Roll Call: Council

Pledge of Allegiance led by Mayor Pro Tem Felipe Martinez

Invocation

ORAL COMMUNICATIONS

CONSENT CALENDAR

1. Revision to Resolution 178-2005 Authorizing the Elimination of Transaction (Sales) and Use Tax Records
   Re: Approving minor revision to Resolution 178-2005, adopted on December 20, 2005, pursuant to request of the State Board of Equalization.

2. Emergency Replacement - Fire Station #1 HVAC
   Re: Awarding contract for the emergency replacement of HVAC unit to Darrell’s of Porterville in the amount of $12,600.

SCHEDULED MATTER

   Re: Review of Handbook and consideration of modifications to meet actual Council procedures and requirements of State and Federal laws.

ORAL COMMUNICATIONS

ADJOURNMENT to the Council Meeting of August 15, 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 Deputy City Clerk at (559) 782-7464. 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.
SUBJECT: REVISION TO RESOLUTION 178-2005 AUTHORIZING THE EXAMINATION OF TRANSACTION (SALES) AND USE TAX RECORDS

SOURCE: City Clerk Division

COMMENT: On December 20, 2005, the City Council adopted Resolution 178-2005 Authorizing the Examination of Transaction (Sales) and Use Tax Records, designating MBIA MuniServices Company as Porterville’s authorized representative to examine sales tax records. The State Board of Equalization required said Resolution in order to allow them access to audit revenues of the City’s recent voter-approved sales tax measure.

The State Board of Equalization has contacted the City Clerk’s Office and requested a minor change to Section 1 of Resolution 178-2005. Section 1 currently reads:

“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....”

The requested change is:

“Section 1. That the City Manager, or an officer or employee of the District designated in writing by the City Manager of the City of Porterville to the State Board of Equalization, is hereby appointed...”

RECOMMENDATION: That City Council approve the revised draft resolution authorizing the examination of Transactions (Sales) and Use Tax Records.

Attachments: 1. Resolution 178-2005  
2. Revised Resolution Authorizing the Examination of Transactions (Sales) and Use Tax Records

D.D. Appropriated/Funded C.M. Item No. 1
RESOLUTION NO. 178-2005

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
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By: Patrice Hildreth, Deputy City Clerk
STATE OF CALIFORNIA  )
CITY OF PORTERVILLE  )  SS
COUNTY OF TULARE  )

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 20th day of December, 2005.

THAT said resolution was duly passed adopted by the following vote:

<table>
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<tr>
<th>Council:</th>
<th>IRISH</th>
<th>MARTINEZ</th>
<th>HAMILTON</th>
<th>STADTHERR</th>
<th>WEST</th>
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<tr>
<td>AYES:</td>
<td>X</td>
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<td>X</td>
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<td>NOES:</td>
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<td>ABSENT:</td>
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JOHN LONGLEY, City Clerk

by Patrice Hildreth, Deputy City Clerk
RESOLUTION NO. ______-2006

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 Manager 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 hereby rescinds Resolution No. 178-2005, and 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 8th day of August, 2006.

__________________________
Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By: __________________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: EMERGENCY REPLACEMENT - FIRE STATION #1 HVAC

SOURCE: Department of Finance/Purchasing

COMMENT: Staff solicited informal bids for the repair of two of the air conditioning units at the Porterville Fire Department, Station #1, when the units began to fail. It was determined by all parties involved that the units were not repairable and needed the compressors, condenser coils and motors replaced. Staff then investigated the cost to replace the units, and three bids were received as follows:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Darrell's, Porterville, CA</td>
<td>$12,600</td>
</tr>
<tr>
<td>American Air, Visalia, CA</td>
<td>13,408</td>
</tr>
<tr>
<td>Silver Air Conditioning, Bakersfield, CA</td>
<td>14,921</td>
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</table>

It was quickly determined that the cost of the project would exceed the $5,000 limit established in the Purchasing Policy that would normally require a sealed bid; however, due to the extreme hot weather and the time involved in preparing a project manual and related plans, staff requires authorization to award a contract to the low bidder, Darrell’s. It should be noted that staff contacted sixteen air conditioning firms in the Valley, and most of the firms were so backlogged with repairs, they were unable to quote. Staff has reviewed the low bid and finds it to be responsive to the specifications. Funds for the project are available from the Fire Department’s equipment replacement fund for Station #1.

RECOMMENDATION: That Council award the contract to replace the air conditioning units at the Fire Department to Darrell’s of Porterville, CA, in the amount of $12,600. Further, that Council authorize payment upon satisfactory completion of the work.

D.D. [Signature] Appropriated/Funded [Signature] C.M. [Signature] Item No. 2
SUBJECT: REVIEW OF THE CITY COUNCIL PROCEDURAL HANDBOOK

SOURCE: City Clerk Division

COMMENT: As the Council is aware, the City Council Procedural Handbook is a document maintained by the City Clerk’s Office to aid current and future Council members by having general Council procedures in a helpful booklet form. The City Council Procedural Handbook needs to be updated periodically to keep it current with actual Council procedures and changes in State and Federal laws.

The City Attorney has prepared a memo addressing AB 1234, which affects policies and requirements for Council expense reimbursements. Ms. Lew will address the changes in State law and how it directly affects the Council and any Council programs, and its applicability to the Council Handbook.

The City Council Procedural Handbook was last revised on May 17, 2005. Staff has prepared a listing of approved and proposed items for inclusion with the next Handbook revision. The proposed changes are attached as Exhibit 2.

With the new Council members now seated, it would be appropriate for Council to review this document in depth so that they are is familiar with the information provided, and to give them an opportunity to make any amendments or recommendations that they feel is necessary for the uniform and consistent use of the City Council Procedural Handbook by Council, staff and the public.

RECOMMENDATION: That the Council review the City Council Procedural Handbook and direct staff to bring back any revisions and/or amendments for final consideration and adoption by the Council.

Attachments: 1) Memo from Julia Lew dated August 2, 2006 Re: AB 1234
2) Approved and Proposed Changes
3) City Council Procedural Handbook as of May 17, 2005

Item No. 3
MCCORMICK KABOT JENNER & LEW
MEMORANDUM

TO: Porterville City Council

cc: John Longley

FROM: Julia M. Lew

DATE: August 2, 2006

SUBJECT: Summary of AB 1234 Expense Reimbursement Requirements and Recommended Modifications to Policies Covering Applicable Elected and Appointed Officials

Recent legislation, which went into effect on January 1, 2006, (commonly referred to as AB 1234), requires that local agencies 1) adopt expense reimbursement policies that specify the kinds of activities that are reimbursable, 2) identify the reasonable amount of time within which requests for reimbursement are to be submitted, 3) use expense report forms, and 4) require that all expenses, for which reimbursement is requested, be documented by receipts. Local Agencies may also specify the specific reasonable rates for travel, meals, lodging, and other expenses, and without such specification, the rates default to those specified in the IRS guidelines.

One of the questions commonly raised with regard to this legislation is whether AB 1234 (both the training and expense “reimbursement” portions) applies to charter cities. The bill on its face purports to apply to charter cities; however some argue that the findings adopted are insufficient. Furthermore, the legislation appears to intrude upon the area of “compensation” of elected and appointed officials, which has generally been considered a area of charter city “home rule.” While this question remains open, cities are thus far not anxious to become the test case on this issue, and the Institute for Local Government and the League has suggested that notwithstanding this issue compliance may be advisable.

The AB 1234 expense requirements apply to expenses for which “reimbursement” is requested. Under a technical reading of the language, these new requirements do not cover expenses which are paid by the City directly, or generally paid in advance in the form of a daily “per diem” consistent with the federal per diem rates. Since it is currently the general practice of the City to use the latter methods, extensive modifications to the Council procedural handbook are only needed in the event the Council wishes to establish policies for an alternative method involving the reimbursement of expenses.

Although extensive substantive changes may not be necessary, I do recommend that a few changes be made in light of the new legislation. At this point, it is generally understood that the legislation applies only to “reimbursement” of expenses as discussed above; however questions have raised as to the intended breadth of the legislation and whether it was meant to cover all expenses for which the elected officials are compensated. Consequently, there has been some debate over whether “expense allowances” are permitted at all under the new legislation. To address these emerging areas, I recommend that the following modifications be made:
1. The title of Section VII be amended to read “Travel, Meetings, and Expenses.”

2. A preliminary statement be added that provides, “This policy would satisfy the requirements of California Government Code sections 53232.2 and 53233.3 in the event such requirements could be constitutionally applied to charter cities.”

3. That the term “reimbursement,” as utilized in Section B.2 (mileage “reimbursement,””) be changed to mileage “expense,” to reflect that the cost is paid in advance.

4. A sentence be added to the notation in Section B.2 concerning the per diem amount, reflecting that since these payments for expenses are made in advance pursuant to the specified per diem amounts, the disbursement shall not be considered to be “reimburseable expense” under AB 1234.

5. Language be added to the end of Section A, providing “For lodging in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question, if such rates are available at the time of booking. If the group rate is not available, government rates must be used when available. Lodging rates that are equal or less than the government rates are presumed to be reasonable and allowed per this policy. In the event that government rates are not available at a given time or in a given area, lodging rates that do not exceed the IRS per diem rates for a given area are presumed reasonable and hence allowed.” (Note – there are other alternative methods of determining a reasonable lodging rate, and I will bring additional examples to the study session.)

This office will continually monitor any “clean up” legislation adopted concerning AB 1234, as well as any case law that may shed light on the interpretation of the new provisions. Similar changes to the Administrative Policy Manual will also be necessary to address members of all legislative “Brown Act” bodies of the City. City staff, however, are not required to be subject to these requirements.

Additionally, a couple policies that have been acted on by the Council, but not yet incorporated into the Council handbook also need to be revisited. The current provisions related to mileage and other reimbursement for noncommercial air travel, as they would relate to Council Members. Given the ambiguity related to allowances and stipends under the new legislation, as well as the scrutiny given to elected officials’ travel by elected officials, I recommend that these recent modifications not be added to and included in the handbook. However, such provisions, as included in the Administrative Policy Manual (concerning noncommercial air travel by City staff) are appropriate.

Along these same lines, I also recommend that changes be made to the initial program developed concerning the distribution of lap top computers to the council members. Lap tops can be distributed to council members for city related use. Pursuant to discussions with CPAs in the area, the useful life of a lap top computer typically “tops out” at five years, but often the useful life is less than that given changes in software and incompatibility of programs. Therefore, the City may adopt a policy wherein, at the end of a council member’s term, the individual may choose to return the equipment or “purchase” the equipment by paying its depreciated value. The key is that any amortization/depreciation schedule be based on the useful life of the equipment.

If you have any questions or comments please feel free to contact me.
# Proposed Changes

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Appendices:

A. Resolution No. 72-2005

B. Laptop Computer and City Information Resources Policy

C. Annual Evaluation Form (to be attached upon completion of the standardized form)
VII. TRAVEL, AND MEETINGS, AND EXPENSES

This policy would satisfy the requirements of California Government Code sections 53232.2 and 53233.3 in the event such requirements could be constitutionally applied to charter cities.

The City Manager, or his staff, will notify the City Council Members about any League of California Cities' Conferences, Redevelopment Conferences, Committee meetings, and/or local meetings that may be of interest to the Council. If a Council Member is interested in attending any such meeting, the following procedures should be followed:

A. Requests for Reservations:

When a City Council Member wishes to attend a conference or meeting, he/she should contact the City Manager's office and indicate the following:

1) The date(s) of the conference or meeting;
2) If the Council Member will be accompanied by anyone else, i.e. spouse, child;
3) Any personal preferences for hotel reservations, such as smoking or non-smoking, king or double beds, etc.; and
4) Whether special travel arrangements need to be made, i.e. airplane tickets, ride-sharing, etc.

A disbursement will then be prepared and the payment for the conference or meeting will be forwarded, and, if applicable, the hotel will be contacted to make the appropriate reservations. When making hotel reservations to attend a conference or meeting, a request for a room sales tax waiver shall be made on behalf of the applicable Council member. If a prior room reservation request is not made, the Council member shall request a room sales tax waiver prior to payment for a room.

For lodging in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question, if such rates are available at the time of booking. If the group rate is not available, government rates must be used when available. Lodging rates that are equal or less than the government rates are presumed to be reasonable and allowed per this policy. In the event that government rates are not available at a given time or in a given area, lodging rates that do not exceed the IRS per diem rates for a given area are presumed reasonable and hence allowed.

B. Travel and Expense Form:

A Travel and Expense Form will then be prepared for the Council Member which indicates the following:

1) The amount of money to be issued to the traveler as per diem*; and
2) Mileage reimbursement expense* (if a personal vehicle is used for travel and cost is paid in advance).
VII. TRAVEL, AND MEETINGS, AND EXPENSES - Continued

* Amount set in Administrative Policy Manual Sec. II-E-1, Travel & Conference Expenses. In regard to the per diem amount, if payments for expenses are made in advance pursuant to the specified per diem amounts, the disbursement shall not be considered to be “reimbursable expense” under AB 1234.

The Council Member will then be issued a packet of materials several days prior to the meeting which contains the following:

1) A check for per diem and mileage;
2) Confirmation notification and informational materials regarding the conference;
3) Confirmation notification for any hotel reservations; and
4) A City credit card to pay for the room charges at the end of the meeting.

C. Receipts:

The Council Member shall then bring the receipt for the hotel charges to the City Manager's staff upon his/her return, together with the credit card, and any refund due the City. The Council Member shall sign the original Travel and Expense Form at that time, which shall then be filed with the Finance Department for final processing.

If a refund is due the Council Member, a check will be issued by the Finance Department and then distributed to the Council Member.

D. Eligibility:

The City shall pay for any Council Member to attend any meetings or conferences of their choice. When accompanied by a spouse or child, the Council Member shall pay for expenses incurred above that which would otherwise have been paid for the Council Member. Any charge placed on a City credit card for someone other than a Council Member shall also be considered a refund due the City, payable within 10 days of the receipt of the charges.
VIII. CONFLICT OF INTEREST - Continued

- Any source of income, other than gifts or commercial lending institutes loans, aggregating $500 or more received or promised to the City Council Member within twelve months prior to the time when the decision is made;

- Any business entity in which the City Council Member is a director, partner, trustee, employee, or holds any position of management;

- Any donor, or any intermediary or agent for a donor, or a gift or gifts aggregating $250 or more in value provided to, received by, or promised to the City Council Member within 12 months prior to the time when the decision is made.

Indirect investment or interest means any investments or interest owned by the spouse or dependent child of a City Council Member, by an agent on behalf of a Council Member, or by a business entity or trust in which the Council Member, the Council Member's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10% interest or greater.

Section 87100 of the Act does not prevent any Council Member from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that a Council Member's vote is needed to break a tie does not make his participation legally required for purposes of this section.

Pursuant to Section 87105 of the Act, a public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:
(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.
(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.
(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.
(4) Notwithstanding paragraph (3), a public official may speak on the issue during the time that the general public speaks on the issue.
IX. GENERAL ITEMS

A. Different Hats

Members of the City Council also serve as the governing bodies for the following local agencies:

1. Redevelopment Agency
2. Industrial Development Authority
3. Public Financing Authority
4. Public Improvement Corporation
5. Planning Commission
6. Conflicts and Disclosure Monitor Agency

B. Compensation

As stated in the City Charter, Section 9, City Council Members shall receive $20 per Council meeting, $25 per Council meeting for the Mayor, with a maximum of seven paid Council meetings per month.

Redevelopment Agency Members shall receive $30 per Redevelopment meeting.

Council Members receive no benefits other than the amounts per meeting stated above.

C. Issuance of Laptop Computers to Council Members

As of September 6, 2005, laptop computers were developed for City Council use to take advantage of wireless resources to improve communications with Council Members while away on City business. A Wireless Communications Policy for the laptop computers is being developed as set forth in Minute Order 14-090605.

D. Direction to Support Staff:

Upon assuming office, Council Members should notify the City Manager’s staff regarding the following items:

1. Where to deliver Council agendas and Administrative Reports and Memorandums, i.e. home or business.

2. Where to leave Council agendas if the business is closed and/or if no one is home, i.e. City Manager’s Office Council mail box, front porch, back door, etc.
Appendix-Sec:  

A - I-D:  Resolution 72-2005 (Order of Business) 
B - IX-C: Wireless Communications Policy. 
C - IX-G: Annual Evaluation Form for City Manager and City Attorney  
(to be attached upon completion of the standardized form) 

Appendix A 

RESOLUTION 72-2005 (ORDER OF BUSINESS) 

Appendix B 

LAPTOP COMPUTER AND CITY INFORMATION RESOURCES POLICY  
(to be attached upon adoption of the policy) 

Appendix C 

ANNUAL EVALUATION FORM FOR CITY MANAGER AND CITY ATTORNEY  
(to be attached upon completion of the standardized form)
CITY COUNCIL
PROCEDURAL
HANDBOOK

May 17, 2005
CITY COUNCIL PROCEDURAL HANDBOOK

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IX. GENERAL ITEMS

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C. Direction to staff
D. City Attorney
E. Annual City Manager/City Attorney Evaluation
F. Response to President/Governor Directives

Appendix: E-1. Annual Evaluation Form (to be attached upon completion of the standardized form)
I. MEETINGS OF COUNCIL

The Council shall provide by ordinance the time and place of holding regular meetings and the manner in which special meetings may be called. Public interest and convenience shall be primary consideration when decisions are made as to time, location and frequency.

Except as otherwise provided by law, all meetings of the Council shall be open to the public.

The City Manager shall compile the agenda for each meeting and shall include as agenda items, business in the normal course of City affairs, including but not limited to staff proposals to improve services, support the economy and land use, and enhance the efficiency and effectiveness of the City organization, items relating to current, past, and proposed City contracts, leases, franchises, agreements and similar documents, and matters affecting future or proposed City equipment and property, items relating to City employees, agents and contractors, and such other matters as are defined in this handbook or otherwise directed by the City Council.

A. REGULAR MEETINGS

1. Regular meetings shall be held the first and third Tuesday of each month beginning at 6:00 p.m. Closed Session Items shall be considered at 6:00 p.m., with open session to commence at 7:00 p.m. In the event that a regular meeting of the Council shall fall on a legal holiday, that regular meeting shall be held at the same place and time on the next succeeding working day, or as determined by Council.

2. Regular meetings shall be held in the Council Chambers, 291 North Main Street, in the City of Porterville.

3. Regular meeting open sessions shall be between the hours of 7:00 p.m. - 11:00 p.m. It shall be the policy of the City Council to complete meetings, including closed sessions, by 11:00 p.m. unless, upon consensus, Council elects to continue past the adjournment hour. Following the mid-meeting break (around 9:00 p.m.) the Mayor, with assistance from the City Manager, will review the balance of the agenda with Council to discuss how it can be handled in the allowed time. If it is necessary to continue any items, it will be announced at that time.

B. ADJOURNED MEETINGS/STUDY SESSIONS (Open to the public)

1. The purpose of these meetings shall be for informal discussions between staff, advisory bodies or consultants and the City Council regarding specific programs, projects or policies. If noticed, formal action may be taken at such a meeting.
MEETINGS OF COUNCIL - Continued

2. Adjourned Meetings/Study Sessions will be held at a time and place convenient to Council and advantageous for public participation.

3. Participation of the public shall be at the discretion of the Presiding Officer, upon consensus of the Council.

C. SPECIAL MEETINGS

1. Special meetings may be called by the Mayor or three members of the City Council. (GC § 54956) Written notice of each special meeting must be given not less than twenty-four (24) hours before such meeting to each member of the City Council not joining the call.

2. Written notice must be given to the City Council and to the media 24 hours prior to each meeting. (GC § 54956)

3. A supplemental telephone call shall be made if necessary to notify each Council Member.

4. No business other than that announced shall be discussed.

5. Any special meeting held at a place other than City Hall shall be open to the public. Notice requirements of the Brown Act shall be complied with for any such meetings; regular minutes shall be taken by the City Clerk and shall be available for public inspection.

D. ORDER OF BUSINESS shall be as follows:

- Call to Order
- Roll Call
- Oral Communications
- Closed Session(s)
- Reconvene at 7:00 p.m.
- Closed Session Report
- Pledge of Allegiance
- Invocation
- Presentations/Proclamations
- Appointments
- Oral Communications
- Consent Calendar
- Public Hearings
- Second Reading of Ordinances
- Scheduled Matters
- Oral Communications
MEETINGS OF COUNCIL - Continued

Other Matters
Council Comments

E. CONSENT ITEMS

Consent items are the first items on the open session portion of the agenda (items that are routine, have been discussed before, relate to implementation of approved budget items, or to City operations or item to be later set for public hearing).

II. MEETING PROCEDURES

A. PRESIDING OFFICER

1. The Mayor is the Presiding Officer and acts as Chair at Council meetings.

2. In the absence or incapacity of the Mayor, the Mayor Pro Tempore will serve as Presiding Officer.

3. Seating arrangement of the Council:

   The Mayor Pro Tempore shall always be seated immediately next to the Mayor.

4. Signing of City Documents:

   The Mayor, unless unavailable, shall sign all ordinances, resolutions, contracts and other documents which have been adopted by the City Council and require an official signature; except when the City Manager, or his or her designee, has been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Mayor Pro Tempore’s signature may be used.

B. QUORUM

A majority of the Council Members shall constitute a quorum for the transaction of business. (Charter)

C. DISCUSSION RULES

1. Obtaining the floor:

   a. A member of the City Council or staff shall first address the Presiding Officer and gain recognition.
b. Comments and questions should be limited to the issue before Council.

c. Cross-exchange between Council Members and public should be avoided.

d. Any citizen may arise and address the City Council on any business specially concerning them or affecting their interests, but preference will be given to those who have first presented matters in the form of a written communication or who have personally notified the presiding officer of their desire to speak.

e. Any member or other person using profane, vulgar, loud or boisterous language at any meeting, or otherwise interrupting the proceedings, who refuses to be seated or keep quiet when ordered to do so by the Mayor or Mayor Pro Tem of the City Council, shall be guilty of a misdemeanor. It shall be the duty of the Chief of Police, upon order of the presiding officer, to eject any such member or person from the council room. (Ord. 1537)

2. Questions to staff:

A Council Member shall, after recognition by the Presiding Officer, address questions to duly designated staff members through the City Manager.

3. Interruptions:

a. Once recognized, a Council Member shall not be interrupted while speaking except to make a point of order or personal privilege.

b. If a Council Member is called to order while speaking, the individual shall cease speaking until the question of order is determined.

c. Upon being recognized by the Presiding Officer, members of staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.
III. COUNCIL REQUESTS FROM THE PUBLIC

A. Letters:

Periodically Council Members receive letters requesting their response. If a Council Member wishes to answer the letter, the matter can be handled in either of three ways:

1. The Council Member can give the letter to the City Manager's Secretary along with direction on how they wish their response to be worded. The City Manager's staff will then prepare the letter on City Council stationery and forward it to the appropriate Council Member for approval and signature. Copies of both letters are kept on file in the City Manager's Office, and copies are available upon request.

2. If the letter requires specific information or details only available from another City Department, the City Manager may refer the letter to the appropriate Department Head for response by them or their designee. Copies of the letters will then be forwarded to the City Manager's Office for filing.

3. If the Council Member wishes to answer their own correspondence, City stationery is available upon request from the City Manager's secretary. If the Council Member wishes to have a copy of the letters in their file, they should submit a copy to the City Manager's staff for filing.

If a Council Member receives an informational item and wants a copy to be given to the other Council Members and the City Manager or other Directors, the item should be given to the City Manager's staff and copies will be made and sent out.

B. Referrals to Council agenda:

Periodically Council Members receive correspondence or verbal requests for items to be acted upon, or considered, by the City Council. If a Council Member wishes to respond to the request, the matter should be referred to the City Manager. The request can then be handled as follows:

1. The Council Member may request the City Manager to place the item on the Council agenda as a written communication*; or

2. Upon research, the request may be determined to be a violation of City, State or Federal law, policy, or previous Council determination, in which case an appropriate response as to why the matter can not be heard will be provided to the requesting party.
COUNCIL REQUESTS FROM THE PUBLIC - Continued

Correspondence requesting that an item be acted upon, or considered, by the City Council, which is received directly by the City Manager, is handled in either of two ways:

1. The City Manager shall place any routine and/or legitimate written request under written communications*, or have a staff report prepared if time permits, for the next City Council agenda; or

2. The City Manager shall place any request which has already been acted upon by Council, cannot legally be accomplished, or which has a potential for litigation, in the Administrative Memorandum.

*The “Request” must be stated on the agenda face sheet for Council to be able to act on it at the meeting.

C. Telephone Calls:

Citizens attempting to communicate with the City Council often call the offices at City Hall. Such calls are referred to the City Manager’s Office. The City Manager’s staff will take a message and refer it to the appropriate Council Member, or give the caller the telephone number of the City Council Member so they may call them directly, according to instructions given by the Council Member [see VII-C(1)].

D. Personal Meetings:

Council Members who wish to meet with their constituents may use various rooms at City Hall. The Council Member should call the City Manager’s Secretary as soon as they know a room is needed so that it can be reserved for their use. No more than two Council Members may attend a meeting to discuss City matters without the meeting becoming a public meeting and therefore falling under the requirements of the Brown Act Open Meeting Laws.
IV. COUNCIL MEMBER REQUESTS TO STAFF

A. General Information

All City Council Member requests for information or documents shall be referred through the City Manager. Any Department Head who receives a direct request from a Council Member shall submit the request, including the name of the requesting Council Member, to the City Manager.

B. Research

All City Council Member requests for information or documents which require extensive research shall be referred through the City Manager to the Council for direction. The City Manager will discuss the matter with the appropriate department and relay the approximate time table for completion to the City Council for discussion and action at the next available meeting of the City Council. If the request is approved by the Council, upon completion of the research, the item will be forwarded to the City Council Members by the City Manager.

C. Items for inclusion in Council Agenda

All City Council Member requests for an item to be placed on the Council agenda should be referred to the City Manager. Pursuant to Minute Order No. 11-022096, such request shall be submitted prior to Monday noon of the week before the Council meeting in order to be placed on the next regularly scheduled meeting.

The City Manager will refer any routine items to the appropriate department for a staff report. If necessary, items will be referred to the City Attorney for a determination on legality. If an item is determined to be a legitimate request, the item will be referred for a staff report. Items having already been acted upon by the Council previously will be deferred to the Mayor for approval before being placed on the agenda.
V. COUNCIL AGENDA

A. Preparation:

Each Department Head submits agenda items regarding their Department to the City Manager for approval. Upon the City Manager’s approval, the items are returned to the appropriate department for copying and collation.

The City Council meeting agendas are prepared on the Thursday prior to the Tuesday meeting.

Any questions regarding whether items have been scheduled for consideration at a particular meeting may be directed to the Chief Deputy City Clerk and/or Deputy City Clerk.

B. Deadlines:

The deadlines for the agenda are the Monday preceding the Thursday preparation day. Public hearing items, scheduled matter items, Consent calendar items, and written communications must be submitted by the Monday deadline. The deadline for a Council member request for any item shall be Monday noon preceding the Thursday preparation day.

C. Delivery:

Agendas will be delivered to Council on the Thursday prior to the Tuesday meeting.

Council agendas shall be delivered to the Council Member's home or business, as requested. If no one is available to receive the agenda, the agenda shall be left in the Council Member’s mail box, unless other arrangements have been previously made with the City Clerk’s staff [see IX-C(1)(2)].

The agendas for staff and the news media are available after Council receives their agendas, usually on Friday.
VI. THE BROWN ACT

The Ralph M. Brown Act (Gov. Code, § 54950 et seq. known as "the Act") governs meetings conducted by local legislative bodies such as city councils, boards of supervisors, special districts, and school boards. The Act represents the State Legislature's determination of how the balance should be struck between the public access to meetings of multi-member public bodies on one hand, and the need for confidential candor, debate, and information gathering on the other.

The Act contains specific exceptions from the open meeting requirements where government has a demonstrated need for confidentiality. Where matters are not subject to a closed meeting exception, the Act has been interpreted to mean that all of the deliberative processes by legislative bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny.

Meetings are defined as any gathering of a quorum of a legislative body (which includes newly elected but unsworn members of the body) to discuss or transact business under the body's jurisdiction, and serial meetings are prohibited. Exemptions are individual contacts between board members and others which do not constitute serial meetings, attendance at conferences and meetings which are open to the public so long as legislative bodies do not discuss amongst themselves business of a specific nature under the body's jurisdiction, and attendance at social or ceremonial events where no business of the body is discussed.

The Act requires that notices of regular meetings must be posted at least seventy-two (72) hours prior to the meeting, and twenty-four (24) hour notice must be provided to members of the legislative body and media outlets for special meetings.

A user's guide to the Ralph M. Brown Act is provided to Council Members for their information. If a Council Member has a specific question which does not seem to be covered in the guide, the Council Member should contact the City Attorney for a legal opinion.
VII. TRAVEL AND MEETINGS

The City Manager, or his staff, will notify the City Council Members about any League of California Cities' Conferences, Redevelopment Conferences, Committee meetings, and/or local meetings that may be of interest to the Council. If a Council Member is interested in attending any such meeting, the following procedures should be followed:

A. Requests for Reservations:

When a City Council Member wishes to attend a conference or meeting, he/she should contact the City Manager's office and indicate the following:

1) The date(s) of the conference or meeting;
2) If the Council Member will be accompanied by anyone else, i.e. spouse, child;
3) Any personal preferences for hotel reservations, such as smoking or non-smoking, king or double beds, etc.; and
4) Whether special travel arrangements need to be made, i.e. airplane tickets, ride-sharing, etc.

A disbursement will then be prepared and the payment for the conference or meeting will be forwarded, and, if applicable, the hotel will be contacted to make the appropriate reservations. When making hotel reservations to attend a conference or meeting, a request for a room sales tax waiver shall be made on behalf of the applicable Council member. If a prior room reservation request is not made, the Council member shall request a room sales tax waiver prior to payment for a room.

B. Travel and Expense Form:

A Travel and Expense Form will then be prepared for the Council Member which indicates the following:

1) The amount of money to be issued to the traveler as per diem*; and
2) Mileage reimbursement* (if a personal vehicle is used for travel).

* Amount set in Administrative Policy Manual Sec. II-E-1, Travel &Conference Expenses.

The Council Member will then be issued a packet of materials several days prior to the meeting which contains the following:

1) A check for per diem and mileage;
2) Confirmation notification and informational materials regarding the conference;

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VII. TRAVEL AND MEETINGS - Continued

3) Confirmation notification for any hotel reservations; and
4) A City credit card to pay for the room charges at the end of the meeting.

C. Receipts:

The Council Member shall then bring the receipt for the hotel charges to the City Manager's staff upon his/her return, together with the credit card, and any refund due the City. The Council Member shall sign the original Travel and Expense Form at that time, which shall then be filed with the Finance Department for final processing.

If a refund is due the Council Member, a check will be issued by the Finance Department and then distributed to the Council Member.

D. Eligibility:

The City shall pay for any Council Member to attend any meetings or conferences of their choice. When accompanied by a spouse or child, the Council Member shall pay for expenses incurred above that which would otherwise have been paid for the Council Member. Any charge placed on a City credit card for someone other than a Council Member shall also be considered a refund due the City, payable within 10 days of the receipt of the charges.
VIII. CONFLICT OF INTEREST

A. City Council Members Filing Requirements

City Council Members are under the provisions of the Political Reform Act (Gov. Code, § 81000 et seq. known as "the Act") as enforced by the Fair Political Practices Commission. The Act applies to campaign contributions requirements, as well as matters of conflict of interest while in office.

1) Disclosure of Economic Interests

City Council Members must file assuming office and leaving office statements, as well as annual statements while in office. The statements basically require the disclosure of the following information:

- Investments or interests in real property and its fair market value;

- Income, and the name and address of each source of income aggregating five hundred dollars ($500) or more, or fifty ($50) or more if a gift, and a general description of the business activity, if any of each source;

- Interests in real property held by a business entity or trust;

- Loans, and its annual interest rate and the security, if any, given for the loan;

2) Disqualification of Participation (Conflict of Interest)

A Council Member shall not make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. This might include decisions which affect property within up to 500 feet of the subject property in which the Council Member has an interest.

A financial interest in a decision, within the meaning of Section 87100 of the Act, is if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the Council Member or:

- A member of his or her immediate family;

- A business entity in which the Council Member has a direct or indirect investment worth $2000 or more;

- Any real property in which the Council Member has a direct or indirect interest worth $2,000 or more;
VIII. CONFLICT OF INTEREST - Continued

- Any source of income, other than gifts or commercial lending institutes loans, aggregating $500 or more received or promised to the City Council Member within twelve months prior to the time when the decision is made;

- Any business entity in which the City Council Member is a director, partner, trustee, employee, or holds any position of management;

- Any donor, or any intermediary or agent for a donor, or a gift or gifts aggregating $360 or more in value provided to, received by, or promised to the City Council Member within 12 months prior to the time when the decision is made.

Indirect investment or interest means any investments or interest owned by the spouse or dependent child of a City Council Member, by an agent on behalf of a Council Member, or by a business entity or trust in which the Council Member, the Council Member's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10% interest or greater.

Section 87100 of the Act does not prevent any Council Member from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that a Council Member's vote is needed to break a tie does not make his participation legally required for purposes of this section.

B. Other Agencies

Whenever a Council Member is required to file a Statement of Economic Interest for an outside agency, the Deputy City Clerk will provide the correct form, and using the Statement of Economic Interest Form 700 filed in the City Clerk's Office for the City of Porterville, prepare a duplicate statement for signature, and forward the appropriate form to the requesting agency.

C. Redevelopment Agency Filing Requirements

Upon assuming office, a City Council Member will also serve as a Redevelopment Agency Member. As an Agency Member, they must file a Conflict of Interest statement for the Porterville Redevelopment Project area. After assuming office, an
VIII. CONFLICT OF INTEREST - Continued

Agency Member may not acquire any property within the Redevelopment Project area. If prior interests exist within the Project area, the Agency Member must disqualify themselves from any action taken which would constitute a benefit to them.

D. City of Porterville Conflict of Interest Code

Certain designated City employees are also required to file conflict of interest forms under the provisions of the Political Reform Act Code, § 87100-87500 et seq. The City of Porterville Conflict of Interest Code was adopted by the City Council and is reviewed biennially to make sure it is kept current.

If Council Members have a question on whether an interest they have is sufficient for disqualification, they should contact the Fair Political Practices Commission at (866) 275-3772, or http://www.fppc.ca.gov, for a ruling or opinion.
IX. GENERAL ITEMS

A. Different Hats

Members of the City Council also serve as the governing bodies for the following local agencies:

1. Redevelopment Agency
2. Industrial Development Authority
3. Public Financing Authority
4. Public Improvement Corporation
5. Planning Commission
6. Conflicts and Disclosure Monitor Agency

B. Compensation

As stated in the City Charter, Section 9, City Council Members shall receive $20 per Council meeting, $25 per Council meeting for the Mayor, with a maximum of seven paid Council meetings per month.

Redevelopment Agency Members shall receive $30 per Redevelopment meeting.

Council Members receive no benefits other than the amounts per meeting stated above.

C. Direction to Support Staff:

Upon assuming office, Council Members should notify the City Manager's staff regarding the following items:

1. Where to deliver Council agendas and Administrative Reports and Memorandums, i.e. home or business.

2. Where to leave Council agendas if the business is closed and/or if no one is home, i.e. City Manager’s Office Council mail box, front porch, back door, etc.

3. How to direct citizens who wish to speak to Council Members, i.e. take a message, give out home telephone numbers, give out business telephone numbers, etc.
IX. GENERAL ITEMS - Continued

D. City Attorney

The City Attorney is the legal advisor of the City Council, and all other City officials. The City Attorney shall prosecute all violations of City ordinances and shall draft all contracts and other legal documents and instruments, required by the Council or the City Manager. The City Attorney shall perform such other legal services as the Council may direct and shall attend all meetings of the Council unless excused therefrom by three members or by the Mayor.

The types of questions referred to the City Attorney are as follows:

1) Generally whether a conflict of interest exists for a Council Member and whether they should abstain from voting on a specific matter.

   Please note: Any advice received from the City Attorney relating to Conflicts of Interests is informal only and not binding; the Council Member must seek and obtain a formal written opinion from the FPPC in order to be afforded any statutory immunities.

2) Whether an issue has a legal standing, and what type of action would be appropriate.

3) Legal recommendations for matters of litigation.

E. Annual City Manager/City Attorney Evaluations

The City Council shall provide for annual evaluations for the City Manager and the City Attorney. A standardized evaluation form shall be used which shall address the areas of importance as set forth by the City Council. Said evaluation form shall be included as Appendix 1 upon completion and approval by the City Council.

F. Response to President/Governor Directives

Directives issued by the President of the United States and/or Governor of the State of California shall not be considered a mandatory directive to the City of Porterville except as authorized and/or approved by the City Council. The one exception to this rule is that flags on City buildings shall be flown at half mast upon orders by the President, Governor and/or Mayor, or by majority approval of the City Council.