CITY COUNCIL MINUTES  
PORTERVILLE, CALIFORNIA  
DECEMBER 20, 2005 6:00 P.M.

Call to Order at 6:02 p.m.  
Roll Call: Council Member Irish, Council Member Martinez, Mayor Pro Tem Hamilton, Council Member Stadtherr, Mayor West

ORAL COMMUNICATIONS
1. Greg Shelton, 888 N. Williford Drive, spoke regarding Closed Session Item A-4 and voiced support for including “non-card-carrying” individuals in the search for a Golf Course Manager.

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
City Attorney Julia Lew reported that no action had been taken.

Pledge of Allegiance Led by Council Member Ron Irish
Invocation - a Moment of Silence was observed.

PRESENTATIONS
Employee Service Awards
• Richard Bartlett, Field Services, 15 years of service
• Joe Ramirez, Field Services, 15 years of service
• Wyndi Ferguson, Field Services, 10 years of service

ORAL COMMUNICATIONS
• Greg Shelton, address on record, voiced concern with comments made during the Study Session with regard to the farming operation. He voiced displeasure with net losses in the operation and attributed those losses to poor management. Mr. Shelton then reiterated his request to open the contract up to bid.
• Neil Smith, 55 North Hockett Street, came forward on behalf of the Rotary Club and re-affirmed the organization’s pledge of $15,000 towards the Skate Park, Item 3.
• Raul Pickett, 1501 E. Olive Avenue, spoke regarding a proposal submitted to the City regarding a volunteer income tax assistance program, and spoke of the needs of the community in this regard. He requested the City’s support in such a program.

CONSENT CALENDAR

Items 4 and 13 were removed.

Noting a potential conflict of interest, Council Member Irish indicated that he would abstain from the vote on Item No. 6.

Council Member Stadtherr requested that Scheduled Matter No. 20 be moved as far up on the Agenda as possible, to accommodate the representatives from Johnson Controls who had traveled to Porterville that evening from out of the area. City Attorney Julia Lew recommended that procedurally, the Public Hearings should be taken first, and that Item 20 could be taken immediately thereafter.

1. CITY COUNCIL MINUTES OF NOVEMBER 1, 2005

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

Documentation: M.O. 01-122005
Disposition: Approved.

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

Recommendation: That the City 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.

Documentation: M.O. 02-122005
Disposition: Approved.

3. AUTHORIZATION TO ADVERTISE FOR BIDS - SKATE PARK PROJECT

Recommendation: That the City Council:
1. Accept the probable estimate of costs; and
2. Authorize staff to advertise for bids on the project.

Documentation: M.O. 03-122005
Disposition: Approved.
5. AUTHORIZATION TO REJECT ALL BIDS AND RE-ADVERTISE HERITAGE CENTER TINY TOTS PLAYGROUND PROJECT

Recommendation: That the City Council, in accordance with City Council policy:
1. Reject all bids for the construction of Heritage Center Tiny Tots Playground; and
2. 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.

Documentation: M.O. 04-122005
Disposition: Approved.

6. INTENT TO VACATE A PORTION OF WILLOW AVENUE RELATED TO THE DEVELOPMENT OF LONG’S DRUG STORE ON HOCKETT STREET (SMITH’S ENTERPRISES)

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 as soon thereafter, as the time and place for a public hearing.

Documentation: Resolutions 175-2005 and 176-2005
Disposition: Approved.

7. REQUEST FOR ONE (1) TEMPORARY MODULAR STRUCTURE TO BE UTILIZED AS A SALES OFFICE

Recommendation: That the City Council adopt the draft resolution and conditions of approval for the temporary modular structure for a period of time expiring on June 20, 2006.

Documentation: Resolution 177-2005
Disposition: Approved.

8. AUTHORIZATION FOR ACCESS TO DISTRICT SALES TAX INFORMATION

Recommendation: That the 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.

Documentation: Resolution 178-2005
Disposition: Approved.
9. AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN, EMPLOYEE BENEFIT TRUST FUND AND EMPLOYEE RETIREMENT SYSTEM

Recommendation: That the City Council adopt the draft resolution amending the Employee Pay and Benefit Plan for Fiscal Years 2005-2006 and 2006-2007, 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.

Documentation: Resolution 179-2005
Disposition: Approved.

10. ADDENDUM TO M.O.U. BETWEEN CITY/P.C.E.A., AND AMENDMENT TO CITY COUNCIL RESOLUTION NO. 67-2005

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 draft resolution amending Resolution No. 67-2005.

Documentation: Resolution 180-2005
Disposition: Approved.

11. CALTIP BOARD MEMBER RESOLUTION

Recommendation: That the City Council:
1. Approve the draft 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.

Documentation: Resolution 181-2005
Disposition: Approved.

12. CHRISTMAS TREE RECYCLING

Recommendation: Informational only.

Documentation: M.O. 05-122005
Disposition: Report accepted.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council approve Item Nos. 1 through 3, 5, and 7 through 12. The motion carried unanimously.

MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council approve Item No. 6.
4. AUTHORIZATION TO ADVERTISE FOR BIDS - TRAFFIC SIGNAL NO. 8
(PLANO STREET & MULBERRY AVENUE)

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.

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

Council Member Stadtherr commented that the School District had recognized the need for
a traffic calming devise at the subject intersection, yet according to the “Safe Routes to School”
Interim Guidelines, a traffic signal was not listed as a traffic calming devise. He then distributed
literature to that effect to the Council. Council Member Stadtherr then noted the extra cost for a
traffic signal versus a roundabout and questioned why the City should spend more money for a signal
when studies increasingly prove they are less safe. He then spoke of the policies of other local
municipalities to include roundabouts in their decision making processes, and spoke of specific
test cases of developed and/or planned roundabouts in the area. He then stated, as was asserted
previously by another Council Member on another item, that it was never too late to stop a project
that was headed in the wrong direction. He commented that he believed this project was headed in
the wrong direction, and referred to the State of New York’s policy which states, “...that the analysis
shows that a roundabout, if feasible, should be considered the preferred alternative due to the proved
substantial safety benefits and other operational benefits. With regard to safety, roundabouts reduce
vehicle speeds and result in significantly fewer accidents.” Council Member Stadtherr summarized
that the Department of Transportation of the State of New York had made roundabouts the default
form of intersection in the State of New York. He then related statistical data pertaining to the
safety benefits of roundabouts. He opined that what had seemed prudent in 2002 might not be
prudent in 2006, and moved that the plans and project manual for Traffic Signal 8 be rejected, that
staff be directed to attempt to renegotiate with Caltrans the Safe Route to School Grant to include the
construction of a roundabout, that the approved funds be reallocated for the use toward other traffic
calming devises in the vicinity of schools, and that in the event negotiations are not successful, that
staff be directed to apply for a new State Route to School grant for true traffic calming devises, as
specified in Interim Guidelines Section 24.5.

Council Member Martinez seconded Council Member Stadtherr’s motion and requested
further discussion.

At Mr. Longley’s request, Public Works Director Baldo Rodriguez addressed the potential
implications of Council Member Stadtherr’s motion and spoke of the grant funds already spent by the
City towards a traffic signal, which he stated might be forfeited. He then spoke of delays in the project, noting that Caltrans had required the funds be spent by June 30, 2006, or they would be lost.

Council Member Stadtherr commented that safety overrode money and timing factors, noting that roundabouts were proven to reduce fatalities by 90%. He reiterated his concerns with moving forward with a traffic signal.

Mr. Rodriguez requested the opportunity to investigate the ramifications of moving in the direction proposed by Council Member Stadtherr and to return to the Council with a full report to address the concerns. He then clarified that staff’s preference would be to move forward with the traffic signal, but if the Council was entertaining Council Member Stadtherr’s motion, to allow staff to research the issue and return at the next Council Meeting with a complete staff report detailing the ramifications. He commented that it was his understanding that when the Council had previously identified staff’s discretion in considering roundabouts, it had pertained to future situations and not to those projects that had already commenced. Mr. Rodriguez then noted that potential need to acquire additional real property for right-of-way purposes.

Council Member Martinez voiced support to allow staff the time to research the matter and to return to the Council.

Council Member Stadtherr noted the fiscal prudence in considering a design change at the subject intersection, and acquiesced to staff’s request to continue the item. He then questioned whether the City would have liability exposure in the event of an accident, if it proceeded with a traffic signal instead of roundabout, with the knowledge that roundabouts were safer.

City Attorney Julia Lew indicated that while she was not the City’s Risk Management Attorney, she did not believe the City would be liable, unless the Safer Routes to School project had required one design over the other.

Mayor Pro Tem Hamilton voiced support for moving forward with a traffic signal, pursuant to staff’s recommendation. He then noted a motion and second were on the floor.

Mayor West made an inquiry as to the difference in cost for a signal versus a roundabout, to which Mr. Rodriguez responded. Mayor West voiced support for directing staff to investigate the viability of a roundabout, suggesting it would be the prudent course of action considering the significant cost disparity.

Council Member Stadtherr requested information on annual maintenance costs for traffic signals. A figure of $2,000 was suggested, which staff indicated was a fair estimate. A discussion then ensued as to estimated maintenance costs for a roundabout, which staff indicated would depend on the diameter size and whether the center was landscaped. Council Member Stadtherr opined that the maintenance cost for a roundabout would likely be less.

Council Member Stadtherr withdrew his motion, and Council Member Martinez withdrew his second.
COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Martinez that the Council direct staff to bring a report back to the Council for consideration regarding the viability of proceeding with a roundabout at the intersection of Plano Street and Mulberry Avenue. The motion carried unanimously.

Disposition: Direction provided to staff.

13. STATUS UPDATE OF ORDINANCE TO REGULATE CONSTRUCTION, OPERATION AND MAINTENANCE OF WIRELESS COMMUNICATIONS TOWERS

Recommendation: That the City Council receive and file the report.

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

In response to a question posed by Council Member Irish, a discussion as to the regulation of utility poles ensued.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council receive and file the report as presented by staff.

M.O. 07-122005 The motion carried unanimously.

PUBLIC HEARINGS

14. PORTERVILLE COMMERCIAL CENTER DRAFT ENVIRONMENTAL IMPACT REPORT

Recommendation: Item presented for the Council’s information only and to allow the public to have comments included into the record.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report. Mr. Dunlap then introduced Stephen Peck, AICP, of Quad Knopf, Inc., the consulting firm that prepared the draft Environmental Impact Report (“EIR”), and turned the presentation over to him.

Mr. Dunlap indicated that staff had received a letter from an attorney representing Ennis Commercial Properties requesting that the public hearing be continued until January 17, 2006 so as to allow time to review the EIR.

The public hearing opened at 8:20 p.m.

- John Hale, a Bakersfield resident and project applicant, came forward and voiced support for the project.
• Daryl Nicholson, 26914 Avenue 140, spoke against the item, taking issue with the zoning of the property in the General Plan; the traffic issues at Jaye St. and Highway 190; the proposed removal of an oak tree; and the perceived preferential treatment in expediting the subject EIR.

• Greg Shelton, address on record, voiced concern with prioritizing/expediting one project before another.

• Ben Ennis, 643 North Westwood Street, spoke in opposition to the item, voiced concern with what he perceived was the unfair expedition of the subject project and the handling of The Home Depot Project; noted several mistakes in the EIR and voiced concern with incurring the brunt of the cost. Mr. Ennis then spoke of some potential retailers at his proposed shopping center, suggesting that the subject project might be detrimental to his securing same, and questioned why the City would jeopardize losing his project. He then requested that the Council disregard his attorney’s letter requesting a continuance and proceed with action that evening.

• Boyd K. Leavitt, 457 East Oak Avenue, agreed with comments made by Mr. Nicholson, and suggested that the applicant should also be required to prepare an Economic Impact Report. He voiced concerns with the draft EIR, particularly as it pertained to the removal of an Oak tree, and suggested that a double standard existed.

• Dick Eckhoff, 197 North Main Street, spoke against the proposed removal of an oak tree on the subject property.

The public hearing closed at 8:57 p.m. and immediately re-opened when an audience member voiced his desire to also speak.

• Felipe Martinez, 195 Putnam Avenue, questioned whether the traffic study had taken into account the proposed apartment complex at Date Avenue and E Street, and voiced concern with the process if it had not.

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

Mayor Pro Tem Hamilton noted the validity of the comments made by Mr. Nicholson, questioned staff’s expedition of the subject project, and suggested that the draft EIR be redirected through the proper processing channels.

Council Member Martinez requested that staff address why the subject project had been expedited.

Community Development Director Brad Dunlap indicated at that while both the subject project and the Riverwalk project had been tracking simultaneously, the Riverwalk project had fallen behind due to the necessity of and delays with the Economic Impact Analysis, which he attributed to the proposed inclusion of a Wal-Mart Supercenter.

Council Member Irish commented that the process had not been 100% correct, and cautioned that if the City continued on the same course, it would not get better. He then voiced support for continuing the item until the zoning was corrected.
City Attorney Julia Lew clarified that once a project application had been deemed complete, timelines were triggered. She indicated that with regard to the subject project, the timeline for completing the EIR had been exceeded, and therefore staff had become involved so as to meet with the legal requirements. She then went on to discuss the issue of timelines and how they were beyond the City’s control. Ms. Lew then clarified that in order to proceed with the Zone Change and the General Plan Amendment, the EIR had to be considered.

Mr. Dunlap elaborated further on the process, adding that EIR must come first, prior to moving forward with the General Plan Amendment and Zone Change. He then provided a review of the options that would be before the Council for consideration during the process. A discussion then ensued as to the different requirements for the subject project versus Riverwalk, which he attributed to the significant difference in size of the projects, as well as the location of both.

Mayor Pro Tem Hamilton noted that the Riverwalk project was required to have an Economic Analysis because of the recent court ruling by a judge in Bakersfield. He voiced disagreement with that ruling and stated that Section 15145 of CEQA Guidelines discouraged discussion of impacts that were speculative, requiring that “if a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.”

Mayor West confirmed with the City Attorney that in the event the EIR moved forward that evening, the Council still retained discretionary approval over the General Plan Amendment and the Zone Change.

Council Member Irish noted that the item was presented as an informational item only and that no action was required.

City Attorney Julia Lew noted the request to continue the public hearing, upon which Mr. Ennis informed the Council of his desire to withdraw said request.

Mr. Dunlap informed the Council that staff’s expectation was to bring the item back at the next meeting, yet noted however that the matter could be delayed until February 7, 2006.

Mayor Pro Tem Hamilton moved that the Council direct staff to prioritize the requirement of including a traffic circulation plan in the subject EIR, and that the EIR be brought back before the Council after the General Plan Amendment was approved. City Attorney Julia Lew advised the Council that law required the EIR must come prior to the General Plan Amendment or Zone Change.

Mayor Pro Tem Hamilton then amended his motion to only include requiring a traffic study in the EIR.

Council Member Martinez agreed with Mayor Pro Tem Hamilton’s concerns with regard to the lack of a traffic study in the draft EIR, noting the significant traffic issues in that area.

Mr. Dunlap clarified that the draft EIR before the Council included a full and complete traffic impact analysis pursuant to Caltrans criteria. He elaborated that the report took into account the
proposed subject project, existing traffic, proposed projects – including Riverwalk, as well as future
growth. A discussion ensued regarding the traffic impact analysis in the EIR and the related
mitigation measures. It was stated that the cost of required improvements would be shared on a pro-
rational basis, as well as through Developer Impact Fees. Mr. Dunlap noted that the City would also
bear some of the costs.

The Council recessed for ten minutes.

Mayor Pro Tem Hamilton rescinded his motion.

Disposition: Report received and public commentary accepted.

15. TENTATIVE PARCEL MAP 5-2005 AND CONDITIONAL USE PERMIT 10-2005

Recommendation: That the City Council:
1. Adopt the draft resolution in support of the approval for Tentative
Parcel Map 5-2005; and
2. Adopt the draft resolution in support of the approval for Conditional
Use Permit 10-2005 subject to conditions of approval.

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

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

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

- Jim Winton, business address 150 West Morton Avenue, came forward on behalf of
the applicant and spoke in favor of approval of the item.

The public hearing closed at 9:43 p.m.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member
Stadtherr that the Council adopt the draft resolution in support of the
Resolution 182-2005

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

Resolution 183-2005 MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem
Hamilton that the Council adopt the draft resolution in support of the
Resolution 183-2005

Ayes: Martinez, Hamilton, Stadtherr, West
Disposition: Approved.

Council Member Irish returned to the Council Chambers.

16. INITIATION OF ANNEXATION 454 (WASTEWATER DISCHARGE REQUIREMENT 05-01-103)

Recommendation: That the City Council continue the public hearing to the January 17, 2006 Council Meeting to allow the City Council to consider it in conjunction with the Zone Change for the project.

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

The public hearing was continued to the Council Meeting of January 17, 2006.

Disposition: Continued to January 17, 2006.

SCHEDULED MATTERS

20. CONSIDERATION OF PRELIMINARY PROPOSAL FOR INFRASTRUCTURE AND OPERATIONAL ENHANCEMENTS

Recommendation: That the City Council 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.

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

Mayor Pro Tem Hamilton confirmed with staff that additional analysis would be needed so as to identify the budgetary implications in the event the Council chose to move forward. He then suggested taking no action until such information was available.

Council Member Irish noted the complexity of the matter.

Council Member Stadtherr requested that the representative from Johnson Controls be afforded the opportunity to address the Council.

• Ralph Tyrell of Johnson Controls came forward and offered a presentation as to their proposal and spoke of the benefits to the City.

Mr. Longley clarified that staff’s recommendation was not to reject the item, but to defer it until such time as an Administrative Services Manager had been hired, which he stated would provide
the additional staffing necessary to allow time for proper analysis of the proposal. It was estimated that this might occur in or around March 2006.

The Council thanked Mr. Tyrell and his colleagues for their time and informed them that they would continue the matter as had been requested by staff.

Disposition: Continued.

17. FARM MANAGEMENT AGREEMENT

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.

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

Mayor Pro Tem Hamilton commented that he had been informed by Mr. Longley that he and several staff members had perceived the matter to be a witch hunt. He apologized if he had wasted staff’s time or the Council’s time and pointed to the information gleaned by the analysis. He then disagreed with the matter having been a witch hunt and noted that because of that perception, he would abstain from the vote that evening.

Council Member Irish posed a question as to staff’s estimated timeline for initiating a RFP, to which staff responded that if the Council approved staff’s recommendation, the expectation would be to commence the RFP at the expiration of the contract in two years. Council Member Irish spoke in favor of utilizing the RFP process for the management of the farm. A discussion then ensued as to staff’s estimated timeframe for increasing capacity. He commented that while mistakes had been made, the efforts had somewhat eased the pressure of the Cease and Desist Order. He then spoke in favor of change.

Mayor West voiced support for approving staff’s recommendation.

Mayor Pro Tem Hamilton questioned why any action was necessary if the matter had merely been a witch hunt.

Council Member Stadtherr suggested that the RFP should commence once there was one full agricultural year of cost accounting data available.

Council Member Irish commented that Council Member Stadtherr’s suggestion sounded reasonable.

Council Member Martinez noted the volatility of agriculture and suggested that Mr. Nuckols had not had the opportunity to produce the results that could be achieved. He then agreed
with Council Member Irish’s contention that the City should get out of farming, and confirmed with staff that the efforts thus far had thwarted a development moratorium and that progress had been made.

Mayor Pro Tem Hamilton pointed out that it was an Enterprise Fund and such funds were supposed to pay for themselves. He then noted that the issues should have been identified at a much earlier date.

In response to questions posed by the Council, Mr. Rodriguez spoke to the timeline for the RFP process. He estimated that the process would take approximately 6 to 9 months. A discussion ensued as to when the process should commence, during which it was decided to direct staff to commence with the RFP process in one year.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Council Member Stadtherr that the Council direct staff to prepare the modifications to the existing Farm Management Agreement with Mr. Nuckols for the remaining two years, and authorize the Mayor to sign the revised agreement on behalf of the City.

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

Disposition: Approved.

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

Recommendation: That the City Council approve the first reading of the draft ordinance, being an Ordinance of the City Council of the City of Porterville amending Sections 19-2, 9-3, 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.

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

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Council Member Irish that the Council approve the first reading of the draft ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING SECTIONS 19-2, 9-3, 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. The motion carried unanimously.

Mr. Longley read the Ordinance by title only.

M.O. 09-122005 MOVED by Council Member Martinez, SECONDED by Council Member Irish that the Council waive further reading and order the Ordinance to print. The motion carried unanimously.

Disposition: Approved.

19. CONSIDERATION OF IMPLEMENTATION OF NEW POLICE AND FIRE HIRINGS AND LITERACY PROGRAM SUPPORT

Recommendation: That the City Council authorize the hiring of additional police and fire fighters, and allocate literacy funding, consistent with the schedule as presented.

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

Council Member Irish inquired as to the possibility of including language in the employment contracts to require repayment of academy tuition in the event the employee resigned within a certain period of time.

Mr. Longley agreed that when the City paid for academy training – either for police or fire – the benefitting employee should be hired under contract. He indicated that the Council could direct staff accordingly.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council authorize the hiring of additional police and fire fighters, and allocate literacy funding, consistent with the schedule as presented; and direct staff to draft employment contracts for those individuals for whom the City pays academy tuition, with a provision for reimbursement in the event the employee terminates employment within a certain number of years. The motion carried unanimously.

Disposition: Approved, as amended.

21. OFF-HIGHWAY VEHICLE PARK INSURANCE

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.

City Manager John Longley presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report.
In response to questions posed by Mayor Pro Tem Hamilton, City Attorney Julia Lew clarified that as long as the carrier conformed to the provisions in place to cover entities within California, the City should not be in greater jeopardy. A discussion then ensued as the experiences of other local facilities covered by the same carrier, during which Mr. Perrine stated that none of the other local tracks had indicated any concerns with their coverage through Save The Tracks.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council ratify the liability insurance coverage through M.O. 11-122005 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. The motion carried unanimously.

Disposition: Approved.

ORAL COMMUNICATIONS

• Greg Shelton, address on record, voiced concern with comments regarding a “witch hunt” and requested copies of all records pertaining to the farming operation, pursuant to the provisions of the farm contract. He then voiced displeasure with both the comments made and the action taken that evening regarding the farming operation.

• Pete McCracken, 657 Village Green, spoke against governments being involved in the business of farming, and suggested that any RFP issued regarding Item 17 should pertain to services of Waste Water Compliance and not farming.

OTHER MATTERS

• Council Member Stadtherr suggested that staff look into the operational status of the drive-in.

The Council convened at 11:53 p.m. to Closed Session.

CLOSED SESSION

The Council reconvened at 12:21 a.m., and reported the following action:

A5- GOV. CODE § 54957 - PUBLIC EMPLOYEE PERFORMANCE EVALUATION

TITLE: CITY MANAGER.

It was reported that the Council had approved the following:

1. A five percent step increase to Step E, effective January 1, 2006, based on duty performance during 2005;
2. No cost of living adjustment, pursuant to City Manager’s request;
3. Continuation of $5,000 annual allocation to deferred compensation, as provided in original contract;
4. Participation in University of Virginia-Senior Executive Institute Short Program during 2006; and the Senior Executive Institute Second Tier Program in 2006 or 2007; and
5. Duty hour flexibility to undertake a Spanish language program.
ADJOURNMENT

The Council adjourned at 12:22 a.m. to the meeting of January 17, 2006

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Patrice Hildreth, Deputy City Clerk

SEAL

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Kelly West, Mayor