Call to Order at 6:32 p.m.
Roll Call: Council Member Irish, Council Member West, Mayor Pro Tem Hamilton, Council Member Stadtherr, Mayor Martinez

Pledge of Allegiance Led by Mayor Pro Tem Cameron Hamilton
Invocation - a moment of silence was observed.

ORAL COMMUNICATIONS
None

PUBLIC HEARING
1. COST ALLOCATION PLAN AND USER FEE STUDY

Recommendation: That the City Council:
1. Open the public hearing on the Cost Allocation Plan and User Fee Study; and
2. Adopt the proposed fee schedule.

City Manager John Longley presented the item, and introduced Mr. Dan Edds of MAXIMUS, Inc. who provided a presentation of the Cost Allocation Plan and User Fee Study. With respect to the Cost Allocation Plan, Mr. Edds spoke of both direct and indirect cost allocation. As to the User Fee Study, he addressed its purpose, spoke of the inter-relation of the Allocation Plan and the Fee Study, and then elaborated on the various steps taken by him and staff to arrive at the suggested fee adjustments. Mr. Edds lastly advocated for full cost recovery, indicating that the users who benefitted the most should incur the cost.

The Council recessed for 5 minutes.

The public hearing opened at 7:05 p.m.

- Greg Shelton, 888 N. Williford Drive, spoke against 100% cost recovery, stating that the inclusion of City-wide overhead costs in the cost recovery calculation amounted to double taxation, as citizens already funded such costs through taxes.
- Bob Keenan, Executive Vice President of the Building Industry Association, spoke against full cost recovery, and questioned comments made by Mr. Edds justifying full cost recovery.
- Jim Winton, business address at 150 West Morton Avenue, questioned the figures provided in the spreadsheets, with the exception of the productive hourly rate, and noted the disparity between the weight of indirect costs in the equation in Planning versus Engineering. He then spoke against the full cost recovery, noting that applicants should not bear the brunt of funding the cost of public services provided.
• Robert Keenan, address on record, commented on the illegality of basing fees on the valuation of a project.

The public hearing closed at 7:22 p.m.

Council Member Irish questioned the necessity of increasing the fees and noted the benefits gained by the City from the developers. He then inquired as to Mr. Edd’s expertise and how the City’s cost for a lot line adjustment compared to other cities. He suggested that the time estimates provided by staff for tasks were likely inflated. Council Member Irish then commented that he believed the counter time could be reduced if the City utilized the internet more for processing applications. He lastly referred everyone to Home Occupational Permit Fees and questioned the validity of basing the rate structure on a fluctuating number of issued permits.

Mr. Edds responded that the range between cities varied so greatly due to different processes and regulations, a like-comparison would not be possible. He then elaborated on the checks and balances designed into the system to determine time estimates and responded to Council Member Irish’s concern regarding the fee structure.

Mayor Pro Tem Hamilton agreed with Council Member Irish’s concerns that an increase in volume would create a profit or revenue stream, and questioned where that revenue would go. He voiced concern with the model and surmised that if volume increased, the City would collect more fees than was necessary for cost recovery. A discussion ensued as to the likelihood of such a situation occurring, during which Mr. Longley stated that if volume substantially increased, more personnel would be needed, which would thereby increase costs. Mayor Pro Tem Hamilton disagreed with Mr. Longley’s assessment that increasing staff would be necessary.

Mr. Longley elaborated on the deficiencies in the current fee schedule, and spoke of the proposed fee methodology and schedule. He indicated that he did not foresee a “profit” from the fees, but rather the ability to free-up tax dollars that were currently utilized to subsidize fee revenue deficiencies. He stated that he would like to utilize those tax dollars to improve technology and increase staffing levels to allow for programs such as code enforcement.

Council Member West suggested that when compared with Tulare and Visalia, Porterville appeared to be moving backwards and curtailing growth and development. He questioned why the City’s proposed fees were so much higher than comparison cities.

Council Member Irish commented that he did not believe the intent with the 1988 MSI Study had been to seek recover all the costs, but rather to offset the costs. He noted that the current study recommended full cost recovery.

Mr. Edds clarified that as a standard practice, MAXIMUS, Inc. included City-wide overhead costs as a part of the cost recovery calculation, unless specifically told not to do so.

Mayor Pro Tem Hamilton commented on what he believed to be the many benefits gained by developers, such as tax revenues generated off new homes built in the area, and sales taxes
generated by the new residents. He then voiced support for eliminating the overhead costs of the calculation, as well as the non-personnel costs. He opined that counter support was a support service and did not belong in the calculation.

Council Member Stadtherr elaborated on an analysis of the costs which he had personally conducted. He indicated that he attempted to split the costs into “public good” and “private good,” and cited the example of a park as a public good as many individuals could benefit from its use at one time, and a picnic gazebo within a park as a private good, as only one party could utilize the facility at one time. He noted that a fee was rightfully charged for that private use. He spoke of tax revenue used for the public good and voiced support for charging fees for the private good. He then confirmed with Mr. Keenan of the BIA that the development community expected to pay for the time and materials on a particular application. He then suggested various hypothetical situations and noted the need for being reasonable.

The City Manager offered a clarification as to the Council’s direction for staff. He indicated that he had understood from Mr. Winton and others that the $78.92 hourly rate was acceptable. He noted that the hourly rate applied to the direct costs, and referred everyone to page 3 of the Summary Tables provided with the staff report. A discussion ensued as to exactly what costs were included to reach the hourly rate of $78.92.

Mayor Pro Tem Hamilton spoke against charging for City-wide overhead, noting that the citizens were already paying for these services via taxes.

Mr. Longley suggested that the Council could provide direction as to methodology, the numbers could be recalculated and brought back to the Council for approval.

Council Member Irish again voiced concern with the validity of staff’s time. He then requested that a comparison be provided to the Council which reflected other local jurisdictions and how their staff rates compared to Porterville, such as for PRC. He noted that the City might be underestimating the fees.

Mr. Edds indicated that the rates were in line with those of Yuba and Butte Counties, for which MAXIMUS had just completed studies. He then spoke of the uniqueness of each jurisdiction with regard to fee calculations.

- Bob Keenan, BIA, came forward and spoke of the BIA’s agreement with the hourly rate of $78.92. He then requested that Mr. Edds address the inspection fee based on valuation, which he asserted was unconstitutional.

Mr. Longley requested that the Council make a decision as to whether it wished to pursue the fee adjustments.

Mr. Edds agreed that no fees could be based on valuation and that a nexus must be established between the cost of providing the service and the fee that was charged. He noted that MAXIMUS, Inc. had recommended the elimination of all valuation-based fees, and where applicable, had been reconfigured to a cost per square foot basis.
Mayor Martinez questioned whether the level of service would increase if the cost of fees were increased. He noted the need for some benefit to the applicant for paying more money.

Mr. Longley spoke of the Budget and the need to utilize General Fund monies to subsidize the cost of providing the services due to the deficiency in cost recovery through fees, which he estimated was approximately $700,000 per year. He stated that if such figure could be reduced, it would free up money to allow the City to be more responsive to the needs.

In response to a question posed by Mayor Martinez as to staffing levels, Public Works Director Baldo Rodriguez indicated that in 1986, the Engineering Department had one more staff member than the Department had presently. In terms of building inspectors, he stated that the levels for 1986 and the present had been the same until only just recently when an additional inspector had been brought on staff.

A discussion ensued as to the varying philosophies with regard to full cost recovery versus partial cost recovery and whether overhead should be included. City Attorney Julia Lew stated in contrast to commentary made that evening during the public hearing segment, she did not believe that the fee analysis sought to recover unrelated overhead, but rather only a portion of the overhead related to a specific application process.

At the request of Council Member West, Mr. Edds reiterated his reasons for pursuing full cost recovery.

Mayor Pro Tem Hamilton voiced concern with what he perceived was a characterization of developers as being predatory. He then reiterated his previous comments as to the benefits that development provided to the community, and suggested that developers already increased general fund revenue due to additional tax dollars being generated by their developments, yet the City proposed to again charge them via fees.

Council Member Irish agreed with Mayor Pro Tem Hamilton’s concerns and suggested that those who benefitted the City the greatest, would bear the brunt of paying the costs.

Mayor Martinez voiced support for everybody paying their fair share.

The Council recessed for ten minutes.

At the Mayor’s request, Mr. Longley proceeded to outline a potential course of action for the Council’s consideration. He proposed that the Council agree on a formula, at which point direction would be provided to staff to direct MAXIMUS, Inc. to recalculate the fees based on that agreed-upon formula. He stated that the fees could then come back to the Council for consideration at the second meeting in March. He then noted some of the concerns raised that evening, and suggested using the fee for a Conditional Use Permit as a possible starting point for the discussion. He stated that if the Council was successful in reaching agreement on a formula, that formula could also be applied to the Engineering Fees and also brought back at the second meeting in March.
Mayor Pro Tem Hamilton commented that he would only support fees based on direct project costs. He then agreed with Council Member Irish’s concern with regard to the validity of the staff’s time estimates, which were the basis for determining the hourly rate. He opined that there was no scientific data to support the hourly rate of $78.92.

Community Development Director Brad Dunlap elaborated on his involvement in the undertaking to establish average hourly rates for various project tasks, and emphasized the efficacy of the method employed. He then spoke of time constraints on his department.

The City Manager suggested that the only other methodology available to improve upon the current study would be a time and motion study. A discussion then ensued as to the challenges in providing comparisons with other cities as to hourly rates for projects, the primary challenge being the diverse systems in other jurisdictions. Mr. Edds indicated that comparison data could be provided for total costs and total time, yet not for specific costs.

Mayor Pro Tem Hamilton moved that the Council adopt the fee schedules based only on direct project costs. The motion failed for lack of a second.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council approve none of the fees and keep the status quo.

M.O. 01-022806

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

Council Member Irish commented that the sitting Council had passed every fee increase and tax that had been brought before them.

COUNCIL ACTION: MOVED by Mayor Martinez, SECONDED by Council Member West that the Council approve the fees as recommended by staff.

M.O. 02-022806

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

Mr. Longley noted that the Council could also consider adopting a fee schedule with a staggered implementation.

Council Member Stadtherr moved that the Council direct staff to recalculate the fees with the direct personnel costs, direct non-personnel costs, information systems support, and other unidentified non-direct costs. A discussion ensued as to which costs were direct and which were indirect, as detailed on page 3 of the staff report.
Restating his motion, Council Member Stadtherr moved that the Council direct staff to recalculate the fees without counter costs and without general administration costs, and to implement said fee adjustments over a period of five years.

Mr. Longley suggested that such implementation might result in lower fee revenue than was currently collected.

Council Member Stadtherr’s motion died for lack of a second.

COUNCIL ACTION:

MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council direct staff to recalculate the fees without the inclusion of indirect costs, and bring the item back to the Council.

M.O. 03-022806

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

Disposition: Approved.

After some clarification as to various elements of the Engineering Fees, it was decided that the Engineering fees would also be recalculated utilizing the same formula and brought back for Council’s consideration at the second meeting in March.

In response to concerns raised by Mayor Pro Tem Hamilton as to the Recreation fees stated in the MAXIMUS spreadsheet included in the staff report, Mr. Longley clarified that the fees would be recalculated based on the recovery rate percentages previously established by the Council. A discussion then ensued as to whether an administrative fee was included in the calculation.

Parks & Leisure Services Director Jim Perrine recalled that the rates were based on departmental cost recovery, which included direct costs plus departmental costs. He confirmed that a memo would be provided to the Council as to costs included in the fee calculation formula for Parks & Leisure Services.

The Council concurred that the Planning Fees, Police Fees and Engineering Fees would be brought back to the Council.

Mayor Pro Tem Hamilton commented that Police Fees strictly pertained to General Fund and questioned why they would be brought back. Mr. Longley indicated that historically fees had been charged, yet pointed out it would be the Council’s decision whether or not to pursue those fees.

OTHER MATTERS

• Mayor Pro Tem Hamilton noted the upcoming visit to Tulare County by the President of the Rose Bowl and requested that the Council present him with a key to the City. The cost was estimated to be approximately $150.
• Mayor Martinez agreed with Mayor Pro Tem Hamilton’s suggestion.

ADJOURNMENT
The Council adjourned at 9:00 p.m. to the meeting of March 7, 2006 at 6:00 p.m.

Patrice Hildreth, Deputy City Clerk

 SEAL

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Pedro R. Martinez, Mayor