional dust control measures in Tables 3.3-4 and 3.3-5 will be implemented. **Enhanced Control Measures** — The following measure should be implemented at construction sites when required to mitigate significant PM10 impacts (note this measure is to be implemented in addition to Regulation VIII requirements)  
  - Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.  
  **Additional Control Measures** — The following control measures shall be implemented.  
  - Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site  
  - Install wind breaks at windward side(s) of construction areas  
  - Suspend excavation and grading activity when winds exceed 20 mph*; and  
  - Limit area subject to excavation, grading, and other construction activity at any one time | Less than Significant when considered for this project alone. Cumulatively, this remains a significant impact. | San Joaquin Valley Air Pollution Control District |

*Porterville Commercial Center
Draft Environmental Impact Report

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|        |      | Heavy duty equipment (scrapers, graders, trenchers, earth movers, etc.)  
• Use of alternative fueled or catalyst equipped diesel construction equipment  
• Minimize idling time (e.g., 10 minute maximum)  
• Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use  
• Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set)  
• Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways  
• Implement activity management (e.g. rescheduling activities to reduce short-term impacts)                                                                                                                                                                                                                   | Less than Significant                | City of Porterville |
| BIOLOGICAL RESOURCES | | Mitigation Measure #3.4.1: The nesting season for avian predators and other migratory birds generally occurs sometime between February 1 and September 15. Therefore, it is recommended that removal of the Valley oak on the project site should occur outside the nesting season. If the tree is to be removed during the nesting season, a biologist should evaluate the tree to determine if nesting is occurring. If a nesting avian predator or other migratory bird nest is detected, removal of the nest-bearing tree should not occur until all of the young have fledged. | Less than Significant                | City of Porterville |
| Impact #3.4.2: Removal of a Valley Oak Tree | 3-33 | Mitigation Measure #3.4.2:  
• Replacement of the mature Valley oak will be at a rate of three trees of at least 15-gallon size for each six inches of breast height diameter (BHD). The tree should be planted in a public park or a landscape setback in the City of Porterville.                                                                                     | Less than Significant                | City of Porterville |
| CULTURAL RESOURCES | | Mitigation Measure #3.5.1: Should buried cultural resources be discovered during construction, the project contractor shall immediately halt all work within 50-feet of the find until a qualified professional archaeologist can be consulted to evaluate the find and implement appropriate mitigation measures. Should human skeletal remains be encountered, State law requires immediate notification of the County Coroner. Should the County Coroner determine that such remains are in an | Less than Significant                | City of Porterville |

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<td>NOISE</td>
<td>3-36</td>
<td>Mitigation Measure #3.11.1: Noise producing equipment used during construction shall be restricted to the hours from 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturday and Sunday. Also, effective mufflers shall be fitted to gas- and diesel-powered equipment.</td>
<td>Less than Significant</td>
<td>City of Porterville</td>
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| TRAFFIC AND CIRCULATION      | 3-44 | Mitigation Measure #3.15.1: The Traffic Impact Study determined that the increased traffic volume could be adequately accommodated by the local street system if mitigation measures recommended by the Study are followed. Under "Existing plus Approved/Pending Projects" conditions, the following mitigation measures are recommended:  

*Jaye Street from State Route 190 to Springville Avenue:* This two-lane collector is recommended to be improved to a four lane arterial per the City's design standards.  

*Orange Avenue/Jaye Street* intersections: Install a traffic signal and provide for left turn channelization on the northbound and southbound approach. This all-way stop-controlled intersection is projected to operate at LOS (Level of Service "E" and "F") conditions during the AM and PM peak hour periods, respectively. This intersection is also projected to meet the Caltrans' Peak-Hour Volume Warrant 11 for urban areas. Implementation of the recommended mitigation measures will result in LOS "C" conditions during the AM and PM peak hour periods.  

*Springville Avenue/Jaye Street* intersection: Install a traffic signal; widen the southbound approach to accommodate two through lanes; widen the northbound approach to include a dedicated through lane and a shared through-right turn lane; widen the eastbound approach to accommodate a dedicated left turn lane; and widen the westbound approach to accommodate a dedicated left turn lane and a dedicated right-turn lane. This intersection is projected to operate at LOS "F" conditions during the AM and PM peak hour periods. This is a result of vehicles experiencing long periods of delay on Springville Avenue (minor street) while waiting for a "gap" to enter or cross Jaye Street (major street). This intersection is

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<td>also projected to meet the Caltrans' Peak-Hour Volume Warrant 11 for urban areas. Implementation of the recommended mitigation measure will result in LOS “C” conditions during the AM and PM peak hour periods.</td>
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<td><em>Vandallia Avenue/Jaye Street intersection:</em> Install a traffic signal; widen the southbound approach to accommodate a dedicated left turn lane, a dedicated through lane, and a shared through-right turn lane; widen the northbound approach to include two left turn lanes, a single through lane, and a shared through right turn lane on the westbound approach. This two-way stop-controlled intersection, which currently provides access to a home improvement store and garden center, is projected to operate at LOS “F” conditions during the AM and PM peak hour periods under this scenario. This intersection is also projected to meet the Caltrans’ Peak-Hour Volume Warrant 11 for urban areas. Implementation of the recommended mitigation measure will result in LOS “C” conditions during the AM and PM peak hour periods.</td>
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<td><em>State Route 190/Jaye Street Intersection:</em> Widen the southbound approach of this signalized intersection to include dual right turn lanes and dual left turn lanes; widen the eastbound approach to include dual left turn lanes; and widen the westbound approach to include dual right turn lanes. Under “Existing plus Approved/Pending Projects” conditions this intersection is projected to operate at LOS “F” conditions. With the implementation of the recommended mitigation measures, this intersection is projected to operate at LOS “D” conditions during the AM and PM peak hour periods.</td>
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<td>Under “Existing plus Approved/Pending Projects plus Project” conditions, it is assumed that mitigation measures recommended under “Existing plus Approved/Pending Projects” conditions have been implemented. In addition, the following mitigation measures are recommended:</td>
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<td><em>State Route 190/Jaye Street intersection:</em> Widen the northbound approach to provide a dedicated right turn lane and provide right turn overlap phasing on all approaches. This signalized intersection is projected to operate at LOS “F” conditions during the AM and PM peak hour periods. Implementation of the recommended mitigation measure will result in LOS “D” conditions during the AM and PM peak hour periods.</td>
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<td><em>Project Driveways:</em> It is recommended that the project driveways along Springville Avenue contain shared movements. The project driveway on Jaye Street between</td>
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<td>State Route 190 and Vandalia Avenue is recommended to be a “right turn only” driveway and should provide for a deceleration lane no less than 100 feet in length.</td>
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December 1, 2005

Julie Boyle
City of Porterville
291 N. Main Street
Porterville, CA 93257

RE: Porterville Commercial Center

Dear Julie Boyle:

We have reviewed your shortened review request and have determined that it is consistent with the criteria set forth in the written guidelines of the Office of Planning and Research for shortened reviews, and Section 21091 of the Public Resources Code.

The shortened review period for an EIR shall not be less than 30 days. The review process for the referenced project will start on 11/10/2005 and end on 12/9/2005.

If you have any questions, please contact Scott Morgan at (916) 445-0613.

Sincerely,

Scott Morgan

Terry Roberts
Director

cc: file
December 5, 2005

Bradley D. Dunlap
Community Development Director
City of Porterville
291 N. Main Street
Porterville, CA 93257

Subject: Draft Environmental Impact Report – Porterville Commercial Center Project

Dear Mr. Dunlap,

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the Porterville Commercial Center Project (Project) forwarded by Quad/Knopf for the City of Porterville. The DEIR appropriately addresses the project's potential impact on Air Quality. Development as a result of this project will be subject to District rules and regulations. The District previously commented on November 16, 2004, Reference No. S20040304, and it appears that our comments were thoroughly addressed. We agree that all mitigations included in the DEIR Mitigation Measures 3.3.1 through 3.3.4 should be implemented to the extent specified to reduce air quality impacts. Also, we concur with the conclusions and recommendations contained in Appendix H Traffic (as it relates to road improvements to minimize traffic impacts and thereby preserves air quality).

The following items are rules that have been adopted by the District to reduce emissions throughout the San Joaquin Valley, and are required. This project may be subject to additional District Rules. To identify additional rules or regulations that apply to this project, or for further information, the applicant is encouraged to contact the District's Small Business Assistance Office at (661) 326-6969. Based on the information provided, the proposed project will be subject to the following District rules:

**Regulation VIII** (Fugitive PM10 Prohibitions)- Regulation VIII (Rules 8011-8081) is a series of rules designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction, road construction, bulk materials storage, landfill operations, etc.

If a non-residential project is 5.0 or more acres in area or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least three days, a Dust Control Plan must be submitted as specified in Section 6.3.1 of Rule 8021. Construction activities shall not commence until the District has approved the Dust Control Plan. A template of the District's Dust Control Plan is available at: http://www.valleyair.org/busind/comply/PM10/forms/DCP-Form%20-%2010-14-2004.pdf.

David L. Crow
Executive Director / Air Pollution Control Officer

ATTACHMENT
ITEM NO. 4
If a non-residential site is 1.0 to less than 5.0 acres, an owner/operator must provide written notification to the District at least 48 hours prior to his/her intent to begin any earthmoving activities as specified in Section 6.4.2 of Rule 8021. A template of the District’s Construction Notification Form is available at: http://www.valleyair.org/busind/comply/PM10/forms/Reg%20VIII%20Notification%20-%202011-17-2004.pdf.

**Rule 3135** (Dust Control Plan Fee) This rule requires the applicant to submit a fee in addition to a Dust Control Plan. The purpose of this fee is to recover the District’s cost for reviewing these plans and conducting compliance inspections. More information on the fee is available at: http://www.valleyair.org/rules/curntrules/Rule%203135%201005.pdf.

**Rule 4101** (Visible Emissions) This rule prohibits emissions of visible air contaminants to the atmosphere and applies to any source operation that emits or may emit air contaminants. The applicant must contact the District’s Small Business Assistance Office at (209) 557-6446 / (559) 230-5888 / (661) 326-6969 to receive additional information/instructions.

**Rule 4102** (Nuisance) applies to any source operation that emits or may emit air contaminants or other materials. In the event that the project or construction of the project creates a public nuisance, it could be in violation and be subject to District enforcement action.

**Rule 4601** (Architectural Coatings) limits volatile organic compounds from architectural coatings. This rule specifies architectural coatings storage, clean up and labeling requirements.

**Rule 4621** (Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants) This rule limits VOC emissions from stationary gasoline storage tanks with capacity greater than 250 gallons (except for tanks subject to Rule 4623), gasoline delivery vessels, and tanks with capacity than 250 gallons, but not exceeding 19,800 gallons located at gasoline bulk plants and **Rule 4622** (Gasoline Transfer into Motor Vehicle Fuel Tanks) which limits emissions of gasoline vapors from the transfer of gasoline into motor vehicle fuel tanks.

**Rule 4641** (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations) If asphalt paving will be used, then paving operations of this project will be subject to Rule 4641. This rule applies to the manufacture and use of cutback asphalt, slow cure asphalt and emulsified asphalt for paving and maintenance operations.

**Rule 4692** (Commercial Charbroiling) This rule regulates chain-driven charbroilers to limit Volatile Organic Compounds (VOC) and PM10 emissions. Items subject to this rule include (but are not limited to): grill charbroilers, flamebroilers and direct-fired barbecues.

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call me at (559) 230-5820.

Sincerely,

[Signature]
Hector R. Guerra
Senior Air Quality Planner

c: file
DEC 02 2005

Bradley D. Dunlap, Community Development Director
City of Porterville
291 North Main Street
Porterville, California 93257

Porterville Commercial Center
State Clearinghouse (SCH) Number: 2004101087

Staff for The Department of Water Resources has reviewed the subject document and provides the following comments:

Portions of the proposed project may be located within a regulated stream over which The Reclamation Board has jurisdiction and exercises authority. If the project includes any "channel reconfiguration" that was not previously permitted, new plans must be submitted. Section 8710 of the California Water Code requires that a Board permit must be obtained prior to start of any work, including excavation and construction activities, within floodways, levees, and 10 feet landward of the landside levee toes. A list of streams regulated by the Board is contained in the California Code of Regulations, Title 23, Section 112.

Section 8(b)(2) of the Regulations states that applications for permits submitted to the Board must include a completed environmental questionnaire that accompanies the application and a copy of any environmental documents if they are prepared for the project. For any foreseeable significant environmental impacts, mitigation for such impacts shall be proposed. Applications are reviewed for compliance with the California Environmental Quality Act.

Section 8(b)(4) of the Regulations states that additional information, such as geotechnical exploration, soil testing, hydraulic or sediment transport studies, biological surveys, environmental surveys and other analyses may be required at any time prior to Board action on the application.

You may disregard this notice if your project is outside of the Board jurisdiction. For further information, please contact Sam Brandon of my staff at (916) 574-0651.

Sincerely,

Mike Mirmazaheri, Chief
Floodway Protection Section

cc: Governor's Office of Planning and Research
State Clearinghouse
1400 Tenth Street, Room 121
Sacramento, CA 95814

ATTACHMENT
ITEM NO. 5
MEMORANDUM

DATE: November 17, 2005

TO: Julie Boyle, Senior Planner

FROM: Jim Perrine, Parks & Leisure Services Director

SUBJECT: Environmental Review – Porterville Commercial Center

The Draft EIR for the reference project indicates that Impact #3.4.2 Removal of a Valley Oak Tree is necessary because the alteration of the project plans, “is not practical or feasible.” There should be no question that modification of preliminary development plans is always feasible. To say otherwise would imply that procedural review and comment including environmental mitigation and presentation of public comments, are of no consequence.

The practicality of modifying plans would similarly imply that such modification would jeopardize the achievement of the Project Objective. No discussion is offered on how the preservation of a single mature Oak tree would jeopardize the stated Project Objective—building and operating an economically and competitive commercial center.

The preservation of the Oak tree would enhance the esthetics, mitigate for the loss of scenic agricultural field land along a heavily traveled corridor of the City, and provide pedestrian attraction to the proposed commercial center. The preservation of this tree would thus foster the Project Objective.

No discussion is offered to indicate that the single mature Oak tree is of poor health or in a declining or dangerous condition beyond reasonable preservation care. Therefore, alternative project plans and street designs must be considered. Opportunities for public analysis and comment on these alternatives need to be provided.

From the Desk of
Jim Perrine, Director
Parks & Leisure Services
Phone: 782-7539
Fax: 791-7854

ATTACHMENT
ITEM NO. 6
VIA FACSCIMILE and U.S. MAIL

Bradley Dunlap  
Community Development Director  
City of Porterville  
291 N. Main Street  
Porterville, CA 93257

Re: Draft Environmental Impact Report for the Porterville Commercial Center Project

Dear Mr. Dunlap:

We are writing on behalf of our client, John Hale ("Hale"), to provide comments on the proposed Draft Environmental Impact Report ("DEIR") for the Porterville Commercial Center (the "Project") dated November 2005. While the DEIR adequately analyzes the Project’s potential significant environmental effects in a manner that comports with the requirements of the California Environmental Quality Act ("CEQA"), we are writing to clarify and amplify several points that are raised by the DEIR, as mentioned below.

As a preliminary matter, since most of the traffic impacts associated with the Project only occur under cumulative conditions, it needs to be made clear that the Project is only responsible for mitigating its proportional fair share of the cumulative impacts along with the other reasonably foreseeable projects identified in the traffic study. See, CEQA Guidelines §15130(b)(5) ("An EIR shall examine reasonable, feasible options for mitigating or avoiding the project’s contribution to any significant cumulative effects.") (emphasis added); see, also, Anderson First Coalition v. City of Anderson, 130 Cal.App.4th 1173, 1188 (2005) ("A single project’s contribution to a cumulative impact is deemed less than significant if the project is required to implement or fund its ‘fair share’ of a mitigation measure designed to alleviate the cumulative impact.") and CEQA Guidelines § 15130(a)(3) ("An EIR may determine that a project’s contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project’s contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact.").
The table purporting to calculate the Project’s pro-rata share to the various traffic improvements included in the Traffic Study (Appendix H to the DEIR) uses an appropriate application of the Caltrans proportionate share equation. The value for $T_E$ in the equation should be changed, however, to account for existing traffic only and not existing plus other approved projects, since the other projects listed in the study will also be required to participate in contributions to the stated roadway improvements. In addition, the traffic mitigation measures are inconsistently described in Tables ES-1, 7-1, and Impact 3.15.1. The measures should be revised to clearly and concisely state the amount of the Project’s dollar contribution to the various traffic improvements as well as compliance with any applicable Traffic Impact Fee Program.

The traffic improvements proposed to mitigate cumulative traffic conditions need to be traced back to the Capital Improvement Program or some other reasonable plan of actual mitigation that the City commits itself to implementing. For instance, the Project Staff Report should discuss the City’s approved traffic improvement plan for Jaye Street. In addition, the Staff Report should discuss the other improvements, noting that the Project and other probable future developments will be conditioned on paying their fair share toward these improvements, that the monies will be used by the City to finance these improvements, and that once a certain specified threshold of development is met, no further development will be allowed until these improvements are constructed.

The current Project site plan shows Vandalia Avenue at its maximum length of approximately 250 feet. The traffic study nonetheless recommends that Vandalia Avenue be lengthened to 300 feet. This “recommendation” is not needed in order to mitigate any environmental impact and would be infeasible in any event given the commercial development located immediately to the east of the Project site. As you know, the City may only impose “feasible” mitigation measures on the proposed Project, i.e., ones that are “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” Public Resources Code § 21061.1. The lengthening of Vandalia Avenue is not such a feasible mitigation measure.

In addition, the concept of internal capture rate is discussed in the Traffic Study, but does not appear to have been applied to the Project. The Project trips should be adjusted for the internal capture rate, as was done for the Riverwalk Marketplace Project.

Further, there is no requirement that a Development Agreement be entered into in connection with this Project. See, DEIR, pp. 1-1, 2-1. While the Project sponsor has expressed a willingness to enter into such an agreement with the City, it should be made clear that this agreement is not mandated by any local or state law. In addition, the DEIR should note that the State Clearinghouse, in accordance with Public Resources Code § 21091 and Appendix K to the CEQA Guidelines, agreed to a shortened 30 day review period for the DEIR.

Mitigation Measure 3.3.1 needs to be amended to clarify that alternative-fueled construction equipment will be used, “if feasible.” Since the Project emissions fall below the
San Joaquin Valley Air Pollution Control District’s 10 ton per year thresholds, the references to “mitigated” and “unmitigated” emissions in Table 3.3-8 is confusing and makes no sense. Similarly, since the Project’s air quality impacts are less than the District’s thresholds, the Project’s contribution to cumulative air quality impacts (i.e., ROG, NOx, and PM10) will be less than cumulatively considerable. The text of Chapter 5 (Cumulative Impacts) should be revised accordingly.

Under section 4.2 (Reduced Project Size Alternative), the reference to a 5% reduction was apparently intended to refer to a 50% reduction. Correct the typographical error in the first sentence of the fourth paragraph under section 4.1 (No Project Alternative).

In regard to Table 7-1 (Mitigation and Monitoring Program), the “Implementation,” “Monitoring,” and “Time Span” sections need to be completed for Mitigation Measure 3.3.1. The timing of Mitigation Measures 3.1.1 and 3.1.2 should probably be revised to read: “Prior to issuance of building permits.” The timing for Mitigation Measures 3.15.1 and 3.15.2 also needs to be specified.

Thank you for your consideration of Hale’s comments on the DEIR. Please do not hesitate to contact me with any questions or comments.

Very truly yours,

Matthew D. Francois

cc: John Hale
    Dave Mossman
    John Schuler
    Mike Tolladay
CITY COUNCIL AGENDA: DECEMBER 20, 2005

PUBLIC HEARING

SUBJECT: TENTATIVE PARCEL MAP 5-2005 AND CONDITIONAL USE PERMIT 10-2005

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On May 3, 2005, the Porterville City Council by Resolution 63-2005 approved “D” Overlay Site Review 2-2005 to allow the development of five (5) professional office buildings, containing five (5) single story medical offices, for a total of 9,734± square feet. The site is located on the east side of Pearson Drive, South of Morton Avenue. The subject site is within the PO(D) (Professional Office - Design Review Overlay) Zone.

The applicant is requesting approval of a Tentative Parcel Map 5-2005 to divide a 32,178± square foot site into five (5) parcels and a common lot (Lot 6) to allow for a multiple lot condominium (as opposed to an airspace condominium) style Professional Office development as follows: Parcel 1 - 3,355± square feet; Parcel 2 - 1,708± square feet; Parcel 3 - 1,647± square feet; Parcel 4 - 2,184± square feet; Parcel 5 - 2,184± square feet and the common lot (Lot 6) - 21,100± square feet.

Pursuant to Section 2103 A-13 of the Porterville Zoning Ordinance, conditional approval of Conditional Use Permit 10-2005 would allow the multiple lot condominiums to be constructed on the above mentioned lots. Without the approval of the CUP, the project could still be built but held as a single lot.

Medical offices are required to provide a minimum of one (1) parking space per 200 square feet of floor area with a minimum of five (5) spaces. The proposed medical offices are comprised of a total of 9,734± square feet. Based on that ratio, 49 parking spaces are required. The project, as proposed, will provide 45 standard and four (4) disabled parking spaces for a total of 49 parking spaces.

The applicant has indicated that due to a utility easement located on the Pearson Drive frontage, the three proposed offices on proposed Parcel 1, 2 and 3 had to be shifted to the east approximately one (1) foot which results in a four (4) foot setback from the easterly property line. The proposed tentative parcel map also indicates that a four (4) foot setback from the easterly property line is proposed. In the PO Zone, a minimum of five (5) feet of side yard setback is required. However, pursuant to Section 3001 B-2 of the Zoning Ordinance, the Zoning Administrator approved a one (1) foot reduction in the side yard setback.

DDB APPROPRIATED/FUNDED CM ITEM NO. 15
Pursuant to 15315 Class 15 (minor land division), the proposed project is categorically exempt from the California Environmental Quality Act.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution in support of the approval for Tentative Parcel Map 5-2005;

2. Adopt the draft resolution in support of the approval for Conditional Use Permit 10-2005 subject to conditions of approval.

ATTACHMENTS:

1. Complete Staff Report.
TITLE: TENTATIVE PARCEL MAP 5-2005 AND CONDITIONAL USE PERMIT 10-2005

OWNER/APPLICANT: Leroy Rohrbach
23417 Avenue 184
Porterville, CA 93257

REPRESENTATIVE: Deron Johns
Webb & Son
678 N. Plano
Porterville, CA 93257

PROJECT LOCATION: East side of Pearson Drive, directly south of Morton Avenue

HISTORY: On May 3, 2005, the Porterville City Council by Resolution 63-2005 approved “D” Overlay Site Review 2-2005 to allow the development of five (5) professional office buildings, containing five (5) single story medical offices, for a total of 9,734 ± square feet. The buildings are to be located on the east side of Pearson Drive, South of Morton Avenue. The subject site is within the PO(D) (Professional Office - Design Review Overlay) Zone.

SPECIFIC REQUEST: The applicant is requesting approval of a Tentative Parcel Map 5-2005 to divide a 32,178± square foot site into five (5) parcels and a common lot (Lot 6) to allow for a multiple lot condominium (as opposed to an airspace condominium) style Professional Office development as follows: Parcel 1 - 3,355± square feet; Parcel 2 - 1,708± square feet; Parcel 3 - 1,647± square feet; Parcel 4 - 2,184± square feet; Parcel 5 - 2,184± square feet and the common lot (Lot 6) - 21,100± square feet.

Pursuant to Section 2103 A-13 of the Porterville Zoning Ordinance, conditional approval of Conditional Use Permit 10-2005 would allow the multiple lot condominiums to be constructed on the above mentioned lots. Without the approval of the CUP, the project could still be built, but held as a single lot.

The applicant has indicated that due to a utility easement located on the Pearson Drive frontage, the three proposed offices on proposed Parcel 1, 2 and 3 had to be shifted to the east approximately one (1) foot which results in a four (4) foot setback from the easterly property line. The proposed tentative parcel map also indicates that a four (4) foot setback from the easterly property line is proposed. In the PO Zone, a minimum of five (5) feet of side yard setback is required. However, pursuant to Section 3001 B-2 of the Zoning Ordinance, the Zoning Administrator approved a one (1) foot reduction in the side yard setback.
PROJECT DETAILS: Three (3) single story medical buildings are to be located at the northerly portion of the site and two (2) single story medical buildings are to be located on the southerly portion of the site. The proposed entrance to the offices will be located at the covered entries located at the front of each building and facing directly into the parking lot. Units A and B are located in the southerly building with the entrance to these offices facing north. The three (3) units to be located on the northerly portion of the site will have the entrance to these offices facing south. Ingress and egress to the parking lot will be exclusively from two (2) driveways off Pearson Drive, with an additional driveway at the southerly end for access to doctors’ parking and the complex’s trash enclosure.

The single story buildings are rectangularly shaped and are designed with controlled construction joints in three (3) shades of green with lath and plaster wall finish. Each building has a covered entrance supported by concrete columns in a natural finish with a dark grey concrete tile roof. Windows are located only at the fronts of each building, but will be of the solar ban green color similar to that seen at Sierra View District Hospital. The buildings have been designed to be compatible with one another with similar color selections and common architectural features, including a portico style entrance.

Medical offices are required to provide a minimum of one (1) parking space per 200 square feet of floor area with a minimum of five (5) spaces. The proposed medical offices are comprised of a total of 9,734± square feet. Based on that ratio, 49 parking spaces are required. The project, as proposed, will provide 45 standard and four (4) disabled parking spaces for a total of 49 parking spaces.

GENERAL PLAN DESIGNATION: Professional and Office

ENVIRONMENTAL: This project is Categorically Exempt pursuant to Section 15332 of the CEQA Guidelines - construction of in-fill development. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

STAFF ANALYSIS: Medical offices are required to provide a minimum of one (1) parking space per 200 square feet of floor area. The proposed medical office complex total is 9,734± square feet which will require 49 parking spaces. The project as proposed will provide 45 standard and four (4) disabled parking spaces for a total of 49 parking spaces.

Because medical offices have to meet the highest standard of parking spaces, the proposed design of the site will not restrict future uses of the building to non-medical, professional office uses.
DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: March 16, 2005

DATE ACCEPTED AS COMPLETE: December 2, 2005

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution in support of the approval for Tentative Parcel Map 5-2005;

2. Adopt the draft resolution in support of the approval for Conditional Use Permit 10-2005 subject to conditions of approval.

ATTACHMENTS:

1. Tentative Parcel Map
2. Conditional Use Application
3. Notice of Exemption
4. Common Area Agreement for owners of the properties
5. Draft Resolution of Approval for Tentative Parcel Map 5-2005
6. Draft Resolution of Approval for Conditional Use Permit 10-2005 to include site plan, interior layout and elevations (Exhibit "A")
APPLICATION FOR CONDITIONAL USE PERMIT
(See Page 3 of this form for information on preparing and filing this application)

The Applicant(s) __ LEROY ROHRBACH, et. al. __ Is/are the owner(s) or tenant(s) of property situated at __SOUTHEAST CORNER MORTON & PEARSON__ between __PEARSON__ Street/Avenue and __CONLEY__ Street/Avenue. Exact legal description of said property being __LOTS 25, 26, 27 & 28 OF MORTON GARDENS PER MAP RECORDED IN VOL. 26, PAGE 42 OF MAPS, TCR__.

As applicable, a Plot Plan and 300' radius property owners map and corresponding mailing list are hereto attached and made a part of this application (See detailed instructions on Page 3 of this form).

(A) Above described property is owned by: __ LEROY ROHRBACH, et. al. __
Date acquired: __MAY 2003__

(B) If applicant is the lessee, give date property was leased: __N/A__

(C) List below the original deed restrictions, if any, that were placed on the property which pertain to the type of improvements permitted.
Give date said restrictions expire: __NOT AVAILABLE__
(You may attach copy of original printed restrictions in answer to this question after property underlining those features controlling the type and class of uses permitted thereby).

(D) REQUEST: The applicant requests a Conditional Use Permit to use the above described property for the following purposes:
(Use this space ONLY to state exactly what is intended to be done, on or, with the property).

MULTIPLE LOT CONDOMINIUM PROFESSIONAL OFFICE DEVELOPMENT
NOTE: The basic purpose of the Conditional Use Permit Article of The City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

1. State how the proposed use will not be materially detrimental to the public welfare or injurious to property or improvements in such vicinity and zone in which the use is proposed to be located:

   THE PROPOSED USE IS ALLOWED IN THE EXISTING PO(D) ZONE. “D” OVERLAY SITE REVIEW 2-2005 HAS BEEN APPROVED BY THE CITY COUNCIL. THIS APPLICATION IS CONSISTENT WITH THE APPROVED “D” OVERLAY.

2. Principal requirements of intended use: (Please answer the following statements, if applicable)

   A. Total number of people that the building (or grounds if the use is not conducted in a building) can accommodate at one time (seating capacity):

      30±

   B. Total number of employees that will work on the property:

      20±

   C. Total number of off-street parking spaces provided or planned:

      49 (INCLUDING 4 HANDICAP)

   D. Maximum height of buildings or structures:

      18 FEET

   E. If the application is not intended to be for a permanent conditional use, state the length of time for which it is requested:

      N/A
We, the undersigned OWNERS of ADJACENT PROPERTY as shown upon the map attached to the application, hereby certify that we have read the foregoing petition and agree that the facts stated correctly and completely present the conditions surrounding the property involved in the application and believe the application SHOULD BE GRANTED (add additional sheets where necessary. These signatures are desirable but not required).

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**APPLICANT’S DECLARATION**

**STATE OF CALIFORNIA**

**COUNTY OF TULARE**

I (we), __________________________________________ Being duly sworn, declare and say that I am (we are) the owner (lessee or agent) of property involved in this application and that I (we) have completed this application and all other documents and maps required hereby to the best of my (our) ability and that the statements and information above referenced to are, in all respects, true and correct, expect, as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at __________________________ this ___ day of ____________, 20__.

Telephone No. 781-1229

[Signature]

Mailing Address

This is to certify that the foregoing application has been inspected by me and has been found to be thorough and complete in every particular and to conform to the rules and regulations of the City of Porterville governing the filing of such application.

By __________________________

Date received ____________________
NOTICE OF EXEMPTION

TO: Office of Planning and Research
    1400 Tenth Street, Room 121
    Sacramento, CA 95814

FROM: City of Porterville
      291 N. Main Street
      Porterville, California 93258

Tulare County Clerk
    County Civic Center
    Visalia, CA 93291

Leroy Rorbach
    23417 Avenue 184
    Porterville, CA 93257

Tentative Parcel Map 5-2005 and Conditional Use Permit 10-2005
Project Title

Generally the Southeast corner of Pearson Drive and Morton Avenue.
Project Location (Specific)

City of Porterville
Project Location (City)

Tulare
Project Location (County)

A tentative parcel map to divide a 32,178 square foot lot Zoned City PO(D) (Professional Office with a "D" Overlay) into five parcels and a common lot to be developed in one (1) phase. Pursuant to Section 2103 A-13 of the Porterville Zoning Ordinance, condominiums are allowed in any zoned area subject to approval of a conditional use permit. Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville
Name of Public Agency Approving Project

Leroy Rorbach, 23417 Avenue 184, Porterville, CA 93257
Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

[ ] X Ministerial (Section 15073)
[ ] Declared Emergency (Section 15071 (a))
[ ] Emergency Project (Section 15071 (b) and (c))
[ ] Categorical Exemption. State type and section number: 15315 Class 15

Minor Land Divisions.
Reasons why project is exempt

Bradley D. Dunlap, Community Development Director
Contact Person

If Filed by Applicant:

1. Attached certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the projected? Yes: __________ No: __________

Date Received for filing: __________

Signature
COMMUNITY DEVELOPMENT DIRECTOR
Title

u\wp\NoticeExemptionTPM5-2005WP

ATTACHMENT
ITEM NO. 3

Cost and Voting Participation in this agreement will be based on square footage of each ownership. Each owner will contribute to the monthly maintenance costs of upkeep and care of parking area and landscape. The first 6 months from the start of the agreement will be handled by LeRoy Rohrbach and all activity will be given to Bill McKinley, CPA for accounting of any and all monev activity.

Common areas on back and sides of each owner's property will be considered each their respective area and will not be utilized by any other participant and subject to maintenance and upkeep by said owner. Areas of parking in front of each owners property may be marked for their use with sign painting on parking curb of desired (Color will need to be consistent for the common area); exception to this will be three parking spaces on northeast corner of parking lot which will be for doctor parking and may include covered parking. In addition, two spaces of south west corner for same purposes.

Landscape and parking will be shared in common. Each owner will carry one million dollars liability insurance and will name each other on their respective policy for general liability coverage. Any dispute of this agreement will be settled by arbitration with each owner paying their share.

Monthly costs for this common area agreement will be established by owners at start of agreement and placed into a holding/banking account for said purpose. This cost may be revisited at six month intervals if desired by owners and special call visitation in the event of emergency. After six months this monthly activity will reside with one of the owners or an agent of the owner as desired. In the event that this responsibility is not transferred to one of the owners, an additional monthly fee will be assessed and approved by owners to compensate said CPA for performance of monthly activity in addition to accounting.

All voting of any item will be based on square foot ownership requires a 51% for any item $1,000 or less expenditure and requires a 70% voting for any items over $1,000.

A separate fund may be established to accumulate funds for resurfacing or other expenditures to this common area agreement for future needs. The monthly amount to be decided by owner of this agreement.
ADDENDUM

In addition to the parking lot considerations, the exterior of the buildings must conform with all existing city and state regulations, and when exterior maintenance is performed, the color scheme must conform with all five associated properties. Any major change in exterior color scheme would require seventy percent (70%) approval based upon square foot ownership.
RESOLUTION NO. ________

TENTATIVE PARCEL MAP 10-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF TENTATIVE PARCEL MAP
10-2005 FOR THAT SITE LOCATED GENERALLY ON THE SOUTHEAST CORNER OF
PEARSON DRIVE AND MORTON AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of December 20, 2005, conducted a public hearing to consider approval of Tentative Parcel Map 10-
2005 to divide a 32,178± acre site into five (5) parcels and a common lot (Lot 6) to allow for a
multiple lot condominium (as opposed to an airspace condominium) style Professional Office
development in the PO (D) (Professional Office “D” Overlay) Zone as follows: Parcel 1 - 3,355±
square feet; Parcel 2 - 1,708± square feet; Parcel 3 - 1,647± square feet; Parcel 4 - 2,184± square
feet; Parcel 5 - 2,184± square feet and the common lot (Lot 6) - 21,100± square feet; and

WHEREAS: Pursuant to Section 2103 A-13 of the Porterville Zoning Ordinance, the City
Council of the City of Porterville at its regularly scheduled meeting of December 20, 2005,
conducted a public hearing to consider approval of Conditional Use Permit 10-2005 which would
allow the condominiums to be constructed on the above mentioned lots; and

WHEREAS: On May 3, 2005, the Porterville City Council at it regularly scheduled
meeting by Resolution 63-2005 approved “D” Overlay Site Review 2-2005 to allow the
development of five (5) professional office buildings, containing five (5) single story medical
offices, for a total of 9,734 ± square feet; and

WHEREAS: The applicant has indicated that due to a utility easement located on the
Pearson Drive frontage, the three (3) proposed offices on proposed Parcel 1, 2 and 3 had to be shifted
to the east approximately one (1) foot which results in a four (4) foot setback from the easterly
property line. The proposed tentative parcel map also indicates that a four (4) foot setback from the
easterly property line is proposed. In the PO Zone, a minimum of five (5) feet of side yard setback
is required. However, pursuant to Section 3001 B-2 of the Zoning Ordinance, the Zoning
Administrator approved a one (1) foot reduction in the side yard setback.

WHEREAS: The City Council received testimony from all interested parties relative to the
tentative parcel map; and

WHEREAS: The City Council made the following findings in its review of the proposed
tentative parcel map:

1. That pursuant to Section 15315, Class 15, (Minor Land Divisions) of the California
   Environmental Quality Act, the subject tentative parcel map and conditional use
   permit are categorically exempt from CEQA.
That the proposed parcelization conforms to the land use designation of the General Plan;

The General Plan designates the subject site for Professional and Office uses. The PO(D) zoned site is consistent with the General Plan designation.

That the design or improvements of the proposed project is consistent with the General Plan.

That the site is physically suitable for the type of development being proposed;

The subject site is flat. Conformance with the City Storm Drain Master Plan, and requirements relative to grading, the California Building Code, etc., will be required. Additionally, compliance with federal, State and local regulation requiring that storm water runoff monitored and maintained free of heavy concentration of pollutants will be required.

That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;

The proposed development of the professional offices on this site be required to comply with the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.

That the City Council is the decision-making body;

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Tentative Parcel Map 10-2005 subject to the following conditions:

1. Provide a minimum five (5) feet wide landscape strip between the sidewalk and parking areas.

2. One (1) tree for every thirty-five (35) linear feet of street frontage along the Morton Avenue and Pearson Drive property line(s). Automatic irrigation systems for all landscaping will be required.

4. The developer/applicant shall pay all applicable fees in accordance with the Municipal Code and State law, prior to approval of the final map by City Council. Fees are subject to change annually. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code section 66020(a). You have 90 days from the date fees are paid to file a written protest.

5. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. Morton Avenue and Pearson Drive are fully developed streets additional right of way may be necessary to provide for disabled access around the existing oak tree and a disabled ramp at the southeast corner of said intersection (C.C. Sec. 21-23).

6. The developer/applicant shall provide and show all required utility easements on the Final Map.

7. The developer/applicant shall dedicate a one (1) foot limitation of access strip at locations where, in the opinion of the City Engineer, it is undesirable to allow access.

8. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Appendix Chapter 33 of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and recommendations regarding construction of public improvements that address City Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement plans or start of grading, whichever comes first. Additional reporting requirements are as indicated below:

   a. Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);
   b. Erosion Control Plan in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity, prior to start of grading (CBC Appendix chapter 33). The provisions of the approved Erosion Control Plan shall be incorporated into the Improvement Plans;
   c. Soils Report(s) in accordance with Chapter 18 of the California Building Code.

10. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.

11. In accordance with Section 21-51 of the Subdivision Ordinance, the developer/applicant shall enter into an agreement that provides for completion of improvements within twelve (12) months prior to recording the final map for each phase.
12. Prior to start of grading on any unit, the developer/applicant shall abandon and cap existing wells that are no longer in service. Prior to approval of the improvement plans, the developer/applicant shall obtain an abandonment permit from the County Department of Environmental Health. Prior to acceptance of improvements, the developer/applicant shall provide the City Engineer with proof of completion in compliance with County regulations. Developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615 for all wells that will remain in service.

13. The developer/applicant shall replace or provide surety for replacement of irrigation pipes in the right-of-way, if, in the opinion of the City Engineer, replacement is warranted. The developer/applicant shall provide easements for irrigation pipes across lots created, if pipes will continue in use. The developer/applicant shall also cure leaks in any irrigation pipe that will continue in use.

14. Prior to recording the final map, the developer/applicant shall provide surety for off-site improvements and provide easements, permits, calculations, etc. if, in the opinion of the City Engineer, they are needed for the proper functioning or phasing of the subdivision (e.g. water, sewer, drainage, etc.).

15. The developer/applicant shall coordinate with the U.S. Postal Service regarding the kind of mail facilities that will be utilized. If neighborhood box units (NBUs) are to be used, construct sidewalks in a timely manner to facilitate NBU installation.

16. The developer/applicant shall obtain a City demolition permit prior to approval of the improvement plans and, under City inspection, remove all existing, abandoned and unnecessary items, to the satisfaction of the City Engineer, prior to acceptance of the improvements (e.g. buildings, foundations, septic tanks, irrigation pipes, etc.).

17. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. During grading operations the "Supervising Civil Engineer" shall be responsible for enforcing the dust control provisions of Section 7-8 or the developer/applicant shall pay inspection fees on the grading cost to compensate the City for dust control inspection. The improvement plans shall show a designated wash out area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area.
18. The developer/applicant shall construct or provide surety for construction of curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), etc. along the full frontage of the existing lot except where they exist to City standards and are in good condition in the opinion of the City Engineer. Six feet (6') of sidewalk is required for the designated zoning. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property.

19. Building or foundation permits shall not be issued until all of the following items are accepted as complete:
   a. The storm drain system is functional so that it will accept water from fire hydrant and/or water main flushing;
   b. The water system is functional from the source of water past the lots on which permits are being requested (i.e. all services and the sampling station, if required, are installed, valves are functional and accessible, bacteria testing is completed, etc.);
   c. Street base rock for accessibility by the public safety officials and building inspectors;
   d. Lots are graded in accordance with the approved grading plan. Prior to receipt of the Final Grading, Drainage and Soils Report a letter from the "Supervising Civil Engineer" is required validating that the grading has been done in accordance with the approved grading plan and in accordance with the recommends contained in the Preliminary Soils Report;
   e. Lot corners are marked;
   f. Fire hydrants are accepted by the Fire Department and the Engineering Division.

20. The developer/applicant shall construct all drainage facilities that the City Engineer determines are necessary to comply with the intent of the Storm Drain Master Plan. Dedicate a drainage easement across each lot requiring an easement, unless all lots are graded to drain to the street (C.C. Sec. 21-50). The developer/applicant shall construct concrete drainage swales, approved by the City Engineer, if necessary, to transport storm water across adjacent subdivision lots to reach a City drainage system.

21. The developer/applicant is advised that he is obligated to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for discharge of Storm Water Associated with construction activity will be required (except operations that result in disturbance of less than five acres of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain at a minimum all items listed in Section A of the permit, including descriptions of measures to be taken to prevent or eliminate unauthorized non-storm water discharges and both temporary (e.g.,
fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, detention basins, etc.) best management practices that will be implemented to prevent pollutants from discharging with storm water into water of the United States. If portions of the project area are to be sold off before the entire project is completed, the proponent must submit to the California Regional Water Quality Control Board a change of information form identifying the new owners along with a revised site map clearly depicting those portions that were sold and those that are remaining. The proponent is also responsible for informing each new owner of their responsibility to submit their own NOI, site map, and appropriate fee to the SWRCB and to prepare their own SWPPP.

22. The developer/applicant shall cause the sewer system to be completed, tested, and accepted by the City prior to residential occupancy of any house in the subdivision.

23. The developer/applicant shall provide individual sewer laterals to each subdivision lot. This requires an on-site sewer main that shall be maintained by the City. An easement shall be conveyed to the City of Porterville by illustrating so on the Final Map.

24. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four foot (4') of clear space in the sidewalk area and a minimum of two foot (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 DSA) or provide surety in lieu of (Section 2616.1 of the Zoning Ordinance).

25. Prior to acceptance of improvements, the developer/applicant shall provide street lights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer.

26. The developer/applicant shall provide individual water service and meters for each lot. This may require an on-site water main that shall be maintained by the City. An easement shall be conveyed to the City of Porterville by illustrating so on the Final Map. Providing a meter for each lot, applicable irrigation meter(s) (meter manifold) in the Morton Avenue or Pearson Drive right of way is an acceptable alternative.

27. The developer/applicant shall provide a single trash enclosure that is accessible to all lots. The use of the trash enclosure and maintenance thereof shall be included in the easement language for the ingress, egress, landscaping, and common areas. That the trash enclosure will be a part of a recorded document for all units to have access to it. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container locations require refuse trucks to travel on the parking lot.

28. The developer/applicant shall pay all applicable fees according to the Municipal Code and State Law.

29. Comply with latest applicable codes.
30. Depending on the location of the existing fire hydrant, additional fire hydrants will be required.

31. The City will test and maintain all fire hydrants in the City whether on private property or not. An "easement" is required from the owner.

32. Fire hydrants spacing shall be as follows: In Commercial development, one (1) hydrant shall be installed at every 300 feet intervals. This development will require a minimum of two (2) hydrants.

33. Project must meet minimum fire flow requirements per table in appendix III-A & III-B of the California Fire Code.

34. Areas identified as “Fire Lanes” must be identified as such by red painted curbs and identified per requirements set forth in the California Vehicle Code Sec. 22500.1

35. A back-flow device is required on the water meter.

________________________________________________________________

Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By __________________________

Georgia Hawley, Chief Deputy City Clerk
RESOLUTION NO.____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL FOR CONDITIONAL USE PERMIT 10-2005 FOR THAT SITE GENERALLY LOCATED ON THE SOUTHEAST CORNER OF PEARSON DRIVE AND MORTON AVENUE

WHEREAS: Pursuant to Section 2103 A-13 of the Porterville Zoning Ordinance, the City Council of the City of Porterville at its regularly scheduled meeting of December 20, 2005, conducted a public hearing to consider approval of Conditional Use Permit 10-2005 which would allow for a multiple lot condominium style Professional Office complex consisting of five (5) professional office and a common area in the PO (D) (Professional Office “D” Overlay) Zone; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 20, 2005, conducted a public hearing to consider approval of Tentative Parcel Map 10-2005 to divide a 32,178± square foot site into five (5) parcels and a common lot (Lot 6) to allow for a multiple lot condominium (as opposed to an airspace condominium) style Professional Office development as follows: Parcel 1 - 3,355± square feet; Parcel 2 - 1,708± square feet; Parcel 3 - 1,647± square feet; Parcel 4 - 2,184± square feet; Parcel 5 - 2,184± square feet and the common lot (Lot 6) - 21,100± square feet; and

WHEREAS: On May 3, 2005, the Porterville City Council at it regularly scheduled meeting by Resolution 63-2005 approved “D” Overlay Site Review 2-2005 to allow the development of five (5) professional office buildings, containing five (5) single story medical offices, for a total of 9,734 ± square feet; and

WHEREAS: The applicant has indicated that due to a utility easement located on the Pearson Drive frontage, the three (3) proposed offices on proposed Parcel 1, 2 and 3 had to be shifted to the east approximately one (1) foot which will result in a four (4) foot setback from the easterly property line. The proposed tentative parcel map also indicates that a four (4) foot setback from the easterly property line is proposed. In the PO Zone, a minimum of five (5) feet of side yard setback is required. However, pursuant to Section 3001 B-2 of the Zoning Ordinance, the Zoning Administrator approved a one (1) foot reduction in the side yard setback.

WHEREAS: That pursuant to Section 15315, Class 15, (Minor Land Divisions) of the California Environmental Quality Act, the subject tentative parcel map is categorically exempt from CEQA

WHEREAS: The City Council received testimony from all interested parties relative to the proposed conditional use permit; and
WHEREAS: The City Council made the following findings in its review of the proposed conditional use permit:

1. That the design and improvements of the proposed project are consistent with the General Plan.

The Land Use Element of the General Plan designates the site for Professional Office type uses.

The Circulation Element of the General Plan designates Morton Avenue as an Arterial Street (80 feet wide). Morton Avenue is fully developed with a four (4) lane arterial which has the capacity to handle 25,000 ADT. Pearson Drive is designated as a two (2) lane Local Street. No recent traffic counts have been conducted. However, the addition of the five (5) professional offices will not create any impact to traffic circulation in this area.

2. That the site is physically suitable for the type and density of the proposed development.

The site is generally level. The subject site has medium to coarse textured soils with a high water infiltration rate. Therefore, no barriers to development will occur.

3. That pursuant to Section 15315, Class 15, (Minor Land Divisions) of the California Environmental Quality Act, the subject tentative parcel map is categorically exempt from CEQA.

4. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area.

The General Plan designates the site for Professional Office uses. Apartments are located to the north, a professional office is located to the east and west and apartments are located to the south of the subject site. Conditions of approval are included to ensure adequate development standards are met.

5. That the standards of population density, site area dimensions, site coverage, yard spaces, heights of structures, distance between structures, off-street parking facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.

The proposed project complies with all the requirements of the Subdivision Ordinance. The development standards of the PO (D) (Professional Office “D” Overlay) Zone including lot sizes, site coverage, parking, etc., will apply to the site.
NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve Conditional Use Permit 10-2005 subject to the following conditions:

1. Although precise calculations have not yet been made, the developer/applicant should be aware that traffic impact fees will apply to this project. The current rate for Professional Office development is $2,172 per 1,000 sq. ft. All development impact fees may be financed for five (5) years at 0% interest at the option of the developer/applicant.

2. A screened refuse container area shall be provided. Said area shall be indicated on the site plan and building plans prior to issuance of any building permit, and shall be enclosed in conformance with the City of Porterville Standard Plans and Specifications. The proposed Trash Enclosure shall be designed to include gates across the front opening.

3. All concrete block walls shall match one of the colors in the color palette approved by the City Council and maintained by the Community Development Department.

4. The facility shall be constructed, maintained and operated in compliance with all applicable federal, state and local laws, ordinances and regulations.

5. All signage shall be architecturally compatible with the development to the satisfaction of the Zoning Administrator.

6. Provide a minimum five (5) feet wide landscape strip between the sidewalk and parking areas.

7. A minimum of one (1) tree for every thirty-five (35) linear feet of street frontage along the Morton Avenue and Pearson Drive property line(s). Automatic irrigation systems for all landscaping will be required.

8. Conditional Use Permit shall become null and void upon the expiration of Tentative Parcel Map 10-2005.

9. The developer/applicant shall comply with the conditions of approval for Tentative Parcel Map 10-2005.

10. The proposed medical offices are considered a “B” occupancy. Upon submittal of a building permit the following will be required:
   a. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include two (2) sets of energy calculations and structural calculations.
   b. Compliance with access laws (both State and Federal) is required.
   c. Compliance with all applicable codes is required.
   d. Plan check fees are required at the time of building permit submittal.
   e. Soil compaction test may be required.
   f. School Development fees and all other City fees are due at the time of building permit issuance.
11. Fire walls required at property lines as per California Building Code.

12. Signs require a separate permit.

13. When any portion of the building to be protected is in excess of 150 feet from a water supply on a public street, there shall be installed on-site fire hydrants capable of supplying the required flow.

14. Knox box may be required. Application may be obtained from the Fire Department.

15. That the site will be developed pursuant to the site plan, elevation and floor plans (EXHIBIT “A”).


______________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By __________________________
Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: December 20, 2005

PUBLIC HEARING

TITLE: INITIATION OF ANNEXATION 454 (WASTEWATER DISCHARGE REQUIREMENT 05-01-103)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The City has worked to prepare to annex and pre-zone nine parcels totaling approximately 704 acres located south and west of the Porterville Municipal Airport. Staff is requesting that the City Council continue the Public Hearing on the Annexation to January 17, 2006, to consider it in conjunction with the Zone Change for the project.

RECOMMENDATION: That the City Council:

Continue the Public Hearing to the January 17, 2006 Council Meeting to allow City Council to consider it in conjunction with the Zone Change for the project.
SUBJECT: FARM MANAGEMENT AGREEMENT

SOURCE: Public Works Department

COMMENT: At the September 6, 2005 City Council Study Session, staff presented a report on the City’s Farm Management Agreement with Robert Nuckols. During this meeting, Council directed staff to return this issue to a regular Council Meeting for consideration, with independent financial reviews in November.

At the September 20th City Council meeting, the Council agreed to consider terminating the Farm Management Agreement contract, with Robert Nuckols, at the October 4th meeting.

At the October 4th City Council meeting, staff was directed to complete the farming financial review, and bring back any issues with the farming operation, with recommendations for modifications, on November 15, 2005.

At the November 15th City Council meeting, Council continued this item until a full Council would be available.

At the December 6th City Council meeting, Council scheduled a December 20th Study Session with the City Auditor.

Background (A Chronology of Wastewater Events is attached)

The current Wastewater Treatment Facility (WWTF) Reclamation Disposal and Farming Program was developed in response to requirements of the Regional Water Quality Control Board (RWQCB) to limit the amount of treated effluent the City can discharge through other methods. The Waste Discharge Requirements (WDRs) and the Cease and Desist Order (CDO) from the RWQCB limited the City to 5.3 MGD and applied many other restrictions on how the City can dispose of effluent. Projects funded with a loan from the California Infrastructure and Economic Development Bank (CEIDB) were developed and approved by the RWQCB.

Property acquisition and development of irrigate-able land has been ongoing with approximately 520 acres purchased over recent years. The current inventory of leveled irrigated land is around 465 acres. The goal is to develop approximately 700 acres of irrigated land in order to meet the RWQCB requirements and keep up with the growth of Porterville. Failure to meet the requirements could result in a building moratorium from the RWQCB.

Success with the Regional Water Quality Control Board

The City of Porterville has been successful in keeping the RWQCB staff satisfied with our progress towards implementing the projects necessary to meet the requirements of the WDRs and the CDO. It is important to maintain this good working relationship.
Objectives of the Farming operation

The City funded farming operations are structured to increase efficiency of wastewater disposal through irrigation, mitigate environmental impact through crop uptake of nitrogen, limit groundwater impact, and provide for future disposal needs, all in compliance with requirements of regulatory agencies. In particular, the program has been tasked with insuring that the Tulare County Landfill is not compromised by City discharge operations.

Under these stated objectives, the WWTF Farming Program can be separated into three distinct categories – operated under one umbrella budget:

1. **Farming Operations** – Includes individual crop enterprises utilizing wastewater for irrigation and crops that utilize significant portions of the wastewater’s nitrogen.

2. **Non-Crop Operations** – Includes activities that bring the program into compliance but are not fundamentally necessary to the farming operations. These activities are not part of conventional farming practices, i.e. ripping or gypsum application for improved wastewater penetration, at least not at the frequency practiced by the City.

3. **Capital Improvement Projects** – Includes Percolation Pond development and maintenance, and construction and maintenance of the water delivery systems.

These three elements are linked on an operational basis but can be separated for financial analysis.

The "farming program" has been reviewed extensively at two previous council meetings. On October 4th, staff was directed to bring back this matter on November 15th with a completed financial review of the Wastewater Disposal and Farming Program and recommendations to modify the existing Farm Management Agreement.

FINANCIAL REVIEW SUMMARY

Financial Review Preparation

An internal examination of the financial performance of the program has been completed by John Baker, Superintendent of the WWTF, and Karol Aure-Flynn, independent agricultural consultant\(^1\). The alfalfa-crop cultural practices were reviewed with Carol Frate, Tulare County University of California Cooperative Extension (UCCE) Advisor. Steve Pressley, CPA, is currently reviewing city records and has reviewed the farm financial material submitted to him October 25. Staff expects that Mr. Pressley will attend the December 20th study session to answer questions.

\(^1\)Karol Aure-Flynn has been working with the City on implementing the Farmworks software since Sept. of 2004. She has a MBA from UC Davis and has cross checked the City farming data with UC Cooperative Extension’s accepted farming practices.
Financial Situation

The financial results over the two fiscal years examined show a loss in farming operations of $100,500 for FY 03/04, and $20,000 for FY 04/05. Overhead and maintenance costs, including non-crop and percolation pond related expenses contributed to additional losses with net losses of $325,800 for FY 03/04, and $236,400 for FY 04/05.

A comparison of the various financial presentations to City Council is summarized on an attached sheet. The original estimates for the farming cost presented to Council in December of 2002 projected a loss in the farming operation for 03/04 of $29,485 and in 04/05 a profit of $62,972. The analysis of November 2005 showed the farming operational loss for 03/04 at $100,562 and the 04/05 loss at $20,678. A difference in projections from 2002 to 2005 of $71,077 for 03/04 and $83,650 for 04/05. Original 2002 estimates for non-crop expenses were conservative, and farming operations contained most of the expenses. The November 2005 analysis reallocated non-crop expenses that had been included in the farming expenditures. The non-crop expense went from a 2002 estimate for 03/04 of $21,080 to $188,258, and for 04/05 the estimate went from $21,309 to $195,110. The percolation pond maintenance expense remained fairly constant with the 2002 estimate going from $16,500 for both 03/04 and 04/05 to a 2005 analysis of $36,982 for 03/04 and $20,655 for 04/05.

Disastrous Wheat Rust Outbreak

For FY 03/04, losses were attributable to a disastrous wheat rust outbreak, poor markets for forage crops, and continuation of the drought which produced poor results for dryland oat farming. The 04/05 season showed a marked improvement in market and weather conditions, and the program limited its crop plantings to hay crops.

Farming Operation Equivalent to UCCE Estimates

Crop enterprise expenditures and budgets have been compared to UCCE estimates and found to be equivalent. Components of the "farming program", such as harvest costs, have been found comparable to local and available custom farming rates. Non-crop expenses, i.e. weed abatement and land preparation (ripping) specific to improving wastewater penetration, have been separated from operational activities. Capital improvement projects, such as percolation pond development and water delivery systems, have also been segregated.

Lessons Learned from Financial Review

Whereas the program’s initial intent was for the farming budget to absorb the costs of non-crop and percolation pond expenses, the harsh lessons of unpredictable agribusiness conditions make this intent a lofty goal. Expectations for the program should conclude that there will be years of excellent conditions where financial performance of the "farming program" will break-even and, perhaps, be profitable. The rigid constraints of the program, 5,694 acre feet of effluent per year, will not necessarily allow the flexibility that a pure agricultural operation can achieve.
Crop enterprises are chosen according to criteria that will allow the City to achieve program goals, i.e. wastewater uptake, non-human consumption products, high salts created by effluent irrigation and marketing opportunities. Crop enterprises will naturally evolve over program development. For example, the dryland oats farming enterprise has not contributed well to the program objectives on all basis of evaluation. For the program, the measurement of performance is whether overall objectives are achieved at a cost that is comparable or better than other methods.

An accurate evaluation of crop enterprise performance can only be accomplished through accurate cost allocations across fiscal years. City financial records are kept on a cash-basis, with fiscal year July 1-June 30, this has two impacts on the evaluation of program performance. First, all expenses for long term capital improvement projects, i.e. percolation pond development and maintenance, are expensed at the time of cash outlay, rather than amortized over the life of the activity’s value. Second, many correlated farming expenses and revenues fall on either side of the July 1- June 30 fiscal year, which creates accounting concerns.

Options

1. **Continue with the existing contract for the remaining years left on the contract.**

   Pros: 1. Allows the farm operation to continue uninterrupted.
   2. Process and procedures familiar to both City and Farmer.

   Con: 1. Expected revenues under current conditions and restrictions will be less than satisfactory.

2. **Contract with the current farm manager with modifications and/or adjustments to the present agreement.**

   Pros: 1. Allows farm operation to continue with minimal to no interruptions.
   2. Process and procedures familiar to both City and Farmer.
   3. Modified agreement will streamline process, will segregate total operation into “farming” vs. “non-farming” categories and their respective costs.

   Con: 1. Changes to the agreement may not result in significant increases to the farm revenue.

3. **Prepare and distribute RFP’s for a new contract after modifications/adjustments have been made to the present agreement.**

   Pros: 1. Process and procedures familiar to City staff.
   2. New farmer may bring in fresh ideas, better equipment.
   3. City may realize increase in revenues.

   Cons: 1. Potential learning curve for new farmer may result in minor concerns with the RWQCB.
2. Crop restrictions placed on new farmer may make it difficult for farmer to realize a profit resulting in less than satisfactory attention and performance by the farmer.

4. **Prepare and distribute RFP's to lease the land under an alternative farm agreement which removes City managerial controls.**

**Pros:**
1. New farmer may bring in new ideas and better equipment.
2. City may realize increase in revenues.
3. Significant decrease in staff time related to management and oversight of farming agreement.

**Cons:**
1. Crop restrictions placed on farmer may make it difficult for farmer to realize a profit resulting in less than satisfactory attention and performance by the farmer.
2. Implementation of a new "farm model" may invite RWQCB to re-visit conditions placed on the City by RWQCB with the results being unknown.
3. A more-than-likely chance that the farming operation will be disrupted during the RFP process resulting in an interim contract with the current farmer and/or with a farmer unknown to staff at this point.
4. Requires consent of the current property owner of lease modification, or buy-out of lease purchase.

**Recommended Option - Modify Farm Management Agreement**

It is staff's recommendation to modify certain components of the existing farm management agreement to improve the operation. Some items of savings have already been implemented, such as discontinuing the dry farming operations. Other items have been negotiated with Mr. Nuckols and the estimated savings are attached. Some of the recommended changes to save money and streamline the operation include balance sheets for the three sub-programs of the operation, reconcile fiscal to crop year discrepancies, acreage charges for work instead of hourly rate, pay by the ton verses by the bale, outline expenses involved in management fee, and separation of irrigation, supplies and labor.

**RECOMMENDATION:**

That the City Council:

1. Direct Staff to prepare the modifications to the existing Farm Management Agreement with Mr. Nuckols for the remaining two years; and

2. Authorize the Mayor to sign the revised agreement on behalf of the City.

**ATTACHMENTS:**

- Chronology of Wastewater Reclamation Events
- Summary of Profits and Losses as given to City Council
- Financial Summary, WWTF Disposal Program Farming Operations Agreement Change Considerations
CHRONOLOGY OF WASTEWATER RECLAMATION EVENTS

1986  Effluent disposed of in holding ponds at the WWTF
1987  Began irrigating Nuckols property with effluent
1996  Nuckols sold 160 acres reducing irrigated inventory to approx. 249 acres
2000  City negotiating new VDR, more irrigated land required
2000  Limits on effluent/ac & nitrogen/ac to be used
2000  City purchased Underhill 160 acres of unlevel land
2001  Started converting 160 acres of airport to irrigate
Sep-02 Began negotiations for management and purchase agreement with Nuckols for effluent disposal
Dec-02 City lease/purchased Nuckols property of 169 acres
Dec-02 Nuckols began farming under City control
Jan-03 Added 14 acres of new percolation ponds from Underhill property to reduce landfill groundwater impacts
Apr-03 Converted 46 acre site of old percolation ponds to irrigated agriculture
Jul-03 Nuckols was asked to convert 18 acres of Underhill property for more percolation ponds
Sep-03 City began negotiations for Hunsaker 169 acre site east of Underhill
May-04 City borrows $5.4 million to complete projects required to meet WDR's & CDO
2004  Completed purchase of Hunsaker property
Jul-04 Purchased "Farm Works" software for financial management and mapping capabilities
Nov-04 Contracted for assistance with data and software for farming
Nov-04 Closed out 03/04 farming budget
Dec-04 Loaded FY 03/04 data into new "Farm Works" data base
Jan-05 Consultant provided evaluation of costs for farming vs University of Calif. Cooperative Extension (UCCE) estimates
Jan-05 Obtained lease agreement copies from other agencies that use their effluent for irrigation
Jul-05 Prepared template for comparisons of lease agreements
Aug-05 Considered use of effluent on Merritt farms 145 acres
Sep-05 Farm management agreement study session with City Council
Oct-05 Sludge bed expansion project completed
Oct-05 City Council considers termination of farm management agreement, continues discussion until Nov.
Oct-05 Used past expenses to determine costs/acre charged for 03/04 & 04/05 to compare with UCCE estimates
Oct-05 Sent operation costs to Auditor for evaluation for FY's 03/04 and 04/05
Oct-05 Three members of City Council toured the reclamation area
Oct-05 Karol Flynn (consultant for WWTF staff) discussed the data sent to Steve Pressley regarding cost centers
Nov-05 City Council reviewed farming and RFP possibilities
Nov-05 City Council continued discussion of farming and leasing of properties
Dec-05 City Council continued discussion of farm management agreement and scheduled Dec. 20, 2005, study session
Dec-05 Scheduled farm tour for remaining City Council members
Summary of Profits and Losses as given to City Council
Regarding the Porterville Reclamation area and Farming activities

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>Farming Ops.</strong></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Total Rev/Expense</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>03/04</td>
<td>($29,485)</td>
<td>*</td>
<td>($100,562)</td>
</tr>
<tr>
<td>04/05</td>
<td>$62,972</td>
<td>($120,305)</td>
<td>($20,678)</td>
</tr>
<tr>
<td>05/06</td>
<td>$52,666</td>
<td>($96,231)</td>
<td>*</td>
</tr>
<tr>
<td><strong>Non crop</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expense</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>03/04</td>
<td>($21,080)</td>
<td>*</td>
<td>($188,258)</td>
</tr>
<tr>
<td>04/05</td>
<td>($21,309)</td>
<td>($129,845)</td>
<td>($195,110)</td>
</tr>
<tr>
<td>05/06</td>
<td>($21,539)</td>
<td>($117,797)</td>
<td>*</td>
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<tr>
<td><strong>Perc pond</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expense</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>03/04</td>
<td>($16,500)</td>
<td>*</td>
<td>($36,982)</td>
</tr>
<tr>
<td>04/05</td>
<td>($16,500)</td>
<td>($8,500)</td>
<td>($20,655)</td>
</tr>
<tr>
<td>05/06</td>
<td>($16,500)</td>
<td>($8,500)</td>
<td>*</td>
</tr>
</tbody>
</table>

* not presented

NON-CROP ITEMS INCLUDE: Ripping, tree and stump removal, root removal, laser leveling, new road building, soils testing, weed abatement, fence building and repairs, land leases and purchase.
### CITY of PORTERVILLE - WWTF Disposal Program Farming Operations

#### Income Statement

**2003-2004 2004-2005**

<table>
<thead>
<tr>
<th>Farming Operations</th>
<th>03-04</th>
<th>04-05</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INCOME</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alfalfa</td>
<td>113,525</td>
<td>187,089</td>
</tr>
<tr>
<td>Sudan Grass</td>
<td>15,174</td>
<td>50,898</td>
</tr>
</tbody>
</table>
| Oats, Dryland      | 64,215  | 69,505  | *
| Oats, Irrigated    | 0       | 1,674   |
| Oats, total        | 64,215  | 71,178  |
| Wheat              | 3,130   | 0       |
| Plums              | 3,000   | 0       |
| **total income**   | 199,044 | 309,165 |
| **EXPENSE**        |       |       |
| Alfalfa            | 160,121 | 177,238 |
| Sudan Grass        | 56,146  | 45,933  |
| Oats, Dryland      | 76,114  | 93,369  |
| Oats, Irrigated    | 0       | 13,304  |
| Oats, total        | 76,114  | 106,673 |
| Wheat              | 7,225   | 0       |
| Plums              | 0       | 0       |
| **total expense**  | 299,608 | 329,843 |
| **TOTAL**          | 299,608 | 329,843 |

#### Gross Margin

<table>
<thead>
<tr>
<th>Gross Margin</th>
<th>03-04</th>
<th>04-05</th>
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<tbody>
<tr>
<td>Alfalfa</td>
<td>-46,596</td>
<td>9,851</td>
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<tr>
<td>Sudan Grass</td>
<td>-40,972</td>
<td>4,965</td>
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<tr>
<td>Oats, Dryland</td>
<td>-11,899</td>
<td>-23,864</td>
</tr>
<tr>
<td>Oats, Irrigated</td>
<td>0</td>
<td>-11,630</td>
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<tr>
<td>Oats, total</td>
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<td>-35,494</td>
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<tr>
<td>Wheat</td>
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<td>0</td>
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<tr>
<td>Plums</td>
<td>3,000</td>
<td>0</td>
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<tr>
<td><strong>TOTAL Gross Margin</strong></td>
<td>-100,562</td>
<td>-20,678</td>
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#### Non-Crop Expenses/OH & M

<table>
<thead>
<tr>
<th>Non-Crop Expenses/OH &amp; M</th>
<th>03-04</th>
<th>04-05</th>
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<tbody>
<tr>
<td>Labor/Equipment</td>
<td>177,582</td>
<td>187,892</td>
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<tr>
<td>Fuel</td>
<td>10,676</td>
<td>7,219</td>
</tr>
<tr>
<td><strong>Total Non-Crop Expenses</strong></td>
<td>188,258</td>
<td>195,110</td>
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</table>

#### Perculation Ponds Expenses/ OH & M

<table>
<thead>
<tr>
<th>Perculation Ponds Expenses/ OH &amp; M</th>
<th>03-04</th>
<th>04-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor/Equipment</td>
<td>34,206</td>
<td>20,156</td>
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<tr>
<td>Fuel</td>
<td>2,775</td>
<td>499</td>
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<tr>
<td><strong>Total Perc Ponds</strong></td>
<td>36,982</td>
<td>20,655</td>
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</table>

**Net Profit**

<table>
<thead>
<tr>
<th>Net Profit</th>
<th>03_04</th>
<th>04_05</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>-325,802</td>
<td>-236,443</td>
</tr>
</tbody>
</table>

### SUMMARY

<table>
<thead>
<tr>
<th>SUMMARY</th>
<th>03_04</th>
<th>04_05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farming Ops</td>
<td></td>
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</tr>
<tr>
<td>Income</td>
<td>199,044</td>
<td>309,165</td>
</tr>
<tr>
<td>Expense</td>
<td>(299,606)</td>
<td>(329,843)</td>
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<tr>
<td><strong>Total Farming Ops</strong></td>
<td>(100,562)</td>
<td>(20,678)</td>
</tr>
<tr>
<td>Non Crop</td>
<td>(188,258)</td>
<td>(195,110)</td>
</tr>
<tr>
<td>Perc Ponds</td>
<td>(36,982)</td>
<td>(20,655)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>($325,802)</td>
<td>($236,443)</td>
</tr>
</tbody>
</table>

* 23,000 bales of Oats inventory has been sold payment not yet received
## Agreement Change Considerations

### Calculations and values averaged from 03/04 and 04/05

<table>
<thead>
<tr>
<th></th>
<th>Current Cost</th>
<th>Post change</th>
<th>Savings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Modify provisions of decreasing management fee for dry land farming, Irrigation only 5%/100 ac eliminating dry land reduces contract for management by about 9% for 421 ac in airport plus 142 ac of Underhill @ 1.6%/100 ac. Total reduced acres by 563 ac.</td>
<td>$74,002</td>
<td>$6,666</td>
</tr>
<tr>
<td>2</td>
<td>Non-Crop and Percolation Ponds costs to Capital Improvement projects as bid items for all possible land development a) All laser leveling, calculated on hourly rate, varies depending upon property undulations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Budget and pay for farming (Cultivation) activities on a completed per ac price. a) Nuckols to buy own twine, currently City paid,</td>
<td>$6,145</td>
<td>$6,145</td>
</tr>
<tr>
<td></td>
<td>b) Baling cost change to guarantee weight of 115 lbs/bale Alfalfa Only</td>
<td>$5,440</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Other changes in management services a) Inventory all quantities on hand each June 30.</td>
<td>-</td>
<td>NC</td>
</tr>
<tr>
<td></td>
<td>b) Stop dry land farming (done 10/05, weed abatement still required)</td>
<td>$46,446</td>
<td>$32,000</td>
</tr>
<tr>
<td></td>
<td>c) Provide for irrigation costs as separate budget line item &quot;show new Manag. Fee&quot;</td>
<td>$24,375</td>
<td>NC</td>
</tr>
<tr>
<td></td>
<td>d) Pay for cultivation on per acre at reduced rates for 100 acres of new alfalfa</td>
<td>$45,500</td>
<td>$2,730</td>
</tr>
<tr>
<td></td>
<td>e) Reduction in Harvest costs of 7% overall from $ 270/ac/yr to $251/ac/yr</td>
<td>$27,000</td>
<td>$1,890</td>
</tr>
</tbody>
</table>

**TOTAL POTENTIAL SAVINGS** | $54,871 |
COUNCIL AGENDA: DECEMBER 20, 2005

SUBJECT: DRAFT ORDINANCE AMENDING SECTIONS 19-2, 19-3, 19-4, 19-5, AND 19-7 OF CHAPTER 19, OF ARTICLE 1, OF THE PORTERVILLE MUNICIPAL CITY CODE CONCERNING PARTICIPATION BY PORTERVILLE UNIFIED SCHOOL DISTRICT ON THE PARKS AND LEISURE SERVICES COMMISSION

SOURCE: Parks and Leisure Services Department

COMMENT: The City Council has requested the revision of the City Code to eliminate ex-officio members from the Parks and Leisure Services Commission, and to provide for an eighth voting member on the Commission to be appointed by the Porterville Unified School District. A draft ordinance has been prepared to accomplish the needed Code revision.

RECOMMENDATION: Approve the first reading of the draft ordinance, being an Ordinance of the City Council of the City of Porterville amending Sections 19-2, 19-3, 19-4, 19-5, and 19-7 of Chapter 19, of Article 1, of the Porterville Municipal Code concerning participation by the Porterville Unified School District on the Parks and Leisure Services Commission.

ATTACHMENT: Draft Ordinance

ITEM NO: 18
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING SECTIONS 19-2, 19-3, 19-4, 19-5, AND 19-7 OF CHAPTER 19, OF ARTICLE 1, OF THE PORTERVILLE MUNICIPAL CODE CONCERNING PARTICIPATION BY PORTERVILLE UNIFIED SCHOOL DISTRICT ON THE PARKS AND LEISURE SERVICES COMMISSION

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

SECTION 1. Section 19-2 of Chapter 19, Article 1 is hereby amended to read as follows:

19-2. Parks and leisure services commission created; composition; function.

There is hereby created a park and leisure services commission, and said commission shall be composed of eight (8) members, who shall be residents of the City of Porterville. The park and leisure services commission shall serve in an advisory capacity to the city council.

SECTION 2. Section 19-3 of Chapter 19, Article 1 is hereby amended to read as follows:

19-3. Appointment.

Seven (7) of the said commission members shall be appointed by the mayor with the consent of a majority of the city council.

SECTION 3. Section 19-4 of Chapter 19, Article 1 is hereby amended to read as follows:

19-4. Term of office and compensation.

Terms for all commissioners appointed four (4) years, excepting the term for the first appointee by Porterville Unified School District as described in Section 19-5 and excepting the terms for the first appointees to the commission shall be as follows: Four (4) commissioners shall be appointed to four-year terms and three (3) commissioners shall be appointed to two-year terms commencing July 1, 1977. The terms of commissioners first appointed shall be determined by lot at an organization meeting of the commission, to be held and conducted within a reasonable time after said appointments. All Commissioners
shall serve at the pleasure of the city council and may be removed by a majority vote of the city council at any time and for any reason. Members of the commission shall serve without compensation. No member of the commission shall serve more than two (2) consecutive four-year terms.

SECTION 4. Section 19-5 of Chapter 19, Article 1 is hereby amended to read as follows:

19-5. Member Appointed by Porterville Unified School District.

One representative of the Porterville Unified School District shall be selected by the District to serve as a voting member of the commission, excepting the term for the first appointee which shall be as follows: the first commissioner’s term will commence March 1, 2006 and will terminate on October 31, 2007. The four-year term thereafter will commence on November 1.

SECTION 5. Section 19-7 of Chapter 19, Article 1 is hereby amended to read as follows:

19-7. Meetings; records; quorum.

The commission shall hold meetings regularly and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of proceedings. All meetings and records of the commission shall be public. Five (5) members shall constitute a quorum for the transaction of business.

SECTION 5. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.

ADOPTED, SIGNED AND APPROVED this _______ day of ____________, 2006.

President of the Council and Ex-Officio
Mayor of the City of Porterville

ATTEST:

Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville

E:\julia\MKJ\PORTERVIGENERAL\ORDPRKREC.WPD
SUBJECT: Consideration of Implementation of New Police And Fire Hirings and Literacy Program Support

SOURCE: City Manager’s Office

In November, the Voters of Porterville authorized an additional .5% sales tax. In addition, recently, the Local Agency Formation Commission approved island annexations which had been submitted by the Porterville City Council for consideration.

These actions will achieve additional levels of revenue in sales and utility users’ tax. Also, there is an important expectation that service levels within police, fire and literacy will be enhanced.

Attached are two schedules. The first defines expected dates of actions. This outlines when the steps for implementing both the sales tax and utility users’ tax will be completed and when it is anticipated new revenues will be received.

The second schedule defines the relationship between the hiring of new public safety employees and literacy expenditures and the new monies to be received from sales and utility users’ tax. The initial columns show the months of hire for officers and firefighters while the final column in the exhibit is the estimated cumulative cash flow.

It is estimated that the cash flow deficit will reach ($372,235) in July, 2006, but by February, 2007 the sales and utility users tax account are estimated to be cash flow positive. The hiring of police officers are anticipated to commence in January, 2006 and will continue at the rate of one per month until November, 2007. This will accommodate training schedules and will provide a consistent growth in the department. Firefighters are anticipated to be hired in April and May, 2006. To facilitate literacy programs including the expansion of library hours, by the cash flow which has been attached, monies will be allocated at the rate of 15% of public safety sales tax monies received to support literacy efforts.

Recommendation:

Authorizing the hiring of additional police and fire fighters consistent with the attached schedule, and allocate literacy funding consistent with the schedule.
## ESTIMATED TIME LINE FOR IMPLEMENTATION OF UTILITY USERS' TAX AND PUBLIC SAFETY SALES TAX

### Utility Users' Tax for Annexations
- **Dec-05**: Tax Agreement Signed
- **Jan-06**: Tax Agreement Signed
- **Feb-06**: Cert of Completion from LAFCO/Notify Utilities Early
- **Mar-06**: Annexation Process Completed/Notify Utilities Late
- **Apr-06**: Utility Bill UUT in Annexed Areas
- **Jun-06**: Users' Pay UUT to Utilities
- **Aug-06**: CITY RECEIVES UUT PAYMENT FROM UTILITIES
- **Sep-06**: CITY RECEIVES UUT PAYMENT FROM UTILITIES
- **Oct-06**: CITY RECEIVES UUT PAYMENT FROM UTILITIES
- **Nov-06**: CITY RECEIVES UUT PAYMENT FROM UTILITIES
- **Dec-06**: CITY RECEIVES UUT PAYMENT FROM UTILITIES
- **Jan-07**: CITY RECEIVES UUT PAYMENT FROM UTILITIES
- **Feb-07**: CITY RECEIVES UUT PAYMENT FROM UTILITIES

### Public Safety Sales Tax Increase
- **May-06**: Agreements for Sales Tax Filed w/State
- **Jun-06**: Sales Tax Payments Made by Buyers to Retailers
- **Jul-06**: Sales Tax Payments Made by Retailers to State
- **Aug-06**: Sales Tax Payments Allocated by State to City
- **Sep-06**: CITY RECEIVES QUARTERLY SALES TAX PAYMENT
- **Oct-06**: Sales Tax Payments Made by Retailers to State
- **Nov-06**: Sales Tax Payments Allocated by State to City
- **Dec-06**: CITY RECEIVES QUARTERLY SALES TAX PAYMENT
- **Jan-07**: Sales Tax Payments Made by Retailers to State
- **Feb-07**: CITY RECEIVES QUARTERLY SALES TAX PAYMENT
## Estimate of Cumulative Cashflow to Implement New Sales Tax and Utility User Tax Revenues (14 Dec 05)

<table>
<thead>
<tr>
<th>Month</th>
<th>#</th>
<th>Library Cost</th>
<th>Cost of Police</th>
<th>Cost of Fire</th>
<th>UUT Revenue</th>
<th>Sales Tx Revenue</th>
<th>Total Cum Revenue</th>
<th>Total Cum Expend</th>
<th>Cashflow Cumulative</th>
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<td>Dec-2005</td>
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<td>$0</td>
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SUBJECT: Consideration of Preliminary Proposal for Infrastructure And Operational Enhancements

SOURCE: City Manager’s Office

A copy of the Preliminary Proposal for Infrastructure and Operational Enhancements prepared by Johnson Controls has been distributed to the City Council. The Executive Summary in this document outlines that Johnson Controls completed an energy efficiency preliminary analysis for the City of Porterville.

Potential City Infrastructure Improvement Measures: From the analysis, Johnson Controls expects to achieve between $303,000 and $853,000 annually in energy savings and increased revenue potential for the City of Porterville. This is through measures at the Wastewater Treatment Plant, Water Pumping Stations, Street and Safety Lighting Retrofit, Water Meter Upgrade, Indoor Lighting Retrofit, HVAC Improvements, HVAC Controls Enhancements, and Renewable Energy Supplemental Power Systems. The savings or new monies would be achieved through performance contracts, capital projects, grants, incentives, and rebates.

Draft Project Development Agreement: Johnson Controls has provided the City with a copy of a “Project Development Agreement/Letter of Intent”. This document provides that Johnson Controls will prepare a facilities study outlining modifications within the organization including energy and operational savings and/or projected revenue increases that will offset modifications over a period not to exceed 15 years.

For this analysis, the City agrees to enter into an implementation agreement within 60 days of the delivery of the study. The agreement will involve potentially non-bid performance contracts administered by Johnson Controls and for which the City carries debt to cover the projects, capital projects, grants, incentives and rebates that Johnson Controls will work on behalf of the City to identify and procure.

If the City does not enter into an agreement with Johnson Controls within 60 days, a payment of $146,000 will be made to Johnson Controls, unless the City can demonstrate that it does not meet specific financial criteria including acceptable financing for capital requirements, compliance with Government Code Section 4217 in terms of performance purchasing implemented through Johnson Controls and the level of sewer rate increase.
The draft Project Development Agreement/Letter of Intent provided by Johnson Controls specifies that the agreement between Johnson Controls and the City will be confidential to the extent permitted by law. Except as authorized in writing the City would agree to keep “proprietary information” confidential and upon the termination of the agreement all information and documents must be returned to Johnson Controls.

Johnson Controls has defined areas which need to be upgraded and improved in terms of fixtures and utilities. Especially, heating and cooling equipment needs to be upgraded and the City should embark on a replacement program for water meters which improves accuracy and facilitates reading.

**Proposed Modifications to Agreement And Implementation Approach:** The City Manager suggests, however, that sufficient time should be given to administering any agreement with Johnson Controls. Considerable effort should be undertaken by the staff to assure borrowing is on favorable terms, performance contracts are appropriate and that implementation is consistent with City financial capabilities. At this time, due to change of staffing, organizational capacity does not appear to be available. It is recommended then, that this item be returned to the Council for consideration when the new Administrative Services Manager is hired.

In addition, provisions in the draft agreement should be more fully negotiated. For example, after the City pays $146,000 to Johnson Controls, the City should be able to use all analyses and documents to negotiate with other vendors to accomplish the energy savings and revenue improvements. The payment of the sum should not be a penalty, but rather the purchase of information.

Also, the provision regarding energy and operational savings and/or projected revenue increase should be defined on an annual basis. The City, because of many changes, should watch its cash flow very carefully. Any agreement with Johnson Control should provide specific standards for cash flow on an annual basis, not only over the 15 year period defined in the contract.

These areas within the proposed contract should not overcome the City’s efforts to pursue the kinds of modifications suggested by Johnson Controls. This is an area of significant potential savings and energy efficiency. The point of this staff report is that when it is pursued because of the large sums of money involved, it should have adequate staff support. This should be available when the new Administrative Services Manager is hired.

**RECOMMENDATION:** Direct that the Project Development Agreement/Letter of Intent should be negotiated and returned for Council consideration after the new Administrative Services Manager has been retained.
SUBJECT: OFF HIGHWAY VEHICLE PARK INSURANCE

SOURCE: Department of Parks and Leisure Services

COMMENT: The Porterville Off Highway Vehicle Track for the past year has been insured by a licensed liability carrier, Save The Tracks, Inc. During the past year, Save The Tracks held a master policy with International Pacific Insurance located in the Caribbean. Crawford and Company, located in the United States, managed the claims services. Save The Tracks, Inc. was formed specifically to provide motocross track operators liability at a reasonable rate.

Annual renewal of the insurance coverage was needed in November 2005, and Save The Tracks, Inc. provided an annual premium cost for the amount of $8,491.88, which is less than last year’s premium of $9,020.00. Save The Tracks, Inc., currently holds a master policy with Western Heritage Insurance Company, located in Albuquerque, New Mexico. Strachota Insurance Agency from Temecula, California handles the claims management services.

The policy carrier, Western Heritage Insurance Company, is not licensed by the State of California; however, it is a carrier of the Surplus Line Association of California. Under the Surplus Line Association, carriers must meet strict surplus line laws and regulations in order to provide insurance to California businesses and residents.

Staff did not notice that Western Heritage Insurance Company was not licensed in California at the time of the premium payment and insurance authorization was made. Save The Tracks, Inc., currently provides insurance for thirteen (13) tracks throughout California, Arizona and Hawaii. Locally, the City of Tulare is currently a client of Save The Tracks, Inc.

Staff anticipate that a process to solicit a contract operator of the OHV facility will be available for City Council consideration for the February 7, 2006 meeting. Insurance coverage responsibilities are expected to be a part of that consideration.

RECOMMENDATION: That the City Council ratify the liability insurance coverage through Save The Tracks, Inc. and their claims management and policy carrier, (Strachota Insurance Agency and Western Heritage Insurance Co.) for casual/practice riding at the Porterville Off Highway Vehicle Park in the amount of $8,491.88.