Call to Order
Roll Call

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

**CLOSED SESSION:**
A. Closed Session Pursuant to:
   1. Government Code Section 54956.9(a) - Conference with Legal Counsel - Existing Litigation: Porterville Citizens for Responsible Hillside Development v. City of Porterville.
   2. Government Code Section 54956.9(c) - Conference with Legal Counsel - Pending Litigation: One Case.

7:00 P.M. RECONVENE OPEN SESSION

**REPORT ON ANY ACTION TAKEN IN CLOSED SESSION**

Pledge of Allegiance Led by Council Member Pedro Martinez
Invocation

**PROCLAMATION**
Landmark Church 10th Anniversary
“Lawsuit Abuse Awareness Week” - October 2-6, 2006

**PRESENTATION**
Employee of the Month - Colette Parnell

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

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

1. Approval of City Council Minutes of July 18, 2006; August 8, 2006; and August 17, 2006

2. Authorization to Advertise for Bids - Morton Avenue Chip Seal Project
   Re: Approving plans and project manual for project to apply asphaltic emulsion and chip seal to Morton Avenue between Plano Street and Leggett Street for improved durability at an estimated cost of $77,909.50.
3. Award Contract - Bus Shelters and Benches
   Re: Awarding contract to Tolar Manufacturing of Corona, CA for the manufacture of two bus shelters and benches, to be 80% funded by FTA Grant funds.

4. Acceptance of Improvements - Williams Ranch Subdivision, Phases Two and Three (Brian Ennis - Ennis Homes)
   Re: Accepting public improvements for subdivision, generally located south of Westfield Avenue, east of Westwood Street, and west of Lombardi Street, and authorizing staff to record the Notice of Completion.

5. Program Supplement to the Local Agency-State Master Agreement - Newcomb Shoulder Stabilization Project
   Re: Approving Program Supplement for project consisting of the construction of curb, gutter and sidewalk for shoulder stabilization along Newcomb Avenue.

6. Consolidated Waste Management Authority Membership Agreement Payment
   Re: Authorizing payment of $34,772 for the City’s annual membership contribution; and payment of $11,941 for the City’s portion of CWMA’s awarded funds received from California Department of Conservation.

7. Improvement Program for Porterville Community Center
   Re: Consideration of an improvement program with the $200,000 allocation authorized by the Council, to include $105,000 for roofing; $7,500 for three months of facility maintenance; replacement of HVAC system for chapel section; and flooring repairs and resurfacing work with the remaining balance.

8. Extension of License Agreement Term for Senior Nutrition Program Use of the Santa Fe Depot
   Re: Amending the License Agreement to extend through the end of the calendar year to allow time to collaborate on a new agreement by the Porterville Senior Council and the Kings/Tulare Area Agency on aging.

9. Approval for Community Civic Event - Barn Theater First Annual Porterville Buzzard Festival - October 14, 2006
   Re: Approving event to take place at the Barn Theater on Saturday, October 14, 2006 from 4:00 p.m. to 10:00 p.m., subject to the restrictions and requirements contained in the application documents.

10. Title VI Compliance Task Force Committee
    Re: Appointing individuals to serve on the transportation-related Title VI Compliance Task Force Committee to assist the City in the preparation of its update the required reporting, pursuant to the requirements of the American Civil Rights Act.

11. Approval of Annual Transportation Agreement with Tulare County
    Re: Approving agreement with Tulare County for FY 2006-2007 to provide transit service to County residents within the designated Service Area Boundary Map.

12. Renewal of Personnel Examining Services Agreement Between the City of Porterville and Cooperative Personnel Services
    Re: Authorizing the renewal of Agreement with Cooperative Personnel Services for testing services utilized by the Human Resources Department in the evaluation process for screening and selecting new employees.
13. Creation and Establishment of Code Enforcement Officer Position
Re: Authorizing the establishment of one Code Enforcement Officer within the Fire Department.

14. Airport Lease - Lot 32C
Re: Approving the re-activation of the Lease Agreement with Wayne Ross dated October 1, 2001, as amended November 1, 2002, for Lot 32C at the Porterville Municipal Airport.

15. Airport Liability Insurance
Re: Approving the renewal of the City’s current insurance policy with Ace Property and Casualty Insurance Company under the same terms and conditions, at an annual cost of $10,738.

16. Revision of the City Council Procedural Handbook
Re: Approving the revisions to the City Council Procedural Handbook pursuant to the direction given by Council at the Adjourned Meeting of August 8, 2006.

17. Resolution of Support for Tule River Tribe Water Project
Re: Approving Resolution of Support for legislation to fund a feasibility study to determine the design and location for a water storage/delivery system facility on the Tule River Indian Reservation.

17a. Budget Adjustment Airport
Re: Authorizing budget adjustment of $5,000 from Fund 90 for a preliminary work-study program for master planning airport property on the northwest corner of Scranton and Westwood Street.

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

PUBLIC HEARINGS
18. Police Fees, Other Fees and Adjustments
Re: Considering the changes to the Police Department Fee Schedule, including the adoption of a new false alarm fee, and the reduction of the Statutory Registration Fees and Vehicle Repossession Fees; and other departmental fees such as charges for copies, employee cell phone use, planning research, and deposit forfeitures.

19. Ennis Estates Tentative Subdivision Map (Ennis Homes)
Re: Considering approval of a Tentative Subdivision Map to divide a 34.1 ± acre parcel east of Lombardi Street and south of the prolongation of Castle Avenue in northwest Porterville, for division into 70 estate size single-family lots.

20. Eagle Ranch Tentative Subdivision Map
Re: Considering approval of a Tentative Subdivision Map to divide a vacant 30.79 ± acre parcel zoned R-1 into a 147 lot low density residential subdivision located west of North Plano Street and north of the westerly prolongation of Westfield Avenue.

21. Zone Variance 1-2006 and Conditional Use Permit 1-2004, Modification No. 1 (Holy Cross Church)
Re: Considering a zone variance related to exceeding the maximum fence height, and a modification to the existing C.U.P. to accommodate additional parking at the Holy Cross Church located at the southwest corner of Newcomb Street and North Grand Avenue.

SCHEDULED MATTERS
22. Comparison of Artificial Turf to Real Turf Maintenance
Re: Consideration and acceptance of the cost comparison of real turf being 1 ½ to three times the cost of artificial turf.
23. General Plan Update Presentation
Re: Informational report on the progress to date for the General Plan Update.

24. Chief of Police Recruitment
Re: Authorizing the retention of recruiting firm of Peckham and McKenney for a fee of $24,000 for the recruitment of a Chief of Police.

25. Consideration of a Standard Format for a Plaques Commemorating Projects
Re: Consideration of a standardized plaque for project dedications.

26. Procedure to Accommodate Larger Expenditures When Required by Public Peace, Health or Safety
Re: Considering authorizing the City Manager to appropriate and/or expend up to $100,000 without additional prior Council approval, in situations deemed by the Mayor to be an extraordinary emergency for the preservation of public peace, health or safety.

27. Fire Apparatus Available for Surplus
Re: Informational report of the availability of surplus fire apparatus currently available for possible surplus.

28. Use of Proposition 42, Proposition 1B and ½ Cent Sales Tax Funds - Street Projects
Re: Informational report on the budgetary effects on street projects considering the receipt of funds from various sources, a more detailed overview of which will be provided at the October 17, 2006 City Council Meeting.

29. Consider Adoption of Audit Committee Ordinance
Re: Setting a public hearing for September 19, 2006 for the adoption of the draft Audit Committee Ordinance.

30. Debarment Procedures – City Contractors
Re: Consideration of an Ordinance setting forth regulations for the temporary or permanent barring of particular contractors from bidding or being awarded City contracts.

31. Aggressive Solicitation Ordinance
Re: Consideration of an Ordinance prohibiting “aggressive solicitation” including solicitation involving the following of pedestrians, repetitive solicitations despite refusals, use of abusive or profane language, unwanted physical contact, intentional blocking of traffic, and soliciting that poses a dangerous condition for the solicitor or others.

32. Update – Development of Local Regulations Concerning Sex Offenders
Re: Discussion and review of sample regulations concerning sexual offenders.

33. Request by Council Member–Discussion of Process to Be Utilized for the Appointment of a New Council Member
Re: Discussion and consideration of process for the appointment of a new Council Member.

34. Request by Council Member–Consideration of Pop Warner Field Use Without Fee Charges
Re: Discussion and consideration of Pop Warner Field use without fee charges.

Adjourn to a Meeting of the Porterville Redevelopment Agency
PORTERVILLE REDEVELOPMENT AGENCY AGENDA
September 5, 2006

Roll Call: Agency Members

WRITTEN COMMUNICATIONS

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

SCHEDULED MATTER
PRA-1. Authorization to Advertise for Bids - Casa Buena Vista Slurry Seal Project
Re: Approving plans and project manual for street maintenance project in the Casas Buena Vista development at an estimated cost of $42,000.

Adjourn the Redevelopment Agency Meeting to a meeting of the City Council.

ORAL COMMUNICATIONS

OTHER MATTERS
Plaque for Council Member Stadtherr

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

ADJOURNMENT - to the meeting of September 5, 2006

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Chief Deputy City Clerk at (559) 782-7442. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
JULY 18, 2006, 6:00 P.M.

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

ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. Closed Session Pursuant to:
   5- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: Two Cases.
   6- Government Code Section 54957 - Public Employment - Title: Auditor.

7:05 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
No action was reported.

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

PRESENTATION
City Manager’s Featured Projects for July 2006
- Casas Buena Vista

ORAL COMMUNICATIONS
- Joyce Cranford, 300 E. Heatherwood, came forward with approximately 300 signatures from people who felt that there were dangerous roads that needed repair. Miss Cranford spoke regarding the problems caused by potholes on major streets, and presented photographs to the
Deputy City Manager. She stated that the roads were in bad shape and they would like them to be fixed. Miss Cranford stated that she and ten class members and her teacher, Mr. Coleman, were present from the Monache Summer School Civics and Economics Class.

- Charles Reeder, President of Perris 40 Corporation, came forward and thanked the Council for standing behind Casas Buena Vista during the last three years. Mr. Reeder also recognized his brother Steven Reeder and Richard Hart for their diligence in working on the project. Mr. Reeder also thanked the Porterville Redevelopment Agency for the success that this was, and more specifically, Brad Dunlap, Susan Duke, Jose Ortiz, and Fabian Uresti for their work on this project, and especially thanked Denise Marchant for making the project the success it was. Mr. Reeder stated that they planning on building low income housing for many more years, here and in other cities.

- Sidney Pedraza, 1125 W. Glenn Court, came forward with the idea of abandoning some of the alleys in the City to cut maintenance and repair costs to the City, and to provide additional safety to adjacent property owners.

- Dennis Wilson, 761 Balmayne, came forward on behalf of flag football and youth sports and asked to speak to Item 25. He also asked if Item 25 could be moved up on the agenda.

Council Member Pedro Martinez addressed the class present and advised them to take advantage of the City website and email capabilities to contact the Council, and staff, at any time. He stated that they could also send any pictures that way also.

**CONSENT CALENDAR**

Items 1, 5 and 6 were removed for further discussion. Item 28 was added to the Consent Calendar.

2. **ADDITION OF POLICE RADIO FREQUENCY**

Recommendation: That Council authorize the Purchasing Agent to proceed with the acquisition of another police radio channel and pertinent equipment through MD Communications at a cost of $9,116.46.

Documentation: M.O. 01-061806
Disposition: Approved.

3. **NEGOTIATED PURCHASE - TELEMETRY SYSTEM UPGRADE**

Recommendation: That the City Council:
1. Authorize the purchase of the equipment outlined in the attached quotation; and
2. Authorize a budget adjustment to the Equipment Replacement expenditures for FY 06/07 in the amount of $36,349.00.

Documentation: M.O. 02-061806
Disposition: Approved.
4. HGAC COOPERATIVE PURCHASING AGREEMENT

Recommendation: That the City Council authorize the Mayor to sign the agreement.

Documentation: M.O. 03-061806
Disposition: Approved.

7. ACCEPTANCE OF THE HENDERSON AVENUE RECONSTRUCTION PROJECT

Recommendation: That City Council:
1. Accept the project as complete;
2. Authorize the filing of the Notice of Completion;
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed; and
4. Authorize staff to further evaluate the intersection of Morton Avenue and Mathew Street prior to removing the temporary 4-way stop.

Documentation: M.O. 04-061806
Disposition: Approved.

8. ACCEPTANCE OF IMPROVEMENTS - NEW EXPRESSIONS, PHASE 4
SUBDIVISION ENNIS HOMES, INC. BRIAN ENNIS

Recommendation: That City Council:
1. Accept the public improvements of New Expressions, Phase Four Subdivision for maintenance;
2. Authorize the filing of the Notice of Completion; and
3. Release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

Documentation: M.O. 05-061806
Disposition: Approved.

9. WATER CONSERVATION PHASE II - WATER SYSTEM STATUS

Recommendation: That the City Council:
1. Continue with Phase II of the Water Conservation Plan; and
2. Continue to the Public Hearing that is scheduled for the August 15, 2006 Council meeting to consider moving into Phase III of the Water Conservation Plan.

Documentation: M.O. 06-061806
Disposition: Approved.

10. REIMBURSEMENTS FOR STREET IMPROVEMENTS ALONG MATHEW STREET
BY BURTON SCHOOL DISTRICT

Page 3 of 18
Recommendation: That City Council:
1. Accept the Mathew Street off-site public improvements constructed by Burton School District; and
2. Establish, by resolution, that before benefiting/adjacent properties are permitted to develop, their proportionate share of the reimbursement amount shall be collected and reimbursed to the Burton School District. The total reimbursement amount to be collected shall not exceed $146,848.36.

Documentation: M.O. 07-061806 / Resolution 89-2006
Disposition: Approved.

11. STATE DEPARTMENT OF FINANCE - POPULATION AND HOUSING ESTIMATES

Recommendation: That the City Council authorize the Mayor to sign a request for State certification for the City of Porterville January 1, 2006, population of 45,220.

Documentation: M.O. 08-061806
Disposition: Approved.

12. ORANGE BELT STAGES LEASE

Recommendation: That the City Council:
1. Approve the request of Orange Belt Stages to enter into a month-to-month tenancy of the City Transit Center;
2. Authorize staff to prepare the lease under the same terms and conditions as the original one-year lease, however, provide for the month-to-month tenancy provisions with a 60-day notice to terminate requirement; and
3. Authorize staff to negotiate with Sierra Management for the use of the additional office space now occupied by Orange Belt Stages, if and when Orange Belt Stages chooses to activate the termination provisions.

Documentation: M.O. 09-061806
Disposition: Approved.

13. SELECTION OF CITY VOTING DELEGATE TO LEAGUE OF CALIFORNIA CITIES MEETING

Recommendation: That Council select the Mayor as the voting delegate and the Mayor Pro Tem as the voting alternate to represent the City at the League of California Cities’ Meeting, September 9, 2006, authorize the City Manager to attest to same, and direct staff to notify the League.

Documentation: M.O. 10-061806
Disposition: Approved.
14. TULARE COUNTY’S PROPOSED EXPENDITURE PLAN FOR THE HALF-CENT SALES TAX MEASURE

Recommendation: That the City Council approve the County of Tulare’s request to include the attached expenditure plan in the ballot initiative.

Documentation: M.O. 11-061806
Disposition: Approved.

28. FARM MANAGEMENT/FARMLAND LEASE AGREEMENT AND GRAND JURY RESPONSE

Recommendation: Information only.

Documentation: None.
Disposition: Report received by the Council.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem F. Martinez that the Council approve Item Nos. 2 through 4, 7 through 14 and 28. The motion carried unanimously.

1. CITY COUNCIL MINUTES OF JUNE 20, 2006 AND JUNE 27, 2006

Recommendation: That the City Council approve the City Council Minutes of June 20, 2006 and June 27, 2006.

Council Member McCracken abstained from voting on the June 20 minutes, and Mayor Hamilton corrected the minutes of June 27 in that his Grandfather was not in attendance.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member West that the Council approve the City Council Minutes of June 20, 2006 and June 27, 2006, as corrected.

M.O. 12-061806

AYES: P. Martinez, F. Martinez, Stadtherr, Hamilton
NOES: None
ABSTAIN: McCracken
ABSENT: None

Disposition: Approved with correction to June 27, 2006.

5. AUTHORIZATION TO ADVERTISE FOR BIDS - CLASS II (BIKE LANE) AND CLASS III (BIKE ROUTE) BIKEWAY PROJECT

Recommendation: That the City Council:
1. Direct Staff to prepare a budget adjustment in the amount of $50,000 and approve said amount in the 2006/2007 FY budget;
2. Approve the Plans and Project Manual for the Class II and Class III Bikeway Project;
3. Authorize staff to advertise for bids;
4. Authorize the Public Works Director to sign and transmit the attached six month extension agreement between the City and the San Joaquin Valley Air Pollution Control District; and
5. Direct staff to prepare the final construction plans and present to Council for review and approval.

Council Member Martinez clarified that the loss of parking spaces was a consideration in this project.

COUNCIL ACTION: MOVED by Council Member P. Martinez, SECONDED by Council Member Stadtherr that the Council approve Item No. 5 as recommended. The motion M.O. 13-061806 carried unanimously.
Disposition: Approved.

6. AUTHORIZATION TO ADVERTISE FOR BIDS - DATE AVENUE RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Approve the Plans and Project Manual for the Date Avenue Reconstruction Project; and
2. Authorize staff to advertise for bids.

Council Member P. Martinez clarified that the mistake of closing the entire road at one time would not be done on this project, and that one lane would be open at all times.

COUNCIL ACTION: MOVED by Council Member P. Martinez, SECONDED by Mayor Pro Tem F. Martinez that the Council approve Item No. 6 as recommended. The motion M.O. 14-061806 carried unanimously.
Disposition: Approved.

PUBLIC HEARINGS

Recommendation: It is requested that the City Council proceed as follows:
1. Hold the public hearing concerning the Ordinance to Disestablish the Business Improvement Area of the City of Porterville.
2. If a majority of the assessed businesses have not protested the disestablishment, the Council may approve and give first reading to the attached Ordinance Disestablishing the Business Improvement Area of the City of Porterville, Proposing to Dispose of Assets Acquired with the Revenues of Assessments Levied within the Business Improvement District, and Repealing Chapter 15, Article IV, “Business Improvement Area,” Sections 15-31 through 15-39, in their Entirety; OR

3. If a majority of the assessed businesses have not protested the disestablishment, notwithstanding this the Council may opt to continue the assessments and keep the District in place or direct that other modifications be initiated, OR

4. If a majority of the assessed businesses do protest the disestablishment, the City Council should take no further action on the proposed disestablishment.

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

Mayor Hamilton opened the public hearing at 7:29 p.m. and asked those in favor of the disestablishment to come forward.

- Robert Vanderhorst, 288 N. “D” Street, spoke in favor of disestablishing the Business Improvement District.
- Greg Shelton, 888 N. Williford Drive, spoke in favor of disestablishing the Business Improvement District.
- Clayton Taylor, 1350 W. Jean, spoke in favor of disestablishing the Business Improvement District.

Mayor Hamilton asked those in opposition to the disestablishment to come forward.

- Dick Eckhoff, Downtown Porterville Association, presented handouts to the Council, and spoke in favor of maintaining the Business Improvement District, and asked Council to arrange for the Redevelopment Advisory Committee to administer the funds if necessary, or approve Option 3 of the recommendation.
- Jim Cone, Jim’s Auto Parts, spoke in favor of maintaining the Business Improvement District.
- Renee Sprague, 75 N. “D” Street, spoke in favor of maintaining the Business Improvement District.
- Robert Garcia, 202 N. Main Street, spoke in favor of maintaining the Business Improvement District.
- Casey Bolling Rangle, Main Street Coffee, 178 W. Main Street, spoke in favor of maintaining the Business Improvement District.
- Pam Hughes, 20522 Avenue 164, spoke in favor of disestablishing the Business Improvement District.

The Mayor closed the public hearing at 7:57 p.m.
The City Attorney and Mayor noted for the record that the City Clerk had received 64 petitions in favor of disestablishment.

Council discussed the number of responses received and the problem at hand. Council concurred on continuing the public hearing until a vote could be taken by the BID membership so the Council would know what the majority wanted.

The City Attorney recommended that the public hearing be continued to a date certain, and that the vote be an advisory vote, with the ballots being taken until to close of the continued public hearing.

The Chief Deputy City Clerk stated that the next meeting would allow sufficient time to get out the ballots.

**COUNCIL ACTION:** MOTION by Council Member McCracken, SECONDED by Council Member P. Martinez to continue the public hearing until August 1, 2006, with advisory ballots available to the members of the BID, with the acceptance of votes until the close of the public hearing on August 1.

**AYES:** McCracken, P. Martinez, F. Martinez, Stadtherr, Hamilton

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

Disposition: Approved.

16. PUBLIC TRANSIT SYSTEM MODIFICATIONS

**Recommendation:** That the City Council:

1. Hold the required Public Hearing, and after consideration of any comments regarding these matters, direct staff to implement the modifications to the City’s Public Transit System as follows:
   A. Convert the Dial-A-COLT (COLT) System to Senior and American with Disabilities Act – only service, effective August 1, 2006, and operate the service from 7:00 a.m. to 8:00 p.m., Monday through Friday, and from 9:00 a.m. to 6:00 p.m. on Saturday;
   B. Expand Fixed Route Service by one bus in FY 2008/09;
   C. Increase Marketing and Promotion Efforts to increase ridership;
   D. Increase Transit Service fares to $1.00 and implement a $36 monthly pass for frequent riders of the service, effective August 1, 2006; and
   E. Implement the Capital Acquisition Program as outlined in the Short Range Transit Plan.

Deputy City Manager Frank Guyton presented the item, and Linda Clark, Administrative Analyst, gave the staff report.
The public hearing opened at 8:14 p.m. No one came forward in favor, and the Mayor asked for those in opposition.

• Ruben Chavez, representing Family Healthcare Network, 117 W. Poplar Avenue, came forward in opposition to the provision for converting the Dial-A-COLT System to Senior and ADA only.

The public hearing closed at 8:16 p.m.

The Council questioned Ms. Clark about a County-wide bus pass. Ms. Clark spoke about the ridership and current and proposed routes.

Mr. Chavez spoke on the ridership for the Healthcare Clinic.

Council Member Stadtherr abstained from the vote due to his employer.

COUNCIL ACTION: MOVED by Council Member P. Martinez, SECONDED by Mayor Pro Tem F. Martinez that the City Council approve the staff recommendation as presented.

M.O. 16-061806

AYES: McCracken, P. Martinez, F. Martinez, Hamilton,
NOES: None
ABSTAIN: Stadtherr
ABSENT: None

Disposition: Approved.

17. ANNUAL ENGINEER’S REPORT AND ASSESSMENTS FOR LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS

Recommendation: That the City Council:
1. Open the public hearing on the 2006-2007 Assessments for the Landscape and Lighting Maintenance Districts to take comments or receive protests on the proposed assessments; and
2. Adopt the Resolution ordering the continued maintenance of Landscape and Lighting Maintenance Districts and confirming the Engineer’s Report and Assessments for the 2006-2007 Fiscal Year.

Deputy City Manager Frank Guyton presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report. Mr. Perrine stated that staff was asking Council for an additional year to address any deficits and/or surplus in the individual districts, and possible consolidations and ways to redo some of the districts.

The public hearing opened at 8:32 p.m.
Steve Tree, 2514 Memory Lane, Westwood Estates Annexation #5, asked how much of an increase would be assessed to each of the property owners in his district.

Mr. Perrine stated that it would be about $3.50 per property owner.

The public hearing closed at 8:34 p.m.

Council discussed the number of districts and the subsidization of the various districts. Council also questioned the management of the districts and the proper assessment of the districts. Council concurred that the number of districts needed to be reduced, and they needed to have better accounting for the districts.

COUNCIL ACTION: MOVED by Council Member P. Martinez, SECONDED by Council Member Stadtherr that the City Council adopt the Resolution ordering the continued maintenance of Landscape and Lighting Maintenance Districts and confirming the Engineer’s Report and Assessments for the 2006-2007 Fiscal Resolution 90-2006 Year. The motion carried unanimously.

Mayor Hamilton stated that the landscape maintenance district program had gotten so large that perhaps another position was needed in Mr. Perrine’s Department to oversee the program.

Mr. Guyton stated that staff would be bringing back an item for Council consideration very soon on reorganizing that Department, including an analyst position.

Disposition: Approved.

18. ROYAL OAKS VIEW VESTING TENTATIVE SUBDIVISION MAP (ENNIS HOMES, PACIFIC HOLT CORPORATION, LANDMARK)

Recommendation: That the City Council open the public hearing and continue the public hearing to the August 1, 2006 City Council meeting.

Deputy City Manager Frank Guyton presented the item, and Community Development Director Brad Dunlap presented the staff report.

The public hearing was opened at 8:46 p.m. and continued until August 1, 2006.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member P. Martinez that the City Council continue the public hearing to the August M.O. 17-061806 1, 2006 City Council meeting. The motion carried unanimously.

Disposition: Approved.
SECOND READING

The City Attorney and Council Member P. Martinez left the room due to a conflict on the next item.

19. SECOND READING - ORDINANCE NO. 1701, APPROVING ZONE CHANGE 4-2006 (PRE-ZONING) AND ANNEXATION 464

Recommendation: That Council give Second Reading to Ordinance No. 1701, waive further reading, and adopt said Ordinance.

COUNCIL ACTION: MOVED by Mayor Pro Tem F. Martinez, SECONDED by Council Member Stadtherr that the City Council adopt Ordinance 1701, and waive further reading of the ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 4-2006 (PRE-ZONING) CONSISTING OF 215" ACRES AND ANNEXATION 464 IN NORTHERN PORTERVILLE, GENERALLY SOUTH OF REID AVENUE, NORTH OF MULBERRY AVENUE, EAST OF SCENIC DRIVE, AND WEST OF PLANO STREET.

AYES: McCracken, F. Martinez, Stadtherr, Hamilton
NOES: None
ABSTAIN: P. Martinez
ABSENT: None

Disposition: Approved.

The Council took a recess from 8:48 p.m. to 8:57 p.m.

SCHEDULED MATTERS

20. TRANSIT AGREEMENT WITH SIERRA MANAGEMENT

Recommendation: That the City Council:
1. Approve the Agreement between the City of Porterville and Sierra Management for operational and management services for the City’s public transportation service; and
2. Authorize the Mayor to execute the Agreement on the City’s behalf.

Deputy City Manager Frank Guyton presented the item, and Linda Clark presented the staff report.

COUNCIL ACTION: MOVED by Council Member P. Martinez, SECONDED by Mayor Pro Tem F. Martinez that the Council accept the staff recommendation for this item.

M.O. 18-071806 The motion carried unanimously.
Mayor Hamilton stated that Item 25 would be taken out of order.

25. SPORTS COMPLEX YOUTH EVENT FEES

Recommendation: That the City Council adopt the Resolution approving an adjustment to Sports Complex youth event field-use game fees.

Deputy City Manager Frank Guyton presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report.

Dennis Wilson, Porterville Flag Football, 764 Balmayne, came forward and spoke about the parking fees and its effect on his League, with 214 kids, which would have an adverse impact, and they asked that the fee be left at $1.00. He stated that if Porterville got another hotel, they would host a State tournament, which would mean 1200 kids at the complex, which would bring revenue to the City. He stated that if they were forced to leave, it would just be another park to mow.

Luis Medina, 1204 W. Date, stated that he was in the same boat with 800 kids. He stated that they would have another $8,000 in fees, on top of the $6,000 for parking, to the City if these fees were passed. He stated that they would have to move if that happened, and the schools had already agreed to allow them to play there. He stated that they already paid parking fees for the families.

Council asked about the ‘good old boy agreement’ for the fees, but no one knew who made the agreement.

Don Ramirez, 554 W. Morton, outgoing Commissioner for AYSO, and a parent involved in AYSO, stated that the children shouldn’t have to pay to park and then pay to play on the grass. He stated that they paid concession stand fees before, but they had not been billed this year. He stated that the concession stand was the only fund raising mechanism they had, and the funds were used to enable the children to play. Mr. Ramirez stated that many families could not participate with the additional fees.

Mr. Medina stated that they were not arguing the parking fees, they were fine with that and could go from $12 to $15, the problem was adding the $1 per family. Mr. Medina and Mr. Ramirez spoke about their concession earnings funding scholarships for their players, and stated that the $1 use fee per player per game would be the largest expense they had.

Council Member McCracken stated that they had two problems–how much of a burden did they place on the kids, and the player fee was on the books and would have to be changed if not enforced.

Council Member Stadtherr stated that this was another problem in the same department. He stated that the Parks and Leisure Services Commission recommendation was that the parking fee be charged and the participant fee be phased in after this year. He recommended eliminating the participant
game fee, go on with the parking fee as in the past, and refer this matter to the internal audit committee to see how they were keeping records, or lack there of.

Mayor Pro Tem F. Martinez spoke on the importance of sports programs. He stated that they needed to get rid of the participant fee, maintain the parking fee and increase it by increments.

Council discussed the costs to maintain the sports complex, and it was agreed that sports activities were important. Council Member McCracken questioned how many other things had been approved and not charged. Mayor Hamilton asked Mr Ruiz to comment on the Parks and Leisure Services recommendation.

Joe Ruiz, Jr., 1385 N. Lotas Way, stated that the sports complex was a business that the City was into. He stated that the Parks and Leisure Services Commission looked at the fees and they made an appropriate recommendation. He stated that the parents paid for children to participate in programs, as they always have, and the Council was there to address a business decision. Mr. Ruiz stated that internally the Parks and Leisure Services Department made a mistake and it needed to be rectified, and that was the biggest problem to face that evening. If the fees had been waived for one organization, then they had to be waived for all. He stated that whatever had been done, a business decision had to be made, whether someone was overcharged or undercharged or not.

Council concurred that further review was needed, and a solution found based on hard facts. Mayor Hamilton stated that they would vote on the motion tonight, then Mr. Perrine needed to come back with some strong, hard facts, possibly with the aid of a consultant. It was clarified that the revised fee would apply to everyone.

The City Attorney stated that any additional changes and resolutions would be brought back to the next meeting. The City Attorney clarified that the proposed resolution remains as is with the last three lines removed.

COUNCIL ACTION: MOVED by Mayor Pro Tem F. Martinez, SECONDED by Council Member P. Martinez that the Council leave the parking fee at $1.00 and increase by .25 increments over the next two years to $1.50, and eliminate the participation fee. The motion carried unanimously.

Mayor Hamilton stated that Council would revisit this matter when they had different figures. He stated that they would get with Mr. Perrine when they had their questions formulated.

Disposition: Approved.

21. CITY FLAG DESIGN

Recommendation: That the City Council:
1. Award the design of a City flag to Mel Gosage Optigraphics for the total proposal cost of $2,450.00;
2. Appoint two Council Members and two staff members to work with Mr. Gosage in the creation of the flag design; and
3. Direct staff to bring the completed design back to the entire Council for final approval before production commences.

Deputy City Manager Frank Guyton presented the item and Linda Clark presented the staff report.

COUNCIL ACTION: MOVED by Council Member P. Martinez, SECONDED by Mayor Pro Tem F. Martinez that the Council approve the staff recommendation and appoint Council Member Stadtherr, Council Member McCracken and Linda Clark to the committee, with the City Manager to appoint one other staff member for the committee. The motion carried unanimously.

Disposition: Approved.

22. CGI COMMUNICATION, INC. – COMMUNITY VIDEO AND STREET BANNER BRANDING PROGRAM

Recommendation: That the City Council approve the following recommendations of the committee:
1. That the City Council approve one of the four options presented for the banner proof to be provided to CGI Communications, Inc.;
2. That the sponsor information portion of the banner consist of a white background, with specific colors for sponsor name, logo or telephone number to be designated by sponsor and vendor;
3. Sponsor information may consist of any combination of the following: Business name, logo, telephone number; and
4. That the City Council approve the banner placement locations provided by CGI Communications, Inc., a map of which is presented for further reference.

Deputy City Manager Frank Guyton presented the item and Linda Clark presented the staff report.

COUNCIL ACTION: MOVED by Council Member P. Martinez, SECONDED by Council Member Stadtherr that the Council accept the recommendation, with the selection of M.O. 20-071806 Banner No. 3. The motion carried unanimously.

Disposition: Approved.

23. “D” OVERLAY SITE REVIEW 2-2006 (EBAUGH)

RECOMMENDATION: That the City Council adopt the draft resolution containing findings and conditions in support of approval for “D” Overlay Site Review 2-2006
Deputy City Manager Frank Guyton presented the item, and Community Development Director Brad Dunlap presented the staff report.

Mayor Hamilton abstained and left the room.

**COUNCIL ACTION:** MOVED by Council Member P. Martinez, SECONDED by Council Member Stadtherr that the City Council adopt the draft resolution containing findings and conditions in support of approval for “D” Overlay Site Review 2-2006.

**Resolution 92-06**

AYES: McCracken, P. Martinez, F. Martinez, Stadtherr  
NOES: None  
ABSTAIN: Hamilton  
ABSENT: None

Disposition: Approved.

**24. WORK PROGRAM FOR $200,000 ALLOCATION TO THE PORTERVILLE COMMUNITY CENTER**

RECOMMENDATION: That the City Council approve the 2006/2007 work program for the Porterville Community Center.

Deputy City Manager Frank Guyton presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report.

Council Member P. Martinez stated that he wanted the community involved in doing some of this, and would like to see civic organizations approached to help. He stated that perhaps recognition plaques could be done.

Mayor Hamilton questioned why any of the funds were budgeted for staffing, supplies, maintenance, etc. He stated that the money should be for renovation only, with the building left empty until it was done. Council concurred that they were looking at renovating the main stage, patio and chapel areas. Mayor Hamilton stated that this should be brought back for a decision on activities, and what those are would determine further improvements.

Council Member McCracken recommended that they proceed with the roof immediately.

Mayor Hamilton stated that any suggestions for the community center should be given to Mr. Perrine.

**COUNCIL ACTION:** MOVED by Council Member McCracken, SECONDED by Council Member P. Martinez that the Council approve the polyurethane roof system, and continue the remaining $95,000 to August 15, 2006. The motion carried unanimously.

Disposition: Approved.
26. SPORTS COMPLEX TRANSPORTATION

Recommendation: That the City Council receive the report from the Parks and Leisure Services Commission related to the Sports Complex transportation.

Deputy City Manager Frank Guyton presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report.

Joe Ruiz, Jr., 1385 N. Lotas Way, stated that as Chair of the Parks and Leisure Services Commission stated that there was no viable, cost effective solution to getting transportation out to the complex.

Council Member P. Martinez thanked the Commission for their work. He stated that he felt the sports complex did not meet the needs of part of the community due to its location. He stated that he would like to see a smaller sports complex in town in a different area. He stated that even at the present sports complex there was not enough room for all the kids that wanted to participate. He stated that there used to be after school sports programs, and that might be an alternative that should be considered. The main concern was getting kids to participate in positive activities.

Disposition: Report received.

27. GRASS PARKING LOT OPTION

RECOMMENDATION: That City Council:

1) Make the determination as to whether the grass parking lot option is a viable option; and

2) If determined to be a viable option, direct Public Works to prepare the necessary changes to the City Ordinance to allow Grasspave2 or similar method of parking lot construction.

Deputy City Manager Frank Guyton presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

Council Member McCracken stated that he thought this was a viable alternative, although it shouldn’t be mandated, on areas such as the fairgrounds or church areas. He stated that lots used everyday would create problems, such as oil runoff.

Council Member Stadtherr stated that he had primarily been looking at something for church parking lots for overflow—it was certainly not for in front of Walmart. He understood the reasons for asphalt parking lots, but he thought maybe this was an alternative where they could bring back the regulations a little, let the players, developers, and commercial property owners out there go with it and see where it goes.
Council and staff discussed the issues of parking on non-asphalt areas, and Council Member Stadtherr clarified that he was speaking of commercial areas.

Staff stated that it could be an option available to developers. The City Attorney stated that it could be looked at in areas based on frequency of use. She stated that no ordinance was in front of the Council, but direction could be to review the matter and develop an ordinance.

Council discussed the issue and concluded that they would like to see an area with such a system in place. Someone in the audience stated that there was a parking lot at Lowe’s in Sunnyvale. It was also stated that the Heritage Center had porous paver blocks to support driving over for emergency use.

Council concurred that this matter should be brought back at the second meeting in October, October 17, for further discussion.

Disposition: Continued to October 17, 2006.

The Council adjourned to a meeting of the Porterville Redevelopment Agency at 10:28 p.m.

PORTERVILLE REDEVELOPMENT AGENCY AGENDA
July 18, 2006

Roll Call: Agency Member Pete McCracken, Agency Member Pedro Martinez, Vice-Chairman Felipe Martinez, Agency Member Richard Stadtherr, Chairman Cameron Hamilton

WRITTEN COMMUNICATIONS
None

ORAL COMMUNICATIONS
None

SCHEDULED MATTERS

PRA-1. AUTHORIZATION TO ALLOCATE ADDITIONAL REDEVELOPMENT LOW AND MODERATE INCOME HOUSING FUNDS TO COMPLETE THE STREET SLURRY AT CASAS BUENA VISTA SUBDIVISION

Recommendation: That the Redevelopment Agency authorize the expenditure of up to an additional $26,000 from the Redevelopment Low and Moderate Income Housing Fund for the completion of the slurry seal on the streets in the Casas Buena Vista subdivision by Field Services personnel.

Deputy City Manager Frank Guyton presented the item, and Community Development Director Brad Dunlap presented the staff report.
AGENCY ACTION: MOVED by Agency Member Pedro Martinez, SECONDED by Agency Member Stadtherr that the Porterville Redevelopment Agency authorize the expenditure of up to an additional $26,000 from the Redevelopment Low and Moderate M.O. PRA 01 Income Housing Fund for the completion of the slurry seal on the streets in the Casas Buena Vista subdivision by Field Services personnel. The motion carried unanimously.

Disposition: Approved.

The Porterville Redevelopment Agency adjourned to a meeting of the City Council at 10:30 p.m.

ORAL COMMUNICATIONS
  • Greg Shelton, 888 N. Williford Drive, stated that he just wanted to illustrate for the Council what it’s like at a Parks and Leisure meeting. He invited the Council to attend their meetings. Mr. Shelton stated that regarding transportation to the sports center—although it wasn’t on the list, it had been his recommendation that they either get into the lock box, or take some of the money that the City was losing on the farming operation and buy a bus and send it to the sports park.

OTHER MATTERS
  • Council Member Pedro Martinez asked staff to set up Council outreach meetings on off Tuesdays for the newly annexed County Island areas. He stated that they should be vector meetings like they did last time.

  • Council Member Richard Stadtherr stated they were set to bring back the traffic enforcement issue on August 15, but all the response he had already received was negative, so he had his answer. He stated that the item shouldn’t be brought back. Council concurred, and the Mayor stated that the matter would be dropped.

ADJOURNMENT
  The Council adjourned at 10:34 p.m. to the meeting of August 1, 2006.

Georgia Hawley, Chief Deputy City Clerk

ATTEST:

Cameron Hamilton, Mayor
Call to Order: 7:00 p.m.
Roll Call: Council Member McCracken, Council Member Martinez, Mayor Pro Tem Martinez, Council Member Stadtherr, Mayor Hamilton

Pledge of Allegiance led by Mayor Pro Tem Felipe Martinez
Invocation - Moment of Silence

ORAL COMMUNICATIONS
None

CONSENT CALENDAR

1. REVISION TO RESOLUTION 178-2005 AUTHORIZING THE ELIMINATION OF TRANSACTION (SALES) AND USE TAX RECORDS

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

Documentation: Resolution 103-2006
Disposition: Approved.

2. EMERGENCY REPLACEMENT - FIRE STATION #1 HVAC

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.

Documentation: M.O. 01-080806
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member P. Martinez that the Council approve Item Nos 1 and 2. The motion carried unanimously.

SCHEDULED MATTER

3. REVIEW OF THE CITY COUNCIL PROCEDURAL HANDBOOK

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.
The City Manager presented the item and stated one aspect of this was the presentation of AB1234, for which the City Attorney has done a memorandum which she will present, the other is the procedural book itself which they would review on a page by page basis.

The City Attorney spoke regarding AB 1234, which went into effect on January 1, 2006. She stated that the key requirements were that local agencies adopt expense reimbursement policies that specify the kinds of activities that are reimbursable, the time limit to submit reimbursements, the use of expense report forms, and require that all expenses, for which reimbursement is requested, be documented by receipts or the reimbursement amount would default to the IRS rates. The City Attorney stated that although the legislation is purported to apply to charter cities, some cities felt it was not necessarily so, although no city wished to be the first to be a test case. Ms. Lew stated that she had put in language so that if it was found to apply to charter cities, the bases would be covered. The Council typically obtains a per diem for expenses, and prepays travel expenses, so reimbursement was not used. The City Attorney then stated that she had recommended the following modifications to the Handbook be made:

- The title of Section VII be amended to read “Travel, Meetings, and Expenses.”
- 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.”
- 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.
- 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 “reimbursable expense” under AB 1234.
- 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.”

The City Attorney stated that she would continue to monitor any legislation concerning AB 1234, as well as any case law that may shed light on the interpretation of the new provisions. Also, two policies that had been acted on by the Council, but not yet incorporated into the Council Handbook, also needed to be revisited. One was related to mileage and other reimbursement for noncommercial air travel, as they would relate to Council Members, and 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, she recommended that these recent modifications not be added to and included in the Handbook. The City Attorney also recommended that changes be made to the initial program developed for the distribution of lap top computers to the Council members concerning the amortization/ depreciation of the laptops. 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 City Attorney stated that the key is that the amortization/depreciation schedule is based on the useful life the of equipment. The City Attorney stated that she would continue to monitor the case law for AB 1234 as it changed, but she believed that the City was doing was reasonable.

Mayor Hamilton stated that Ms. Lew should continue to review any AB 1234 rulings and report back to Council in six months, or as necessary.

The Chief Deputy City Clerk stated that the formal lap top computer policy was referenced in the Handbook and needed to be adopted by Council.

Mayor Hamilton stated that the policy needed to brought to Council for consideration, and the City Manager stated that staff would bring back the policy on laptops, with Ms. Lew’s changes, for their approval.

The City Manager stated that the Chief Deputy City Clerk should add the consultants evaluation form for City Manager/Attorney as an attachment to the Handbook.

The City Manager and the City Council then reviewed the Handbook—both the proposed changes of the Chief Deputy City Clerk and the City Attorney, and the proposed changes from Council Member McCracken. The City Council concurred on the following items proposed for the Handbook:

- Bring back the policy on laptops, with Ms. Lew’s changes, and add as an attachment.
- Add the consultants evaluation form for City Manager/Attorney as an attachment to the Handbook.
- Sec. I, move Paragraph 3 to Sec. IV C.
- Sec. I, move E to Sec. V
- Do not add Parliamentary Authority
- Do not change II B
- make changes to II C- 1a, 1b, 1c or 1d
- Every letter mailed by a Council Member on letterhead:
  - to be copied to other members
  - letter to be “from the Office of Council Member ______”
  - possible clause at bottom “letters from individual Council Members represent their individual opinion and should not be construed as representing any official opinion of the City or the other Council Members
- Do not change III B; IV B; or IV C, last two paragraphs
  - Requests from Council for agenda items will be submitted on an agenda short form, with no staff time involved until action is directed by a quorum of the Council.
- Keep Thursday Council delivery, but unless an emergency, no late addendums, instead item will be pulled
• Sec. V C.-“Council to be provided a copy of the agenda in electronic form suitable for loading on a laptop computer with provisions for annotating”-Staff to buy Adobe Acrobat 7 for use with Council agenda file.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem F. Martinez that the approve the agreed upon changes to the City Council Procedural Handbook and direct staff to bring back the document for final consideration and adoption by the Council. The motion carried unanimously.

Disposition: Approved.

The City Attorney was directed to look into provisions of 1090 on whether one member of Council accepting gifts over $50, and accepting gifts over $360, would ban, or forever ban, the Council from doing business with that person.

Council Member P. Martinez asked staff to bring back in October an agenda item to discuss a policy and procedure for appointments to boards and commissions through an interview selection process, with a provision for removing members. Council Member P. Martinez stated that he would work with the City Manager and send any information to the Council.

Council Member P. Martinez questioned doing an agenda item to discuss a standardized plaque for dedications.

Mayor Hamilton stated that staff would bring the item back for discussion.

ORAL COMMUNICATIONS
• Greg Shelton, 888 N. Williford, spoke regarding appointments and stated that he agreed that there was a problem with absenteeism.

• Ron Irish, 768 N. Prospect, spoke regarding appointments and Council letters. He stated that he agreed that there should be some type of qualification, but they should not make it an elitist program. He stated that on the question of personal Council correspondence, they should be able to write to whoever they want, but perhaps include that it was that Council members opinion only.

Council Member Stadtherr stated that they could add the clause to the bottom of the letter that “this is an individual opinion and does not reflect the views of the entire Council.”

OTHER MATTERS
• Council Member Stadtherr submitted letter stating his intent to resign from the Council as of the close of the September 5 Council meeting, as he was moving out of the City limits to Switzerland. The Council members congratulated Council Member Stadtherr on his marriage. He stated that he was leaving it up to the Mayor if he wanted to postpone the Council pictures that were scheduled.
• Council Member McCracken asked about truck routes and heavy trucks on City streets.

The City Manager stated that he would provide a list of truck routes to the Council.

• Mayor Pro Tem F. Martinez asked staff not to sell any fire apparatus and equipment which was being replaced so that they could look into providing the old equipment to tribes starting their own stations.

The City Manager stated that this would be brought back on the agenda with an opinion from the City Attorney.

• Mayor Hamilton asked that the City participate and provide $360 to put in an ad to support the Pow Wow on September 9, 2006.

Council concurred and the City Manager stated that he would process this item.

• Mayor Hamilton stated that there should be a better way, and a procedure, to take of emergency items like No. 2 on this agenda.

The City Manager stated that a provision could be added to the Purchasing Ordinance to address ‘life safety’ issues.

ADJOURNMENT

The Council adjourned at 8:25 p.m. to the Council Meeting of August 15, 2006.

Georgia Hawley, Chief Deputy City Clerk

SEAL

Cameron Hamilton, Mayor
Call to Order: 6:32 p.m.
Roll Call: Council Member McCracken, Council Member P. Martinez, Mayor Pro Tem F. Martinez, Council Member Stadtherr, Mayor Hamilton

Pledge of Allegiance led by Council Member Pete McCracken
Invocation - Moment of Silence

ORAL COMMUNICATIONS
None

PUBLIC HEARING

1. RIVERWALK MARKETPLACE COMMERCIAL CENTER PROJECT; A REQUEST FOR APPROVAL OF CONDITIONAL USE PERMIT 4-2006 WITHIN THE VIEJO ROBLES PLANNED DEVELOPMENT GENERALLY LOCATED AT THE NORTHWEST CORNER OF JAYE STREET AND STATE ROUTE 190

Recommendation: That the City Council:
1. Adopt draft resolution approving CUP 4-2006 to a) amend the Specific Plan for the Viejo Robles Planned Development as proposed, b) permit construction of an indoor building materials retailer, and c) to permit the sale of alcoholic beverages under an on-sale license at a restaurant with separate bar area; and
2. Authorize the Mayor to sign a Letter of Public Convenience or Necessity.

The Mayor reopened the public hearing at 6:33 p.m.

City Manager Longley noted a conflict of interest, recused himself from the discussion, and left his seat.

Council Member Richard Stadtherr also recused himself and left the Council Chambers due to a conflict of interest.

Brad Dunlap, Director of Community Development, presented the item, and Senior Planner Julie Boyle presented the staff report.

Ben Ennis, 643 N. Westwood Street, came forward and publicly thanked Mr. Dunlap and Ms. Boyle for the hundreds of hours they spent on this project. He also thanked Public Works Director Baldo Rodriguez and City Engineer Mike Reed for their assistance. Mr. Ennis also thanked Jason Hatwig and Shafik Salamor with CEI Engineering Associates, Inc., Fresno, and Ted Anderson, from Lowe’s, Carlsbad, and stated that they were present in support of this project.
The public hearing closed at 6:46 p.m.

Council briefly discussed various aspects of the project, such as the transit stop, the traffic pattern, signage, landscaping and noise attenuation. The Council members stated that they were ready for the project to begin.

COUNCIL ACTION: MOVED by Mayor Pro Tem F. Martinez, SECONDED by Council Member P. Martinez that the City Council adopt draft resolution approving Conditional Use Permit 4-2006 to a) amend the Specific Plan for the Viejo Robles Planned Development as proposed, b) permit construction of an indoor building materials retailer, and c) to permit the sale of alcoholic beverages under an on-sale license at a restaurant with separate bar area; and authorize the Mayor to sign a Letter of Public Convenience or Necessity.

Resolution 114-2006

AYES: McCracken, F. Martinez, P. Martinez, Hamilton
NOES: None
ABSTAIN: Stadtherr
ABSENT: None

Disposition: Approved.

ORAL COMMUNICATIONS
None

ADJOURNMENT

The Council adjourned at 6:56 p.m. to the Council Meeting of August 29, 2006 at 6:30 p.m.

Georgia Hawley, Chief Deputy City Clerk

SEAL

Cameron Hamilton, Mayor
COUNCIL AGENDA: SEPTEMBER 5, 2006

SUBJECT:  AUTHORIZATION TO ADVERTISE FOR BIDS – MORTON AVENUE CHIP SEAL PROJECT

SOURCE:  Public Works Department - Engineering Division

COMMENT:  The Plans and Project Manual have been prepared for the Morton Avenue Chip Seal Project from Plano Street to Leggett Street. The street maintenance project includes the application of asphaltic emulsion and screenings (chip seal) spread on existing pavement after it has been cleaned of all dirt and loose material. The chip seal project will greatly increase the durability of the roadway. Grinding and repaving small areas prior to the chip seal is another aspect of the project. New striping and related pavement markings are included in the project.

The Plans and Project Manual are available for review in the Public Works Department - Engineering Division.

The Engineer's Estimate for the complete project is $74,409.50 and is attached for review. An additional $3,500 is required for staff time and quality control testing for a total estimated probable cost of $77,909.50.

Funding for this project is approved through Chip Seal and the Street Overlay Program in the 2006/2007 Annual Budget.

RECOMMENDATION:  That City Council:

1.  Approve the Plans and Project Manual; and

2.  Authorize staff to advertise for bids.

ATTACHMENTS:  Locator Map
                Engineer's Estimate

P:/pubwork/Engineering/Council Items/2005-09-05 Authorization to Advertise for Bids - Morton Avenue Chip Seal Project.doc

Dir  Appropriated/Funded  CM  Item No. 2
### MORTON AVE. CHIP SEAL PROJECT
#### PLANO ST. TO LEGGETT ST.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>QTY.</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>AMOUNT</th>
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<tr>
<td>1</td>
<td>13,458</td>
<td>Sq. Yd.</td>
<td>Chip Seal (Seal Coat) per the guidelines set forth in these specifications.</td>
<td>$2.50</td>
<td>$33,645</td>
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<tr>
<td>2</td>
<td>2,000</td>
<td>Sq. Ft.</td>
<td>Grind &amp; Pave Asphalt Concrete 1.5&quot; minimum thickness per the guidelines set forth in these specifications</td>
<td>$4.00</td>
<td>$8,000</td>
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<tr>
<td>3</td>
<td>1</td>
<td>L.S.</td>
<td>Striping &amp; Pavement Marking per the guidelines set forth in these specifications</td>
<td>$15,000</td>
<td>$15,000</td>
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<tr>
<td>4</td>
<td>1</td>
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<td>Mobilization &amp; Demobilization</td>
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<tr>
<td>5</td>
<td>1</td>
<td>L.S.</td>
<td>Traffic Control</td>
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**Sub-Total** | **$67,645**  
**10% Estimating Contingency** | **$6,676.50**  
**TOTAL** | **$74,409.50**

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**ESTIMATE CERTIFIED**
- **Project Manager**: Alan Calhoun  
  - Date: 8/29/06
- **Public Works Director**: Lawrence Rodriguez  
  - Date: 8/29/06
- **City Engineer**: Michael Keeslar  
  - Date: 8/14/06
- **City Manager**:  
  - Date: 8/30/06
COUNCIL AGENDA: SEPTEMBER 5, 2006

SUBJECT: AWARD CONTRACT – BUS SHELTERS AND BENCHES

SOURCE: Administrative Services/Purchasing

COMMENT: Staff solicited proposals for two (2) bus shelters with wire grid contour benches for the Transit Department. In response to solicitation, two (2) proposals were received, one of which was unresponsive to the specifications. The responsive proposal is as follows:

<table>
<thead>
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<th>Bidder</th>
<th>Amount</th>
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<tr>
<td>Tolar Manufacturing</td>
<td>$11,313.75</td>
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<tr>
<td>Corona, CA</td>
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</table>

Staff has reviewed the proposal and finds it to be responsive to the specifications. The new shelters are included in the most recent FTA grant which provides reimbursement of 80% of the cost. The City’s matching funds are available from Local Transportation Funds.

RECOMMENDATION: That Council award the contract for two (2) bus shelters with wire grid contour benches to Tolar Manufacturing of Corona, CA, in the amount of $11,313.75. Further, that Council authorize payment upon satisfactory delivery of the equipment.
COUNCIL AGENDA: SEPTEMBER 5, 2006

SUBJECT: ACCEPTANCE OF IMPROVEMENTS – WILLIAMS RANCH SUBDIVISION, PHASES TWO AND THREE (Brian Ennis – Ennis Homes)

SOURCE: Public Works Department – Engineering Division

COMMENT: The subdivider has requested that the public improvements, constructed for their subdivision, be accepted by the City for maintenance. All required improvements, including sidewalks, have been completed, inspected by City staff and found to be acceptable.

The subdivider has submitted a one (1) year maintenance guarantee for five percent of the total cost of improvements.

RECOMMENDATION: That City Council:

1. Accept the public improvements of Williams Ranch Subdivision, Phases Two and Three for maintenance;

2. Authorize the filing of the Notice of Completion; and

3. Release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

ATTACHMENT: Locator Map

P:\pubworks\Engineering\Council Items\2006-09-05 Acceptance of Improvements - Williams Ranch Phase 2 & 3.doc

Dir Appropriated/Funded Item No. 4
City of Porterville

SITUATED WITHIN IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 21, T.21S., R.27E., M.D.B. & M., IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.

LEGEND

- STREET LIGHTS (26 ea.)
- FIRE HYDRANT
- LANDSCAPE AREA (6,512 S.F.)
- 6 FT MASONRY WALL (437 L.F.)

LOCATION MAP

NOT TO SCALE

SCALE: 1" = 200'

NORTH

0' 100' 200'
SUBJECT: PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT – NEWCOMB SHOULDER STABILIZATION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Department of Transportation has submitted Program Supplement Agreement Number M030, and requests that the City execute said agreement. The executed agreement becomes a part of the Local-State Master Agreement No. 06-5122.

The Program Supplement attached is for Newcomb Shoulder Stabilization (Olive Avenue to Morton Avenue) Project. The Project consists of the construction of curb, gutter and sidewalk for shoulder stabilization. Said agreement describes the special covenants with which the City must comply.

RECOMMENDATION: That the City Council:

1. Approve the subject program supplement by passing a resolution authorizing the Mayor to sign the subject program supplement; and

2. Direct staff to return the signed program supplement to CalTrans.

ATTACHMENTS: Program Supplement Agreement No. M030 Resolution

P:\PUSWORKS\ENGINEERING\COUNCIL ITEMS\2006-09-05 PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT - NEWCOMB SHOULDER STABILIZATION.doc

Dir Appropriated/Funded CM

Item No. 5
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE MAYOR TO SIGN PROGRAM SUPPLEMENT NO. M030 TO ADMINISTER THE AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 06-5122

BE IT RESOLVED by the City Council of the City of Porterville that the Mayor is hereby authorized to execute the document known as Program Supplement No. M030 to Local Agency-State Master Agreement No. 06-5122, for the Newcomb Shoulder Stabilization (Olive Avenue to Morton Avenue) Project.

ADOPTED this 5th day of September, 2006.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

______________________________
By Georgia Hawley, Chief Deputy City Clerk
This Program Supplement hereby incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 05/14/97 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. , approved by the Administering Agency on (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by State of any funds derived from sources noted below obligated to this project, the Administering Agency accepts and will comply with the Special covenants or Remarks setforth on the following pages.

PROJECT LOCATION:
On Newcomb Street from Olive Ave to Morton Avenue

TYPE OF WORK: Construct curb, gutter and sidewalk for shoulder stabilization

<table>
<thead>
<tr>
<th>Estimated Cost</th>
<th>Federal Funds</th>
<th>Matching Funds</th>
<th>OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>$15,000.00</td>
<td>H400 $13,279.00</td>
<td>LOCAL $1,721.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

CITY OF PORTERVILLE

By ______________________

Date ______________________

Attest ______________________

Title ______________________

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Statutes</th>
<th>Item</th>
<th>Year</th>
<th>Program</th>
<th>BC</th>
<th>Category</th>
<th>Fund Source</th>
<th>AMOUNT</th>
</tr>
</thead>
</table>

Accounting Officer ______________________ Date 7/6/06 $13,279.00
SPECIAL COVENANTS OR REMARKS

1. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the most current published Local Assistance Procedures Manual.

2. All project repair, replacement and maintenance involving the physical condition and the operation of project improvements referred to in Article III MAINTENANCE, of the aforementioned Master Agreement will be the responsibility of the ADMINISTERING AGENCY and shall be performed at regular intervals and as required for efficient operation of the completed project improvements.

3. The ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act and OMB A-133 if it receives a total of $500,000 or more in federal funds in a single fiscal year. The federal funds received under this project are a part of the Catalogue of Federal Domestic Assistance (CFDA) 20.205, Highway Planning & Research. OMB A-133 superceded OMB A-128 in 1996. A reference to OMB A-128 in a Master Agreement (if any) is superceded by this covenant to conform to OMB A-133.

4. The ADMINISTERING AGENCY agrees that payment of Federal funds will be limited to the amounts approved by the Federal Highway Administration (FHWA) in the Federal-Aid Project Authorization/Agreement or Amendment/Modification (E-76) and accepts any resultant increases in ADMINISTERING AGENCY funds as shown on the Finance Letter, any modification thereof as approved by the Division of Local Assistance, Office of Project Implementation.

5. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after the project contract award. A copy of the award package shall also be included with the submittal of the ADMINISTERING AGENCY's first invoice for the construction contract to:

Department of Transportation
Division of Accounting
Local Programs Accounting Branch, MS#33
P. O. Box 942874
Sacramento, CA 94274-0001
SPECIAL COVENANTS OR REMARKS

Failure to do so will cause a delay in the State processing invoices for the construction phase. Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual and LPP 01-06.

6. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available for new phase(s) of work by future Federal obligations will be encumbered on this PROJECT by use of a STATE approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

7. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

8. Any State and Federal funds that may have been encumbered for this project are only available for disbursement for a period of five (5) years and seven (7) years, respectively, from the start of the fiscal year(s) that those funds were appropriated within the State Budget Act. All project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested and is approved by the California Department of Finance per Government Code Section 16304. The exact date of each fund reversion will be reflected in the approved finance letter(s) issued for this project.

Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement that is not submitted to the Department on or before 60 days after that applicable fixed fund reversion date will not be paid from that fiscal year's encumbered funds because all of these unexpended funds will be irrevocably reverted by the Department's Division of Accounting on that date.

Pursuant to a directive from the State Controller's Office and
SPECIAL COVENANTS OR REMARKS

the Department of Finance, the last date to submit invoices for reimbursed work in each fiscal year is May 15th in order for payment to be made out of those then current appropriations. Project work performed and invoiced after May 15th will be reimbursed only out of available funding that might be encumbered in the subsequent fiscal year, and then only when those funds are actually allocated and encumbered as authorized by the California Transportation Commission and the Department's Accounting Office.

9. "ADMINISTERING AGENCY certifies that neither the ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this agreement. ADMINISTERING AGENCY agrees that it will notify the STATE immediately, in the event a suspension or a debarment happened after the execution of this agreement."

10. The Administering Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT -assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT -assisted contracts. The Administering Agency's DBE Program, as required by 49 CFR Part 26 and as approved by Caltrans, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, Caltrans may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

11. Billing Cycle

ADMINISTERING AGENCY agrees to submit invoices in arrears for reimbursement of participating PROJECT costs at least once every six months commencing after the funds are encumbered for each phase by the execution of this PROJECT PROGRAM SUPPLEMENT or by STATE's future approval of an applicable Finance Letter. The total of all invoiced amounts claimed, plus any required matching
SPECIAL COVENANTS OR REMARKS

funds, must not exceed the actual total cost allowable under this PROGRAM SUPPLEMENT for all authorized and completed PROJECT engineering work, right of way acquisition, and construction.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY shall submit a written explanation (with target billing date and target billing amount) of the absence of PROJECT activity.

Should ADMINISTERING AGENCY fail to invoice for participating PROJECT costs incurred (including a written explanation when no invoice is submitted) within one year of the issuance of the PROJECT authorization to proceed by STATE or from the next invoice due date following the last PROJECT invoice, STATE may de-obligate and reassign to another party any unexpended Federal funds without notice to ADMINISTERING AGENCY. STATE may also not process any future request for authorization to proceed submitted by the ADMINISTERING AGENCY.

Final Billing

ADMINISTERING AGENCY agrees that it shall submit the Final Invoice and Final Detail Estimate within 180 days of PROJECT completion. ADMINISTERING AGENCY's failure to submit these documents will result in sanctions imposed upon ADMINISTERING AGENCY by STATE in accordance with Chapter 17.6, "Consequences For Non-Compliance", of the Local Assistance Procedures Manual.

De-obligate Federal Funds for Construction Phase

ADMINISTERING AGENCY agrees that if the estimated PROJECT construction cost is less than the obligated amount for construction by more than $50,000, that excess amount of federal funds initially obligated is subject to de-obligation by STATE once the project has been awarded by ADMINISTERING AGENCY.

12. The ADMINISTERING AGENCY will reimburse the STATE for the ADMINISTERING AGENCY share of costs for work requested to be performed by the STATE.
COUNCIL AGENDA: SEPTEMBER 5, 2006

SUBJECT: CONSOLIDATED WASTE MANAGEMENT AUTHORITY MEMBERSHIP AGREEMENT PAYMENT

SOURCE: Public Works Department - Field Services Division

COMMENT: On December 8, 1999, the Cities of Visalia, Porterville, Lindsay, Dinuba and Tulare entered into a Joint Powers Agreement forming the Consolidated Waste Management Authority (CWMA). By this Agreement, a Joint Powers Authority was created to act as a regional agency and independent public agency to comprehensively plan, develop, operate, and manage the transformation, diversion, recycling, processing and disposal of solid waste within the members' jurisdictions. On November 26, 2002, the cities of Exeter, Farmersville and Woodlake joined the CWMA.

On November 17, 2005, the CWMA Board approved Tulare County joining and on January 26, 2006, formally accepted the City of Woodlake's withdrawal. On April 4, 2006, the City Council authorized the Mayor to sign the new agreement with the CWMA with these changes. With the addition of the County of Tulare to the CWMA and the use of CWMA carryover funds, the City of Porterville's contribution share has decreased from $59,575 in 05/06 to $34,772 for 06/07. The City's membership fee is paid from the Solid Waste Fund.

On August 8, 2006, the California Department of Conservation awarded a total of $114,566 to the Consolidated Waste Management Authority members. The City of Porterville received a "DOC/Recycling" check for $11,941 as its portion of the awarded funds. These funds are used to finance the CWMA recycling education, community awareness, and clean-up programs within these eight agencies and need to be forwarded to the CWMA.

RECOMMENDATION: That the City Council:

1. Authorize issuance of checks to the CWMA for the following:
   a. Payment of $34,772 for the City's membership contribution; and
   b. Forward $11,941 for the City's portion of CWMA's awarded funds received from California Department of Conservation.

ATTACHMENT: CWMA Proposed Budget

P:\pub\work\Engineering\Council\items\2006-09-05 Consolidated Waste Management Authority Membership Agreement Payment.doc

Dir  Appropriated/Funded  CM  Item No. 60
## CONSOLIDATED WASTE MANAGEMENT AUTHORITY
### PROPOSED BUDGET

**June 22, 2006**

### Revenues

<table>
<thead>
<tr>
<th>Description</th>
<th>2005-06 Current Budget</th>
<th>2006-07 Half Contribution Carryover</th>
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<tr>
<td>Bottle Bill Funds</td>
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<tr>
<td>Bottle Bill Carryover</td>
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<tr>
<td>Member Contributions</td>
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<tr>
<td>Contribution Carryover</td>
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<tr>
<td>County Additional</td>
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**TOTAL REVENUES** $763,000

### Expenditures

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<td>Professional Services</td>
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<tr>
<td>Legal</td>
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<tr>
<td>Accounting</td>
<td>$1,500</td>
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<tr>
<td>Audit</td>
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<tr>
<td><strong>TOTAL</strong></td>
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</table>

**Programs**

- Education and Public Awareness: $38,500
- Beverage Container Collection: $13,500
- C & D Subsidy: $95,000
- CSET Bev. Container: $40,000
- CSET School Education: $70,000
- Household Haz Waste: $240,000
- Litter Cleanup: $21,500
- Media Campaign: $75,000
- Waste-to-Energy: $60,000

**TOTAL EXPENDITURES** $763,000

### Contributions Based on Population %

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dinuba</td>
<td>19,297</td>
<td>4.8</td>
<td>$25,531</td>
<td>$15,080</td>
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<tr>
<td>Exeter</td>
<td>10,367</td>
<td>2.6</td>
<td>$13,770</td>
<td>$8,094</td>
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<tr>
<td>Farmersville</td>
<td>10,240</td>
<td>2.5</td>
<td>$13,197</td>
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<td>Lindsay</td>
<td>11,031</td>
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<td>$59,575</td>
<td>$34,772</td>
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<tr>
<td>Tulare</td>
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<td>12.3</td>
<td>$66,144</td>
<td>$38,664</td>
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<tr>
<td>Tulare County</td>
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<td>37.3</td>
<td>$233,387</td>
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<tr>
<td>Visalia</td>
<td>107,550</td>
<td>26.7</td>
<td>$138,226</td>
<td>$84,046</td>
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</table>

**TOTAL** 402,682 $331,887 $430,675

---

*Education and Public Awareness includes Earth Day $5,000, Tulare County Fair $3,000, and WRAP Awards $5,000

**Audit figure for 2006-07 includes audits for 4 fiscal years = 2002/03, 2003/04, 2004/05, and 2005/06*
SUBJECT: IMPROVEMENT PROGRAM FOR PORTERVILLE COMMUNITY CENTER

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The City Council has previously provided funding for the improvement of the Porterville Community Center. Direction has been provided for up to $105,000 to be utilized for application of a roofing system, and $7,500 to be utilized for the three months of facility maintenance. The remaining allocation of funds amounts to $87,500.

Staff proposes to replace the HVAC system for the chapel section of the building and utilize the balance of funds for flooring repairs and resurfacing. Bid documents will be prepared for consideration by the City Council, and improvement contracts will be presented for approval prior to proceeding with any work.

An RFP process will be conducted to solicit community organizational interest in the building.

RECOMMENDATIONS: That the City Council consider the improvement program as presented by staff and provide direction as appropriate.
SUBJECT: EXTENSION OF LICENSE AGREEMENT TERM FOR SENIOR NUTRITION PROGRAM USE OF THE SANTA FE DEPOT

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The current License Agreement with the Porterville Senior Council and the Kings/Tulare Area Agency on Aging (K/T AAA) is for a one-year term to expire on October 1, 2006. The Senior Council has proposed an extension of the License Agreement through the end of the calendar year to provide sufficient time for the organizations to collaborate on a new agreement. Staff of K/T AAA has indicated support for the extension.

The current License Agreement provides for payment of $800.00 per month by the City to the Senior Council in support of facility operations cost for the senior nutrition program, conducted by K/T AAA. A budget adjustment is needed to continue the same level of financial support for the additional three-month period.

RECOMMENDATION: That the City Council:
1. Authorize and direct the Mayor to sign the Amendment to the License Agreement, and
2. Direct the preparation of a budget amendment for the $2,400 extension in financial support.

ATTACHMENT: Amendment to License Agreement
License Agreement

ITEM NO.: 8
ADDENDUM NO. 1 TO
PROPERTY LICENSE AGREEMENT AND
AGREEMENT CONCERNING RIGHTS AND OBLIGATIONS
OF THE PARTIES

1. This Addendum No. 1 to the Property License Agreement is entered into by and between the Porterville Senior Council ("Licensor"), sub-lessee of the Porterville Santa Fe Depot, and the Kings/Tulare Area Agency on Aging ("Licensee"), and with the consent of the City of Porterville ("City"), lessee/sublessor of the property.

2. The term of this License is hereby extended and shall terminate on December 31, 2006.

3. All other terms and conditions of the Property License Agreement and Agreement Concerning Rights and Obligations of the Parties, executed on September 12, 2005, not inconsistent with this Addendum, remain in full force and effect.

Executed on _________________________, 2006 at Porterville, California.

PORTERVILLE SENIOR COUNCIL, LICENSOR

________________________________________

KINGS/TULARE AREA AGENCY ON AGING, LICENSEE

________________________________________

CITY OF PORTERVILLE
PROPERTY LICENSE AGREEMENT

AND

AGREEMENT CONCERNING RIGHTS AND OBLIGATIONS

OF THE PARTIES

Parties

1. This License agreement is entered into by and between the Porterville Senior Council ("Licensor"), sub-lessee of the Porterville Santa Fe Depot, and the Kings/Tulare Area Agency on Aging ("Licenee"), and with the consent of the City of Porterville ("City"), lessee/sublessor of said property.

Description of Property

2. Licensor is rightful possessor of certain real property situated in the city of Porterville, and more particularly described as the Porterville Santa Fe Depot ("Depot").

Grant of License

3. In consideration for and in accordance with the terms and conditions of this agreement, Licensor and the City grant to Licensee a License ("the License") to perform the following acts on the Property:

a. The Licensee shall have exclusive use of the lower level of the Santa Fe Depot on the Monday, Wednesday, Thursday, and Friday of each week between the hours of 8:30 a.m. and 2:30 p.m. for senior programs.

b. The large dining room and kitchen area will be available to the Licensee for food services and programs.

c. The Licensee will be permitted to place a refrigerator in the east alcove of the large dining room.

d. The Licensee shall have exclusive use of the kitchen cupboards above and below the pass-thru counter.

e. The small room at the south end of the building will be available for Licensee activities; the Licensee may place a lockable desk and file cabinets in the southeast
corner of this room for office and counseling purposes and may install partition walls to enclose said area. Exclusive use, by the Licensee, of this room and office space may continue until 4:30 p.m. on the days provided for under term 3(a).

f. The east-side ticket booth will be available exclusively to the Licensee for storage; the adjacent, east-side exterior covered storage area will also be available for shared use between the Licensor and Licensee.

Incidental Rights and Obligations

4. The following incidental rights and obligations accompany the License and the use of the property:

a. The Licensee shall provide regular senior citizen meal programs and services commensurate with services provided elsewhere in the Kings/Tulare Area Agency on Aging service area.

b. The Licensee shall have full and exclusive management authority over the program areas during the times of program use, and shall assume full responsibility for the timely cleaning of all areas used after all Licensee activities.

c. The Licensee shall assume full responsibility for refuse service and pest control of the entire Santa Fe Depot.

d. The Licensee shall be permitted to install telephone services and assume all responsibility for installation, control of use, and service cost.

e. The Licensee and the Licensor shall each provide an insurance certificate naming all above-mentioned parties as additional insured.

f. The Licensor shall also provide facility management oversight, routine building and grounds maintenance, utility services, and schedule use of the building.

g. The City shall provide $800 monthly to the Licensor to be used for fulfillment of its obligations under terms 4(e) and 4(f).

h. The Licensee will be responsible for interior modifications, up to $1,500 in cost, for the removal of partitions and installation of handicap grab bars in the lower-level restrooms, as well as installation of lever door operating hardware for the lower restroom doors, lower hallway door, and kitchen door.
In exercising these rights and obligations, Licensee must use reasonable care and may not unreasonably increase the burden on the Property.

License Non-assignable

5. This License is personal to the Licensee and shall not be assigned. Any attempt to assign the License shall automatically terminate it. No legal title or leasehold interest in the Property is created or vested in Licensee by the grant of this License.

Term of License

6. This License shall be for a term of one year, commencing on October 1, 2005, and terminating on October 1, 2006. The parties may agree to extend this Agreement, with the terms of said Agreement to be reviewed and adjusted as the parties deem to be appropriate prior to renewal.

Termination of Occupancy

7. On or before the termination date for this License specified in paragraph 6 of this agreement, Licensee shall remove all of Licensee’s personal property from the Property and shall surrender possession of the Property to the Licensor in good order and repair to the reasonable satisfaction of the Licensor, normal wear and tear excepted.

Default

8. In the event Licensee fails to comply with any of the material terms of this Agreement, in addition to any and all other remedies available under the law, this License may be revoked by Licensor or the City, upon Licensee’s receipt of written notice of the violation to the parties and its failure to cure within ten (10) days. More time may be granted for the cure of any violations if agreed to in writing by the parties.

Termination

9. The parties understand that the City and Licensor have let/sublet the premises, and said lease and sublease are not scheduled to expire during the term of this Agreement. However, in the event the property is no longer available to the City or Licensor, the License herein granted shall lease to be in effect, and the parties’ obligations to each other under this Agreement also lease.
Entire Agreement

10. This Agreement constitutes the entire agreement between Licensor and Licensee relating to the License. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by all parties named above.

Executed on Sept. 12, 2005 at Porterville, California.

PORTERVILLE SENIOR COUNCIL, LICENSOR

Roy Rodgers

KINGS/TUARE AREA AGENCY ON AGING, LICENSEE

CITY OF PORTERVILLE

Kelly West
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
BARN THEATER – FIRST ANNUAL PORTERVILLE BUZZARD
FESTIVAL
OCTOBER 14, 2006.

SOURCE: Administrative Services - Finance Division

COMMENT: The Barn Theater is requesting approval to hold the Porterville Buzzard Festival, music and bird watching event on the parking lot and back stage arena of the Barn Theater on Saturday, October 14, 2006, from 4:00 p.m. to 10 p.m. This application is submitted in accordance with the Community Civic Events Ordinance No. 1326, as amended.

The application has been routed according to the ordinance regulations and reviewed by all the departments involved. All requirements are listed on the attached copy of the Application, Agreement and Exhibit “A.”

RECOMMENDATION: That the Council approve the Community Civic Event Application and Agreement from the Barn Theater, subject to the Restrictions and Requirements contained in the Application, Agreement an Exhibit “A” of the Community Civic Event Application.

ATTACHMENT: Community Civic Event Application and Agreement, vendor list, request for parking lot closure/usage, Exhibit “A” map, outside amplifier permit.
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 8-8-06  Event date: 10-21-06

Name of Event: Porterville Buzzard Festival
Sponsoring organization: Barn Theatre
Authorized representative: Ralph Bourne
Address: 78 N. Corona Dr

Event chairperson:  

Location of event (location map must be attached):

Barn Theatre 42 Plano (Behind Theatre)

Type of event/method of operation: Birdwatching

Music / Dance / Food

Nonprofit status determination:  

City services requested (an (fees associated with these services will be billed separately)

<table>
<thead>
<tr>
<th>Barricades (quantity):</th>
<th>Street sweeping</th>
<th>Refuse pickup</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes ☑ No ☐</td>
<td>Yes ☑ No ☐</td>
<td>Yes ☑ No ☐</td>
</tr>
<tr>
<td>Police protection</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Yes ☑ No ☐               | Yes ☑ No ☐      |
Other:                   |

Parks facility application required: Yes ☑ No ☐
Assembly permit required: Yes ☑ No ☐

STAFF COMMENTS (list special requirements or conditions for event):

Approve   Deny

Bus Lic Spvr
Pub Works Dir
Comm Dev Dir
Field Svcs Mgr
Chief Fire Oper.
Parks Dir
Police Chief
Deputy City Mgr

1 of 4
CITY OF PORTERVILLE

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Authorization:  This permit must be submitted 30 days PRIOR to the date of the event in order to obtain City Council approval.

City Code requirements:

- At least 48" must remain clear on sidewalks for pedestrian traffic.
- Do not block any entrance to or exit from buildings.
- Area must be accessible to emergency and safety personnel and vehicles.
- Electrical cords must be approved and installation checked by the Fire Department.

Liability insurance:  The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit.  The City of Porterville shall be named as additional insured.  The amounts of such insurance and any additional requirements are listed in Exhibit "A."

Alcohol liability insurance:  Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served.  The insurance policy shall be endorsed to include full liquor liability in an amount not less than one million dollars ($1,000,000) per occurrence.  The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permittee, his/her agents or representatives pursuant the permit.  Claims-made policies are not acceptable.

Health permit:  Organization/Applicant will obtain or ensure that all participants obtain a health permit(s) from the County of Tulare Department of Health if any food is to be served in connection with this Community Civic Event.

First aid station:  Organization/Applicant will establish a first aid station to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

Agreement:  The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 1326, as amended, and the terms and conditions set forth by City Council and stated in Exhibit "A." The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit.  Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees.

[Signatures and dates]
CITY OF PORTERVILLE

VENDOR PARTICIPANT LIST IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Porterville Buzzard Festival

Sponsoring organization: Barn Theatre

Location: Barn Theatre 42 Plano Event date: 10.4.06

List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. NO PERMIT WILL ISSUED WITHOUT THIS INFORMATION. This form should be completed at the time of application, but must be submitted one week prior to the event.

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Activity</th>
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<tbody>
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3 of 4
CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: **1st Annual Porterville Buzzard Fest**

Sponsoring organization: **Barn Theatre**

Event date: **10-21-06**  
Hours: **4-10 PM**

**ATTACH MAP MARKING AREAS TO BE CLOSED OR USED**

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Closed</th>
<th>From</th>
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<th>Activity</th>
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**Sidewalks**

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<th>Street Name</th>
<th>Closed</th>
<th>From</th>
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<th>Activity</th>
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<thead>
<tr>
<th>Parking lots and spaces</th>
<th>Location</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Barn Theatre</strong></td>
<td>42 Plano</td>
<td>Parking</td>
</tr>
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4 of 4
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

BARN THEATER

FIRST ANNUAL PORTERVILLE BUZZARD FESTIVAL

OCTOBER 14, 2006

Business License Supervisor:  Vendor list required prior to event.
   S. Perkins

Public Works Director: Parking shall be limited to on-site areas.
   B. Rodriguez

Community Development Director: Obtain Police Department amplification
   B. Dunlap  permit, comply with City noise standards.

Field Services Manager: No comments.
   B. Styles

Chief of Fire Operations: No comments.
   M.G. Garcia

Parks and Leisure Services Director: Organizer should provide portable
   J. Perrine  restrooms.

Police Chief: Pending ABC approval for license.
   C. McMillan

Risk Manager: See exhibit "A", page 2.
   F. Guyton
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Barn Theater
Event: First Annual Porterville Buzzard Festival
Event Chairman: Ralph Bourne
Location: Barn Theater Back Stage Area and Parking Lot
Date of Event: October 14, 2006
Time of Event: 4:00 p.m. to 10:00 p.m.

RISK MANAGEMENT: Conditions of Approval

That the Barn Theater provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than $1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as “Additional Insured” against all claims arising from, or in connection with, the Permittee’s operation and sponsorship of the aforementioned Community Civic Event.

A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than $1,000.

A. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less that A:VII, and the insurance company must be an "admitted" insurer in the State of California.
CITY OF PORTERVILLE

OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-14 & 18-9)

This application must be submitted 10 days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1. Name and home address of the applicant:

   **Ralph Bourne**  
   18 N. Corona Dr.  
   Phone # 559 781-2229

2. Address where amplification equipment is to be used:

   **42 So Piano Barn Theatre**

3. Names and addresses of all persons who will use or operate the amplification equipment:

   **Ian Hammer**

4. Type of event for which amplification equipment will be used:

   **Porterville Buzzard Festival**

5. Dates and hours of operation of amplification equipment:

   Oct 21, 2006 3 - 10 PM

6. A general description of the sound amplifying equipment to be used:

   **Bluegrass Music + Voice Amp.**
I hereby certify that all statements and answers on this registration form are true and correct.

Ralph Bourne
Applicant

96
Chief of Police

8-8-06
Date

Section 18-14 City Ordinance Outside Amplifiers; permit required.
It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or connected any loud-speaker or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, without having first procured a permit from the Chief of Police.

Section 18-9 City Ordinance, Radios, record players, etc.
It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, juke box, record player, loudspeaker musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort of the occupants of nearby residences.

California Penal Code Section 415
Any person who maliciously and willfully disturbs another person by loud and unreasonable noise, is guilty of a misdemeanor.

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

cc: 

____________________________________

____________________________________

____________________________________

3/27/01
PROPOSAL TO THE CITY OF PORTERVILLE FROM
BARN THEATRE BOARD OF DIRECTORS:

ON SATURDAY OCT. 21 FROM 4 THROUGH 10 O’CLOCK WE WOULD LIKE
TO SPONSOR A BUZZARDFEST FESTIVAL. THIS WILL BE THE FIRST ANNUAL
PORTERVILLE BUZZARDFEST FESTIVAL, COMMEMORATING THE RETURN OF
THE LOCAL TURKEY VULTURES TO THE AREA AROUND THE BARN THEATRE.

THE FESTIVAL SHOULD INCLUDE MUSICAL ENTERTAINMENTS
OUTSIDE IN THE REAR OF THE BARN THEATRE, DRAMATIC
ENTERTAINMENTS, FOOD STALLS, A ROADKILL FOOD CONTEST, AND
POSSIBLY WINE AND BEER AND CHEESE TASTING.

AN AREA IN THE REAR OF THE BARN THEATRE, APPROXIMATELY ONE
ACRE, WILL BE ROPED OFF FOR THIS FESTIVAL. THIS AREA IS ON PUBLIC
PROPERTY, SO WE ARE OFFICIALLY REQUESTING PERMISSION TO UTILIZE
THIS AREA FOR THE FESTIVAL.

WE WOULD LIKE TO MAKE THIS AN ANNUAL PORTERVILLE EVENT,
DEPENDING ON THE VULTURES, AND FEEL IT WOULD BE A POSITIVE
FESTIVAL FOR OUR COMMUNITY.

FOR FURTHER INFORMATION PLEASE CONTACT:

RALPH BOURNE – 781-2229
JOAN GIVANS
BOB MERZOIAN
IAN HAMMER
STEVE ROSS
ROBERT VANDERHORST
SUBJECT: TITLE VI COMPLIANCE TASK FORCE COMMITTEE

SOURCE: Administration (Transit)

COMMENT: One of the documents required for participation in the Section 5307 Federal funding program is a Title VI Report. The first report was adopted in May of 2003, and an update is required for adoption in October, 2006.

The American Civil Rights Act – Title VI states that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

The City’s transportation consultant, Charles Clouse of TPG Consulting, Inc., has drafted the update to the City’s adopted Title VI Report, which is now ready for general review and recommendations of a transportation-related task force committee. Previously, the City had a Paratransit Plan Task Force Committee; however, for various reasons, most members are no longer able to serve. New representatives from some of the same agencies, as well as additional representation, have been approached by staff to serve on a Title VI Compliance Task Force Committee. Staff is requesting Council approval of the following members of the Title VI Compliance Task Force Committee:

Cheri Taylor  Porterville Adult Day Services
Joe Moreno  Former Committee Member & Social Services Technical Advisory Committee (SSTAC) Member
Anthony Hannah  City Transit ADA Passenger
Mary M. Valdez  City Transit Senior and ADA Passenger
Rhondi Farmer  Porterville Sheltered Workshop – Independent Living Program

The Task Force will meet shortly after its appointment by the City Council. Presently, the anticipated time frame for presentation of the Title VI Report for formal approval by the City Council is expected to be in October, 2006.

Item No. 10
RECOMMENDATION: That the City Council:

1. Appoint the above-named individuals to the Title VI Compliance Task Force Committee to assist the City in the preparation of its update to the Title VI Report.
SUBJECT: APPROVAL OF ANNUAL TRANSPORTATION AGREEMENT WITH TULARE COUNTY

SOURCE: Administration (Transit)

COMMENT: Since 1983, the City of Porterville has maintained annual agreements with the County of Tulare to provide contract transit service to residents within the unincorporated but urban areas of the community, as currently depicted by the attached Service Area Boundary Map. The last Agreement expired June 30, 2006, and it is proposed the attached successor Agreement be approved and maintained for FY 2006-2007.

Traditionally, the County has shared in the net operating cost of the system, i.e., total costs less fare box revenues, in proportion to the ridership percentage from the unincorporated area as experienced over the previous Agreement year. However, calculations have been modified over the last several years due to the inclusion of the City of Porterville in the Federal Transit Administration (FTA) Section 5307 program. Last year, the County reimbursed the City at a rate of 37.6% of net operating costs for the Demand-Response System, and at the rate of 30% of net operating costs for the Fixed Route System. This year, the County rate of reimbursement is 34.5% and 30%, respectively. (The Demand-Response calculation was reduced based on the actual percentage of County trips completed on the Demand-Response system for the FY 2005/2006 operating year.) The County contribution to City transit operations for the FY 2006/2007 Agreement year will be $314,107, up from last year’s compensation of $310,166. This total amount of compensation also takes into account a credit of $68,911, representing the City’s third annual credit to the County of Tulare over a six-year period which differed from “budgeted” amounts used to calculate the original compensation totals for the six years in question.

DD  Appropriated/Funded  CM

Item No. 11
RECOMMENDATION: That the City Council enter into an Agreement with the County of Tulare for FY 2006-2007 to provide service to County residents within the Service Area Boundary Map, and authorize the Mayor to execute the Agreement on behalf of the City.

ATTACHMENTS: 1. City/County Transit Agreement  
2. Service Area Boundary Map  
3. Letter to Tulare County setting forth cost formula components
AGREEMENT

THIS AGREEMENT, is entered into as of this ____ day of ________________, 2006, by and between the COUNTY OF TULARE, hereinafter referred to as the “County”, and the CITY OF PORTERVILLE, hereinafter referred to as the “City”.

WITNESSETH:

WHEREAS, the County and the City desire to coordinate their respective public transportation systems in the Porterville Urbanized area; and

WHEREAS, there are and will continue to be citizens of the County who can reasonably be served by the City’s transit system and there are and will continue to be citizens of the City who can reasonably be served by the County’s transit system; and

WHEREAS, the County and the City recognize the goals of providing a transportation system to the general public at a reasonable fare and that of providing coordinated public transportation service within the Porterville Urbanized area; and

WHEREAS, the County and the City desire to provide for the Joint Exercise of Powers for the purpose of providing and maintaining public transportation systems in the Porterville Urbanized area;

NOW, THEREFORE, County and City mutually agree as follows:

1. Scope of Work. The County and City shall each control, manage, and operate a separate transit system. The City and County shall furnish each other thirty (30) days prior written notice of any and all service level and fare level changes.

   (a) County. The County shall provide transit service to those residents of the City desiring to use the regularly scheduled service of the County transit system. The County shall establish bus stop location(s) within the City which will interface with the City bus stop locations and facilitate system transfers. The County stop(s) shall be established at locations acceptable to the City. Approval on behalf of the City shall be given by the City Transit Coordinator.

   (b) City. The City shall establish a series of bus stop locations within the County. The City stops shall be established at locations acceptable to the County. Approval on behalf of the County shall be given by the Director of Transportation. The City shall provide transit service to County residents desiring transit service within the urbanized service area as set forth in Exhibit “A” which is attached hereto and made a part hereof by this reference.

2. Management-County. The County shall manage the County transit system in an appropriate manner, insuring cost effective operation, including marketing the system in a professional manner and collecting fares from riders on the County transit system.

-1-

Tulare County Agreement No. ________________________________
3. **Management-City.** The City shall manage the City transit system in an appropriate manner, insuring cost effective operation, including marketing the system in a professional manner and collecting fares from riders on the City transit system.

4. **Compensation.** The County shall compensate the City for service to County residents living in the herein agreed upon service area. Compensation shall be limited to a percentage of the operating costs of the City's Transit System. The term “operating cost” as used in this Agreement shall be defined as all costs in the operating expense object classes of the Uniform Systems of Accounts for Public Transit Operators adopted by the State Controller pursuant to Public Utilities Code Section 99243. Compensation for the period July 1, 2006 through June 30, 2007, will be as follows:

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<tr>
<th></th>
<th>Demand Response</th>
<th>Route Service</th>
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<tbody>
<tr>
<td>County LTF (See Below)</td>
<td>$330,632</td>
<td>$321,973</td>
</tr>
<tr>
<td>FTA Section 5307 Credit</td>
<td>($99,415)</td>
<td>($87,625)</td>
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<td>Fare Box Credit</td>
<td>($38,235)</td>
<td>($64,253)</td>
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<td>Annual Credit Adjustment</td>
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<td>($68,911)</td>
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<td>(Third of Six equal credits)</td>
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<td>Depreciation</td>
<td>$6,141</td>
<td>$13,800</td>
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<tr>
<td><strong>Total Payment</strong></td>
<td>$199,123</td>
<td>$114,984</td>
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5. **Authorization of Payment.** FTA Section 5307 Funds will be claimed by the City on the County's behalf. The County by this Agreement authorizes the Tulare County Association of Governments to transfer $314,107 of State Transit Assistance Funds, and/or Local Transportation Funds from the County's 2006/07 Apportionment to the City of Porterville's Apportionment. The County further authorizes the City to claim said $314,107 as full payment for services under this Agreement. In case of termination of this Agreement prior to June 30, 2007, the County agrees to compensate the City for a proportional amount of the sum of $314,107 based upon the number of days the services were provided by the City during a 365 day period.

6. **FTA Funds.** Per the 2000 Census, the Porterville Urbanized Area has a population of 59,961; 39,615 (66.0%) of which are City residents, and 20,346 (34.0%) of which are County residents. The Porterville Urbanized Area is eligible to receive Federal Transit Administration (FTA) Funds from Section 5307. The City of Porterville will be the claimant of these funds. The City will, at the request of the County, claim and transmit up to 34% of said funds for use by the County for eligible purposes under FTA Section 5307. In no case shall the amount transmitted or credited to the County exceed 34% of the total available. Any Section 5307 Funds which are to be transmitted to the County shall be handled under a separate agreement.
7. Renegotiation. In the event a contract between the Federal Transit Administration and the City of Porterville is not executed by June 30, 2007 for the Section 5307 Funds specified in paragraphs 4, 5 and 6 or in the event that $187,040 exceeds 34% of the total FTA Section 5307 funds available to the Porterville urbanized area, this contract will be renegotiated to reflect this condition.

8. Drivers. The parties shall require that all transit drivers meet all licensing requirements of the State of California.

9. Indemnification-City. City shall hold harmless, defend and indemnify County, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising out of the activities of City or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against County by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

10. Indemnification-County. County shall hold harmless, defend and indemnify City, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising out of the activities of County or its agents, officers and employees under this Agreement, and any claims made against County alleging civil rights violations by City under Government Code section 12920 et seq. (California Fair Employment and Housing Act). This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

11. Insurance-Liability. The City and the County shall each provide comprehensive general public liability and comprehensive automotive liability insurance with single limit coverage of not less than $5,000,000 or equivalent self-insurance covering their activities under this Agreement. Prior to commencing operations, each party shall file with the Clerk of the other party certificates of insurance evidencing the coverage required herein and naming the other party, its officers, agents and employees as additional insured’s. Such certificates shall state that the named additional insured’s are not responsible for the payment of any premium or assessment and shall provide that in the event of a cancellation or material change of policy, the insurer shall give the named additional insured’s no less than thirty (30) days advance written notice of such cancellation or change. Upon request,
each party shall provide the other with a complete copy of the insurance policy or policies
or evidence and terms of self-insurance as required herein.

The parties agree, during the term of the Agreement, to maintain at their own expense
(or require of their independent contractors) all necessary insurance for their respective
officers, employees, and agents, including but not limited to workers' compensation,
disability and unemployment insurance in accordance with state statutory requirements and
to provide certificates of such insurance or other evidence of compliance to the other party
upon request. The insurance, and evidence thereof, required by this Agreement may be
provided either directly by the parties or, if a party contracts with an independent
contractor/operator to provide the services required by this Agreement, by the operator of
that party's system as deemed appropriate by such party.

12. **Term of Agreement.** This Agreement shall become effective July 1, 2006 and
shall continue in full force and effect until June 30, 2007 unless terminated earlier, as
herein provided.

13. **Termination.** The right to terminate this Agreement under this provision may be
exercised without prejudice to any other right or remedy to which the terminating party may
be entitled at law or under this Agreement.

   (a) **Without Cause.** Either party shall have the right to terminate this
   Agreement without cause by giving the other party SIXTY (60) days prior written
   notice of its intention to terminate pursuant to this provision, specifying the date of
   termination.

   (b) **With Cause.** This Agreement may be terminated by either party should the
   other party:

      (i) be adjudged a bankrupt, or

      (ii) become insolvent or have a receiver appointed, or

      (iii) make a general assignment for the benefit of creditors, or

      (iv) suffer any judgment which remains unsatisfied for 30 days, and which
           would substantively impair the ability of the judgment debtor to perform under
           this Agreement, or

      (v) materially breach this Agreement.

For any of the occurrences except item (v), termination may be effected upon
written notice by the terminating party specifying the date of the termination. Upon a
material breach, the Agreement may be terminated following the failure of the
defaulting party to remedy the breach to the satisfaction of the non-defaulting party
within FIFTEEN (15) days of written notice specifying the breach. If the breach is
not remedied within that FIFTEEN (15) day period, the non-defaulting party may terminate the Agreement on further written notice specifying the date of termination.

If the nature of the breach is such that it cannot be cured within a FIFTEEN (15) day period, the defaulting party may, submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate upon written notice specifying the date of termination.

(c) Effects of Termination. Termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.

14. Notices. Any notices to be given shall be written and served either by personal delivery or by first class mail, postage prepaid and addressed as follows:

County: Director of Transportation
         Resource Management Agency
         5961 S. Mooney Blvd.
         Visalia, CA  93277

City:  Transit Coordinator
         City of Porterville
         291 N. Main Street
         Porterville, CA 93257

15. Integration. This Agreement constitutes the sole and only Agreement between the parties hereto as to the services to be provided hereunder. Any prior agreements, promises, negotiations or representations as to such services not expressly referred to herein are of no force and effect.

16. Modification. The City and County shall furnish each other thirty (30) days prior written notice of any and all recommended service level and fare level changes. The City shall request and receive approval from the County Director of Transportation prior to any changes in service levels or fare levels in unincorporated areas of the service area. Except for said changes, this Agreement shall be modified or amended only with the prior written consent of both parties.

17. Assignment. Neither party shall assign or transfer any of the rights or privileges or any parts thereof of this Agreement without the other party’s prior written consent.
18. Records. Each party agrees to maintain all books, records, documents, and other
evidence pertaining to this Agreement, any disputes surrounding the subject matter of this
Agreement, and any other related circumstances in accordance with generally accepted
accounting principles and practices. Each party shall allow the other party's agents or
representative's access to such records for inspection, audit, and copying during normal
business hours. Each party shall provide further facilities for such access and inspection.

19. Surveys. Either the City or the County may conduct periodic ridership surveys.
Said surveys shall not interfere with the operation of the system.

20. Legal Operation. City and County each shall carry out its obligations under this
Agreement in full compliance with all applicable federal, state and local laws, ordinances,
rules and regulations.

21. Construction. This Agreement reflects the contributions of both parties and
accordingly the provisions of Civil Code section 1654 shall not apply to address and
interpret any uncertainty.

22. Governing Law. This Agreement shall be interpreted and governed under the
laws of the State of California without reference to California conflicts of law principles.
Any litigation arising out of this Agreement shall be brought in Tulare County California.
City waives the removal provisions of California Code of Civil Procedure Section 394.

23. Conflict with Laws or Regulations/Severability. This Agreement is subject to
all applicable laws and regulations. If any provision of this Agreement is found by any
court or other legal authority, or is agreed by the parties, to be in conflict with any code or
regulation governing its subject, the conflicting provision shall be considered null and void.
The remainder of the Agreement shall continue in full force and effect.

24. Headings. Section headings are provided for organizational purposes only and do
not in any manner affect the scope, meaning or intent of the provisions under the headings.

25. No Third Party Beneficiaries. Unless specifically set forth, the parties to this
Agreement do not intend to provide any other party with any benefit or enforceable legal or
equitable right or remedy.

26. Waivers. The failure of either party to insist on strict compliance with any
provision of this Agreement shall not be considered a waiver of any right to do so, whether
for that breach or any subsequent breach. The acceptance by either party of either
performance or payment shall not be considered to be a waiver of any preceding breach of
the Agreement by the other party.

27. Exhibits and Recitals. The Recitals and the Exhibits to this Agreement are fully
incorporated into and are integral parts of this Agreement. Each Exhibit shall be initialed
by both parties to this Agreement.
28. **Further Assurances.** Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.

29. **Assurances of Non-Discrimination.** City and County expressly agrees that it will not discriminate in employment or the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

**COUNTY OF TULARE**

By ____________________________
Chairman, Board of Supervisors
"COUNTY"

**CITY OF PORTERVILLE**

By ____________________________
Cameron J. Hamilton, Mayor
"CITY"

**APPROVED AS TO FORM**

Approved as to Form, County Counsel

By ____________________________
Deputy

Approved as to Form, City Attorney

By ____________________________
City Attorney
August 16, 2006

Resource Management Agency
5961 South Mooney Boulevard
Visalia, CA 93277
Attention: Dan Fox, Transit Coordinator

Formula for Fiscal Year 2006/07 Transit Agreement Between the City of Porterville and Tulare County

Dear Mr. Fox:

The following is a description of the cost formula components for the proposed FY 2006/07 transit agreement between our agencies.

**FY 2006/07 COLT/COUNTY SERVICE COST**
Compensation to the City for service to County residents is based on a percentage of the operating and capital costs of the transit system.

**OPERATING COST**
Operating Cost is defined as all costs in the operating expense categories of the Administration, Demand-Response and Fixed Route components. In accordance with this definition, and the adopted City of Porterville Annual Budget for FY 2006/07, the COLT operating cost is $1,757,781.

The compensation formula requires that transit system operating costs be allocated between the two service modes, Demand-Response and Fixed Route. The City's transit budget is prepared in three segments: Administration, Demand-Response and Fixed Route. The only segment based on the proportion of service hours to be operated in each mode is the Administration segment, which segment has been apportioned to Demand-Response and Fixed Route based on the following percentages. The balance of the expense allocation in each service mode represents actual budget projections for that service mode. (Service hours based on actual revenue hours for FY 2005/06).

<table>
<thead>
<tr>
<th>Service Mode</th>
<th>Service Hrs.</th>
<th>% of Total</th>
<th>Expense Allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demand-Response</td>
<td>16,635</td>
<td>44%</td>
<td>$ 684,538</td>
</tr>
<tr>
<td>Fixed Route</td>
<td>21,172</td>
<td>56%</td>
<td>$1,073,243</td>
</tr>
<tr>
<td>Total</td>
<td>37,807</td>
<td>100%</td>
<td>$1,757,781</td>
</tr>
</tbody>
</table>

City Manager's Office
291 North Main Street • Porterville, California 93257
(559) 782-7466 • Fax (661) 362-4008 • Email: mgr-office@ci.porterville.ca.us
2006/2007 FAREBOX REVENUE
The compensation formula includes a credit to the County for fares collected from County residents. It is therefore necessary to allocate farebox revenues between the two service modes. The City of Porterville FY 2006/07 farebox revenue is estimated to be $325,000. Of this amount, it is projected that $110,825 (34.1%) will be collected on the Demand-Response service, and $214,175 (65.9%) will be collected from Fixed Route system passengers. This allocation is based on the proportion of fares collected on each service mode during FY 2005/06.

COMPENSATION FOR DEMAND-RESPONSE
Based on actual ridership data reported by Sierra Management during FY 2005/06, County residents consumed 34.5% of the total Demand-Response passenger trips. (Demand-Response Trips totaled 47,081; County Trips totaled 16,235) This percentage will be used for this year’s calculations.

Based on FY 2003/04 passenger mile information, County residents travel on average 1.42 times as far as the average Porterville resident. It was proposed that this figure be rounded to a distance factor of 1.4, which has been used in the compensation formula for FY 2004/05 and 2005/06. The purpose of this factor is to adjust for the greater number of vehicle miles traveled to provide a trip to a County resident. We will, once again, use this factor for the purpose of completing this year’s calculations.

With the above data, the proposed FY 2006/07 compensation formula for Demand-Response is calculated as follows:

\[
\text{Demand-Response} \\
\$ 684,538 \times 34.5\% \times 1.4 = \$330,632 \\
\$ 330,632 \text{ Total Payment} \\
\$ 38,235 \text{ Farebox Credit (34.5\% x } \$110,825) \\
\$ 292,397 \\
\$ 99,415 \text{ FTA Section 5307 Credit} \\
\$ 192,982 \text{ COUNTY LTF}
\]

FIXED ROUTE COMPENSATION FORMULA
The current agreement between the City and the County is based on a projection of service supplied to and consumed by County residents who utilize the seven routes serving the unincorporated areas. For FY 2006/07, the same basis is proposed as in previous agreements, which is 30% of said operating cost being attributed to the County.

Based on the above, the proposed Fixed Route compensation formula is as follows:
Resource Management Agency
August 16, 2006
Page Three

Fixed Route
$1,073,243 x 30% = $321,973
$  321,973 Total Payment
-  64,253 Farebox Credit (30% x $214,175)
$  257,720
-  87,625 FTA Section 5307 Credit
$  170,095 County LTF

CAPITAL COST
Capital cost is defined as all depreciation expense attributed to all active City of Porterville Fixed Route and Demand-Response capital expense using the straight line of depreciation.

To calculate depreciation expense attributed to County residents, it is proposed that we use the 34.5% factor from the Demand-Response operating expense calculation, and the 30% factor from the Fixed Route operating expense calculation. These factors can be applied to the total projected depreciation expense for the Demand-Response and Fixed Route capital as follows:

<table>
<thead>
<tr>
<th></th>
<th>Projected Depreciation</th>
<th>Operating Factor</th>
<th>Co. Deprec.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixed Route</td>
<td>$230,000</td>
<td>30%</td>
<td>$69,000</td>
</tr>
<tr>
<td>Demand-Response</td>
<td>$ 89,000</td>
<td>34.5%</td>
<td>$30,705</td>
</tr>
<tr>
<td>Total</td>
<td>$319,000</td>
<td></td>
<td>$99,705</td>
</tr>
</tbody>
</table>

Based on the above, $99,705 is the proposed County share of projected depreciation expense. Eighty percent (80%) of capital expense is funded with FTA funds; therefore, only twenty percent (20%) needs to be funded through County LTF funds, being the sum of $19,941.

Total charge to County LTF is $383,018 ($192,982 + $170,095 + $19,941). Back-up documentation for each of the Demand-Response and Fixed Route formulas is available, upon request. From this total, and per agreement with the County of Tulare, the City shall deduct $68,911, representing the City's third annual credit to the County of Tulare over a 6-year period for prior years' adjustments. With this credit, the total charge for County LTF is $314,107.

If you should have any questions, or would like to meet to discuss the proposed compensation formula, please call me at 782-7448.

Very truly yours,

[Signature]
Linda Clark
Administrative Analyst
LTF AGREEMENT
CITY OF PORTERVILLE/COUNTY OF TULARE – FISCAL YEAR 2006/07

2005/06 Revenue Hours
Demand-Response 16,635
Fixed Route 21,172
Total Revenue Hours 37,807
Demand-Response 44% of Total Revenue Hours
Fixed Route 56% of Total Revenue Hours

2006/07 Budget
Administration $ 296,338 (Operating Cost)
Demand-Response $ 554,149 (Operating Cost)
Fixed Route $ 907,294 (Operating Cost)
Total Operating Budget $ 1,757,781

Administrative Costs Divided Between Two Systems
Demand-Response (44%) $ 130,389
Fixed Route (56%) $ 165,949
Total $ 296,338

Total Operating Costs
Demand-Response $ 684,538
Fixed Route $1,073,243
Total $1,757,781

FY 05/06 Farebox Revenue
Demand-Response $ 98,898 (34.1%)
Fixed Route $ 190,876 (65.9%)
Total $ 289,774

County Trips
Based on actual ridership data reported by Sierra Management, during FY 2005/06 County residents consumed 34.5% of the total Demand-Response passenger trips.

Total Demand-Response Trips 47,081
Total County Trips 16,235
% of County Trips 34.5%

Demand-Response
$ 684,538 x 34.5% x 1.4 = $ 330,632
$ 330,632 Total Payment
- 38,235 Farebox Credit ($110,825 x 34.5%) $ 292,397
- 99,415 FTA Section 5307 Credit $192,982 COUNTY LTF

Fixed Route
$ 1,073,243 x 30% = $321,973
$ 321,973 Total Payment
- 64,253 Farebox Credit ($214,175 x 30%) $ 257,720
- 87,625 FTA Section 5307 Credit $ 170,095 COUNTY LTF

* 2000 Census Data
Total Population 59,961
City Population 66 %
County Population 34 %
COUNCIL AGENDA: September 5, 2006

SUBJECT: RENEWAL OF PERSONNEL EXAMINING SERVICES AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND COOPERATIVE PERSONNEL SERVICES

SOURCE: Administrative Services/Human Resources

COMMENT: In order for the City to continue to participate in the written testing programs offered through Cooperative Personnel Services, the attached Test Security Agreement must be approved by the City Council. This agreement is a vital personnel tool in the evaluation process for screening and selecting qualified persons for employment. For the specific test services that the City utilizes, there are no increases in fees since our last agreement.

RECOMMENDATION: That the City Council approve the attached resolution authorizing renewal of the Test Security Agreement with Cooperative Personnel Services, and authorize the City Manager or his designee to sign on behalf of the City.

ATTACHMENTS: 1) Draft Resolution
2) Test Security Agreement
RESOLUTION NO. ____-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE TO RENEW THE PERSONNEL EXAMINING SERVICES AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND COOPERATIVE PERSONNEL SERVICES

WHEREAS, the previous agreement for personnel examining services with Cooperative Personnel Services has expired; and

WHEREAS, such an agreement is a vital personnel tool in the evaluation process for selecting qualified persons for certain key positions.

NOW, THEREFORE, BE IT RESOLVED that the Porterville City Council does hereby authorize the City Manager or his designee to enter into and sign an agreement with Cooperative Personnel Services, for the purpose of performing examining services for the City of Porterville.

APPROVED AND ADOPTED this 5th day of September, 2006.

Cameron Hamilton, Mayor

ATTEST:

Georgia Hawley, Chief Deputy City Clerk
TEST SECURITY AGREEMENT

This Test Security Agreement ("Agreement") is by and between Cooperative Personnel Services, dba CPS Human Resource Services, a California joint powers authority ("CPS"), with offices at 241 Lathrop Way Sacramento, CA 95815 and the Agency named in the signature block at the end of this Agreement ("Agency," hereafter referred to as "Client"), and is effective as of the date it is signed by both parties.

SECTION I - PURPOSE OF AGREEMENT AND DEFINITIONS

A. **Purpose.** This agreement defines CPS' test security policies and procedures. It also explains how CPS test security standards are designed to protect the mutual interests of all Clients that use test materials, as well as the interests of applicants who take such tests. In order that no person may gain special advantage by having improper access to the material, CPS requires that all users sign this agreement and fulfill its terms.

B. **Definitions of Various Types of Tests**

1. **Stock Test; Supplement:** A standardized test or supplement for a specific job classification common to many public agencies. Each stock test has been validated through a content-oriented procedure. Prior to use by an agency, a stock test undergoes agency review to ensure its job relatedness.

2. **Semi-Stock Test; Specialized Item Set:** A test developed from items selected by the agency from two or more stock tests. Content validity is established through the agency's completion of a job analysis workbook and the selection of items that match the agency's job requirements.

3. **Semi-Custom Test; Supplement:** A test developed from items developed by CPS specifically for the Client. Content validity is established through the agency's completion of a job analysis workbook and the selection of items that match the agency's job requirements.

4. **Agency Test:** A semi-stock test, semi-custom test, or other special printing of a test produced for repeat rental by the agency.

5. **Third Party Test:** Tests that are wholly owned by a party other than CPS.

6. **CPS Tests:** CPS tests, as used herein, shall refer to any of the above tests, including related test materials, such as questions and answer sheets, created and owned by CPS.
SECTION II – CPS POLICIES AND PROCEDURES

A. Preparation of Semi-Stock and Semi-Custom Tests

1. **Information Required from Clients.** If CPS agrees to prepare semi-stock or semi-custom tests for Client, Client is responsible for furnishing to CPS a written description of the work to be performed in the job classification for which a test is desired; the knowledge, skills and abilities required to perform the duties of the job classification; and special working conditions, shifts, location of the job, required licenses or certificates, salary and shift differential, if any.

2. **Proprietary Rights in Semi-Stock and Semi-Custom Tests.** For each job classification for which an examination has been requested and agreed upon by CPS and the Client, CPS shall construct a semi-stock or semi-custom written test, based on the information furnished by the Client. Such tests shall not be considered works made for hire, as that term is defined under U.S. Copyright Law. CPS shall own all rights, title and interest, including the copyright, in any test it creates for the Client. Therefore, Client shall only be allowed to use such tests in accordance with the terms of this Agreement. Ownership of individual test questions supplied by Client, if any, shall be governed by a separate agreement between CPS and Client.

B. Ordering Stock and Semi-Custom Tests

1. **Scheduling of Examinations.** When requesting test rental services, Client shall notify CPS sufficiently in advance of the specific date on which testing services are requested (“Test Date”) to allow time for scheduling and preparation. Expedited service may involve additional charges. Client shall direct all test rental service requests to:

   Test Rental Unit
   CPS Human Resource Services
   241 Lathrop Way
   Sacramento, CA 95815
   916-263-1800 or
   1-866-867-5272

2. **Client Notification to CPS of Number of Candidates.** Not less than two weeks prior to the test date, Client shall notify CPS of the total number of candidates in each job classification to be tested. Client shall rent one test booklet per candidate to be tested.

3. **Transmittal of Test Materials.** CPS shall provide Client with instructions for administering the test, if necessary, and with sufficient test booklets and such other material as CPS may deem necessary. Stock tests are prepackaged and are available only in packages of ten booklets. For each unopened package of test booklets returned to CPS pursuant to paragraph II.B(4) below, CPS will apply a credit toward Client’s current STOCK test order. See Exhibit C for the current credit per unopened test package.

4. **Client Administration of Test and Return of Test Materials.** Client shall administer the test in accordance with instructions provided by CPS and, immediately following the test, shall return to CPS all Test Materials (except that in such cases as provided in paragraphs II.B (7) and II.B (8) time extensions may be granted by CPS). For purposes of this Agreement, “Test Materials” means any and all materials furnished by CPS for the test administration, including, but not limited to, all used and unused test booklets, proctor’s instructions, proctor’s manuals, scoring instructions, key sheets, key overlays, keyed booklets, scoring keys, instructions, and any other materials generated at the test administration, such as completed answer sheets, scratch paper, note paper and the like.
5. **Re-Use of Test Materials.** Client shall not reuse the tests on the Test Date or on any other date but shall return Test Materials to CPS immediately after the Test Date, pursuant to paragraph II.B(4) above, whether or not the test was administered.

6. **Scoring of Tests.** CPS will score all scannable answer sheets, at no cost to the Client. At the discretion of CPS, responsibility for the scoring of standardized stock tests may be granted to the Client. Semi-stock, semi-custom, and agency tests may be scored by the Client.

7. **Test Materials Inspection.**

(a) **Stock and Semi-Stock Tests** - NO CANDIDATE INSPECTION SHALL BE ALLOWED OF STANDARDIZED TEST MATERIALS, OR OF TESTS PRE-DUPLICATED AS STOCK TESTS OR SEMI-STOCK TESTS.

(b) **Semi-Custom Tests** - If the Client has an officially adopted rule or established policy regarding a candidate’s privilege of inspecting a keyed copy of a semi-custom test or answer sheet(s) following the test, this rule or policy must be submitted in writing to CPS at least two weeks prior to the first test scheduled under this agreement for which such inspection is desired. CPS shall comply with such officially adopted rule or established policy, once CPS has reviewed such policy and approved it. Approval shall be at CPS’ sole discretion.

- If the Client (i) has no officially adopted rule or established policy regarding a candidate’s privilege of inspecting a keyed copy of a test or answer sheet(s) following the test, (ii) wishes to allow such an inspection privilege, and (iii) notifies CPS of (i) and (ii), above, at least two weeks prior to the Test Date, the following CPS policy shall govern:

- Inspection of a keyed copy of the test book, for the purpose of requesting a review of such items as the candidate may believe are incorrect or improperly keyed, will be allowed following a test. However, requests for a keyed copy of the test book must be made within five working days of the test.

- During test inspection by a candidate, a representative of Client’s Personnel or Administrative office must be present to assure that no candidate takes, duplicates, or transmits any Test Materials or notes regarding a test question from the test inspection.

- Upon request of Client, CPS will analyze written candidate protests resulting from such review and recommend the action to be taken by Client.

8. **Answer Sheet(s) Hand Scoring and Inspection.**

(a) **Hand Scoring.** CPS offers hand scoring of a candidate’s answer sheet(s), upon request by Client, within a 14-calendar-day period immediately following the notification to the candidate of test results. See Exhibit C for the charge for this service.

(b) **Inspection of Semi-Custom Tests** - Inspection of a candidate’s own answer sheet(s) for the purpose of detecting whether any clerical or other error has been made in the scoring of the answer sheets shall be allowed, upon request by the Client, for a 14-calendar-day period immediately following the notification to the candidate of test results.

- Candidates are **not** allowed to review the question booklet during this inspection period.
-Not more than one hour will normally be allowed for answer sheet(s) review.

-A representative of Client's Personnel or Administrative office shall be present to assure that no changes or marks of any kind are made by the candidate on the answer sheet(s) or keyed answer sheet.

9. **Examination Charges.** In consideration of CPS' performance of the testing services set forth in Exhibit C of this Agreement, Client agrees to pay CPS in accordance with the "Written Test Price List" in effect at the time of the rental arrangements. Client acknowledges and understands that the prices set forth in Exhibit C are only effective as of the date shown on Exhibit C and are subject to change. CPS shall bill Client at the billing address provided in Exhibit B, attached hereto.

10. **Canceled or Postponed Tests.** Client shall be billed for any work done on a canceled or postponed test up to the time CPS is notified of such cancellation or postponement. Under certain circumstances and in CPS' sole discretion, credit may be given for work already performed, if the test is rescheduled.

C. **Client Responsibilities**

1. The Client shall perform all parts of the testing process which have not specifically been requested of and agreed to by CPS.

2. Client shall assume responsibility for the conformity of the testing process to any applicable laws, rules or ordinances, and for the test as a whole. Under the federal Uniform Guidelines on Employee Selection Procedures, if applicable, the Client as test user is responsible for the results of the selection process, and Client understands and acknowledges that it must be prepared to demonstrate that the process is valid and meets other testing standards if it adversely affects groups protected by fair employment laws.

**SECTION III - SECURITY OF TEST MATERIALS**

A. **Ownership of CPS Tests.** Client understands and acknowledges that CPS owns all rights, title and interest, including copyrights, in all CPS Tests. Thus, all CPS Tests that are provided under this agreement are the property of CPS and shall remain the property of CPS, even while in the custody of Client.

B. **Test Security.** Client understands and acknowledges that the confidentiality of all Test Materials that CPS supplies is crucial to the continued usefulness of such Test Materials. Therefore, Client shall be responsible for the security of all Test Materials supplied for a test administration. Client shall hold and store the Test Materials in a manner that will prevent unauthorized persons from having access to them. In addition, **Client shall not reproduce test booklets or test questions under any circumstances.**
C. Legal Proceedings Involving Test Materials. If Client receives a request for disclosure of Test Materials, such as a subpoena or public records request, Client shall notify CPS of such request immediately and well before a response is due. In addition, upon CPS’ request, Client shall maintain the confidentiality of the Test Materials pending the grant or denial of a protective order or the decision of a court or administrative body as to disclosure of Test Materials. CPS shall defend, indemnify and hold Client harmless from any claim or administrative appeal, including costs, expenses, and any attorney fees, related to CPS’ pursuing protection of the Test Materials from disclosure.

SECTION IV – RESPONSIBILITY FOR COMPLIANCE WITH AGREEMENT

A. Test Administrators. Client represents and warrants that it shall ensure that each person who orders and/or receives Test Materials and/or supervises Test Administrations on Client’s behalf (“Test Administrator”) will do so in accordance with the terms of this Agreement. For Clients who sign paper copies of this Agreement, (i) all Test Administrators and (ii) the representative of Client who signs this Agreement on Client’s behalf must sign the “Test Administrator Acknowledgment” set forth in Exhibit A (“Acknowledgment”). For On-line Subscribers, the representative of Client who accepts the Agreement on Client’s behalf shall, using his or her passcode, submit the names of Test Administrators to CPS on-line (“On-line Submission”), thereby representing (i) that the Client has authorized these Test Administrators to handle tests and (ii) that the Test Administrators have been made aware of the terms of this Agreement and shall handle the tests in accordance with such terms. During the term of this initial Acknowledgement or On-line Submission is made. CPS is not obligated to accept orders or to release Test Materials to persons for whom it has not received a fully signed Acknowledgement or an On-line Submission.

B. Client’s Responsibility for Compliance with Agreement. Client represents and warrants that it shall ensure that all persons that handle Test Materials in any capacity, including both Test Administrators and proctors that simply assist with Test Administration, shall do so in compliance with this Agreement.

SECTION V – TERM AND TERMINATION OF AGREEMENT

A. Term. The term of this Agreement is one year from its Effective Date.

B. Immediate Termination upon Material Breach. Each party may terminate this Agreement immediately upon any material breach by the other party. For purposes of this Agreement, but without limiting the meaning of material breach, any breach of the test security provisions of Section III, however minor, shall be considered a material breach. Client understands and acknowledges that immediate termination by CPS may result in the withholding or recall of Test Materials.

C. Termination without Cause. CPS and Client may terminate the Agreement without cause upon thirty days written notice to the other party.

D. Return of Test Materials. Upon termination of the Agreement, Client shall immediately return to CPS any Test Materials that it possesses.

SECTION VI – EQUITABLE RELIEF AND LIQUIDATED DAMAGES

A. Equitable Relief. Client acknowledges that breach of this Agreement will result in irreparable harm to CPS for which damages would be an inadequate remedy and, therefore, in the event of a breach by the
Client, in addition to its rights and remedies otherwise available by law, CPS shall be entitled to equitable relief, including injunction.

B. Liquidated Damages. Client shall reimburse CPS, according to Exhibit D, attached hereto, for a portion or all of the replacement costs for Test Materials which, while in the custody of the Client, were lost or were compromised, such that in CPS' sole discretion the value of the testing materials was destroyed.

SECTION VII - MISCELLANEOUS

A. Notices. Any notice to the parties required or permitted under this Agreement shall be given in writing. Notice shall be deemed given at the following times: (a) on the date of service if served personally on the party to whom notice is to be given; (b) on the first day after transmission if transmitted by telex or electronic facsimile; (c) on the second day after deposit if deposited with an overnight express courier service; or (d) on the second day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, addressed to the party at the party's principal place of business.

B. Jurisdiction, Venue and Governing Law. The validity, interpretation and performance of this Agreement and the parties' rights and liabilities under this Agreement shall be controlled by and construed under the laws of the State of California, excluding its conflicts of laws rules. The exclusive jurisdiction and venue of any legal proceedings arising out of this Agreement shall be the state or federal courts located in Sacramento, California. Each party agrees not to request the Sacramento-based federal court to transfer any litigation to a federal court located elsewhere.

C. Attorneys' Fees. If any legal action or arbitration or other proceeding is brought to enforce or construe the term of this Agreement or because of an alleged dispute, breach or default in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action, arbitration or proceeding in addition to any other relief to which it may be entitled.

D. Waiver. The failure of any party at any time or times to require performance of any provisions of this Agreement shall in no manner affect its right to enforce such provision at a later time. Nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself. No waiver shall be enforceable unless made in writing and signed by the party granting the waiver.

E. Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all other agreements, representations and warranties. All modifications and supplements to this Agreement must be in writing and signed by both parties, except changes to the CPS Test Service Rates set forth in Exhibit C, which shall be subject to change in CPS' sole discretion.

F. Counterparts; Facsimile Signature; Electronic Signature. This Agreement may be executed in any number of counterparts. If this Agreement or any counterpart is signed and then faxed, the faxed copy bearing the signature shall be as good as the original, wet-ink signed copy for all intents and purposes. This Agreement may also be accessed and signed on-line through CPS' website - www.cps.ca.gov. By clicking the button "I accept," which appears at the bottom of the on-line agreement, the Client shall electronically sign the Agreement and be bound by its terms. This electronic signature shall be as good as a written signature for all intents and purposes.
G. Authority to Sign. The person signing this Agreement on behalf of the Client (the "Principal Signer") represents that he or she is the head of the agency and duly authorized to sign this Agreement and to bind the Client.

PRINCIPAL SIGNER (Head of the agency, i.e., HR Director, Fire Chief, Police Chief, etc.)

John D. Lollis, Administrative Services Manager

Name and Title (Print)

Signature

jlollis@ci.porterville.ca.us

Email

City of Porterville

Agency

291 N. Main Street

Street Address

Porterville, CA 93257

City, State, Zip

(559) 782-7450 (559) 782-7509

Phone Number Fax Number

September 5, 2006

Date

COOPERATIVE PERSONNEL SERVICES DBA CPS HUMAN RESOURCE SERVICES, A CALIFORNIA JOINT POWERS AUTHORITY

Matt Gruver
Senior Manager Test Development/Test Rental

Date
Exhibit A

TEST ADMINISTRATOR
ACKNOWLEDGEMENT

By signing below, I represent that I will order and handle CPS Test Materials in accordance with the terms of the CPS Test Security Agreement.

<table>
<thead>
<tr>
<th>Name and Title (Print)</th>
<th>Signature</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sheryl White, Human Resources Analyst</td>
<td></td>
<td><a href="mailto:swhite@ci.porterville.ca.us">swhite@ci.porterville.ca.us</a></td>
</tr>
<tr>
<td>Josie Castaneda, Human Resources Asst.</td>
<td></td>
<td><a href="mailto:jcastaneda@ci.porterville.ca.us">jcastaneda@ci.porterville.ca.us</a></td>
</tr>
<tr>
<td>Wendy Miller, Payroll Technician</td>
<td></td>
<td><a href="mailto:wmiller@ci.porterville.ca.us">wmiller@ci.porterville.ca.us</a></td>
</tr>
</tbody>
</table>

Principal Signer's Acknowledgement of Authority

By signing below, I represent that the above-named person(s) is (are) authorized to handle CPS Tests on Client's behalf and shall handle the CPS Test Materials in accordance with the terms of the CPS Test Security Agreement currently in effect.

Name and Title (Print)

Signature
City of Porterville
Agency
September 5, 2006
Date
Exhibit B

CLIENT BILLING INFORMATION

<table>
<thead>
<tr>
<th>Agency Name:</th>
<th>City of Porterville</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department:</td>
<td>Human Resources</td>
</tr>
<tr>
<td>Address:</td>
<td>291 N. Main Street</td>
</tr>
<tr>
<td>City:</td>
<td>Porterville</td>
</tr>
<tr>
<td>County:</td>
<td>Tulare</td>
</tr>
<tr>
<td>State/Province:</td>
<td>CA</td>
</tr>
<tr>
<td>Zip:</td>
<td>93257</td>
</tr>
</tbody>
</table>

Attention To: Name

Sheryl White

Title and Email Address:

Human Resoures Analyst; swhite@ci.porterville.ca.us

Telephone Number: (559) 782-7444
Fax Number: (559) 782-7509
## Exhibit C

### CPS Test Services Rates (Effective July 1, 2005)

*NOTE: Prices are Subject To Change*

<table>
<thead>
<tr>
<th></th>
<th>STOCK TESTS</th>
<th>SEMI-STOCK TEST*</th>
<th>SEMI-CUSTOM TESTS*</th>
<th>AGENCY TESTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Fee</td>
<td>$295.00</td>
<td>$415.00</td>
<td>$850.00</td>
<td>$415.00</td>
</tr>
</tbody>
</table>

**REVIEW COPIES AVAILABLE UPON REQUEST AT NO CHARGE**

<table>
<thead>
<tr>
<th>Per Booklet/Candidate Fee</th>
<th>1 - 100 Books or Candidates</th>
<th>101 - 500 Books or Candidates</th>
<th>501+ Books or Candidates</th>
<th>Cancellation Fee</th>
<th>Pick Up/Handling</th>
<th>2 - Day Shipping</th>
<th>Overnight Shipping</th>
<th>Canadian Shipping 2 - Day</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$8.50</td>
<td>$13.00</td>
<td>$14.50</td>
<td>$200.00</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
<td>15%</td>
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<tr>
<td></td>
<td>$8.00</td>
<td>$12.00</td>
<td>$13.50</td>
<td>$200.00</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
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<tr>
<td></td>
<td>$7.50</td>
<td>$11.00</td>
<td>$12.50</td>
<td>$300.00</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
<td>15%</td>
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<table>
<thead>
<tr>
<th>Entry Law/Fire Candidate Preparation Manuals</th>
<th>Structured Interview Packages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quantity Per Booklet/Candidate Fee</td>
<td>Base Fee: $400.00</td>
</tr>
<tr>
<td></td>
<td>Per Candidate Fee:</td>
</tr>
<tr>
<td>$3.00 Per Book</td>
<td>$5.00 if used with a CPS written test</td>
</tr>
<tr>
<td>Over 1,000: $2.00 Per Book</td>
<td>$7.50 if used without a CPS written test</td>
</tr>
</tbody>
</table>

Stock tests are prepackaged and are available only in packages of ten booklets. CPS will apply a credit of $35.00 for each UNOPENED package of test booklets to your agency’s current STOCK test order. Clients with 49 candidates or less are billed at the number ordered or the number actually tested, whichever is greater.

**ALL REQUIRE JOB ANALYSIS WORKBOOKS**

### SPECIAL SERVICES

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stock Supplements</td>
<td>$2.00 per book when ordered with a Stock test</td>
</tr>
<tr>
<td>Writing Proficiency Exam</td>
<td>$350.00 Base Fee + $15.00 per candidate (Professional Scoring included)</td>
</tr>
<tr>
<td>Custom Supplement</td>
<td>$100.00 Base Fee + $5.00 per booklet when used with CPS tests</td>
</tr>
<tr>
<td>Cover Change of Stock or Agency Test</td>
<td>$100.00 + $ .50 per book</td>
</tr>
<tr>
<td>Key Sheet/Stencil</td>
<td>$10.00 Each</td>
</tr>
<tr>
<td>Faxing of Test Results</td>
<td>$20.00</td>
</tr>
<tr>
<td>Emailing Test Results</td>
<td>$30.00</td>
</tr>
<tr>
<td>Non-specified special services</td>
<td>CALL FOR DETAILS (Billed at applicable hourly rate)</td>
</tr>
<tr>
<td>Method of Payment:</td>
<td>All invoices are payable in U.S. dollars. Payment can be made by check or by credit card.</td>
</tr>
</tbody>
</table>

-10-
Exhibit D

**LOST OR COMPROMISED TEST PRICING**

- For each lost test (excluding Police, Fire, and Corrections), there will be a base charge of $5,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000 per test.

- For each lost Police, Fire, or Corrections test, there will be a base charge of $10,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000 per test.

- For each lost Agency, Custom, Semi-Stock, or Specialized test, there will be a base charge of $10,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000 per test.
SUBJECT: CREATION AND ESTABLISHMENT OF CODE ENFORCEMENT OFFICER POSITION

SOURCE: Administrative Services

COMMENT: As part of the 2006-2007 budget approved by the City Council, the position of Code Enforcement Officer was budgeted within the Fire Department. Though assigned to the Fire Department in a non-sworn capacity, this newly-created position would be responsible for City code enforcement activities for both the Fire Department and other City departments.

To effect this change, the enclosed draft Resolution has been prepared for consideration. The draft job description for this position has also been provided for consideration.

RECOMMENDATION: That the City Council adopt the attached draft Resolution authorizing the addition of one (1) Code Enforcement Officer within the Fire Department, and adopt the attached draft job description.

ATTACHMENT: Draft Resolution
Draft Job Description for Code Enforcement Officer

Item No. 13
RESOLUTION NO.__-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE PROVIDING FOR THE ADDITION OF ONE CODE ENFORCEMENT OFFICER WITHIN THE FIRE DEPARTMENT

WHEREAS, the creation of new positions within the City departments is beneficial to enhance the economy and efficiency of City operations and provide essential services to the citizens; and

WHEREAS, the City Manager has considered the current organization of the Fire Department staff, and in consultation with the Department Director has defined an addition to the organizational structure that will enhance organizational integration and effectiveness; and

WHEREAS, the City Council has acted to provide for the creation of a Code Enforcement Officer position, effective September 5, 2006; and

WHEREAS, this additional position has been recommended to the City Council for consideration and adoption to be implemented.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan and the Classification Plan of the City is hereby amended as follows:

1. Establish the class of Code Enforcement Officer at Salary Range 148 ($2,871 - $3,504), effective September 5, 2006, and amend the Pay and Benefit Plan to reflect this allocation. The position shall be designated as non-sworn and included in the General Series Group for purposes of representation.

APPROVED AND ADOPTED this 5th day of September, 2006.

______________________________
Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By: ___________________________
Georgia Hawley, Chief Deputy City Clerk
CODE ENFORCEMENT OFFICER

DEFINITION

Under general direction, performs skilled work in the investigation, inspection, implementation, and enforcement of City codes, ordinances and abatement regulations; performs related duties as required.

REPRESENTATIVE DUTIES

The duties listed below are examples of the work typically performed by employees in this class. An employee may not be assigned all duties listed and may be assigned duties which are not listed below.

1. Consults with and coordinates code enforcement actions with other City departments, the prosecuting attorney, and other agencies as needed; periodically patrols or inspects an assigned area to monitor for violations of local codes, ordinances and regulations.

2. Responds to citizen complaints of potential code violations relating to signing, building occupancy, nuisances, hazardous sidewalks, housing and other conditions, construction, land use, zoning, animals, noise, dumping, clearing, grading, filling, polluting, and other code related matters.

3. Conducts field investigations of potential violations; gathers evidence; questions or interrogates complainants, witnesses and suspects; compares facts to code requirements; makes findings and issues warnings, correction notices, or citations.

4. Meets with property owners, tenants, contractors, developers, businesses and other agencies to review and explain code requirements and violations or potential violations; monitors and secures code compliance; investigates allegations of code violations.

5. Prepares and distributes a variety of correspondence, memorandums, notices, flyers, brochures, media releases and reports relating to code enforcement issues and actions; prepares and analyzes statistical data.

6. Provides information and assists the public in matters pertaining to municipal code enforcement and/or provisions including zoning, land use, planning design review, and related matters; maintains a variety of logs and records related to inspections and enforcement activities; prepares recommendations for amendments and additions to relevant codes and/or regulations.

7. Works with police and prosecutors to obtain written or tape recorded statements, depositions, or admissions, as needed; reviews cases being prepared for trial with emphasis on the evidentiary and legal issues crucial to successful prosecution; prepares detailed reports of activities and investigations performed; consults with prosecutors and prepares case reports for court action; testifies in court.
8. Assists in obtaining, enhancing, preparing and/or presenting exhibits or other evidence in court as required; attends meetings of pertinent organizations to stay current in the field of code enforcement; educates the commercial and residential communities regarding the municipal code, ordinances and community standards; presents evidence at public hearings, hearing officer proceedings and in court; performs related duties as assigned.

EMPLOYMENT STANDARDS

Education and/or Experience
Two (2) years of experience, or any equivalent combination of experience and education that provides the required knowledge and abilities related to inspection, law enforcement, building inspection, land use, public administration or a related field that would normally be obtained by previous experience involving extensive public contact requiring considerable use of tact and judgment in the interpretation and application of regulations, policies and procedures; authority to issue citations and/or revoke licenses, and performing compliance field inspections.

Knowledge of:
City, county, state and federal laws and regulations pertaining to land use, zoning, building, permits, property maintenance, health and public safety, peace, animal regulations, fire, and public nuisance; methods, procedures and techniques used in the identification, interpretation and enforcement of a wide variety of code violations; principles and methods of research and investigation related to code enforcement; effective public relations practices; evidentiary requirements for courts of law; applicable state and federal regulations regarding disabled access; and data base software is desirable.

Skill in:
Word processing and spreadsheet software; interpersonal communication and customer service.

Ability to:
Recognize conditions that constitute municipal code violations; use effective interpersonal techniques to interact with citizens and the public when explaining city health, public safety, peace, fire, traffic, zoning/land use codes and permit requirements; analyze potential code violations accurately and adopt effective resolution processes; research and interpret land use, zoning, planning and construction-related codes and investigations; prepare comprehensive reports and deliver oral and written presentations; carry out duties with a minimum of supervision; handle stressful situations and effectively deal with difficult or angry people.

Additional Requirements:
Possession of, or ability to obtain a valid California Driver’s License; ability to work evenings and/or weekends.

Physical Demands
Ability to withstand frequent exposure to the weather and occasional exposure to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, risk of electrical shock, and vibration; occasional lifting and carrying of objects weighing up to 25 lbs; ability to conduct duties in areas of unstable footing; strength, dexterity, coordination and vision to use a keyboard and video display terminal.
WORKING CONDITIONS

Exposure to conditions such as dust, fumes, odors, or noise; periodic contact with angry and upset individuals; temperature fluctuations due to both seasonal extremes and working in and out of doors. Independent travel throughout the area is required.

Date Adopted: September 5, 2006
SUBJECT: AIRPORT LEASE – LOT 32C

SOURCE: ADMINISTRATIVE SERVICES/PURCHASING DIVISION

COMMENT: In September, 2005, Mr. Wayne Ross, owner of private hangar #10 on Lot 32C, negotiated the sale of his hangar to Mr. John Loomis, Jr., and requested Council approval of an assumption of his lease by Mr. Loomis. This lease assumption was approved by Council on September 6, 2005.

We have recently been advised by Mr. Ross that he has repossessed hangar #10 and would like to re-activate his original lease with the City of Porterville effective September 1, 2006.

RECOMMENDATION: That the Council approve the re-activation of the lease agreement between the City of Porterville and Mr. Wayne Ross dated October 1, 2001, and amended November 1, 2002.

ATTACHMENT: Locator Map
SUBJECT: AIRPORT LIABILITY INSURANCE

SOURCE: City Manager’s Office

COMMENT: Airport Liability Insurance provides coverage for Bodily Injury, Property Damage, Personal Injury, Products-Completed and Advertising Injury Combined ($10,000,000 each occurrence), as well as Hangar keepers coverage (10,000,000). The most competitive quote received for fiscal year 2006/2007 was from Ace Property & Casualty Insurance Company.

There are a limited number of insurance companies who insure airports. Griswold Insurance Agency is the City’s broker for aviation policies. They have researched the current market and recommend the City renew its airport coverage with Ace Property and Casualty Insurance Company. The cost for this year will be $10,738, and is an increase of $484 over last year but still $556 below FY 2004/2005. Funds have been budgeted in the Airport fund.

RECOMMENDATION:

That the City Council approve the renewal of our current insurance policy under the same terms, conditions, and exclusions.

ATTACHMENTS: Letter from Griswold Insurance Agency
August 22, 2006

Chief Frank Guyton  
City of Porterville  
291 North Main Street  
Porterville, CA 93257

Policy Number: AAPN00985521  
Policy Description: Aviation  
Insurance Company: ACE Property & Casualty Ins Co  
Effective Date: 09/06/2005  
Expiration Date: 09/06/2006

Dear Frank:

We are pleased to provide you with this letter the September 6, 2006, renewal quote for the City’s airport liability insurance coverage per the attached outline. Coverage on the quoted renewal is per the expiring policy with the same terms, conditions and exclusions applicable.

The quoted renewal premium is:

$10,238.00 Annual Premium  
500.00 Broker Fee (Wholesale Connection Insurance Services – formerly Canon)  
$10,738.00 Total Renewal (Subject to 25% Minimum Earned)

Please let me know at your earliest opportunity if you wish for our agency to order this renewal coverage. As always, feel free to give me a call if you have any questions.

Sincerely,

GRISWOLD INSURANCE AGENCY

Robert C. Griswold, C.I.C.  
Account Executive

Enclosure
August 22, 2006

City of Porterville
#AAP N00985521 002

CARRIER: Ace Property & Casualty Insurance Company (A XII)

INTEREST: The Insured’s Legal Liability, to which this Quote applies, arising out of the insured’s airport operations at the following airport location: PTV Porterville Municipal Airport

LIMITS: $10,000,000 Each Occurrence/Offense in respect to Bodily Injury, Personal and Advertising Injury and Property Damage Combined, Subject to the Following Limitations:

- $10,000,000 Products-Completed Operations Annual Aggregate
- $10,000,000 Personal Injury and Advertising Injury Annual Aggregate
- $10,000,000 Malpractice Annual Aggregate
- Not Insured – Extended Coverage – War, Hi-Jacking & Other Perils
- $50,000 Fire Damage Limit Any One Fire
- $1,000 Medical Expense Limit Any One Person
- $10,000,000 Hangarkeepers not “In Flight” limit any one Occurrence
- $10,000,000 Hangarkeepers not “In Flight” limit any one Aircraft
- $10,000,000 Non-Owned Aircraft Liability

DEDUCTIBLE: NIL Each Occurrence or Offense, but not to exceed NIL Annual Aggregate

EXCLUSIONS: 1) War, Hi-Jacking and Other Perils
2) Noise, Pollution and Other Perils
3) Amendment of Noise & Pollution and Other Perils Exclusion
4) Silica, Dust and Particulate Matter
5) Nuclear Risks
6) Conditional Exclusion of Terrorism Endorsement
7) Date Recognition

OPTIONAL COVERAGES:
- $5,000 Extended Coverage – War, Hi-Jacking and Other Perils Endorsement
- $5,000 Coverage as Required by Terrorism Risk Insurance Act of 2002 (TRIA)
- $7,500 Coverage for Both of the Above Options, subject to Regulatory Approval

DISCLAIMER: This form is for illustration purposes only and is not meant to add or alter coverage. Please refer to the actual policy for all terms, conditions and exclusions.
SUBJECT: REVISION OF THE CITY COUNCIL PROCEDURAL HANDBOOK

SOURCE: City Clerk Division

COMMENT: On August 8, 2006, the City Council reviewed in depth the City Council Procedural Handbook. The City Attorney addressed AB 1234, which affects policies and requirements for Council expense reimbursements, and the Council laptop computer program. Council and staff then reviewed the proposed changes prepared by staff, and the recommended changes by Council Member McCracken.

The City Council Procedural Handbook is attached with all the proposed changes agreed upon by Council at the Adjourned meeting of August 8.

At Council direction, the City Attorney and Chief Deputy City Clerk will review and finalize the proposed policy and procedures for use of laptop computers by the City Council Members for presentation at the next Council Meeting.

RECOMMENDATION: That the Council adopt the resolution approving the revised City Council Procedural Handbook.

Attachments: 1) Draft Resolution approving the revised City Council Procedural Handbook
2) City Council Procedural Handbook with current revisions shown in **Bold**
RESOLUTION NO. ___-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA
ADOPTING THE REVISED CITY COUNCIL PROCEDURAL HANDBOOK

WHEREAS, the City Council Procedural Handbook was compiled to set forth practices and
procedures followed by Council Members in conducting routine Council duties, and was adopted April
16, 2002. The City Council Procedural Handbook was then amended on April 15, 2003 and May 17,
2005.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville hereby

________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

by______________________________
Georgia Hawley, Deputy City Clerk
CITY COUNCIL
PROCEDURAL
HANDBOOK

September 5, 2006
## CITY COUNCIL PROCEDURAL HANDBOOK

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<th>Page</th>
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<td>D.</td>
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<td>A.</td>
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<td>B.</td>
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<td>C.</td>
<td>Items for inclusion in Council Agenda</td>
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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.

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.

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:

See Appendix A
MEETINGS OF COUNCIL - Continued

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, staff, or public shall first address the Presiding Officer and gain recognition.

   b. Comments and questions shall be limited to the issue before Council except when members of the public are addressing the Council under Oral Communications.

   c. Cross-exchange between Council Members, staff or public shall be avoided.
MEETING PROCEDURES - Continued

d. Any citizen may arise and address the City Council on any business specially concerning them or affecting their interests during Oral Communications, 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. Response to Letters from the Public:

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. Copies of all such letters on City Letterhead shall be provided to all other Council members, and the letter shall include a provision clearly defining that the correspondence represents the views and/or feelings of the specific Council member signing the letter. 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

-5-
COUNCIL REQUESTS FROM THE PUBLIC - Continued

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.

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 a 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.

E. Personal Correspondence:

Council Members who wish to send their own correspondence using City stationery shall include a provision clearly defining that the correspondence represents the views and/or feelings of the specific Council member signing the
letter. Copies of all such letters on City Letterhead shall be provided to all other Council members. Letterhead stationary is available upon request from the City Manager's secretary, and if the Council Member wishes to have a copy of their letter in their file, they should submit a copy to the City Manager’s staff for filing.
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

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.

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. The agenda shall include a complete copy of the agenda on compact disc suitable for loading on a laptop computer, with provisions for annotating materials with the use of a suitable Acrobat Reader. No items, or additional materials, shall be delivered after the initial delivery to Council on Thursday, except in the instance of a designated emergency item.

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 an area designated by the Council Member, unless other arrangements have been previously made with the City Clerk's staff [see IX-D(1)(2)].

The agendas for staff, public 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, 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
VII. TRAVEL, MEETINGS, AND EXPENSES - Continued

2) Mileage expense* (if a personal vehicle is used for travel and cost is paid in advance).

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:

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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;
VII. TRAVEL, 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

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;
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.
VIII. CONFLICT OF INTEREST - Continued

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 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. Issuance of Laptop Computers to Council Members

A Wireless Communications Policy for the laptop computers is being developed as set forth in Minute Order 14-090605. [see Appendix B - IX-C]

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.
IX. GENERAL ITEMS - Continued

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.

E. 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.

F. 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 C - IX-F.

G. 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.
Appendix-Sec:  
A - I-D: Resolution 72-2005 (Order of Business)  
B - IX-C: Policy for the Use of Laptop Computers to be attached upon adoption  
C - IX-F: Annual Evaluation Form for City Manager and City Attorney  
(to be attached upon adoption of the standardized form at the time of the next evaluation)
RESOLUTION NO. 72-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ESTABLISHING ORDER OF BUSINESS TO BE FOLLOWED AT REGULAR MEETINGS
OF THE CITY COUNCIL

BE IT RESOLVED by the City Council of the City of Porterville, that the following is the
order of business to be followed in conducting the regular meetings of the City Council:

- MEETING CALLED TO ORDER
- ROLL CALL
- ORAL COMMUNICATIONS (FOR CLOSED SESSION)
- CLOSED SESSION
- RECONVENE OPEN SESSION
- REPORT ON ACTION TAKEN IN CLOSED SESSION
- PLEDGE OF ALLEGIANCE
- INVOCATION
- PROCLAMATION(S)/PRESENTATION(S)
- ORAL COMMUNICATIONS
- CONSENT CALENDAR - to include:
  - Approval of Minutes
  - Claims Against the City
  - Payment of Bills
  - Payments on Public Works Projects
  - Authorization to Purchase
  - Authorization to Call for Bids
  - Award of Bids
  - Acceptance of Projects
  - Acceptance of Dedications/Property
  - Approval of Final Tract Maps
  - Annexations
  - Requests for City Services
  - Reports
  - Other Routine Matters
- PUBLIC HEARINGS
- ORDINANCES
- SCHEDULED MATTERS
- ORAL COMMUNICATIONS
- OTHER MATTERS
- ADJOURNMENT

Adopted the 17th day of May, 2005.
Appendix B

POLICY FOR THE USE OF LAPTOP COMPUTERS
TO BE ATTACHED UPON ADOPTION
Appendix C

ANNUAL EVALUATION FORM FOR CITY MANAGER AND CITY ATTORNEY

TO BE ATTACHED UPON ADOPTION BY CITY COUNCIL
City Manager Performance Evaluation

Name of City Manager: ____________________________

Evaluated By: ____________________________

Date of Evaluation: ____________________________

Place a check mark (✓) in the box that best fits your assessment of the person being evaluated: "Exceeds Expectations", "Meets Expectations", or "Below Expectations". If giving an evaluation of "Below Expectations" or "Exceeds Expectations", please substantiate the evaluation in the comments section.

A few questions to keep in mind as you evaluate...
- Is my evaluation objective rather than subjective?
- Is my evaluation job-related?
- Is my evaluation based on observed behaviors rather than traits?
- Am I evaluating this person on factors within his or her control?
- Have the components of the evaluation been communicated to the person being evaluated?

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<th>Exceeds Expectations</th>
<th>Meets Expectations</th>
<th>Below Expectations</th>
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<td><strong>Integrity</strong>-behaving ethically, walking the talk, and gaining trust and confidence of others.</td>
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<td>Comments:</td>
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<td><strong>Leadership</strong>-planning and directing the administrative activities of the City, creating a positive environment for employees to accomplish work, setting appropriate values for City employees to abide by, open to others' feedback and ideas, and setting a positive example.</td>
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<td>Ability to meet performance objectives- accomplishing goals in alignment with vision set by Council, and managing projects effectively.</td>
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<td>Employee Relations-Evaluating performance and potential, providing training and development, coaching and counseling, providing support, and resolving personnel problems.</td>
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<td>Community Relations- responsive, interacting positively with community, and providing the best level of service possible with the resources available.</td>
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<td>Council Relations- responsive, solving problems creatively, providing information and professional recommendations to help in Council decision-making, and providing consistent and equitable treatment of all Council Members.</td>
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SUBJECT: RESOLUTION OF SUPPORT FOR TULE RIVER TRIBE WATER PROJECT

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: The Tule River Tribe, the Tule River Association and the South Tule Independent Ditch Company have been negotiating for almost three years, in conjunction with the Department of the Interior, to quantify the amount of water the Tule River Tribe is entitled to receive on a permanent basis. Although negotiations have not been completed, the parties are substantially in agreement that a significant storage facility to impound water during the high flow season would be required to secure a stable water supply for the Tribe.

At this time, the City Council has received a request from these groups to support legislation to fund a feasibility study to determine the design and location for a water storage/delivery system facility on the Tule River Indian Reservation.

RECOMMENDATION: That Council adopt the draft resolution and authorize the Mayor to sign the draft letter and forward both documents to U.S. Congressman Devin Nunes for consideration.

Attachment: 1) Draft City Council Resolution
2) Draft City Council Letter of Support
3) August 10, 2006 Letter of Support from the Tule River Association
4) August 14, 2006 Letter of Support from the South Tule Independent Ditch Company

Item No. 17
RESOLUTION NO. ___-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, CALIFORNIA SUPPORTING THE INTRODUCTION OF FEDERAL LEGISLATION AUTHORIZING THE FUNDING OF A WATER CONTAINMENT/DE DELIVERY SYSTEM FEASIBILITY STUDY FOR THE TULE RIVER TRIBE OF CALIFORNIA

WHEREAS, the provision of a stable, secure water supply to the Tule River Tribe of California Reservation, as well as to its downstream neighbors on the South Fork of the Tule River, is a major component in the future growth of Tulare County, California; and

WHEREAS, the Tule River Tribe of California, the Tule River Association and the South Tule Independent Ditch Company have been negotiating for almost three years, in conjunction with the United States Department of the Interior, to quantify the amount of water the Tule River Tribe is entitled to receive through a water rights plan; and

WHEREAS, it is now prudent to determine the feasibility of a water containment facility and delivery system, including site design and location, within the boundaries of the Tule River Tribe of California Reservation in order to facilitate a final water rights plan;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Porterville that the City Council hereby recommends that legislation be introduced by the Office of US Congressman Devin Nunes authorizing the funding for a feasibility study that would determine the best location and design for a water impoundment facility and water delivery system within the Tule River Tribe of California Reservation.

ADOPTED this 5th day of September, 2006.

ATTEST:

Cameron Hamilton, Mayor

Georgia Hawley, Chief Deputy City Clerk
Draft City Letter

Honorable Devin Nunes  
Longworth House Office Building  
Washington, DC 20515  

Dear Congressman Nunes:

As elected officials of the City of Porterville, California, we would like to take this opportunity to thank you for your tireless efforts on behalf of our constituents and our local economy. We look forward to a close and continuous collaboration with you and your office in order to advance and secure a bright future for all our citizens.

As you know, one of the keys to a viable and growing future for the City is the guarantee of a stable supply of water for our homeowners and local businesses. The demands of growth will place a premium on this invaluable resource. Competing pressures and claims on a finite resource require all of us to work cooperatively to assure a stable and long-term supply that can fairly accommodate steady growth, even in times of serious climatic stress.

With this in mind, we would recommend your strong support for the nearly finalized efforts of our neighbors, the Tule River Tribe of California. As you know, the Tule River Tribe has been in multi-year water rights negotiations with federal and local stakeholders. These nearly finalized negotiations will bring a large measure of certainty of supply for the Tribe and neighboring stakeholders. Eventually, we hope that this agreement will add to the amount of available water that will need to be supplied to the tribe and the local area.

We would ask that you introduce legislation that authorizes the funding for a feasibility study that would determine the best location and design for a water impoundment facility and water delivery system within the reservation. Scale and design of the facility and delivery system depends on the amount of water that all parties agree the tribe is entitled to receive, but that negotiated determination is just around the corner and there is no good reason to delay moving to the next step as quickly as possible. Again, we thank you for your continued support.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Cameron Hamilton  
Mayor of the City of Porterville
August 10, 2006

The Honorable Devin Nunes
1017 Longworth Building
Washington, DC 20515

Dear Congressman Nunes:

On behalf of the membership of the Tule River Association, we are writing in support of authorizing legislation that would fund a feasibility study to determine the design and location for a water impoundment facility on the Tule River Indian Reservation.

As you know, we and the federal government have been involved in nearly three years of negotiations with the Tule River Tribe to quantify the amount of water the Tribe is entitled to receive. These negotiations were entered into cooperatively and may well be the only tribal water rights negotiations that were not undertaken because of litigation. An overall spirit of cooperation has been the hallmark of our efforts. All sides vigorously advocated the interests of their members but we have never lost sight of the overall goal to provide a stable water supply to the Tribe and its neighbors.

As parties to these negotiations, we can report a growing confidence that an agreement will be finalized within the next few months. Among other items, the agreement will determine the amount of water the Tribe is entitled to receive on a permanent basis. The availability of that water will be provided for by the construction of a water containment and delivery system sited within the boundaries of the Tribe’s reservation. The site design and construction of the water system will be instrumental in effectuating the terms of the agreement and is a critical next step. As the negotiating parties finalize the details of the agreement, we encourage you to introduce authorizing legislation that would provide Federal funding for a feasibility study to identify the appropriate design and location for the tribal water containment and delivery system. These decisions will allow all parties to plan future water activity in an integrated and cooperative fashion. The outcome of the study will be one of the key planning factors that will allow all parties to coordinate their future plans in a way that maximizes efficient use of a valuable resource.

Stable and secure water supplies are a key to the future growth of Tulare County. Settlement of the Tule River Indian Reservation water rights on the Tule River is a move forward for such security, and sets the stage for the next phase, being federal legislation.

We thank you for your continued interest and support. If you have any questions, please do not hesitate to contact us.

Very truly yours,

R. L. Schafer
RLS/mep

cc: TRTC
TRA Directors
SOUTH TULE INDEPENDENT DITCH COMPANY
P.O. BOX 1270
PORTERVILLE, CA 93258

August 14, 2006

Honorable Devin Nunes
Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Nunes:

I am writing on behalf of South Tule Independent Ditch Company in support of Tule River Tribe's request seeking your support for authorizing legislation that would fund a feasibility study to determine the design and location for a water storage facility on the Tule River Indian Reservation.

The Tule River Tribe, the Tule River Association and South Tule Independent Ditch Company have been involved in nearly three years of water rights negotiations, along with the Federal government, to quantify the amount of water the Tribe is entitled to receive. The parties have entered into these negotiations cooperatively and believe that this may be the only tribal water rights negotiations to proceed this far without litigation. Though these negotiations are not yet fully finalized, the parties have worked diligently and cooperatively to develop a water rights plan that will provide a stable water supply for the Tribe, as well as for its downstream neighbors who have historical water rights to the waters of the South Fork of the Tule River. Additionally, the Tribe has committed to honor the provisions of a 1922 agreement between South Tule Independent Ditch Company and the Department of the Interior, acting in behalf of the Tribe, regarding the relative water rights of these two entities. The parties are in substantial agreement that the only method to secure a stable water supply is for the Tribe to impound water during the high flow season. Thus, a significant storage facility will be required to facilitate the proposed agreement and supply the rapidly growing demand for water on the Reservation.

In order to finalize and implement any agreement, it is critical to determine the feasibility of the proposed water storage facility, including site design and location. We therefore encourage you to introduce authorizing legislation that would provide Federal funding for a feasibility study to identify the best system design and location for a tribal water containment facility and delivery system.

Thank you for your interest and support in this matter. Should you have any questions, please telephone me at (559) 784-4648 or (559) 784-3232.

Sincerely,

[Signature]

Philip G. Larson, President
COUNCIL AGENDA: SEPTEMBER 5, 2006

SUBJECT: BUDGET ADJUSTMENT AIRPORT

SOURCE: Administration

COMMENT: Staff is requesting authorization to spend up to $5,000 on a preliminary work-study program for master-planning airport property on the northwest corner of Scranton and Westwood.

Funds are available from the sale of Industrial Park property.

Staff is requesting authorization to move $5,000 from fund 90 to fund 32-5070-001-230, and adjust the Airport Fund accordingly.

RECOMMENDATION: That the City Council:

1. Authorize a budget adjustment of $5,000 from fund 90 to fund 32-5070-001-230.

2. Authorize the City Manager to expend up to $5,000 on the work-study program.

ATTACHMENTS: None

Dir. C/M Funded  
Approp. Item No. 17a

S: Airport/workstudy program
CITY COUNCIL AGENDA: SEPTEMBER 5, 2006

SUBJECT: POLICE FEES, OTHER FEES AND ADJUSTMENTS

SOURCE: Administration

COMMENT: On March 21, 2006, the Council adopted Resolution No. 43-2006 for Police Fee–11, Fingerprinting, and Police Fee–14, Police Accident/Crime Reports. At that meeting Council also adopted Resolution 46-2006 adopting the remaining Police fees, with the exception of Police Fee–15, Police False Alarm Fees. The City Council has set September 5, 2006 as the public hearing on the proposed fee adjustments.

Police Fees: Staff proposes to adopt a new false alarm fee and reduce two other fees.

1. The Police False Alarm Fees (Police – 15) has prompted much review and analysis. The fee was $16.00 for the third false alarm response in a six-month period, which is preceded by a letter to the property owner explaining the ordinance and the potential for a fee. The property owner is sent a second letter at the time of billing, highlighting the ordinance and the dates and times of the Police Department’s response to their property. It appears the ordinance defines this False Alarm Service Fee as a penalty or fine against the persons or businesses who experience an excessive number of false alarms that necessitate a police response. It is believed the intent of the ordinance was to encourage or move persons or businesses to have properly functioning alarms that are activated upon the true need for a police response.

During fiscal year 2004/2005, officers of the Police Department responded to 2,138 burglary alarm calls, 1,685 of which were determined to be erroneous or false in nature. The Maximus schedule recommends raising the fee to $112, however, the Police Department feels this is excessive as a penalty and recommends an adjustment to $50.00 for the third and subsequent false alarm response in a six month consecutive period.

2. Statutory Registration Fees, Police Fee –21, was approved at $68.00. This fee is specifically for sex, drug, gang, and arson registrants that are statutorily or court ordered to register with the Police Department; we average 200-250 of these registrations annually. Currently, the State of California does not allow agencies to charge a registration fee for sex and arson registrants, which accounts for approximately 90 registrations a year. The remaining 100–150 registrations annually provide a potential revenue source of several thousand dollars; however, staff believes the information gathered and emphasis on compliance on those individuals mandated to register outweighs the minimal
potential financial gain. Staff recommends that this fee be eliminated and the number of applicants be forwarded to the City’s SB90 contractor for potential reimbursement of State mandated programs.

3. Vehicle Repossession Fee, Police Fee – 28, is regulated by the California Vehicle Code with the current maximum charge allowed being $15.00. Staff recommends that the fee be amended from $47 to the maximum allowed by statute, and that these numbers also be turned over to the City’s SB90 contractor for potential reimbursement.

OTHER FEES

Staff is also submitting a list of proposed fees for such things as copy fees, personal use of cell phones, excess public research fees, deposit forfeiture fees for the Parks Department, and vehicle over-wide permit fees.

1. The Miscellaneous Fee schedule identifies the current and proposed charges for making copies of items for the general public.

2. Currently, City Employees who are assigned a cell phone reimburse the City for their personal calls at a rate of three cents per local call and 100% for any long distance calls. As some of the phone plans include various free minutes, staff is recommending Council approve a policy whereby employees with “city issued” cell phones pay a flat rate of $5 per month for personal use and 100% of the excess above the basic plan rate which was caused by their personal use. City Employees who are assigned a cell phone and do not use it for personal calls, will not be assessed the $5.00 charge.

3. In the Planning Division, all requests for detailed research are charged after the first half hour at a rate of $79. This rate should be more clearly defined as $79 per hour.

4. Staff is also recommending Council establish a “forfeiture rate” for people who sign up for a leisure services activity (like swimming lessons) and do not show up. Staff recommends no refund for people who just “do not show up. A 10% rate for those who cancel within two business days. Staff recommends a full refund for those who cancel more than two business days in advance.

5. Maximus also recommended an “Over-wide Permit” to be $677 per year. However, the California Vehicle Code limits this fee to $16 per permit issuance.

RECOMMENDATION: That the City Council hold a public hearing on the proposed fee changes. After which the Council adopt the fees as outlined on the attached resolution.

Attachment: Draft Resolution
RESOLUTION NO. ___-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING CERTAIN POLICE FEES, MISCELLANEOUS FEES, AND FEE ADJUSTMENTS

WHEREAS, the City Council of the City of Porterville ordered the preparation of a Citywide User Fee Study for the City of Porterville to be prepared by Maximus; AND

WHEREAS, the City Council conducted public hearings and adopted fees and charges for the Community Development, Public Works, Fire, Police and Parks Departments; and

WHEREAS, at this time there remains three Police Fees for consideration—adopting a new false alarm fee, and the statutory reduction of two other Police fees. Also being considered is a list of current and proposed fees for such things as copy fees, personal use of cell phones, excess public research fees, deposit forfeiture fees for the Parks Department, and the reduction of the vehicle overwide permit fee for the Public Works Department;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the following fees are hereby adopted as follows, with said fees to be effective September 6, 2006:

<table>
<thead>
<tr>
<th>Fee Service Name / Description</th>
<th>Current Fee</th>
<th>Recommended Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police-15 Police False Alarm Fees</td>
<td>0</td>
<td>50.00</td>
</tr>
<tr>
<td>Police-21 Statutory Registration Fees**</td>
<td>68.00</td>
<td>-0-</td>
</tr>
<tr>
<td>Police-28 Vehicle Repossession Fee**</td>
<td>47.00</td>
<td>15.00</td>
</tr>
<tr>
<td>PW-29 Wide, Overweight or Overlong Permit Fee**</td>
<td>677.00</td>
<td>16.00</td>
</tr>
<tr>
<td>PL-47 General Research in excess of 30 min. (per hour)</td>
<td>79.00</td>
<td>79.00</td>
</tr>
</tbody>
</table>

**Miscellaneous Fee Schedule**

- 8 1/2 x 11" Sheet Each page $1.00 1st pg./$0.25 ea add. pg.
- 11 x 17" Sheet Each page $0.30
- 18 x 24" Sheet (Blue-Line) Each $0.60
- 24 x 35" Sheet (Blue-Line) Each $1.20
- 36" Roll (Plotter) L.F. $0.60
- 42" Roll (Plotter) L.F. $0.70
- Velum 36" x 42" Roll (Plotter) L.F. $1.80
- Color Copy 8 1/2 x 11" Sheet Each page $0.55
- Color Copy 11 x 17" Sheet Each page - $0.75
- Color Copy 24 x 36" Roll (Plotter) LF - $0.60
- City Zoning Maps (map has 10 pgs) Each $6.00 $2.00 per pg
- Aerial Map Set (new cost includes digital and hard copy) $2.50 $159.00
- Standard Plans & Specifications Set (Includes Green book Master Plan Books*) $10.00 $319.00
- Greenbook – Field Edition* Each - $65.00
- Greenbook – Large Edition Each - $105.00
- Standard Plans & Specs (Only)* Each - $50.00
- CD of Standard Plans & Specs * Each - $80.00
Greenbook Standard Plans & Specs Each - $95.00
CD of the Greenbook Each - $105.00
Water Master Plan* Each $10.00 $45.00
Sewer Master Plan* Each $10.00 $45.00
Storm Drain Master Plan * Each $10.00 $60.00
CDs with information burned on them Each $5.00 $5.00
Planning Books Each $10.00 $10.00
General Plan Map (color) Each $15 $15
City Map (New cost inc. digital & hard copy) Set - $80.00
City Annual Budget 0 0
City Charter materials pus sales tax materials pus sales tax
City Code Book of Ordinances materials pus sales tax materials pus sales tax
City Hall Room Rental Fee - per hour $10.00 $10.00
City Promotional Materials Cost plus 25% Cost plus 25%
Document Certification Fee $3.00 $3.00
Mailing List - per name $.10 w/$50.00 min. $.10 w/$50.00 min.
Sale of Printed Materials
  Look-Up Charge per document (includes first copy) $2.00 $2.00*
  (*.additional copies of page as set for specific copy cost)
Postage $5.00 actual postage cost plus mailing supplies
City Cell Phone reimbursement by Employees .03¢ per local call and 100% for any flat rate of $5.00/mth and 100% of the excess long distance call above the basic plan rate caused by personal use.

“Forfeiture Rate” - Leisure Services Activities, per sign-up
  No Show - No Refund
  Two business days or less Cancellation Notice - 10% of Fee Refunded
  More than two business days Cancellation Notice - 100% of Fee Refunded

Check Return Fee $18.00 $18.00

* Labor not calculated in the charge
** the lower fees are set by State Code, and these numbers are to be turned over to the City’s SB90 contractor for potential reimbursement.

APPROVED AND ADOPTED this 5th day of September, 2005.

Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

by Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: SEPTEMBER 5, 2006

PUBLIC HEARING

SUBJECT: ENNIS ESTATES TENTATIVE SUBDIVISION MAP (ENNIS HOMES)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicants are requesting approval of the Ennis Estates Tentative Subdivision Map to divide a 34.1± acre parcel east of Lombardi Street and south of the prolongation of Castle Avenue in northwest Porterville. The City's General Plan Land Use Map shows that the project area is designated Low Density Residential and is in the R-1 (Single-family Residential) Zone. The property will be divided into approximately 70 estate size single-family residential lots. Two lots, one approximately 6,400± square feet and the other 9,580± square feet will be pocket parks maintained by a Homeowners Association. The project will be constructed in one phase.

The "Estate Size" lots average 17,000 sq. ft. and would be within a proposed gated community. All the streets within the project area would be private and maintained by a Homeowners Association. Pursuant to Section 21-3 of the Municipal Code, private streets are subject to City Council approval. A 60-foot road, aligned diagonally through the project provides access to both Lombardi Street and Castle Avenue for residents of the subdivision and emergency vehicles. Two existing residences are northwest of the project area. One is not a part of the project; the other residence would be included in the remainder as a result of the subdivision. The project site is generally square.

The north of the project is the city limit and Urban Development Boundary, and beyond is farmland and scattered single-family dwellings. Outside the City, to the north, the County has zoned the land for Residential and Agricultural uses. An unimproved private driveway extends east from Lombardi Street along the north property boundary; the access is not a part of the project and would not change. South of the project area, within the City, the land is zoned R-1 and an established residential subdivision (Orchard Ridge Phase 6) has been developed. Also to the south and adjacent to the project site is an existing drainage basin. East and immediately adjacent to the property, two residential subdivisions (Meadow Breeze Phase 2 and Orchard Ridge Phase 8) are being built. West of the project site is Lombardi Street; beyond is an agricultural field of mature plum trees extending to the Friant Kern Canal. This area to the west is outside the incorporated City and is not within the Urban Development Boundary.

DD [Signature] Appropriated/Funded [Signature] OM [Signature] Item No. 19
The proposed project does not strictly comply with all the requirements of the Subdivision Ordinance, but are design factors typically addressed through design exceptions. The development standards of the R-1 (One Family Residential) Zone including lot sizes, site coverage, parking, etc., will apply to the site. Staff recommends the City Council approve the following exceptions; Lots 24, 25, 27, 28, 33, 34, 43, 45, 47, 48, 69 and 70 exceed the maximum lot depth allowance of 180 feet. Lot 70 may exceed the maximum lot depth allowed on the east side of the lot and does not meet the minimum lot depth requirement of 90 feet on the west side of the lot. Lots 37, 39, 50, 54, 64, 67 and 68 are reverse corner lots and will have front yards assigned to the narrowest frontage of the lot and will require twelve (12) foot side yard setbacks. Lots 1-3 and 57-59 are double frontage and will require a limitation of access along the rear property line.

Burton Elementary School District has submitted plans to the County for development of a school on property west of the proposed project on a portion of the land currently occupied by the plum orchard. On March 28, 2006 the City Council made a finding of General Plan consistency regarding the placement of an elementary school in this location subject to one condition. The condition is that the school district acquire, improve and dedicate a minimum 26-foot wide road (Castle Avenue) between Lombardi Street on the west, and the current westerly termination of Castle Avenue on the east. The purpose of such a determination was to provide adequate secondary access for the school site. At the time the City Council made this determination no plans were known for the subject project. Parties of interest in the proposed subdivision map, school, and landowner selling to the school have expressed concerns regarding either the school or the subdivision. It generally boils down to the issue of accessibility to the school. Comments on the environmental document for the proposed map have been submitted by the School District, representatives of the school district, and representatives of the property owner selling to the School District. The submitted comment letters and staff's response to those comments are attached in Attachments 6 and 7.

ENVIRONMENTAL: On August 4, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from August 4, 2006 to August 25, 2006. Comments were received from representatives of Burton School District and Mr. Lombardi, a neighboring property owner. Comments have been addressed where appropriate; the comment letters and Staff responses are attached to the staff report.

RECOMMENDATION: That the City Council:
1. Adopt the draft resolution approving the Negative Declaration for Ennis Estates Tentative Subdivision Map; and

2. Adopt the draft resolution approving Ennis Estates Tentative Subdivision Map, subject to conditions of approval.

ATTACHMENT:

1. Locator map
2. Complete Staff Report
CITY COUNCIL AGENDA: SEPTEMBER 5, 2006

PUBLIC HEARING - STAFF REPORT

TITLE: ENNIS ESTATES TENTATIVE SUBDIVISION MAP

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANTS: Ennis Homes  James Winton
             643 N. Westwood  150 W. Morton Avenue
             Porterville, CA 93257  Porterville, CA 93257

PROJECT LOCATION: Generally east of Lombardi Street and south of the Castle Avenue alignment in northwest Porterville.

SPECIFIC REQUEST: The applicants are requesting approval of the Ennis Estates Tentative Subdivision Map to divide a 34.1± acre parcel east of Lombardi Street and south of the prolongation of Castle Avenue in northwest Porterville. The City’s General Plan Land Use Map shows that the project area is designated Low Density Residential and is in the R-1 (Single-family Residential) Zone. The property will be divided into approximately 70 estate size single-family residential lots. Two lots, one approximately 6,400± square feet and the other 9,580± square feet will be pocket parks maintained by a Homeowners Association. The project will be constructed in one phase.

PROJECT DETAILS:

The “Estate Size” lots average 17,000 sq. ft. and would be within a proposed gated community. A Homeowners Association would maintain all streets within the project area. A 60-foot road, aligned diagonally through the project provides access to both Lombardi Street and Castle Avenue for residents of the subdivision and emergency vehicles. Two existing residences are northwest of the project area. One is not-a-part of the project; the other residence would be included in the remainder as a result of the subdivision. The project site is generally square.

North of the project is the city limit and Urban Development Boundary, and beyond is farmland and scattered single-family dwellings. Outside the City, to the north, the County has zoned the land for Residential and Agricultural uses. An unimproved private driveway extends east from Lombardi along the north property boundary; the access is not a part of the project and would not change. South of the project area, within the City, the land is zoned R-1 and an established residential subdivision (Orchard Ridge Phase 6) has been developed. Also to the south and adjacent to the project site is an existing drainage basin. East and immediately adjacent to the property, two residential subdivisions (Meadow Breeze Phase 2 and Orchard Ridge Phase 8) are being built. West of the project site is Lombardi Street; beyond is an agricultural field of mature
plum trees extending to the Friant Kern Canal. This area to the west is outside the incorporated City and is not within the Urban Development Boundary.

The proposed project does not comply with all the requirements of the Subdivision Ordinance, but are design factors typically addressed through design exception. The development standards of the R-1 (One Family Residential) Zone including lot sizes, site coverage, parking, etc., will apply to the site. Staff recommends the City Council approve the following exceptions; Lots 24, 25, 27, 28, 33, 34, 43, 45, 47, 48, 69 and 70 may exceed the maximum lot depth allowance of 180 feet. Lot 70 exceeds the maximum lot depth allowed on the east side of the lot and does not meet the minimum lot depth requirement of 90 feet on the west side of the lot. Lots 37, 39, 50, 54, 64, 67 and 68 are reverse corner lots and will have front yards assigned to the narrowest frontage of the lot and will require twelve (12) foot side yard setbacks. Lots 1-3 and 57-59 are double frontage and will require a limitation of access along the rear property line.

Burton Elementary School District has submitted plans to the County for development of a school on property west of the proposed project on a portion of the land currently occupied by the plum orchard. On March 28, 2006 the City Council made a finding of General Plan consistency regarding the placement of an elementary school in this location subject to one condition. The condition is that the school district acquire, improve and dedicate a minimum 26-foot wide road (Castle Avenue) between Lombardi Street on the west, and the current westerly termination of Castle Avenue on the east. The purpose of such a determination was to provide adequate secondary access for the school site. At the time the City Council made this determination no plans were known for the subject project. Parties of interest in the proposed subdivision map, school, and landowner selling to the school have expressed concerns regarding either the school or the subdivision. It generally boils down to the issue of accessibility to the school. Comments on the environmental document for the proposed map have been submitted by the School District, representatives of the School District, and representatives of the property owner selling to the School District. The submitted comment letters and staff's response to those comments are attached in Attachment 6 and 7.

GENERAL PLAN DESIGNATION: Low Density Residential.

SURROUNDING ZONING LAND USE:

North: City Limit, Urban Development Boundary, and beyond is farmland and scattered homes. County has zoned land for Residential and Agricultural uses.

South: City – Land is zoned R-1 and an established residential subdivision (Orchard Ridge Phase 6).

East: City – Adjacent to the project, two residential subdivisions (Meadow Breeze Phase 2 and Orchard Ridge Phase 8) under construction.

West: City/County – Lombardi Street is a City street, beyond the street to the west is County and an agricultural field of mature plum trees extending to the Friant Kern Canal.

SUBDIVISION REVIEW: Pursuant to Article 4 of the Subdivision Ordinance, the Initial Study and proposed Mitigation Measures were transmitted to public/private agencies for a 20-
day review period from August 4, 2006 to August 25, 2006. Comments were received from representatives of Burton School District and Mr. Lombardi, a neighboring property owner. Comments have been addressed where appropriate; the comment letters and Staff responses are attached to the staff report.

The Subdivision Review Committee, on August 23, 2006, discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent staff review were discussed with the applicant’s agent and incorporated into the draft resolution of approval.

STAFF ANALYSIS: Development of the site as proposed will provide needed housing in conformance with the City’s General Plan Land Use and Housing Elements and requirements of the California Subdivision Map Act and local ordinances.

The proposal to develop the 34.1± acre parcel zoned City Single Family Residential (One-Family Zone) into a 70-lot single family residential subdivision to be developed in one (1) phase is consistent with the General Plan’s Low Density Residential land use designation and R-1 (One-Family Residential) zoning classification for the site.

Connectivity of east-west streets is typically achieved with collectors at one-half mile intervals to maximize traffic flow throughout the community. The project proposes a gated diagonal, Jared Drive, which would connect Castle Avenue to Lombardi Street, but would only be available for residents of the subdivision and emergency vehicles. To maintain the half-mile grid, Castle Avenue would need to be extended through to Lombardi Street. This connection is not defined in the City’s current Circulation Element and therefore right of way dedication cannot be required. Instead of the typical half-mile grid pattern, other alternatives would likely provide adequate circulation. As the average density is lower in this area, a three-quarter mile connection may suffice, which would connect Lombardi Street from Westfield Avenue to North Grand Avenue. Another option would be to connect the Jared Drive diagonal across the south half of the proposed school site through to Westwood Street. Either alternative, if engineered correctly, could adequately address traffic circulation issues in the project vicinity.

The FIRM Flood Insurance Map 065066-0865 B, dated September 29, 1986, indicates that the site is not within a 100-year flood hazard zone, designated as Flood Zone A (areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined).

A six (6) foot high masonry block wall along all common lines with Lombardi Street shall border residential lots and comply with fence/wall height requirements. The area shall be placed in either a Landscape Maintenance District or under the maintenance of a Home Owners Association. Particular attention shall be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:
1. No project. The site would remain undeveloped until an amended development plan is approved.

2. Approve the project. Conditional approval of the proposed tentative subdivision map would allow the site to be developed in conformance with its current General Plan land use designation while contributing additional housing units towards the City's Fair Share Regional Housing Goal as identified by the General Plan Housing Element.

ENVIRONMENTAL: On August 4, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from August 4, 2006 to August 25, 2006. Comments were received from representatives of Burton School District and Mr. Lombardi, a neighboring property owner. Comments have been addressed where appropriate; the comment letters and Staff responses are attached to the staff report.

DATE FILED FOR SUBDIVISION REVIEW COMMITTEE PROCESSING: August 4, 2006

DATE ACCEPTED AS COMPLETE: August 23, 2006

RECOMMENDATION: That the City Council:

(1) Adopt the draft resolution approving the Mitigated Negative Declaration for Ennis Estates Tentative Subdivision Map; and

(2) Adopt the draft resolution approving Ennis Estates Tentative Subdivision Map, subject to conditions of approval.

ATTACHMENTS:

1. Ennis Estates Tentative Subdivision Map
2. Initial Study
3. Mitigation Monitoring Program
4. Draft Environmental Resolution
5. Draft Resolution of Approval
6. Comment Letters
7. Responses to Comments
City of Porterville

Initial Study For
The Ennis Estates Subdivision Project

1. Project title: Ennis Estates Subdivision

2. Lead agency name and address: City of Porterville
   291 N. Main Street
   Porterville, CA 93257

3. Contact person and phone number: Bradley D. Dunlap, AICP
   Community Development Director
   (559) 782-7460

4. Project location: East Lombardi Street and south of the Castle Avenue alignment in northwest Porterville (See Figures 1, 2 and 3)

5. Project sponsor’s name and address: Ennis Homes, Inc.
   643 N. Westwood Street
   Porterville, CA 93257

6. General plan designation: Low Density Residential

7. Zoning: R-1 (One-Family) Zone

8. Description of project: See Figures 1, 2, and 3

The applicant proposes development of approximately 70 single-family residential units and two pocket parks on 34.1± acres, identified by Tulare County Assessor’s Parcel Numbers 245-010-44,46,47,49,50,51, and 58. The project is generally located east of Lombardi Street and south of the Castle Avenue alignment in northwest Porterville. The proposed project consists of larger than average lots, with an average lot size of approximately 17,000 square feet.

The “Estate Size” lots would be within a gated community, and all streets within the project area would be privately maintained by a Home Owners Association. A 60-foot road, aligned diagonally through the project provides access to both Lombardi Street and Castle Avenue for residents of the subdivision and emergency vehicles. The project also proposes construction of two pocket parks within the gated community, which would be maintained by a Lighting and Landscape Maintenance District. Two existing residences are northwest of the project area. One is not part of the project; the other residence would be included in the remainder as a result of the subdivision.

There are no known environmental aspects peculiar to the proposed project area.

9. Surrounding land uses and setting:

To the north of the project is the City limit and Urban Development Boundary, and beyond is farmland and scattered single-family dwellings. Outside the City, to the north, the County has zoned the land for Residential and Agricultural uses. An unimproved private driveway extends east from Lombardi along the north property boundary; the access is not a part of the project and would not change. South of the project area, within the City, the land is zoned R-1 and an established residential subdivision (Orchard Ridge Phase 6) has been developed. Also to the south and adjacent to the project site is an existing drainage basin. East and immediately adjacent to the project, two residential subdivisions (Meadow Breeze Phase 2 and Orchard Ridge Phase 8) are being built. West of the project site is Lombardi Street; beyond is an agricultural field.
of mature plum trees extending to the Friant Kern Canal. This area to the west is not incorporated and is not within the urban development boundary; Burton Elementary School District has submitted plans to the County for development of a school on property west of the proposed project.

The FIRM Flood Insurance Map 060407 0010D, Dated October 15, 1985 indicates the site is in Flood Zone C, an area of minimal flooding (area of 500yr flood zone).

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

None
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a Potentially Significant Impact as indicated by the checklist on the following pages.

- [ ] Aesthetics
- [ ] Agriculture Resources
- [x] Air Quality
- [ ] Biological Resources
- [ ] Cultural Resources
- [ ] Geology/Soils
- [ ] Hazards & Hazardous Materials
- [x] Hydrology/Water Quality
- [ ] Land Use / Planning
- [ ] Mineral Resources
- [x] Noise
- [ ] Population/Housing
- [ ] Public Services
- [ ] Recreation
- [ ] Transportation/Traffic
- [ ] Utilities / Service Systems
- [ ] Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- [x] I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

- [ ] I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

- [ ] I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- [ ] I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

[Signature]

[Date: Aug 4, 2006]

Bradley D. Dunlap, AICP

City of Porterville

Printed name
EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.

4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, “Earlier Analyses,” may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c) Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance
EARLIER ANALYSIS

Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or Negative Declaration. Section 15063 (C) (3) (D). In this case a discussion should identify the following items:

a) Earlier analysis used. Identify earlier analyses and state where they are available for review.
b) Impacts adequately addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
c) Mitigation measures. For effects that are “Less than Significant with Mitigation Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions of the project.

Authority: Public Resources Code Sections 21083 and 21087.

SOURCE REFERENCES
1. Land Use Element of the Porterville General Plan (1998)
2. Circulation Element of the Porterville General Plan (1999)
3. Housing Element of the Porterville General Plan (1992)
5. Open Space Element of the Porterville General Plan (1998)
7. Safety Element of the Tulare County General Plan (1998)
9. Airport Master Plan (1990)
10. Porterville Strategic Plan (1992)
15. Porterville Urban Area Boundary Biotic Survey (Hansen 1988)
16. Porterville Redevelopment Housing Strategic Plan (1994)
17. City of Porterville Storm Drainage Master Plan (2001)
20. City of Porterville Sewer Master Plan (2001)
21. City of Porterville Water Master Plan (2001)
23. San Joaquin Valley Air Pollution Control District Attainment Plan
24. San Joaquin Valley Air Pollution Control District Regulation VII
25. Aerial photo records - City of Porterville
27. 1990 Census Data/Tract and Block Group Maps
28. Existing Infrastructure and Facilities Capacity
30. On-site field inspection
31. City of Porterville Transit Development Plan
32. Emergency Services Plan - Tulare County Operational Area
33. City of Porterville Urban Water Management Plan
35. Project Description
Issues:

I. AESTHETICS — Would the project:

a) Have a substantial adverse effect on a scenic vista? □ □ □ □

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? □ □ □ □

c) Substantially degrade the existing visual character or quality of the site and its surroundings? □ □ □ □

d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area? □ □ □ □

Responses:

a), b), c): No Impact. The project area is in an area defined by the City of Porterville as an undeveloped residential area, but not as a scenic vista. There are no scenic resources on the site and the project area is not within or adjacent to a State Scenic Highway. The proposed residential development will be compatible with the existing and future land uses surrounding it, and it will not substantially degrade the existing visual character of the site. The proposed project would develop a fallow field, but would be consistent with existing development to the east of the project area. The development would not obstruct views of the higher foothills and the Sierra Nevada Mountain range further east. Sources: 1, 5 & 35.

d): Less Than Significant Impact. The project would include new street and residential lighting within the project area. This lighting would be required to meet City standards and would not adversely affect day or night-time views in the area. Sources: 1, 5 & 35.
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

Responses:

a), b), c): No Impact. The project area is within the limits of the City of Porterville and is not being farmed. It is zoned for R-1 (single family residential) development and would not result in any indirect impact that could result in conversion of farmland to non-agricultural use. Sources: 1 & 35.
III. AIR QUALITY — Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?  
☐ ☒ ☐ ☐

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?  
☐ ☒ ☐ ☐

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?  
☐ ☒ ☐ ☐

d) Expose sensitive receptors to substantial pollutant concentrations?  
☐ ☒ ☐ ☐

e) Create objectionable odors affecting a substantial number of people?  
☐ ☐ ☐ ☒

Response:

a), b), c), d): Less Than Significant Impact with Mitigation Incorporation. The project is smaller than the 152-unit threshold for small project analysis level defined by the San Joaquin Valley Air Pollution Control District (District), and as such, an URBEMIS model run was not performed. To comply with the District’s restriction of PM$_{10}$ generating activities, the project proponent will follow all Regulation VIII requirements (Tables 1 and 2). In addition, the proponent will further mitigate impacts by meeting the enhanced and additional control measures for construction emissions of PM$_{10}$ (Table 3). These actions will reduce any potential impact to less than significant.

e): No Impact. The project would not create any scents or odors. Sources: 4 & 24.
| Regulation VIII Control Measures for Construction Emissions of PM10 |
|--------------------|---------------------------------|
| **Regulation VIII Control Measures** - The following controls are required to be implemented at all construction sites. |
| All disturbed areas, including storage piles, which are not being effectively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. |
| All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. |
| All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions using water or by presoaking. |
| With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition. |
| When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space form the top of the container shall be maintained. |
| All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) |
| Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. |
| Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. |
| Any site with 150 or more vehicle trips per day shall prevent carryout and trackout. |
| Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour. |

*Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002, and SJVAPCD Regulation VIII*
Table 2
Information to be Contained in a Dust Control Plan as Required by Regulation VIII

A dust control plan shall contain all of the following information:

<table>
<thead>
<tr>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name(s), address(es), and phone number(s) of person(s) and owner(s)/operator(s) responsible for the preparation, submittal, and implementation of the Dust Control Plan and responsible for the dust generating operation and the application of dust control measures.</td>
</tr>
<tr>
<td>A plot plan which shows the type and location of each project.</td>
</tr>
<tr>
<td>The total area of land surface to be disturbed, daily throughput volume of earthmoving in cubic yards, and total area in acres of the entire project site.</td>
</tr>
<tr>
<td>The expected start and completion dates of dust generating and soil disturbance activities to be performed on the site.</td>
</tr>
<tr>
<td>The actual and potential sources of fugitive dust emissions on the site and the location of bulk material handling and storage areas, paved and unpaved roads; entrances and exits where carryout/trackout may occur; and traffic areas.</td>
</tr>
<tr>
<td>Dust suppressants to be applied, including: product specifications; manufacturer's usage instructions (method, frequency, and intensity of application); type, number, and capacity of application equipment; and information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.</td>
</tr>
<tr>
<td>Specific surface treatment(s) and/or control measures utilized to control material carryout, trackout, and sedimentation where unpaved and/or access points join paved public access roads.</td>
</tr>
<tr>
<td>At least one key individual representing the owner/operator or any person who prepares a Dust Control Plan must complete a Dust Control Training Class conducted by the District. The District will conduct Dust Control Training Classes on an as needed basis.</td>
</tr>
</tbody>
</table>

Table 3
Enhanced and Additional Control Measures for Construction Emissions of PM10

<table>
<thead>
<tr>
<th>Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Enhanced Control Measures</strong> — The following measure should be implemented at construction sites when required to mitigate significant PM10 impacts (note this measure is to be implemented in addition to Regulation VIII requirements):</td>
</tr>
<tr>
<td>Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.</td>
</tr>
<tr>
<td><strong>Additional Control Measures</strong> — The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reduction:</td>
</tr>
<tr>
<td>Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.</td>
</tr>
<tr>
<td>Install wind breaks at windward side(s) of construction areas</td>
</tr>
<tr>
<td>Suspend excavation and grading activity when winds exceed 20 mph*; and</td>
</tr>
<tr>
<td>Limit area subject to excavation, grading, and other construction activity at any one time</td>
</tr>
</tbody>
</table>

*Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limitation.
Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002
IV. BIOLOGICAL RESOURCES — Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Response:
a), b), c), d), e), f): No Impact. The project is located on fallow, undeveloped land and the proposed use is consistent with the City’s General Plan for future residential development. A field survey by City Staff identified no sensitive species and no habitat on site. The project area is void of trees and shrubs, and is disked regularly for weed abatement. Approval of the project would not result in a conflict with the local ordinances, policies, or habitat conservation plans. Sources: 4, 5, 15, & 30.
V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

d) Disturb any human remains, including those interred outside of formal cemeteries?

Response:

a), b), c), d): No Impact. The project area was formerly disked on a regular basis as it is productive farmland but the agricultural uses have been removed and the site is currently not in use. As a result of prior uses, the surface of the site has been significantly disturbed. No known historic, archaeological, or paleontological resources exist on site. In the event that any as-yet undetected (i.e., buried) cultural resources are encountered on this property at a future time, work shall cease within a 50-foot area of the find, and a qualified archaeologist shall be contacted to evaluate any such discoveries. Sources: 4 & 30.
VI. GEOLOGY AND SOILS – Would the project:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>✘</td>
</tr>
<tr>
<td>i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>✘</td>
</tr>
<tr>
<td>ii) Strong seismic ground shaking?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>✘</td>
</tr>
<tr>
<td>iii) Seismic-related ground failure, including liquefaction?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>✘</td>
</tr>
<tr>
<td>iv) Landslides?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>✘</td>
</tr>
<tr>
<td>b) Result in substantial soil erosion or the loss of topsoil?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>✘</td>
</tr>
<tr>
<td>c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>✘</td>
</tr>
<tr>
<td>d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>✘</td>
</tr>
<tr>
<td>e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>✘</td>
</tr>
</tbody>
</table>

**Response:**

a) i, ii, iii, iv, c, d, e) No Impact: The project area is not in the vicinity of any Alquist-Priolo Earthquake Fault Zones as defined by the State Geologist, and would not result in any seismic related impacts. The project area is comprised of stable soils and not subject to landslide, lateral spreading, subsidence, liquefaction or collapse. The project will be fully served by the City wastewater treatment facility, and would not require installation of any septic tanks.

b) Less Than Significant Impact - The project is located on flat land. Therefore, the project will not create any landslide or mudflows. Any future development of the site with single family residential uses would result in ground disturbance through leveling, grading, etc. and absent proper control measures, could contribute to minor soil erosion during construction. The City Engineer will work with the developer to ensure appropriate actions are taken to reduce the potential of impact to less than significant. Development of the site as proposed will result in ground disturbance through leveling, grading, etc. and could contribute to minor soil erosion during construction. Normal project procedures, including the enforcement of a site development plan and other development related conditions of approval would maintain a less than significant impact in regards to erosion. In addition, conformance with the City Storm Drain Master Plan, and requirements relative to grading, the California Building Code, etc., will be required. Sources: 29.
VII. HAZARDS AND HAZARDOUS MATERIALS --
Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
   - Potentially Significant Impact: 
   - Less than Significant with Mitigation: 
   - Less than Significant Impact: 
   - No Impact: ☒

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
   - Potentially Significant Impact: 
   - Less than Significant with Mitigation: 
   - Less than Significant Impact: 
   - No Impact: ☒

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
   - Potentially Significant Impact: 
   - Less than Significant with Mitigation: 
   - Less than Significant Impact: 
   - No Impact: ☒

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
   - Potentially Significant Impact: 
   - Less than Significant with Mitigation: 
   - Less than Significant Impact: 
   - No Impact: ☒

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?
   - Potentially Significant Impact: 
   - Less than Significant with Mitigation: 
   - Less than Significant Impact: 
   - No Impact: ☒

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?
   - Potentially Significant Impact: 
   - Less than Significant with Mitigation: 
   - Less than Significant Impact: 
   - No Impact: ☒

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
   - Potentially Significant Impact: 
   - Less than Significant with Mitigation: 
   - Less than Significant Impact: 
   - No Impact: ☒

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?
   - Potentially Significant Impact: 
   - Less than Significant with Mitigation: 
   - Less than Significant Impact: 
   - No Impact: ☒

Response:

a), b), c), d), e), f), g), h): No Impact. The project as proposed will not involve hazardous materials, and the project site is not contaminated. The project is not within the vicinity of an airport or an airstrip. The project will not result in any change or interference with an adopted emergency response plan or evacuation plan. Mandatory conformance with the Porterville Zoning Ordinance and the Porterville weed abatement program will ensure that the project will not expose people or structures to a significant risk of loss due to wildfire.

Sources: 7 & 12.
VIII. HYDROLOGY AND WATER QUALITY —

Would the project:

a) Violate any water quality standards or waste discharge requirements?  

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?  

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?  

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?  

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?  

f) Otherwise substantially degrade water quality?  

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?  

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?  

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?  

j) Inundation by seiche, tsunami, or mudflow?  

Response:

a), c), d), e), f): Less Than Significant with Mitigation Incorporation- Water quality standards could be violated by oils, chemicals, and residues conveyed by stormwater runoff along streets, driveways, and other impervious surfaces. Compliance with Federal, State and local regulations
requiring that storm water runoff monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards). The site is within the boundaries of the City's Master Plan for Storm Drainage (2001). Consequently, the storm water generated from future development of the site has been anticipated by the plan. The installation of storm drain lines in conformance with Federal, State, and local environmental protection requirements and the City's Storm Drainage Master Plan will be required. Drainage patterns change incrementally as streets, gutters and pipelines are installed to handle additional surface drainage resulting from the development of impervious surfaces such as building and paving. The rate and amount of runoff will increase as these features are constructed. The installation of the curbs, gutters and drop inlets to allow water to channel into the existing storm drain line will prevent any future drainage problems in this area.

The City’s wastewater treatment plant has a permitted capacity of 5.3 million gallons per day (mgd) and is currently operating at 5.1 mgd. The plant has a rated capacity of 8 mgd, but is limited to the permitted capacity of 5.3 mgd because of a lack of land on which to use the treated effluent as irrigation water. The City has secured land and is in the process of annexing that land for effluent irrigation and biosolids spreading. Use of these lands will increase the permitted capacity of the treatment plant.

b) Less Than Significant Impact- It is not anticipated that the development of the site as proposed would significantly deplete groundwater supplies or reduce public water supply from the City’s unconfined groundwater aquifer. The City has recently approved capital projects that would add wells and infrastructure to increase the City’s overall water supply. The proposed use is consistent with the General Plan; the capital water system projects are intended to serve projects such as this, and the impact is therefore less than significant.

g), h), i), j): No Impact- The project site is outside the 100-year flood plain and the Success Dam flood inundation area, as defined by the Army Corps of Engineers. The FIRM Flood Insurance Map 060407 0010D, Dated October 15, 1985 indicates the site is in Flood Zone C an area of minimal flooding (area of 500yr flood zone). The project site is not in an area that could generate seiche or tsunami effects. The site would not be subject to mudflow events.
IX. LAND USE AND PLANNING - Would the project:

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<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Physically divide an established community?</td>
<td>☐</td>
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<tr>
<td>b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>c) Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
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</table>

Response:

a), b), c): No Impact. Porterville’s General Plan designates the subject area for R-1 Zone (Single Family Residential Zone). The proposed project will not disrupt or divide the physical arrangement of an established community in this area. The project as proposed is consistent with the polices and guidelines set forth in the Land Use Element and Circulation Element of the General Plan and the Zoning Ordinance. The project as proposed will not violate any of the existing polices, nor will it conflict with any applicable environmental plans or policies adopted by agencies with jurisdiction over the project. Therefore, no impact will occur. Sources: 1, 2, 3, 4, 12, & 30.
X. MINERAL RESOURCES -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?  ☒ ☐ ☐ ☐

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?  ☐ ☐ ☐ ☒

Response:

a), b): No Impact. There are no known mineral resources on the proposed project area. Sources: 4.
XL. NOISE — Would the project result in:

<table>
<thead>
<tr>
<th>Potential Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</table>

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

Response:

a), b), c), d): Less Than Significant Impact with Mitigation Incorporation. Development of the site as proposed will result in short-term increases in noise associated with construction equipment. To mitigate the potential impacts, construction activities will be restricted to daytime hours: 7:00 AM to 7:00 PM Monday through Friday and 9:00 AM to 5:00 PM Saturday and Sunday.

c), d): Less Than Significant Impact. There will be a slight increase in noise from additional traffic in the area and general noise from increased population after construction is complete and residential uses are in place and occupied. However, the project site is designated for the proposed use in the City’s General Plan and is consistent with existing and planned adjacent uses. These impacts will be less than significant. Sources: 6.

e), f): No Impact. The project is not within the vicinity of an airport or private airstrip. Sources: 6.
XII. POPULATION AND HOUSING – Would the project:

<table>
<thead>
<tr>
<th>a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</table>

| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? |  |  |  | ☒ |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? |  |  |  | ☒ |

Response:

a), b), c): No Impact. Based on the historical growth pattern, it is expected that Porterville’s population will continue to grow at about 2.5% annually. The project as proposed will not cause any substantial increase in local population projections; rather, it serves to accommodate the current growth projections. The proposed project will facilitate development envisioned by the General Plan for this area. Further, the project as proposed will not require the removal of any existing housing. Sources: 1, 3 & 30.
### XIII. PUBLIC SERVICES

Would the project:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>a)</td>
<td></td>
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</table>

Physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- Fire protection?
- Police protection?
- Schools?
- Parks?
- Other public facilities?

**Response:**

a): Less than Significant Impact. Fire, Police, Schools, Parks, and other Public Facilities will experience increased demand resulting from the development of the 34.1± acre site as proposed. The anticipated increased demand will be marginal, incremental initial impacts on the above referenced services. Sources: 1, 2, 3, 5, 7 & 8.
XIV. RECREATION — Would the project:

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? ☒ ☐ ☒ ☐

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? ☐ ☐ ☒ ☐

Response:

a), b): Less Than Significant Impact. The proposed site is not currently used for recreational activities and the proposed project will not reduce the quality or quantity of such opportunities. The project proposes two pocket parks within the subdivision for the use of the residents within the community.

City parks and recreation facilities will be sufficient to accommodate the additional recreational needs stemming from development of the site. Sources: 5 & 8.
**XV. TRANSPORTATION/TRAFFIC** -- Would the project:

<table>
<thead>
<tr>
<th>a)</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact</th>
<th>Less than Significant Impact</th>
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<tr>
<td></td>
<td>Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?</td>
<td>☒</td>
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<td></td>
<td>Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
<td>☒</td>
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<td>Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?</td>
<td>☒</td>
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<td>Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?</td>
<td>☒</td>
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<td>Result in inadequate emergency access?</td>
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<td></td>
<td>Result in inadequate parking capacity?</td>
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<td></td>
<td>Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
<td>☒</td>
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</tbody>
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**Response:**

a), b): **Less Than Significant Impact with Mitigation Incorporation.** Development of the 34.1± acre site with 70 single-family residential units is anticipated to result in about 670 additional daily vehicle trips. This estimate is derived from the ITE Trip Generation manual – calculations for single family detached housing. The traffic generated within the subdivision can exit from two locations: One location is from the north end of Jared Street, east on Castle Avenue to Newcomb Street. Newcomb Street is a four-lane divided arterial with the capacity of 30,000 average daily trips (ADT); The second entrance/exit location is from Lombardi Street south to Westfield Avenue. Westfield Avenue is a two (2) lane collector street with the capacity of 12,500 ADT. Both Lombardi Street (located on the west side of the proposed subdivision) and Castle Avenue (located at the northeast of the proposed subdivision) are designated local streets. The increase of trips generated by the proposed project may reduce the Level of Service in the project area. The project proponent will dedicate right of way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element, and will dedicate and improve the Lombardi Street right of way adequate for a minimum of two lanes of traffic and on street parking on one side. Traffic impact fees are assessed for projects of this type to contribute to funding improvements to the overall circulation system as adopted in the Circulation Element of the General Plan. Source: 34.
c), g): No Impact. The proposed development was anticipated in the Land Use Element and Circulation Elements of the General Plan and will not conflict with that plan. The project is not within the vicinity of a public airport or private airstrip. Sources: 1, 2, 34, & 35.

d), e), f): Less Than Significant Impact. Compliance with the City Code will ensure provision of adequate off-street parking. The project will not result in hazards related to design features. Adequate emergency access and parking will be provided in compliance with the City of Porterville’s ordinance and Building Code Regulations that govern development of single-family residential lots. As it is a gated community, Knox Locks will be required on both gates, ensuring emergency access. Sources: 1, 2, 34, & 35.
XVI. UTILITIES AND SERVICE SYSTEMS –
Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?  

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?

f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?

g) Comply with federal, state, and local statutes and regulations related to solid waste?

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<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
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Response:

a), b), c), d), e): Less Than Significant Impact - The City’s wastewater treatment plant has a permitted capacity of 5.3 million gallons per day (mgd) and is currently operating at 5.1 mgd. The plant has a rated capacity of 8 mgd, but is limited to the permitted capacity of 5.3 mgd because of a lack of land on which to use the treated effluent as irrigation water. The City has secured land and is in the process of annexing that land for effluent irrigation and biosolids spreading. Use of these lands will increase the permitted capacity of the treatment plan. Occupation of the project will not be permitted prior to completion of the annexation of land for biosolids spreading. New stormwater drainage facilities will installed as needed to serve the project. Sources: 30 & 35.

f): No Impact. The City of Porterville disposes of its solid waste at the Tea Pot Dome Disposal Site, southwest of the City. The landfill has sufficient permitted capacity to accommodate the projects solid waste disposal needs. Sources: 28 & 35.

g): No Impact. Refuse removed from the project area will conform to County regulations.
XVII. MANDATORY FINDINGS OF SIGNIFICANCE –

Would the project:

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

[ ] Potentially Significant Impact [ ] Less than Significant Impact [ ] Less than Significant Impact With Mitigation Incorporation [ ] No Impact

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

[ ] Potentially Significant Impact [ ] Less than Significant Impact [ ] Less than Significant Impact With Mitigation Incorporation [ ] No Impact

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

[ ] Potentially Significant Impact [ ] Less than Significant Impact [ ] Less than Significant Impact With Mitigation Incorporation [ ] No Impact

Response:

a), b), c): No Impact. The project as proposed will have no impact on the quality of the natural environment, individually or cumulatively, and will not have substantial adverse effects on humans either directly or indirectly.
## MITIGATION AND MONITORING PLAN

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measure</th>
<th>Monitoring</th>
<th>Agency Responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Quality a.),b.),c.),d.)</td>
<td>The project is smaller than the 152-unit threshold for small project analysis level defined by the San Joaquin Valley Air Pollution Control District (District), and as such, an URBEMIS model run was not performed. To comply with the District’s restriction of PM10 generating activities, the project proponent will follow all Regulation VIII requirements (Tables 1and 2). In addition, the proponent will further mitigate impacts by meeting the enhanced and additional control measures for construction emissions of PM10 (Table 3). These actions will reduce any potential impact to less than significant.</td>
<td>The State of California, California Air Resources Board (CARB) and San Joaquin Valley Air Pollution Control District (SJVAPCD) are expected to maintain their commitment to this program.</td>
<td>State of California CARB SJVAPCD</td>
</tr>
<tr>
<td>Noise a.),b.)</td>
<td>Development of the site as proposed will result in short-term increases in noise associated with construction equipment that may exceed the City’s noise level standards. To mitigate the potential impacts, construction activities will be restricted to daytime hours: 7:00 AM to 7:00 PM Monday through Friday and 9:00 AM to 5:00 PM Saturday and Sunday.</td>
<td>The City of Porterville will continue to implement the Noise Element of the General Plan.</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>c.),d.)</td>
<td>There will be a slight increase in noise from additional traffic in the area and general noise from increased population after construction is completed and residential uses are in place and occupied. However, the project site is designated for the proposed use in the City’s General Plan and is consistent with existing and planned adjacent uses. These impacts will be less than significant.</td>
<td>The City of Porterville will continue to implement the Noise Element of the General Plan.</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>Potential Impact</td>
<td>Mitigation Measure</td>
<td>Monitoring</td>
<td>Agency Responsible</td>
</tr>
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</tr>
<tr>
<td>Traffic/Transportation a.), b.)</td>
<td>Development of the 34.1± acre site with 70 single-family residential units is anticipated to result in about 670 additional daily vehicle trips. This estimate is derived from the ITE Trip Generation Manual – calculations for single-family detached housing. The traffic generated within the subdivision can exit from two locations: One location is from the north end of Jared Street, east on Castle Avenue to Newcomb Street. Newcomb Street is a four-lane divided arterial with the capacity of 30,000 average daily trips (ADT); The second entrance/exit location is from Lombardi Street south to Westfield Avenue. Westfield Avenue is a two (2) lane collector street with the capacity of 12,000 ADT. Both Lombard Street (located on the west side of the proposed subdivision) are designated local streets. The increase of trips generated by the proposed project may reduce the Level of Service in the project area. The project proponent will dedicate right of way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element, and will dedicate and improve the Lombardi Street right of way adequate for a minimum of two lanes of traffic and on street parking on one side. Traffic impact fees are assessed for projects of this type to contribute to funding improvements to the overall circulation system as adopted in the circulation system as adopted in the Circulation Element of the General plan.</td>
<td>The City of Porterville will include this requirement in all discretionary permits. Building permits will be reviewed to ensure compliance.</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>Regulation VIII Control Measures - The following controls are required to be implemented at all construction sites.</td>
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<td>All disturbed areas, including storage piles, which are not being effectively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.</td>
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<tr>
<td>All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.</td>
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<tr>
<td>All land clearing, grubbing, scraping, excavation, land leveling, grading, cut &amp; fill, and demolition activities shall be effectively controlled of fugitive dust emissions using water or by presoaking.</td>
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<tr>
<td>With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.</td>
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<tr>
<td>When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space form the top of the container shall be maintained.</td>
<td></td>
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<tr>
<td>All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)</td>
<td></td>
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<tr>
<td>Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.</td>
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<tr>
<td>Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.</td>
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<tr>
<td>Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.</td>
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<tr>
<td>Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour.</td>
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</table>

Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002, and SJVAPCD Regulation VIII
### Table 2

**Information to be Contained in a Dust Control Plan as Required by Regulation VIII**

<table>
<thead>
<tr>
<th>Information</th>
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</thead>
<tbody>
<tr>
<td>A dust control plan shall contain all of the following information:</td>
</tr>
<tr>
<td>Name(s), address(es), and phone number(s) of person(s) and owner(s)/operator(s) responsible for the preparation, submittal, and implementation of the Dust Control Plan and responsible for the dust generating operation and the application of dust control measures.</td>
</tr>
<tr>
<td>A plot plan which shows the type and location of each project.</td>
</tr>
<tr>
<td>The total area of land surface to be disturbed, daily throughput volume of earthmoving in cubic yards, and total area in acres of the entire project site.</td>
</tr>
<tr>
<td>The expected start and completion dates of dust generating and soil disturbance activities to be performed on the site.</td>
</tr>
<tr>
<td>The actual and potential sources of fugitive dust emissions on the site and the location of bulk material handling and storage areas, paved and unpaved roads; entrances and exits where carryout/trackout may occur; and traffic areas.</td>
</tr>
<tr>
<td>Dust suppressants to be applied, including: product specifications; manufacturer’s usage instructions (method, frequency, and intensity of application); type, number, and capacity of application equipment; and information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.</td>
</tr>
<tr>
<td>Specific surface treatment(s) and/or control measures utilized to control material carryout, trackout, and sedimentation where unpaved and/or access points join paved public access roads.</td>
</tr>
<tr>
<td>At least one key individual representing the owner/operator or any person who prepares a Dust Control Plan must complete a Dust Control Training Class conducted by the District. The District will conduct Dust Control Training Classes on an as needed basis.</td>
</tr>
</tbody>
</table>

### Table 3

**Enhanced and Additional Control Measures for Construction Emissions of PM10**

<table>
<thead>
<tr>
<th>Control Measures</th>
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<tbody>
<tr>
<td>Enhanced Control Measures – The following measure should be implemented at construction sites when required to mitigate significant PM10 impacts (note this measure is to be implemented in addition to Regulation VIII requirements.</td>
</tr>
<tr>
<td>Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.</td>
</tr>
<tr>
<td>Additional Control Measures – The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reduction.</td>
</tr>
<tr>
<td>Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.</td>
</tr>
<tr>
<td>Install wind breaks at windward side(s) of construction areas</td>
</tr>
<tr>
<td>Suspend excavation and grading activity when winds exceed 20 mph*, and</td>
</tr>
<tr>
<td>Limit area subject to excavation, grading, and other construction activity at any one time.</td>
</tr>
</tbody>
</table>

*Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limitation. **Source:** San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE ENNIS ESTATES TENTATIVE SUBDIVISION MAP FOR THAT 34.1± ACRE SITE LOCATED GENERALLY EAST OF LOMBARDI STREET AND SOUTH OF THE PROLONGATION OF CASTLE AVENUE IN NORTHWEST PORTERVILLE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 5, 2006 conducted a public hearing to consider approval of Ennis Estates Tentative Subdivision Map, being a division of a 34.1± acre site zoned Single Family Residential (One-Family Zone) into a 70 lot single family residential subdivision to be developed in one (1) phase for that site generally located east of Lombardi Street and south of the prolongation of Castle Avenue in northwest Porterville; and

WHEREAS: On August 4, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

WHEREAS: The City Council made the following findings:

1. That a Mitigated Negative Declaration (Exhibit A) was prepared for the project in accordance with the California Environmental Quality Act.

2. That the Mitigated Negative Declaration prepared for this project was made available for public review and comment. The 20-day review period was from August 4, 2006 to August 25, 2006. Comments were received from representatives of Burton School District and Mr. Lombardi, a neighboring property owner. Comments have been addressed where appropriate; the comment letters and Staff responses are attached to the staff report.

That the proposed project could have a significant effect on the environment, but through implementation of the Mitigation Monitoring Program as defined (Exhibit B) will not create adverse environmental impacts.

The proposed Mitigated Negative Declaration was evaluated in light of the prepared environmental Initial Study, comments from interested parties and the public, as well as responses to written comments received during the review period. It was determined that potential impacts associated with the proposed project could be mitigated to a less than significant level through the implementation of the attached mitigation measures (Exhibit B).

4. That the City Council is the decision-making body for the project.
5. That the mitigation measures contained in the Negative Declaration were incorporated into a Mitigation Monitoring Program attached hereto as Exhibit B and included as Condition 58 in the proposed resolution of approval for the Ennis Estates Tentative Subdivision Map.

6. That review of the environmental circumstances regarding this project indicates that no adverse impacts would accrue to wildlife resources from implementation of the project with the implementation of the Mitigation Monitoring Program.

Staff completed a field survey, and identified no protected species or habitat. Thus, no impact will occur.

7. That the project may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department’s consideration of a “de minimis impact” pursuant to Section 711.2 et. seq. of the Fish and Game Code.

8. That the environmental assessment and analysis prepared for this project supporting the Mitigated Negative Declaration reflects the independent judgment of the City of Porterville.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Mitigated Negative Declaration for Ennis Estates Tentative Subdivision Map as described herein.

________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ______________________
   Georgia Hawley, Chief Deputy City Clerk
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE IN SUPPORT OF APPROVAL OF A TENTATIVE SUBDIVISION MAP FOR THE ENNIS ESTATES PROJECT FOR THAT 34.1± ACRE SITE LOCATED GENERALLY EAST OF LOMBARDI STREET AND SOUTH OF THE PROLONGATION OF CASTLE AVENUE IN NORTHWEST PORTERVILLE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of August 1, 2006 conducted a public hearing to consider approval of Ennis Estates Tentative Subdivision Map, being a division of a 34.1± acre site zoned City Single Family Residential (One-Family Zone) into a 70 lot single family residential subdivision to be developed in one (1) phase for that site generally located east of Lombardi Street and south of the prolongation of Castle Avenue alignment in northwest Porterville; and

WHEREAS: On August 4, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

WHEREAS: The Subdivision Review Committee on August 23, 2006, reviewed and discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent staff review have been discussed with the applicant’s agent and incorporated into the draft resolution of approval; and

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

WHEREAS: The City Council considered the following findings in its review of the environmental circumstances for this project:

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

   The Land Use Element of the General Plan designates the site for Low Density Residential (2-7 d.u./acre). The proposed subdivision will be developed to a density of 2.1 d.u./acre.

2. That the site is physically suitable for the type and density of the proposed development. The site is generally flat and does not slope. The soils are non-expansive or of other geologic qualities that will require specific considerations.

3. That the Negative Declaration originally prepared and approved for this project is in compliance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment.
4. That the design of the project, or proposed improvements, are not likely to cause substantial environmental damage. The developer/applicant will be required to comply with all Mitigation Measures contained in the Mitigation Monitoring Program attached to the Staff Report.

5. The Initial Study prepared for this project indicates that all potential impacts will be mitigated to less than significant levels. Through the implementation of the mitigation measures contained in the Mitigation Monitoring Program, the result in impacts addressed will be less than significant.

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

The General Plan designates the site for Low Density Residential uses. Adjacent land uses surrounding the site are also designated for compatible Low Density Residential uses.

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

The proposed project does not comply with all the requirements of the Subdivision Ordinance. The development standards of the R-1 (One Family Residential) Zone including lot sizes, site coverage, parking, etc., will apply to the site. The City Council approves the following exceptions:

Lots 24, 25, 27, 28, 33, 34, 43, 45, 47, 48, 69 and 70 may exceed the maximum lot depth allowance of 180 feet.

Lot 70 may exceed the maximum lot depth allowed on the east side of the lot and not meet the minimum lot depth requirement of 90 feet on the west side of the lot.

Lots 37, 39, 50, 54, 64, 67 and 68 are reverse corner lots and will have front yards assigned to the narrowest frontage of the lot and will require twelve (12) foot side yard setbacks.

Lots 1-3 and 57-59 are double frontage will require a limitation of access along the rear property line.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve Ennis Estates Tentative Subdivision Map subject to the following conditions:

Although streets within the subdivision are to be privately owned and maintained, streets must be named consistently with those that are approximately in alignment as labeled on the map.

That the Negative Declaration originally prepared and approved for this project is in compliance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment.

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

The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. The developer/applicant shall dedicate and improve the Lombardi Street right-of-way adequate for a minimum of two lanes of traffic and on-street parking, on one side, on streets adjacent to the property lines as well as dedication of property required for disabled ramp(s) (C.C. Sec. 21-23) as applicable.

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

The developer/applicant shall cause all unnecessary easements to be vacated prior to or in conjunction with the Final Map processing.

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

The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Appendix Chapter 33 of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and recommendations regarding construction of public improvements that address City Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement plans or start of grading, whichever comes first. Additional reporting requirements are as indicated below:
• Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);
• Erosion Control Plan in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity, prior to start of grading (CBC Appendix chapter 33). The provisions of the approved Erosion Control Plan shall be incorporated into the Improvement Plans;
• Soils Report(s) in accordance with Chapter 18 of the California Building Code.

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

11. In accordance with Section 21-51 of the Subdivision Ordinance, the developer/applicant shall enter into an agreement that provides for completion of improvements within twelve (12) months of approval of final map acceptance.

12. Prior to start of grading on any unit, the developer/applicant shall abandon and cap existing wells that are no longer in service. Prior to approval of the improvement plans, the developer/applicant shall obtain an abandonment permit from the County Department of Environmental Health. Prior to acceptance of improvements, the developer/applicant shall provide the City Engineer with proof of completion in compliance with County regulations. Developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615 for all wells that will remain in service. Show all existing wells on the Tentative Subdivision Map and designate which well or wells, if any, will remain in service upon full development.

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

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

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

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

17. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. During grading operations the "Supervising Civil Engineer" shall be responsible for enforcing the dust control provisions of Section 7-8 or the developer/applicant shall pay inspection fees on the grading cost to compensate the City for dust control inspection. The improvement plans shall show a designated wash out area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area.

18. San Joaquin Valley Air Pollution Control District (District) Adoption of Rules 9510 and 3180 – Indirect Source Rule (ISR)

19. Effective March 1, 2006, the District will enforce the Indirect Source Rule. ISR applies to projects that are at least:

- 50 residential units
- 2,000 square feet of commercial space
- 9,000 square feet of educational space
- 10,000 square feet of government space
- 20,000 square feet of medical or recreational space
- 25,000 square feet of light industrial space
- 39,000 square feet of general office space
- 100,000 square feet of heavy industrial space
- Or, 9,000 square feet of any land use not identified above.

Projects that meet the above thresholds but are found through the application process to have mitigated emissions of less than two tons per year each of nitrogen oxides and PM10 (particulate matter 10 microns and smaller) will not be subject to the emission-reduction requirements of the rule.

It is the applicants’ responsibility to file an application (found at http://www.valleyair.org/ISR/ISR.htm) with the District. The application must be filed with the District no later than concurrent with an application for final discretionary approval with a public agency. An application maybe filed with the District prior to applying for a final discretionary permit from the local agency, at the discretion of the applicant. This timing was included in the rule so that applications filed with the District would not interfere with the local agency development approval process and so that local agencies could consider the benefits of the ISR program emission reductions in their environmental documents. The District recognizes the land use authority of local land use
agencies and will not impose any design requirements upon ISR projects. The District will provide a letter of rule compliance status to the local agency upon request. The ISR Program does not place any requirements upon the agency.

ISR applicants can take credit for those measures that are required by the local agency or included in the design of the project that have a quantifiable air quality benefit. ISR applicants can also take emission reduction credit for those measures that are not required by the local agency, but have been voluntarily identified by the applicant.

The District will be responsible for enforcing compliance for those measures identified by the applicant that are not required by the local agency and do not affect the design or construction standards. Examples of District enforced measures are operational measures such as businesses offering transit subsidies to employees and transportation demand management programs. The District will enforce those measures through a Monitoring and Reporting Schedule (MRS).

The District will notify the local agency when a project’s application is deemed complete, and when it is approved. The District will send copies of the preliminary and finalized MRS to the local agency for voluntary review for consistency with local regulations and programs. If the local agency, or applicant or district determines that a measure on the MRS is not consistent with local agency regulations and programs, that measure will be removed from the MRS and the project will be re-assessed.

For more information regarding the Indirect Source Rule, please contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000. The Central Region office in Fresno is leading the ISR enforcement.

20. The developer/applicant shall construct or provide surety for construction of curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), pavement lane transitions (offsite), traffic safety marking and signs, etc. along the full frontage of all proposed subdivision lots except where they exist to City standards and are in good condition in the opinion of the City Engineer. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property.

21. Building or foundation permits shall not be issued until all of the following items are accepted as complete:

   a. The storm drain system is functional so that it will accept water from fire hydrant and/or water main flushing;
   b. The water system is functional from the source of water past the lots on which permits are being requested (i.e. all services and the sampling station, if required, are installed, valves are functional and accessible, bacteria testing is completed, etc.);
   c. Street base rock for accessibility by the public safety officials and building
inspectors;

d. Lots are graded in accordance with the approved grading plan. Prior to receipt of the Final Grading, Drainage and Soils Report a letter from the "Supervising Civil Engineer" is required validating that the grading has been done in accordance with the approved grading plan and in accordance with the recommends contained in the Preliminary Soils Report;

e. Lot corners are marked;

f. The Fire Department and the Engineering Division accept fire hydrants.

22. The developer/applicant shall construct all drainage facilities that the City Engineer determines are necessary to comply with the intent of the Storm Drain Master Plan. Dedicate a drainage easement across each lot requiring an easement, unless all lots are graded to drain to the street (C.C. Sec. 21-50). The developer/applicant shall construct concrete drainage swales, approved by the City Engineer, if necessary, to transport storm water across adjacent subdivision lots to reach a City drainage system. On site drainage facilities will not be maintained by the City of Porterville, should the project proceed as a gated community.

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

24. The developer/applicant shall be aware that pursuant to Section 21-3 of the Municipal Code, private streets are subject to City Council approval and not encouraged per the City’s current Subdivision Ordinance.

25. The developer/applicant will not be required to dedicate street rights of way, as presently proposed, for internal streets within the gated community. The City will provide
inspection services for the private roads, subsequent to payment of applicable fees. A homeowners association or other acceptable associations, complying with state and local regulations, shall be formed for the purpose of maintaining internal streets.

26. To accommodate refuse and emergency vehicles, the developer/applicant shall dedicate and improve, to City standards, temporary turn-arounds at the ends of dead-end streets. The developer/applicant shall also construct temporary turn-arounds at the ends of dead-end internal private streets that may be created as part of a phased development.

27. The developer/applicant shall hold the City harmless for any and all damages to the private streets that may be created by refuse trucks and/or emergency vehicles that traverse through the private community.

28. The developer/applicant shall cause all regulatory and street name signs to be installed prior to occupancy of any house located where its occupants will utilize a street that does not have them.

29. The developer/applicant shall construct City standard barricades at the end of all dead end streets, where applicable.

30. The developer/applicant shall provide street striping and flexible delineators as necessary to provide safe vehicular movements, where directed by the City Engineer. A 50’ long Lombardi Street pavement transition will be required north of Lot 57.

31. The developer/applicant shall design the circular street approach to the private entrance at the west end of Castle Avenue to appropriately accommodate vehicular traffic. This may require the realignment of the existing curb and gutter along the south side of Castle Avenue (off-site improvements) and/or the acquisition of off-site right of way to accommodate proper turning movements.

32. The developer/applicant shall grant maintenance easements to the City of Porterville for the sewer mains within the gated community.

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

34. The developer/applicant shall be aware that there are two potential points of sewer connection. One being the west end of Castle Avenue, near the northeast corner of the proposed development. The other potential point of connection is Lombardi Street, about 400 feet north of Westfield Avenue. A sewer lift station may or may not be required to access these points of connection.

35. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 DSA) or provide surety in lieu of (Section 2616.1 of the Zoning Ordinance).
36. Prior to acceptance of improvements, the developer/applicant shall provide streetlights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer. Street light spacing shall be at 320-foot intervals along the Lombardi Street frontage. Internal street lights are not subject to City of Porterville approval as presently proposed.

37. The developer/applicant shall grant maintenance easements to the City of Porterville for the water mains within the gated community.

38. The developer/applicant shall construct the water system in a maximum of two sections for each phase of the subdivision. One section for the model homes and one section for the remainder of the phase. The number of model homes shall not exceed one for each 10 lots in the subdivision or four, whichever is greater. The model homes shall be clustered.

39. The developer/applicant shall have a Civil Engineer design a water system that will provide a fire flow at each fire hydrant of 1,000 g.p.m. with 20 p.s.i. residual pressure for a dwelling less than 3,600 square feet and 1,500 g.p.m. with 20 p.s.i. residual pressure for a dwelling unit greater than 3,600 square feet.

40. The developer/applicant is hereby notified that reimbursement for Master Plan facilities is made when funds are available and is contingent upon the work being done by the approved low bidder of at least two bona fide bidders. The bids must be approved by the City prior to construction.

41. One tree of minimum #15 specimen size and approved as a City Street Tree is required in the front yard of each lot. One additional tree is required on corner lots. Root barriers are required for all trees planted within ten feet of public sidewalks.

42. A PCC or masonry fence with an articulated alignment shall be constructed by the applicant/developer along the Lombardi Street frontage of all lots. A minimum 6-foot wide landscape area shall be provided between the masonry wall and the public sidewalk. The masonry wall shall be located to ensure adequate sight distance at street intersections. A 5-foot wide wall and landscape maintenance easement shall be conveyed to the City of Porterville along the rear and side yards of lots abutting Lombardi Street.

50. Prior to the approval of improvement plans, the developer/applicant shall have completed and approved, landscaping and/or lighting improvement plans. Unless otherwise included for maintenance within the homeowner’s association responsibilities, the developer/applicant shall petition, on a form provided by the City, to have the development included within a Lighting and Landscape Maintenance District. Submit with the petition the $375.00 fee. The following shall be included and maintained in said district: (1) Street Lighting for Lombardi; (2) Public landscaping along the Lombardi
frontage; (3) Public walls/fences, if any, (4) pocket parks; and (5) any other public improvement. The developer/applicant shall prepare an Engineer’s Report for the establishment of assessments in order to provide for ongoing maintenance of subdivision improvements to be included within the Lighting and Landscape Maintenance District. The Lighting and Landscape Maintenance District shall be established, or the annexation into an existing District shall be concluded, and landscape and lighting improvements shall be completed and accepted concurrently with the other improvements in the project. Exclusive of assessments for a Lighting and Landscape Maintenance District, the developer/applicant shall pay all service fees and maintain all new lighting and landscape improvements in a safe and healthy manner for the greater of a minimum ninety-day plant establishment period following acceptance of the subdivision improvements, or until assessment begins for the Lighting and Landscape Maintenance District.

51. The applicant/developer shall provide park and common area open spaces of adequate size and acceptable location(s) within the development boundaries. The park and common area open spaces shall be fully landscaped by the applicant/developer. It is recommended that the amount of area devoted to park and common area open spaces be at least 140% of the average lot size, with no greater than 35% turf coverage, pedestrian pathways, interspersed tables and benches, and sufficient trees to provide a minimum of 70% shading within seven years.

52. The utilities cannot cross property lines. Any utilities that may cross property lines shall be identified by easements shown and appropriately dedicated on the final map.

53. All addresses will be determined by the narrowest lot dimension to the street.

54. The project must comply with the latest applicable codes.

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

56. Additional fire hydrants will be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

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

58. Fire hydrant spacing shall be as follows:

In Residential development, one hydrant shall be installed at 500-foot intervals.

59. Access roads shall be provided for every facility, building or portion of a building, when any portion of the facility or portion of an exterior wall is located more than 150 feet
from a fire apparatus access as measured by an approved route around the exterior of the building.

60. All dead-end access roads in excess of 150 feet must be provided with an approved turnaround complying with City Standards.

61. The project must meet minimum fire flow requirements per the table in Appendix III-A & III-B of the California Fire Code.

62. Areas identified as “Fire Lanes” must be identified as such by red painted curbs and identified per requirements set forth in the California Vehicle Code Section 22500.

63. A Knox Lock system will be required at all gate locations. An application may be obtained from the Fire Department.

64. Hydrants will be required along streets that do not have structures facing them at a maximum spacing distance of 1000 feet per California Fire Code Appendix III-B Table A-III-B-1, Note Number 3.

65. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. Prior to recording the final map, the developer/applicant shall submit a signed document committing to comply with the adopted mitigation measures.

________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ________________________________
Georgia Hawley, Chief Deputy City Clerk
VIA FEDERAL EXPRESS

Mr. John Longley, City Manager
CITY OF PORTERVILLE
291 North Main Street
Porterville, CA 93257

Re: Guido Lombardi – Burton School District
    Notice of Intent to Adopt a Negative Declaration of Environmental Impact and
    Approve the Ennis Estates Tentative Subdivision Map
    Review Period Comments

Dear Mr. Longley:

This office represents Guido Lombardi, trustee of the Lombardi Family Trust, the owner of the school site proposed by Burton Elementary School District.

This letter provides comments to the Initial Study of the Ennis Estates Subdivision Project, dated August 4, 2006, (Initial Study) and the proposed mitigation measures.

BACKGROUND

Mr. Lombardi, as trustee, owns the proposed site for a new Burton School. This site sits at the northerly end of Lombardi Street on the west side, south of the Castle Avenue alignment. The proposed Subdivision and the proposed school site are across Lombardi Street from each other.

The City Council determined at a meeting on March 28, 2006, that this school site was consistent with the general plan with one proviso: that the Burton School District acquire, improve, and dedicate a road (Castle Avenue) between Lombardi Street on the west and the currently westerly termination of Castle Avenue on the east. This would be a secondary means of ingress and egress to the school site, a “mandatory requirement for public safety vehicles” (letter from Mr. Dunlap dated March 29, 2006, addressed to Dr. Don Brown, copy attached).

CONCERNS WITH EVALUATION OF ENVIRONMENTAL IMPACTS

Our client believes that the Initial Study contains three errors of substance. Those errors relate to three environmental factors detailed in the Initial Study, namely: XII Public Services, XV Transportation/Traffic, and XVII Mandatory Findings of Significance. Each of these factors has a significant environmental impact neither identified nor mitigated in the Initial Study.
But, before addressing the details, it is important to point out an express provision in the Initial Study that has a bearing on these comments. The Initial Study provides that when evaluating identified environmental impacts, “all answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.” (Initial study, fourth page, Item 2). And, why is this rule important? Because the impacts addressed below pertain not to the Subdivision directly but to the school site that adjoins the Subdivision off-site. Now, for our comments on the specific environmental factors potentially affected:

XIII PUBLIC SERVICES

The Initial Study finds that the subdivision would have a “less than significant impact” on Public Services (Schools). This is erroneous. Without a provision in the Ennis Estates Subdivision for the prolongation of Castle Avenue as required by the City Council, substantial adverse physical impacts for public services occurs with regard to the new school site. The new school site is a “lollipop” stuck on the northerly end of Lombardi Street with only one way in and one way out. This isolation with limited access creates a substantial potential hazard and real safety concern for the schoolchildren with no secondary or alternate means of access. This should have been marked as “Potentially Significant Impact” if not mitigated by the prolongation of Castle Avenue.

XV TRANSPORTATION/TRAFFIC

Here, subparts (c) and (e) of this Item are marked in the Initial Study as “less than significant impact.” Again, without making provision for the prolongation of Castle Avenue, the isolation of the new school, with only one way in and one way out, creates unreasonable and substantial safety risks to the children in the event of an emergencies as it does not allow for alternate emergency access if Lombardi Street is impaired. Therefore, these subparts should have been marked as “Potentially Significant Impact” if not mitigated via Castle Avenue.

XVII MANDATORY FINDINGS OF SIGNIFICANCE

Finally, the subdivision project perhaps has impacts individually limited but certainly cumulatively considerable on the future school site, a “probable future project.” But, the Initial Study found otherwise under item XVII (b). While the 60-foot road, aligned diagonally through the project subdivision, provides access to both Lombardi Street and Castle Avenue for residents of the subdivision, without the prolongation of Castle Avenue the subdivision isolates the new school site creating substantial safety concerns. As stated in the Initial Study, all answers to the issues must take account of the whole action involved, including off-site and cumulative impacts. Obviously,
the finding of “no impact” under XVII(b) is erroneous. Thus, item (b) should have been marked “Potentially Significant Impact.”

SOLUTION

The mitigation of these substantial impacts is obvious and simple – provide in the Initial Study for the prolongation of Castle Avenue to the new school site.

Respectfully submitted,

LAW OFFICES OF HURLEY & LAIRD

By

Russell F. Hurley

RFH/cdm

cc:  Mr. Guido Lombardi, with enclosure
     Mr. Bradley D. Dunlap, with enclosure
     City Council Members:
         The Honorable Cameron J. Hamilton, with enclosure
         Mr. Felipe A. Martinez, with enclosure
         Mr. Pedro "Pete" Martinez, with enclosure
         Mr. Richard M. Stadtherr, with enclosure
         Mr. Pete V. McCracken, with enclosure
March 29, 2006

Dr. Don Brown
Superintendent of Schools
Burton School District
264 North Westwood Street
Porterville, CA 93257

Subject: City Council Reconsideration of General Plan Consistency Determination

Dear Dr. Brown:

On March 28, 2006, at an adjourned meeting of the City Council, the Council reconsidered its determination of your request for determination of General Plan Consistency for a proposed school site located at the north end of Lombardi Street and the westerly prolongation of Castle Avenue. The item was previously considered by the City Council on February 21, 2006, at which time the Council made the determination that the school site was not consistent with the General Plan. However, after discussions with School District representatives that were unable to attend the first meeting, the Council agreed to reconsider its decision. Upon receiving a presentation by Burton School District representatives, the Council made the determination that the proposed school is consistent with the General Plan provided certain conditions are complied with.

Primarily, the conditions require the School District to acquire, improve and dedicate a minimum of a 26-foot wide road (Castle Avenue) between Lombardi Street on the west, and the current westerly termination of Castle Avenue on the east. The distance is approximately 1,300 feet in length. This second means of ingress and egress to the site is a mandatory requirement for public safety vehicles and must be provided prior to opening of the school. General comments on project requirements are summarized in a letter from the City to you dated February 16, 2006 and continue to be relevant. Detailed comments on construction requirements will be made based upon submittal of plans to the Project Review Committee.

If you have any questions regarding this information, please contact me at (559) 782-7460.

Sincerely,

Bradley D. Dunlap, AICP
Community Development Director

Cc: City Council
    John Longley, City Manager
    Mike Reed, City Engineer
    Julia Lew, City Attorney
    Julie Boyle, Senior Planner
August 25, 2006

Honorable Cameron Hamilton, Mayor,
and Members, City Council
City of Porterville
291 North Main Street
Porterville, CA 93257

Re: Notice of Intent to Adopt a Negative Declaration of Environmental Impact and Approve the Ennis Estates Tentative Subdivision Map

Dear Mayor Hamilton and Council Members:

This office represents the Burton School District regarding its Lombardi Street School Project and the Ennis Estate Subdivision Project. In conjunction with Owens Hill Consulting, the School District's environmental consultants, we have reviewed the Initial Study and proposed Negative Declaration prepared by the City for the Ennis Estates Project and find that they must be revised in order to comply with the California Environmental Quality Act and its implementing regulations ("CEQA"). Our reasoning is as follows:

Comments on Initial Study and Proposed Negative Declaration

Owens Hill Consulting has performed a peer review of the Initial Study prepared by the City of Porterville for the proposed Ennis Subdivision (the "Project"). The comments that have been prepared are limited to those areas of "environmental impact" which will directly affect the Burton School District's new elementary school on Lombardi Street.

Based upon the review of the information provided, the requirements of CEQA, and our analysis below, we have concluded that the Initial Study for the Ennis Subdivision must be amended. We find that the current Initial Study does not consider all the potential impacts the proposed Project would have on the Burton School District's new elementary school planned for the west side of Lombardi Street, immediately across from the Ennis project, or provide a level of analysis to support the findings that have been reached. The City must reconsider its environmental impact conclusions and provide further analysis and mitigation for the impacts cited below in order to support the determination of a "Mitigated Negative Declaration." Once the Initial Study has been amended, all mitigation measures that are necessary for the Project to qualify for the adoption of a "Mitigated Negative Declaration" must be incorporated into the Project design.
Honorable Cameron Hamilton, Mayor  
August 25 2006  
Page 2

1. **Land Use and Planning:**

The Land Use and Planning impact analysis contained in the Initial Study is limited to the proposed Project's consistency with the City's "current" General Plan. However, the City of Porterville is nearing completion of a comprehensive update to the General Plan. Because the current Initial Study does not consider the "General Plan Update 2030," it is not adequate under the provisions of CEQA.

The Initial Study correctly states, according to CEQA (CEQA Guidelines Section 15063), that the analysis of environmental impacts must address the consistency of a proposed project with "current" plans and policies. However, CEQA requirements do not state that the consistency analysis should be limited only to **adopted** plans and policies.

According to the City's "General Plan Update 2030" newsletter, dated August 2006, the public review "draft" of the updated General Plan and the Draft Environmental Impact Report (EIR) will be available in late 2006. Formal adoption of the General Plan update is anticipated in early 2007.

The "General Plan Update 2030" contains policies and future projects that are **probable and foreseeable** (See Item No. 4 below) and that must be considered in the environmental analysis of the Ennis Project. Therefore, an analysis of the proposed Project's consistency with both the "current" General Plan and the "updated" General Plan is warranted.

The District requests that the City provide a "consistency comparison" that analyzes the environmental impacts of the proposed Project in relation to both the "current" General Plan and the "draft" General Plan update.

2. **Public Services:**

The Initial Study concludes that the impact of the proposed Project on schools is "Less than Significant." The environmental impact analysis contained within the current Initial Study is limited to the discussion of increased demand for public services resulting from the approval of the Ennis residential subdivision. In considering the impact of a proposed project on public services, CEQA provides that a project may be considered to have a significant environmental effect if it will result in substantial adverse physical effects from construction of new or altered governmental facilities needed to maintain acceptable service ratios, response times or other performance objectives for... Schools. (CEQA Guidelines, Appendix G, section XIII a); emphasis added)

The District cannot agree with the Initial Study's determination that the Project, as proposed, will have a "Less than Significant Impact" on Public Services. The Ennis Subdivision, as currently designed, effectively prevents the extension and public use of Castle Avenue for direct access to nearby residential projects east of the Project that will be served by the new elementary school. The Burton School District requires that potential school sites have proximity to the student population being served; support the programmatic requirements of the proposed school; and that they provide multiple means (ease) of access for the student population, general public, and
emergency services. These requirements constitute the "performance objectives" utilized by the School District in making school site selections.

The proposed Project will substantially impact the District’s ability to satisfy this "performance objective" and therefore will result in “Potentially Significant” or “Less than Significant Impact with Mitigation Incorporation” in this environmental impact area.

Without the Castle Avenue extension, students from these existing and proposed residential developments east of the Ennis Project will be required to travel southbound on Matthew Street to westbound Westfield Avenue and northbound on Lombardi Street to reach the elementary school. The proposed Project, as currently designed, does not result in a logical, appropriate, or safe routing of pedestrian and vehicular traffic to the new elementary school from residential projects north and east of the proposed Project.

The City of Porterville has designated Castle Avenue a “public local street.” However, this street is not improved beyond the proposed entry/access point to the subdivision. The extension of Castle Avenue to Lombardi Street is a goal/policy of the "General Plan Update 2030" Land Use and Circulation Element and has been presented to the update committee. The extension/improvement of this street is not considered in the Initial Study; therefore, the proposed Project is inconsistent with the General Plan update.

3. Transportation and Traffic:

The District cannot agree with the Initial Study's determination that the Project, as proposed, will have a “Less than Significant Impact” on Transportation and Traffic considerations. CEQA states a project may be considered to have a "significant environmental effect" if it will result in inadequate emergency access. (CEQA Guidelines, Appendix G, section XV e.)

If Castle Avenue is not extended, direct access between Matthew Street and Lombardi Street is prevented and all pedestrian, vehicular, and emergency access to the new elementary school will be limited to northbound access on Lombardi Street. This limited site access to the new elementary school site (i.e., a dead end street configuration) will impede adequate emergency access and the District’s ability to implement an effective emergency evacuation plan.

4. Mandatory Findings of Significance:

Based upon the comments presented above, the District cannot agree with the Initial Study's determination that the Project, as proposed, has no "cumulatively considerable" effects. As CEQA requirements state...

"Cumulatively Considerable means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects and the effects of probable future projects." (CEQA Guidelines, section 15065 (a)(3); emphasis added.)

As currently designed, the Project will have a "cumulatively considerable" effect on other current projects:
The Orchard Ridge (Phase 8) and Meadow Breeze subdivisions, which have been recently constructed or are currently under construction.

These projects will be negatively impacted by the proposed Project, as designed, because the plans do not include the extension of Castle Avenue between Matthew Street and Lombardi Street. The students generated by these residential developments will be denied the utilization of Castle Avenue, which provides a direct, reasonable, and safe access to the new elementary school.

As currently designed, the Project will have a "cumulatively considerable" effect on probable future projects:

- The current Initial Study does not consider the impacts the proposed Project will have on the planning for the new elementary school or how it will affect the use of and access to the school by the community it serves.
- If Castle Avenue is not extended, then the direct, reasonable and safe access to the new elementary school will be prevented. Additionally, the proposed Project will have an adverse impact on adequate emergency access and the District's emergency evacuation planning.
- The Project is not consistent with the current draft of the "General Plan Update 2030" that has indicated the extension of Castle Avenue as project for future implementation.

5. Source References:

The General Plan Update 2030 should be included in the reference list. (See comments above)

Conclusions/Recommendations

On behalf of the Burton School District, we recommend the Council direct staff to revise the Initial Study and proposed Negative Declaration to reflect the potentially significant impacts we've identified above, but add the following mitigation measure to reduce the potential impacts to a level of less than significant:

The Applicant shall redesign the proposed tentative subdivision map by moving its northern boundary to a point not less than thirty (30) feet south of the centerline of the Castle Avenue alignment, in order to allow for the future development of Castle Avenue as a public street between Mathew and Lombardi Streets.

Alternatively, the Council may wish to defer its consideration of Project approval and direct that a Traffic Study be prepared to analyze the specific traffic and circulation impacts of the Ennis Project, alone and in relation to other approved and foreseeable projects in the area, so that more specific mitigation measures or design changes may be applied to the Project.
Thank you for your attention to these comments. The School District looks forward to a continuation of its cooperative relationship with the City in order to best serve the needs of all area residents.

Sincerely,

LOZANO SMITH

Jeffrey L. Kuhn, Esq.

OWENS HILL CONSULTING

Maureen Hill, Principal

Maureen Hill, Principal

cc: Burton School District
    John Longley, City Manager
    Brad Dunlap, Community Development Director
    Julia Lew, City Attorney
August 11, 2006

City of Porterville
Mr. John Longley, City Manager
291 N. Main Street
Porterville, CA 93257

Dear Mr. Longley:

Despite the fact that the Burton Board of Trustees has a meeting on the same night as the upcoming hearing (September 5), District representatives will be present to share information with the Council regarding the impact the Ennis project would have on the proposed elementary school in that area.

As presented in the site map that was approved by the PRC, the project conflicts with the District’s interest in constructing a school on the northern part of the adjacent Lombardi property and in acquiring required Castle Avenue access. In particular, the City Council passed the following motion on March 28, 2006:

"Moved by Mayor Pro Tem Hamilton, Seconded by Council Member West, that the Council determine that the proposes elementary school – to be located generally on the southwest corner of Lombardi Street and the prolongation of Castle Avenue – is consistent with the General Plan of the City of Porterville, conditioned upon the Burton School District obtaining an easement for the prolongation of Castle Avenue." To approve the Ennis project in its current form would add greatly to the burden of "obtaining an easement for the prolongation of Castle Avenue."

The Burton School District is heavily invested in the property and is well along in getting full site approval. Already, the site passed the Geo Hazard review and has received contingent site approval. Currently, the Purchase Agreement is in
City of Porterville  
August 10, 2006  

Escrow and the CEQA process has begun. The CEQA process includes a traffic study that will soon begin. The Council may want to delay approval of the proposed project until the traffic study in progress is completed.

Thank you for working with the District to find the best solution.

Sincerely,

[Signature]
Donald R. Brown, PhD  
Superintendent  
Burton School District  

cc: Brad Dunlap  
City Council Members  

Attachment: Letter from Brad Dunlap, dated March 29, 2006  
Official minutes from Council meeting of March 28, 2006
March 29, 2006

Dr. Don Brown  
Superintendent of Schools  
Burton School District  
264 North Westwood Street  
Porterville, CA 93257

Subject: City Council Reconsideration of General Plan Consistency Determination

Dear Dr. Brown:

On March 28, 2006, at an adjourned meeting of the City Council, the Council reconsidered its determination of your request for determination of General Plan Consistency for a proposed school site located at the north end of Lombardi Street and the westerly prolongation of Castle Avenue. The item was previously considered by the City Council on February 21, 2006, at which time the Council made the determination that the school site was not consistent with the General Plan. However, after discussions with School District representatives that were unable to attend the first meeting, the Council agreed to reconsider its decision. Upon receiving a presentation by Burton School District representatives, the Council made the determination that the proposed school is consistent with the General Plan provided certain conditions are complied with.

Primarily, the conditions require the School District to acquire, improve and dedicate a minimum of a 26-foot wide road (Castle Avenue) between Lombardi Street on the west, and the current westerly termination of Castle Avenue on the east. The distance is approximately 1,300 feet in length. This second means of ingress and egress to the site is a mandatory requirement for public safety vehicles and must be provided prior to opening of the school. General comments on project requirements are summarized in a letter from the City to you dated February 16, 2006 and continue to be relevant. Detailed comments on construction requirements will be made based upon submittal of plans to the Project Review Committee.

If you have any questions regarding this information, please contact me at (559) 782-7460.

Sincerely,

Bradley D. Dunlap, AICP  
Community Development Director

Cc: City Council  
   John Longley, City Manager  
   Mike Reed, City Engineer  
   Julia Lew, City Attorney  
   Julie Boyle, Senior Planner
August 22, 2006

City of Porterville
291 N. Main Street
Porterville CA 93257

Attention: Bradley D. Dunlap, AICP

Subject: Ennis Estates Subdivision Project: E. Lombardi St and South of the Castle Avenue alignment, Porterville, CA.

We are pleased to inform you that Southern California Gas Company has facilities in the area where the aforementioned project is proposed. Gas service to the project can be provided from existing gas mains located in and around the area. The service would be in accordance with the Company’s policies and extension rules on file with the California Public Utilities Commission when the contractual arrangements are made.

This letter is not a contractual commitment to serve the proposed project, but is only provided as an informational service. The availability of natural gas service is based upon conditions of gas supply and regulatory agencies. As a public utility, Southern California Gas Company is under the jurisdiction of the California Public Utilities Commission. Our ability to serve can also be affected by actions of federal regulatory agencies. Should these agencies take any action, which affects gas supply or the conditions under which service is available, gas service will be provided in accordance with the revised conditions.

This letter is also provided without considering any conditions or non-utility laws and regulations (such as environmental regulations), which could affect construction of a main and/or service line extension (i.e., if hazardous wastes were encountered in the process of installing the line). The regulations can only be determined around the time contractual arrangements are made and construction has begun.

Contact the New Business Project Manager for your area, Alan Suhovy, @ (559) 739-2238, or visit our web site SCGMapping@SempraUtilities.com for information on current energy efficiency programs, gas equipment, or to find out how to get your line extension project started.

Thank you again for choosing clean, reliable natural gas, your best energy value.

Sincerely,

Louise Lankford/RV
Pipeline Planning Assistant

xc: Larry Jacquez
Alan Suhovy
RESPONSES TO COMMENTS RECEIVED ON ENVIRONMENTAL DOCUMENT:

Letter from Russell F. Hurley, representing Guido Lombardi, a neighboring property owner.

Comment 1: The Initial Study finds that the subdivision would have a “less than significant impact” on Public Services (Schools)… Without a provision in the Ennis Estates Subdivision for the prolongation of Castle Avenue as required by the City Council, substantial adverse physical impacts for public services occurs with regard to the new school site... This isolation with limited access creates a substantial potential hazard and real safety concern for the schoolchildren with no secondary or alternate means of access [and] should have been marked as “Potentially Significant Impact” if not mitigated by the prolongation of Castle Avenue.

Response 1: The proposed project does not preclude a secondary means of access for the school district. Although the City Council conditioned its finding of general plan consistency on the extension of Castle Avenue through to Lombardi Street, the school district has the ability to find and create an alternate access, for example, extending Lombardi Street north to connect to North Grand Avenue. Alternately, the school district could still extend Castle Avenue along the northern property boundary of the proposed project. Multiple alternatives could be designed to achieve the same result, and the school district has the ability to work with the City in resolving the matter.

Comment 2: Without making the provision for the prolongation of Castle Avenue, the isolation of the new school, with only one way in and one way out, creates unreasonable and substantial safety risks to the children in the event of [any] emergencies as it does not allow for alternate emergency access if Lombardi Street is impaired.

Response 2: Again, the proposed project does not preclude a secondary means of access for the school district. The traffic study and environmental analysis to be prepared by the school district for its proposed site should evaluate these concerns, as they are directly related to the construction of the school, and pedestrian access solutions cannot be determined until the environmental analysis is complete. The fire department has indicated that with proper emergency override systems in place, emergency access through the proposed development would be satisfactory.

Comment 3: (Regarding Mandatory Findings of Significance) While the 60-foot road, aligned diagonally through the project subdivision, provides access to both Lombardi Street and Castle Avenue for residents of the subdivision, without the prolongation of Castle Avenue the subdivision isolated the new school site creating substantial safety concerns… Item (b) should have been marked “Potentially Significant Impact”.

Response 3: Pedestrian access to the school from areas east of the proposed subdivision need not be provided through the project. Though it may be inconvenient and a longer walk, there are alternate routes. Further, as stated above, Castle Avenue could still be extended to Lombardi Avenue. As there is no formally adopted alignment for that segment of Castle Avenue (the
County abandoned the alignment in 1986), the road could be connected by simply following the northern project boundary.
Letter from Jeffrey L. Kuhn and Maureen Hill, representing Burton School District

Comment 1: The Land Use and Planning impact analysis contained in the Initial Study is limited to the proposed Project's consistency with the City's "current" General Plan... Because the current Initial Study does not consider the "General Plan Update 2030," it is not adequate under the provisions of CEQA. The Initial Study correctly states, according to CEQA, that the analysis of environmental impacts must address the consistency of a proposed project with "current" plans and policies. However, CEQA requirements do not state that the consistency analysis should be limited only to adopted plans and policies. The "General Plan Update 2030" contains policies and future projects that are probable and foreseeable and that must be considered in the environmental analysis of the Ennis project. Therefore, an analysis of the proposed Project's consistency with both the "current" General Plan and the "updated" General Plan is warranted.

Response 1: At this early stage, the City is still working with the General Plan consultant and Update Advisory Committee and public to develop the G.P. Update including defining the circulation element and proposed land uses. City staff and the Consultant are only beginning to draft new policies at this time. Further, because the General Plan Update is still in the analysis stages, to assume a specific alternative would bind the Council's decision-making authority to make modifications to the General Plan Update. It would be inappropriate to assume the current draft land use diagram will be the same when approved by Council, and therefore it is not reasonable to require consistency with an ever-changing draft.

Comment 2: The Ennis Subdivision, as currently designed, effectively prevents the extension and public use of Castle Avenue for direct access to nearby residential projects east of the Project that will be served by the new elementary school. The Burton School District requires that potential school sites have the proximity to the student population being served; support the programmatic requirements of the proposed school; and that they provide multiple means (ease) of access for the student population, general public, and emergency services. These requirements constitute the "performance objectives" utilized by the School District in making school site selections...Without the Castle Avenue extension, students from these existing and proposed residential developments east of the Ennis Project will be required to travel southbound on [Mathew] Street to westbound Westfield Avenue and northbound on Lombardi Street to reach the elementary school...[lacking] logical routing of pedestrian and vehicular traffic to the new school from residential projects north and east of the proposed Project.

Response 2: The proposed project does not preclude a secondary means of access for the school district. Further, the traffic study and environmental analysis to be prepared by the school district for its proposed site should evaluate these concerns, as they are directly related to the construction of the school, and pedestrian access solutions cannot be determined until the environmental analysis is complete. Pedestrian access to the school from areas east of the proposed subdivision need not be provided through the project. Though it may be less convenient and a longer walk, there are alternate routes. Further, Castle Avenue could still be extended to Lombardi Avenue.
Comment 3: The City of Porterville has designated Castle Avenue a “public local street”.

Response 3: Neither the City nor the County have designated Castle Avenue a local street, a collector, or any other roadway designation. In fact, there is no formally designated street nor adopted alignment for that segment of Castle Avenue, as the County abandoned the alignment in 1986.

Comment 4: CEQA states a project may be considered to have a “significant environmental effect” if it will result in inadequate emergency access. (CEQA Guidelines, Appendix G, Section XV e). Limited site access will impede adequate emergency access and the District’s ability to implement an effective emergency evacuation plan.

Response 4: Emergency access is provided through the subdivision along the Jared Diagonal. While the project proposes a gated community, all gates include Knox boxes and emergency personnel will have full access through the subdivision to relay emergency services, as well as to assist in evacuation plans.

Comment 5: The Project will have a cumulatively considerable effect on other current projects (Orchard Ridge and Meadow Breeze subdivisions) because the plans do not include the extension of Castle Avenue to Lombardi Street.

Response 5: The approval of the project does not preclude extension of Castle Avenue through to Lombardi Street, nor other street extensions that could connect to North Grand Avenue or Westwood Street, both of which are designated as arterials in the City’s current General Plan.
CITY COUNCIL AGENDA: SEPTEMBER 5, 2006

(PUBLIC HEARING)

SUBJECT: EAGLE RANCH TENTATIVE SUBDIVISION MAP

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of Eagle Ranch Tentative Subdivision Map to divide a vacant 30.79± acre parcel zoned R-1 (One Family Residential) into a 147 lot low density residential subdivision in one (1) phase for that site located west of North Plano Street and north of the westerly prolongation of Westfield Avenue. The proposed lots are designed with an average area of 6,448 square feet.

The subject site is generally rectangular in shape. Ingress and egress to the site will be from two (2) City streets to be built extending west of Plano Street. East La Vida Avenue will be located at the northerly portion of the site and East Cheryll Avenue will be located at the southerly end of the site. Five (5) internal streets extending north and south will tie into both La Vida Avenue and East Cheryll Avenue. A proposed .43± acre pocket park is proposed between North Henrahan and North Roche Street just north of East Cheryll Avenue. A concrete masonry block wall will be placed along the full length of Plano Street. This area as well as the pocket park will be landscaped and placed in a Landscape and Lighting Maintenance District. Particular attention will be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall.

ENVIRONMENTAL: On July 5, 2006, the City Council, by City Council Resolution 87-2006, approved the Initial Study and Mitigated Negative Declaration for Zone Change 4-2006 and Annexation 464. The annexation and zone change consisted of 215± acres, and the proposed 30.79± acre site proposed for Eagle Ranch was also included in the environmental evaluation. The Initial Study and proposed Mitigation Measures were transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from May 8, 2006 to May 28, 2006. Those comments relative to environmental impacts were incorporated into the environmental resolution, and a Mitigated Negative Declaration was filed.

During the public hearings held for the environmental document and the annexation, members of the public testified on concerns regarding the development potential of the subject project. The General Plan allows 2 to 7 units per acre in areas designated for Low Density Residential development. The proposed project would result in a gross density of 4.8 units per acre, which is within the permissible range. Other concerns such as drainage and soil stability are in part resolved through conditions of approval, and in part must be resolved prior to issuance of building permits.
RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Eagle Ranch Tentative Subdivision Map subject to conditions of approval.

ATTACHMENT:

1. Complete Staff Report
PUBLIC HEARING - STAFF REPORT

TITLE: EAGLE RANCH TENTATIVE SUBDIVISION

APPLICANT: Seven to One Construction, Inc./Bradley Gilton
4202 South University Avenue
Visalia, CA 93277

PROJECT LOCATION: West of North Plano Street and north of the westerly prolongation of Westfield Avenue.

SPECIFIC REQUEST: The applicant is requesting approval of the Eagle Ranch Tentative Subdivision Map to divide a vacant 30.79± acre parcel zoned R-1 (One Family Residential) into a 147-lot low density residential subdivision in one (1) phase. The proposed lots are designed with an average area of 6,448 square feet.

ENVIRONMENTAL: On July 5, 2006, the City Council, by City Council Resolution 87-2006, approved the Initial Study and Mitigated Negative Declaration for Zone Change 4-2006 and Annexation 464. The annexation and zone change consisted of 215± acres, and the proposed 30.79± acre site proposed for Eagle Ranch was also included in the environmental evaluation. The Initial Study and proposed Mitigation Measures were transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from May 8, 2006 to May 28, 2006. Those comments relative to environmental impacts were incorporated into the environmental resolution, and a Mitigated Negative Declaration was filed.

PROJECT DETAILS: The subject site is generally rectangular in shape. Ingress and egress to the site will be from two (2) City streets to be built extending west of Plano Street. East La Vida Avenue will be located at the northerly portion of the site and East Cheryll Avenue will be located at the southerly end of the site. Five (5) internal streets extending north and south will tie into both La Vida Avenue and East Cheryll Avenue. A proposed .43± acre pocket park is proposed between North Henrahan and North Roche Street just north of East Cheryll Avenue. A concrete masonry block wall will be placed along the full length of Plano Street. This area will be landscaped and placed in a Landscape Maintenance District. Particular attention will be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall.

GENERAL PLAN LAND USE DESIGNATION: Low Density Residential

SURROUNDING AREA ZONING AND LAND USE:
North: City – Vacant land and rural residential uses.
South: City – Single family dwelling under construction and rural residential uses.
East: City – Plano Street, vacant land and agricultural uses.
West: City – Vacant land and Lime Street.
The Subdivision Review Committee, on August 23, 2006, reviewed and discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent staff review have been discussed with the applicant's agent and incorporated into the draft resolution of approval.

STAFF ANALYSIS. Development of the site as proposed will provide needed housing in conformance with the City's General Plan Land Use and Housing Elements and requirements of the State Subdivision Map Act and local ordinances. The average lot size is 6,448 square feet. A review of photographs and discussion with the applicant indicate that the proposed houses for this subdivision will be larger than conventional dwellings.

During the public hearings held for the environmental document and the annexation, members of the public testified concerns regarding the development potential of the subject project. The General Plan allows 2 to 7 units per acre in areas designated for Low Density Residential development. The proposed project would result in a gross density of 4.8 units per acre, which is within the permissible range. Other concerns such as drainage and soil stability are in part resolved through conditions of approval, and in part must be resolved prior to issuance of building permits.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. **No project.** The site would remain undeveloped until an amended development plan is approved.

2. **Approve the project.** Conditional approval of the proposed tentative subdivision map would allow the site to be developed in conformance with its current General Plan land use designation while contributing additional housing units towards the City's Fair Share Regional Housing Goal as identified by the General Plan Housing Element.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: July 19, 2006

DATE ACCEPTED AS COMPLETE: July 21, 2006

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Eagle Ranch Tentative Subdivision Map.

ATTACHMENTS:

1. Eagle Ranch Tentative Subdivision Map
2. Negative Declaration
3. City Council Resolution 87-2006
4. Draft resolution approving Eagle Ranch Tentative Subdivision Map
NEGATIVE DECLARATION

LEAD AGENCY: City of Porterville  
291 North Main Street  
Porterville, California 93257

PROJECT TITLE: Zone Change 4-2006 & Annexation 464.

ADDRESS/LOCATION: Generally located on the southeast corner of Reid Avenue and Lime Street.

PROJECT APPLICANT: Cecil Salas

PROJECT DESCRIPTION: Annexation 464 proposes the incorporation of 215± acres of land into the City of Porterville. Pursuant to Section 110 A-4 of the Porterville Zoning Ordinance, the subject site will be automatically zoned R-1 (One Family Residential) upon consummation of the annexation.

The annexation area is generally south of Reid Avenue, north of Mulberry Avenue, east of Scenic Drive and west of Plano Street, but does not include all lands within these boundaries. In addition to the annexation, this proposal includes development of a 147 lot single-family residential subdivision (conceptual plan only at this time) on 30± acres. Of the 215± acres of land, approximately 143 ± acres are potentially developable.

CONTACT PERSON: Bradley D. Dunlap, AICP, Community Development Director (559) 782-7460

On May 4, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project described herein and has found that this project will have no significant impact on the environment for the following reasons:

1. The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

2. The project does not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

3. The project does not have possible environmental effects, which are individually limited, but cumulatively considerable, "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

4. The environmental effects of a project will not cause substantial adverse effects on human beings, either directly or indirectly.

5. Mitigation measures X were, _____ were not made a condition of the approval of the project.

Copies of plans and other documents relating to the subject project may be examined by interested parties at the City Planning Division, 291 North Main Street, Porterville, California.

Dated: May 4, 2006  

Bradley D. Dunlap, Environmental Coordinator

ATTACHMENTS  
ITEM NO. 2

291 N. Main St., Porterville, CA 93257 PHONE 559.782.7460 FAX 559.781-6437
RESOLUTION NO. 87-2006

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT
OF APPROVAL OF A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT
FOR ZONE CHANGE 4-2006 ANNEXATION 464.

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of June 6, 2006, conducted a public hearing to consider changing the existing County AE-20 (Exclusive Agriculture 20 Acre Minimum) Zone and the Rural-Residential (Single Family R-A-217) Zone to City R-1 (One Family Residential) consistent with the General Plan designation in northern Porterville, generally south of Reid Ave., north of Mulberry Ave., east of Scenic Drive, and west of Plano Street; and

WHEREAS, Annexation 464 proposes the incorporation of 215± acres of land into the City of Porterville. The annexation is generally south of Reid Avenue, north of Mulberry Avenue, east of Scenic Drive and west of Plano Street, but does not include all lands within these boundaries. Details of the project area are defined graphically in the subject site map attached hereto as Exhibit “A.” locator maps.

WHEREAS, in addition to the annexation, this project includes a 147±lot single family residential subdivision on 30± acres. At this time, no maps have been approved, but the City has received an application and considered the conceptual drawings during this evaluation. Upon annexation, all undeveloped areas will be zoned R-1, Single Family Residential zoning.

WHEREAS, the environmental documents evaluate the large-scale. impacts of development consistent with the proposed zoning, but defers detailed study of future subdivisions to such time as applications are filed. Of the 215± acres of land, approximately 143± acres are potentially developable.

WHEREAS, the City council considered the following findings in its review of the environmental circumstances for this project:

1. That a Negative Declaration was prepared in accordance with the California Environmental Quality Act.

2. The Environmental Coordinator has found that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent.

3. That the City Council is the decision-making body for the project.

ATTACHMENT
ITEM NO. 3
4. That the Negative Declaration prepared for this project was made available for public review and comment, for a period prescribed by State law. The San Joaquin Valley Air Pollution Control District provided comment, and those comments have been addressed as appropriate and added to the record.

5. That review of the environmental circumstances regarding this project indicates that no significant adverse impacts would accrue to wildlife resources from implementation of this project.

6. That the project may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department’s consideration of a “de minimis impact” pursuant to Section 711.2 et. Seq. of the Fish and Game Code.

7. That the environmental assessment and analysis prepared for this project supporting the Negative Declaration reflects the independent judgment of the City of Porterville.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville does hereby approve the Negative Declaration prepared for Zone Change 4-2006 and Annexation 464 and adopts the Mitigation Monitoring Report attached hereto as Exhibit “B”

[Signature]
Cameron J. Hamilton, Mayor

ATTEST:

John Longley, City Clerk

[Signature]
By: Patrice Hildreth, Deputy City Clerk
### ATTACHMENT 3
**MITIGATION AND MONITORING PLAN**

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measure</th>
<th>Monitoring</th>
<th>Agency Responsible</th>
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<tr>
<td>Air Quality a.),b.),c.),d.)</td>
<td>Existing programs of proper vehicle smog inspections and related efforts to reduce petroleum fueled transit shall be continued.</td>
<td>The State of California, California Air Resources Board (CARB) and San Joaquin Valley Unified Air Pollution Control District (SJUVAPCD) are expected to maintain their commitment to this program.</td>
<td>State of California CARB SJUVAPCD</td>
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<td>The Prevention of dust from leaving construction sites during clearing, grading and excavation will be accomplished through regular truck spraying with water, sprinkling systems or emulsion sprays. Watering or spraying will be required to be done in the late morning and again at the end of the work day, with increased frequency throughout the day whenever wind is sustained or gusting at speeds in excess of 10 mph. If winds or gusting exceed 20 mph, vehicular activity will be required to cease.</td>
<td>The City of Porterville will include this requirement in all discretionary permits. Regular construction inspections will be conducted to ensure compliance. The San Joaquin Valley Unified Air Pollution Control District also enforces this requirement.</td>
<td>City of Porterville SJUVAPCD</td>
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<td>The San Joaquin Valley Unified Air Pollution Control District Rule 4901- Wood Burning fireplaces and Wood Burning Heaters apply to this project: a. In new residential developments with a density greater than two (2) dwelling units per acre, no person shall install a wood-burning fireplace. b. In new residential developments with a density equal to or greater than three (3) dwelling units per acre, no person shall install more than (2) EPA Phase II Certified wood burning heater (wood, stove, pellet stove or wood-burning insert)</td>
<td>The City of Porterville will include this requirement in all discretionary permits. Regular construction inspections will be conducted to ensure compliance. The San Joaquin Valley Unified Air Pollution Control District also enforces this requirement.</td>
<td>City of Porterville SJUVAPCD</td>
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<td>Potential Impact</td>
<td>Mitigation Measure</td>
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<td>c. No person shall install more than one (1) wood burning fireplace or wood burning heater in each new dwelling unit.</td>
<td>The City of Porterville will include this requirement in all discretionary permits. Regular construction inspections will be conducted to ensure compliance. The San Joaquin Valley Unified Air Pollution Control District also enforces this requirement.</td>
<td>City of Porterville SJVUAPCD</td>
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<td>d. A new residential development is defined as any single or multiple family housing unit, for which construction begins on or after January 1, 2004. Construction has begun when the foundation for the structure is constructed.</td>
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<td>One or more of the following means of dust control should be employed after the completion of earth grading operations:  a. Seeding and watering of new vegetation. b. Hydromulching or spreading of soil binders. c. Maintenance of the site’s soil surface crust through repeated soakings.</td>
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<td>Trees should be carefully selected and located to shade the structures during the hot summer months. This measure should be implemented on the southern and western exposures. Deciduous trees should be considered since they provide shade in the summer and allow the sun to reach the structures in the cooler winter months.</td>
<td>The City of Porterville will review all development plans and encourage compliance with this standard.</td>
<td>City of Porterville</td>
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<tr>
<td>Noise</td>
<td>Future development of the site with residential uses will result in short-term increases in noise associated with construction equipment that may exceed the City’s noise level standards. As these activities will be restricted to daytime hours and will be short term in nature, the impact will be mitigated to less than significant.</td>
<td>The City of Porterville will continue to implement the Noise Element of the General Plan.</td>
<td>City of Porterville</td>
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<td>Potential Impact</td>
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<td>Population and Housing a.)</td>
<td>Based on the historical growth pattern, it is expected that Porterville’s population will continue to grow at about 2.5% annually. The State Department of Finance has estimated a household size of approximately 3.0 persons per dwelling in the City of Porterville. Porterville’s current General Plan allows for a density of 2-7 family units per acre. Based on the average or previous subdivisions, approximately 4.8 units per acre can be expected on the total developable annexation area—143± of the total 215± acres. Assuming that 690 total units would be built, the projected increase of population would total 2,070. This is consistent with the growth anticipated in the City’s General Plan. Development plans have only been submitted for a 147-lot subdivision on 30 acres at this time. A condition of approval for that development, as well as all other future development, will be the payment of development impact fees, which will mitigate impacts associated with growth to a less than significant level.</td>
<td>The City of Porterville will include this requirement in all discretionary permits. Building permits will be reviewed to ensure compliance with this standard.</td>
<td>City of Porterville</td>
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<tr>
<td>Public Services a.)</td>
<td>Fire Protection- The City of Porterville will provide fire protection services to the project once adequate facilities have been provided. A condition of approval for that development, as well as all other future developments, will be the payment of development impact fees, which will mitigate impacts associated with growth to a less than significant level. The impact will be less than significant with mitigation incorporation.</td>
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<td>City of Porterville</td>
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<td><strong>Police Protection</strong> - The City of Porterville will provide Police protection services to the project once adequate facilities have been provided. A condition of approval for that development, as well as all other future developments, will be the payment of development impact fees, which will mitigate impacts associated with growth to a less than significant level. The impact will be less than significant with mitigation incorporation.</td>
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<td>City of Porterville</td>
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<td><strong>Schools</strong> – The potentially affected schools are within the Porterville Unified School District. This district can mitigate increased student enrollment impacts by collection of school impact fees. The impact will be less than significant with mitigation incorporation.</td>
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<td><strong>Parks</strong> – Residential development increases the demand for recreational facilities. Parks impact fees will be collected upon development to offset the cost of acquisition and development of facilities. Additionally, “pocket parks” are required within new residential subdivisions. The impact will be less than significant with mitigation incorporation.</td>
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<td><strong>Traffic/Transportation</strong> a.), b.)</td>
<td>Lime Street and Westfield Avenue are designated Collector Streets (60 feet wide) and have the capacity to carry 12,500 trips per day. Reid Ave and Plano Street are designated Arterial Streets (84 feet) and have the capacity to carry 25,200 trips per day. Based on the Circulation Element of the General Plan, at 9.55 daily trips per unit (715 units), 6,828 trips per day would</td>
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<td>The City of Porterville will include this requirement in all discretionary permits. Building permits will be reviewed to ensure compliance.</td>
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<td>be generated. Improvements to maintain a Level of Service C must be completed by the developer or by the City with pro rata funding as part of any development project, which will mitigate any potential impacts to less than significant.</td>
<td>The City of Porterville will include this requirement in all discretionary permits. No building permits will be issued until fees are collected.</td>
<td>City of Porterville</td>
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<td>Traffic Impact Fees will be collected for all development on the subject site in accordance with the adopted Circulation Element and fee ordinance.</td>
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STATE OF CALIFORNIA  
CITY OF PORTERVILLE  
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 5th day of July, 2006.

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

<table>
<thead>
<tr>
<th>Council:</th>
<th>McCracken</th>
<th>P. Martinez</th>
<th>F. Martinez</th>
<th>Stadtherr</th>
<th>Hamilton</th>
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<tbody>
<tr>
<td>AYES:</td>
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<td>NOES:</td>
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JOHN LONGLEY, City Clerk

[Signature]

by Patrice Hildreth, Deputy City Clerk
RESOLUTION NO. ____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL FOR
EAGLE RANCH TENTATIVE SUBDIVISION MAP FOR
THAT 30.79± ACRE VACANT SITE LOCATED WEST OF NORTH PLANO STREET AND
NORTH OF THE WESTERLY PROLONGATION OF WESTFIELD AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of
September 5, 2006, conducted a public hearing to consider approval of Eagle Ranch Tentative
Subdivision Map, being a division of a vacant 30.79± acre parcel zoned R-1 (One Family Residential)
located west of North Plano Street and north of the westerly prolongation of Westfield Avenue, into a
147-lot low density residential subdivision, to be developed in one phase; and

WHEREAS: On July 5, 2006, the City Council, by City Council Resolution 87-2006,
approved the Initial Study and Mitigated Negative Declaration for Zone Change 4-2006 and
Annexation 464. The annexation and zone change consisted of 215± acres, and the proposed 30.79±
acre site proposed for Eagle Ranch was also included in the environmental evaluation. The Initial
Study and proposed Mitigation Measures were transmitted to interested agencies, groups, and
individuals for a twenty (20) day review period from May 8, 2006 to May 28, 2006. Those comments
relative to environmental impacts were incorporated into the environmental resolution, and a
Mitigated Negative Declaration was filed; and

WHEREAS: The Subdivision Review Committee on August 23, 2006, reviewed and
discussed concerns and conditions that should be addressed before the City Council. Conditions
developed as a result of this meeting and subsequent staff review have been discussed with the
applicant’s agent and incorporated into the draft resolution of approval; and

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

WHEREAS: The City Council made the following findings:

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

   The Land Use Element of the General Plan designates the site for Low Density
   Residential (2-7 d.u./acre). The proposed subdivision will be developed to a density
   of 4.8 d.u./acre. In addition, the proposed subdivision is designed in compliance with
   all pertinent sections of the Porterville Municipal Code.

   The Circulation Element of the General Plan designates Plano Street as an Arterial
   street. Dedications and improvements necessary to comply with these designations are
   included as conditions of approval.
2. That the site is physically suitable for the type and density of the proposed development. The site gently slopes downward to the southwest. The soils have some expansive and other geologic qualities that will require specific considerations, but these issues are not unique and the project can be designed in such a way to allow development. The proposed density can be physically achieved on the project site.

3. That the Negative Declaration originally prepared and approved for this project is in compliance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment.

4. That the design of the project, or proposed improvements, are not likely to cause substantial environmental damage. The developer/applicant will be required to comply with all Mitigation Measures contained in the Mitigation Monitoring Program attached to City Council Resolution 87-2006, approved by the City Council on July 5, 2006.

5. The Initial Study originally prepared for this project indicates that all potential impacts will be mitigated to less than significant levels. Through the implementation of the mitigation measures contained in the Mitigation Monitoring Program, the result in impacts addressed will be less than significant.

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

   The General Plan designates the site for Low Density Residential uses. Adjacent land uses surrounding the site are also designated for compatible Low Density Residential uses.

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

   The proposed project complies with all the requirements of the Subdivision Ordinance without exception. The development standards of the R-1 (One Family Residential) Zone including lot sizes, site coverage, parking, etc., will apply to the site.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve Eagle Ranch Tentative Subdivision Map subject to the following conditions:

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

3. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. The developer/applicant shall dedicate and improve a right-of-way adequate for a minimum of two lanes of traffic and on street parking, on one side, on streets adjacent to the property lines as well as dedication of property required for disabled ramp(s) (C.C. Sec. 21-23). The Circulation Element has designated Plano Street as an arterial route; the right of way width for an arterial is 84 feet. Additional right of way shall be dedicated to the City of Porterville along the development’s easterly boundary in order to obtain the ultimate right of way width west of the adopted centerline alignment.

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

5. The developer/applicant shall cause all unnecessary easement to be vacated prior to or in conjunction with the Final Map processing.

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

7. The developer/applicant shall construct concrete drainage swales, approved by the City Engineer, if necessary, to transport storm water across adjacent subdivision lots to reach a City drainage system. The applicant shall also dedicate a drainage easement across each lot requiring an easement, unless all lots are graded to drain to the street (C.C. Sec. 21-50).

8. The developer/applicant shall address the location of the Pioneer Irrigation District pipeline and associated easement, if one exists.

9. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Appendix Chapter 33 of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and recommendations regarding construction of public improvements that address City Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement plans or start of grading, whichever comes first. Additional reporting requirements are as indicated below:
   a. Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);

   b. Erosion Control Plan in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity, prior to start of grading (CBC Appendix chapter 33). The provisions of the approved Erosion Control Plan shall be incorporated into the Improvement Plans;
c. Soils Report(s) in accordance with Chapter 18 of the California Building Code.

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

11. In accordance with Section 21-51 of the Subdivision Ordinance, the developer/applicant shall enter into an agreement that provides for completion of improvements within twelve (12) months.

12. Prior to start of grading on any unit, the developer/applicant shall abandon and cap existing wells that are no longer in service. Prior to approval of the improvement plans, the developer/applicant shall obtain an abandonment permit from the County Department of Environmental Health. Prior to acceptance of improvements, the developer/applicant shall provide the City Engineer with proof of completion in compliance with County regulations. Developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615 for all wells that will remain in service.

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

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

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

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

17. The developer/applicant shall assure compliance with applicable San Joaquin Valley Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. During grading operations the "Supervising Civil Engineer" shall be responsible for enforcing the dust control provisions of Section 7-8 or the developer/applicant shall pay inspection fees on the grading cost to compensate the City for dust control inspection. The improvement plans shall show a
designated wash out area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area.

18. The developer/applicant shall construct or provide surety for construction of curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), pavement lane transitions (offsite), traffic safety marking and signs, etc. along the full frontage of all proposed subdivision lots except where they exist to City standards and are in good condition in the opinion of the City Engineer. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property.

19. Building or foundation permits shall not be issued until all of the following items are accepted as complete:

a. The storm drain system is functional so that it will accept water from fire hydrant and/or water main flushing;

b. The water system, is functional from the source of water past the lots on which permits are being requested (i.e. all services and the sampling station, if required, are installed, valves are functional and accessible, bacteria testing is completed, etc.);

c. Street base rock for accessibility by the public safety officials and building inspectors;

d. Lots are graded in accordance with the approved grading plan. Prior to receipt of the Final Grading, Drainage and Soils Report a letter from the "Supervising Civil Engineer" is required validating that the grading has been done in accordance with the approved grading plan and in accordance with the recommends contained in the Preliminary Soils Report;

e. Lot corners are marked;

f. Fire hydrants are accepted by the Fire Department and the Engineering Division.

20. The developer/applicant is advised that he is obligated to comply with the Nationalal Pollutant Discharg Elimination System (NPDES) General Permit No. CAS0000002 for discharge of Storm Water Associated with construction activity will be required (except operations that result in disturbance of less than five acres of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain at a minimum all items listed in Section A of the permit, including descriptions of measures to be
taken to prevent or eliminate unauthorized non-storm water discharges and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, detention basins, etc.) best management practices that will be implemented to prevent pollutants from discharging with storm water into water of the United States. If portions of the project area are to be sold off before the entire project is completed, the proponent must submit to the California Regional Water Quality Control Board a change of information form identifying the new owners along with a revised site map clearly depicting those portions that were sold and those that are remaining. The proponent is also responsible for informing each new owner of their responsibility to submit their own NOI, site map, and appropriate fee to the SWRCB and to prepare their own SWPPP.

21. To accommodate refuse vehicles and street sweepers, the developer/applicant shall dedicate and improve, to City standards, temporary turn-arounds at the ends of dead-end streets.

22. The developer/applicant shall construct all weather alternative vehicular access road equipped with a double 2.5" pipe security gate with Knox padlock to accommodate emergency service vehicles at such time that phased development of the subdivision results in creation of dead end cul-de-sac streets in excess of 600 feet long.

23. The developer/applicant shall cause all regulatory and street name signs to be installed prior to occupancy of any house located where its occupants will utilize a street that does not have them.

24. The developer/applicant shall provide a mid street access (near Lot 128) to the adjacent westerly property.

25. The developer/applicant shall construct City standard barricades at the end of all dead-end streets.

26. The developer/applicant shall provide street striping and flexible delineators, as directed by the City Engineer, to provide safe vehicular movements.

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

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

29. Prior to acceptance of improvements, the developer/applicant shall provide streetlights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer. Street light spacing shall be at 160 foot intervals, staggered throughout the proposed subdivision. The following streetlight luminaries are
requirements for this development, e.g.:

<table>
<thead>
<tr>
<th>Street Type</th>
<th>Lumens</th>
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<tbody>
<tr>
<td>Plano Street</td>
<td>16000</td>
</tr>
<tr>
<td>Internal Streets</td>
<td>5800</td>
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</table>

30. The developer/applicant shall construct the water system in a maximum of two sections for each phase of the subdivision: One section for the model homes and one section for the remainder of the phase. The number of model homes shall not exceed one for each 10 lots in the subdivision or four, whichever is greater. The model homes shall be clustered.

31. The developer/applicant is hereby notified that the proposed development is in the East Pressure Zone and requires the extension of a 12" water main in Plano Street from Mulberry Avenue. Fire flow requirements may warrant the extension of the 12" inch main to Henderson Avenue.

32. The developer/applicant shall install a 12" water main from Plano Street, through the development to the westerly boundary, in order to comply with the Master Plan. A pressure regulating valve shall also be installed at the appropriate hydraulic grade line. This line will eventually connect to Lime Street, as development occurs within the surrounding area.

33. The developer/applicant shall have a Civil Engineer design a water system that will provide a fire flow at each fire hydrant of 1,000 g.p.m. with 20 p.s.i. residual pressure for a dwelling less than 3,600 square feet and 1,500 g.p.m. with 20 p.s.i. residual pressure for a dwelling unit greater than 3,600 square feet.

34. The developer/applicant is hereby notified that reimbursement for Master Plan facilities is made when funds are available and is contingent upon the work being done by the approved low bidder of at least two bona fide bidders. The bids must be approved by the City prior to construction.

35. The developer/applicant shall construct all drainage facilities that the City Engineer determines are necessary to comply with the intent of the Storm Drain Master Plan. In order to comply with the Master Plan, storm water shall be directed and stored at Drainage Reservoir No. 12, which is currently operated and maintained by the County of Tulare. Additional storage shall be provided within this drainage reservoir. The developer/applicant shall coordinate with both the County and City when obtaining approval of to drain into this reservoir. Excavation/grading plans shall be approved concurrently with the improvement plans and constructed in conjunction with the on-site public improvements. An on-site drainage reservoir is an acceptable alternative, should it become infeasible to implement the master plan.

36. One tree of minimum #15 specimen size and approved as a City Street Tree is required in the front yard of each lot. One additional tree is required on corner lots. Root barriers are required for all trees planted within ten feet of public sidewalks.
37. A six (6) foot tall PCC or masonry block wall with an articulated alignment shall be constructed by the applicant/developer along the Plano Street frontage of all lots. A minimum 6-foot wide landscape area shall be provided between the masonry wall and the public sidewalk. The masonry wall shall be located to ensure adequate sight distance at street intersections. A 5-foot wide wall and landscape maintenance easement shall be conveyed to the City of Porterville along the rear and side yards of lots abutting Plano Street. Particular attention shall be directed to provide graffiti free design through the use of a combination of trees, shrubs and vines to be planed to screen the wall. The wall(s) shall meet the following standards:

a. The wall(s) shall match one of the colors in the color palette approved by the City Council and maintained by the Community Development Department.

b. The wall(s) shall include articulation at intervals of approximately 80 feet except where such articulation is precluded by design constraints. In no case shall a wall exceed 160 feet without articulation. Methods of articulation may include the following:
   i. A minimum of a 24-inch change of plane.
   ii. A minimum of an 18-inch change in height.
   iii. A section of semi-open fence, except where such a feature would interfere with required sound protection.
   iv. A change of material and/or color.

38. Prior to the approval of improvement plans, the developer/applicant shall have completed and approved, landscaping and/or lighting improvement plans. The developer/applicant shall petition, on a form provided by the City, to have the development included within a Lighting and Landscape Maintenance District. Submit with the petition the $375.00 fee. The following shall be included and maintained in said district: (1) Lighting, (2) Recreational Open Space, (3) Public landscaping, if any; (4) Public walls/fences, if any; (5) Drainage reservoirs, if any, and (6) any other public improvement. The developer/applicant shall prepare an Engineer’s Report for the establishment of assessments in order to provide for ongoing maintenance of subdivision improvements to be included within the Lighting and Landscape Maintenance District. The Lighting and Landscape Maintenance District shall be established, or the annexation into an existing District shall be concluded, and landscape and lighting improvements shall be completed and accepted concurrently with the other improvements in the project.

39. Exclusive of assessments for a Lighting and Landscape Maintenance District, the developer/applicant shall pay all service fees and maintain all new lighting and landscape improvements in a safe and healthy manner for the greater of a minimum ninety-day plant establishment period following acceptance of the subdivision improvements, or until assessment begins for the Lighting and Landscape Maintenance District.

40. The applicant/developer shall dedicate Lot D to the City for a pocket park. The park shall be fully landscaped by the applicant/developer with no greater than 35% turf coverage, pedestrian pathways, interspersed tables and benches, and sufficient trees to provide a
minimum of 70% shading within seven years.

41. The applicant/developer shall construct a 6-foot high PCC or masonry fence along all common lines with residential lots that border the pocket park. The fence shall be reduced in height at front yard setback lines and otherwise fully comply with fence height requirements.

42. Prior to commencing landscape improvement construction, the developer/applicant shall obtain soil analysis to determine amendments and conditioning of soils to be utilized within the landscape areas. A copy of the soil analysis and recommendations shall be provided to the Parks and Leisure Services Director for approval. The developer/applicant shall fully implement the required amendments and conditioning of landscape soils to ensure an adequate media for healthy and vigorous plant growth.

43. All lots will be addressed by the narrowest frontage to a public street.

44. A demolition permit will be required for removal of existing structures.

45. Signs require a separate permit.

46. The project must comply with all latest applicable codes.

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

48. Additional fire hydrants will be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

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

50. Fire hydrants spacing shall be as follows: In Residential development, one hydrant shall be installed at every 500-foot intervals. Specifically, hydrants shall be placed between lots 2 and 3, 26 and 27, 43 and 44, 75 and 76, 122 and 123, 132 and 133, 140 and 141, and at the southeast corner of lot 11 and lot D, and at the southwest corner of lot 94.

51. Hydrants will be required along streets that do not have structures facing them at a maximum spacing distance of 1000 feet pursuant to California Fire Code Appendix III-B, Table A-III-B-1. Specifically, this means a hydrant will be required between lots 5 and 6 along Plano Street.

52. Access roads shall be provided for every facility, building or portion of a building, when any portion of the facility or portion of an exterior wall is located more than 150 feet from a fire apparatus access as measured by an approved route around the exterior of the building.

53. All dead-end access roads in excess of 150 feet must be provided with an approved turn-
around complying with City Standards.

54. All turns on driveways must meet the minimum radius allowed set by City Standards.

55. Project must meet minimum fire flow requirements per the Table in Appendices III-A & III-B of the California Fire Code. The minimum fire flow for one and two family dwellings having a fire area not exceeding 3,600 square feet shall be 1,000 g.p.m. with 20 psi residual pressure. One and two family dwellings having a fire area greater than 3,600 square feet shall be 1,500 g.p.m. with 20 psi residual pressure.

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

57. Any gates installed in the project that restrict access must be fitted with a Knox Key.

58. Additional requirements for compliance with the Uniform Fire Code may be added at the time of building permit review when more information regarding the building type and use are provided.

59. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. The developer/applicant will be required to sign a document committing to comply with the adopted mitigation measures prior to any construction on the site.

60. Tentative approval of the map is not effective until the effective date of the annexation.

__________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ________________________________
Georgia Hawley, Deputy City Clerk
PUBLIC HEARING

TITLE: ZONE VARIANCE 1-2006 AND CONDITIONAL USE PERMIT 1-2004, MODIFICATION NO. 1 (HOLY CROSS CHURCH)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

PROJECT LOCATION: The southwest corner of Newcomb Street and North Grand Avenue.

SPECIFIC REQUEST: The request is two-fold, including a request for a zone variance related to exceeding the maximum fence height in the required setbacks and a modification to the existing conditional use permit primarily to accommodate additional parking. The applicant is requesting approval of Zone Variance 1-2006 to allow for a 5-foot 2-inch high (finished grade measurement) wrought iron fence within the front setback along North Grand Avenue. This includes, not only the portion along North Grand but also the side fences within the 20-foot front setback. A 20-foot portion of the fencing is a six-foot tall, slatted, chain link fence within the front setback on the west side property line. The project site is located in the R-1 (One Family Residential) Zone.

In conjunction with Zone Variance 1-2006, the applicant is requesting a modification to the originally approved Conditional Use Permit 1-2004, which proposes to extend the parking lot along Newcomb Street and thereby shift the proposed classrooms, parish hall, parish offices, and kitchen. The modified plans also remove the proposed future gym, 2,400 square foot future residential dwelling, and garage from the site plan.

PROJECT DETAILS: Part One- Zone Variance 1-2006: Without encroachment permits or building permits, the Holy Cross Church constructed the wrought iron fence at the back of the sidewalk along North Grand Avenue and Newcomb Street in an effort to control access into their property. The applicant’s agent indicated that damage was being done daily to the new improvements and that it was only a matter of time until someone got injured and the church incurred liability. While Staff recognizes the need for a fence and the growing trend of fencing properties such as this, the fence that was erected does not comply with the City’s Code.

Pursuant to Section 233 of the Zoning Ordinance, a minimum 20-foot setback is required in the front yard of properties within the R-1 (One Family Residential) Zone. Within that setback, fences that do not obstruct visibility, such as wrought iron fences, less than four feet tall are permitted. Solid material fences of any size, or any type of fence greater than four feet are not permitted within the minimum 20-foot setback. It should be noted that this is an issue because the church is located in a residential zone. Churches are allowed within all residential and most commercial zones, and if not within a residential zone, a church could have a five- or six-foot tall fence with a much shallower setback, or no setbacks in some commercial zones.
Requiring the fence to be moved back 20 feet from the northerly property line along North Grand Avenue would place the fence in the existing parking lot, which makes code compliance impossible without reconstruction of the parking lot. Further complicating the matter is the fact that the current location encroaches into the City right-of-way, and in some instances fences in utility poles and/or street lights.

Part Two- Conditional Use Permit 1-2004 Modification Number 1: In conjunction with Zone Variance 1-2006, but not contingent upon its approval, the applicant is requesting a modification to Conditional Use Permit 1-2004, which originally approved the plans for the church. The proposed site plan modifies the sizes, layout, and design of the buildings within the church campus. The specific modifications are outlined above; however, the main purpose of the modification is to accommodate additional parking to serve the church, which has experienced significant attendance since opening.

STAFF ANALYSIS: In order for the City Council to approve a zone variance request, three (3) findings must be made. Pursuant to Section 2801 of the Zoning Ordinance, the findings are as follows:

1. That because of special circumstances applicable to the subject development, including size, shape, topography, location or surrounding, the strict application of this ordinance deprives said development of privileges enjoyed by other such developments in the vicinity and under identical zone classification; and

   The zone variance relates to fence height for a church; a use that is allowed in zones other than the R-1 zone. In this circumstance, the presence of the R-1 Zone subjects the project to stricter fence height requirements than churches in other zones. Approval of the proposed zone variance would provide the church at this location the same privileges of similar uses in other zones throughout the community.

2. That granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity or zone in which the property is located.

   The approval of Zone Variance 1-2006, subject to the proposed conditions, will not affect sight distances at project driveways or at the intersection of Newcomb Street and North Grand Avenue. No other potentially detrimental impacts will occur as a result of approval of the variance.

3. That the granting of such variance will not adversely affect the General Plan or the purposes of the Zoning Ordinance.

   The existing and proposed use and zoning of the subject site are consistent with the General Plan and Zoning Ordinance, subject to the Conditional Use Permit, with the single exception of the location and height of fencing along the front property line. The granting of the variance will not affect the goals and policies of the General Plan, nor will it affect other aspects of the zoning on the subject site or adjacent properties.
In consideration of the applicant’s request, Staff has developed three alternatives for the City Council’s consideration of proposed Zone Variance 1-2006.

**Alternative A:** An alternative to strict compliance with the Code is to allow the fence to be constructed on the front property line, further from the street than it currently is, but not within the parking lot. The height of the fence could be maintained at 62 inches, and the fence moved out of the right-of-way back to the property line along North Grand Avenue. The 6 foot high chain link fence located on the west side of the property extending into the public right-of-way along North Grand Avenue and into the City right-of-way must be shortened to conform with the front property line and have the slats removed. A diagonal fence would connect the fence on North Grand Avenue to the fence on Newcomb Street.

Although the fence on North Grand would still be in the front yard setback, this alternative would allow greater sight distance visibility at the southwest corner of the intersection of Newcomb Street and North Grand Avenue. It would also maintain adequate sight distance visibility for vehicles entering the two (2) ingress/egress drives located along the North Grand frontage.

**Alternative B:** Approve a variance to allow the existing fence to remain as it currently is, located partially within the right of way, and with reduced sight distance visibility for vehicular traffic at the intersections and the site driveways.

**Alternative C:** Deny the zone variance request and require the 5-foot 2-inch fence extending the full length along North Grand Avenue to be reduced to 4 feet in height from finished grade. Additionally, require the first 20 feet extending along Newcomb Street south of North Grand Avenue to be reduced to 4 feet in height from finished grade and obtain an encroachment permit.

In response to this situation, staff is proposing Alternative A as a preferred solution. This would allow the fence to be constructed on the front property line, approximately five feet south from its current location along North Grand Avenue. The side fences would only be modified as it pertains to the most northerly five(±) feet. Approving a more than five-foot tall fence within the public right-of-way through a zone variance would establish a significant precedent that may be undesirable for the City in the long-term.

Staff has evaluated the proposed modification to the conditional use permit to facilitate the construction of additional parking and has found that it complies with the pertinent Municipal Code sections. In addition, the plans are in keeping with the scope and character of the originally approved conditional use permit.
RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Zone Variance 1-2006 as recommended by Staff in Alternative A; and

2. Adopt the draft resolution approving the modification to Conditional Use Permit 1-2004.

ATTACHMENTS:

1. Original approved site plan
2. Proposed new site plan
3. Fence plan
4. Letter requesting the zone variance
5. Zone Variance application
6. Draft Resolution approving Zone Variance 1-2006
7. Conditional Use Permit application
8. Negative Declaration
10. Draft Resolution approving the modification to Conditional Use Permit 1-2004
April 12, 2006

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

Attn: Mr. Brad Dunlap

Re: Holy Cross Church
1765 N. Newcomb Ave.

Dear Brad:

On behalf of the Holy Cross Church, we are requesting a variance for a 60" height wrought iron fence on North Grand in lieu of the 48" height allowable.

Our request is in part to the 72" allowable fence height on Newcomb Street. We prefer to compromise and provide a 60" fence on both street frontages as needed for security reasons and appearances.

Due to the continued trespassing we are experiencing, it seems this is the most reasonable height for all concerned.

We desperately need this item on the next council agenda.

Thank you for your attention to this matter.

Sincerely,

Contractor/Agent for Holy Cross Church

Gary Day
APPLICATION FOR ZONE VARIANCE

ZONE VARIANCE NO. ________

TO THE CITY OF PORTERVILLE CITY COUNCIL:

The applicant(s) **Holy Cross Church** is/are the owner(s)/
lessee/agent of property located at **1765 N. Newcomb st.** between
**North Grand** Avenue/Street and **Westfield** Avenue/Street.

Exact legal description of said property being (if necessary, use separate sheet):

____________________________________________________________

____________________________________________________________

A plot plan, 300 foot radius map, and property owners’ list are attached and made a
part of this application (see instruction sheet attached).

A. Above-described property is owned by: **Roman Catholic Diocese of Fresno**

   **1550 N. Fresno St.**
   **Fresno, CA. 93703**

   Date Acquired: ______________

   **St. Anne’s Church**
   **372 N. E Street, Porterville**

B. If applicant is the lessee, give date property was leased: ______________

C. Attach the original deed restrictions, if any, that were placed on the property
   which pertain to the type of improvements permitted. Underline the restrictions
   which control the type and class of permitted uses.

D. Request: The applicant requests a variance on the above-described property
   for the following purpose:

   The City of Porterville City Council is required by law to make a written finding of
   facts to show that beyond a reasonable doubt, the following conditions apply. Explain
   in detail (attach additional sheet) how your request conforms to the
   following conditions:

   1. That because of special circumstances applicable to subject property,
      including size, shape, topography, location or surroundings, the strict
      application of this ordinance deprives the subject property of privileges
      enjoyed by other properties in the vicinity and under identical zone
      classification.

   2. That the granting of the variance will not be materially detrimental to the
      public welfare or injurious to the property or improvements in the vicinity or
      zone in which the property is located.

   3. That the granting of such variance will not adversely affect the General
      Plan or the purposes of this ordinance.
I/We declare and say that I am (we are) the owner(s) (lessee or agent) of property involved in this application and that I (we) have completed this application and all other documents and maps required hereby to the best of my (our) ability and that the statements and information above referred to are, in all respects, true and correct except as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at ________________________________, this ______ day of ________________________, 2006.

[Signature]

Mailing Address and Telephone Number:

DAYCO Construction Inc.
881 W. Market Ave
Porterville, CA 93257

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

[Signature]

Date Received: ___________________________
RESOLUTION NO.________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF ZONE VARIANCE 1-2006 FOR THE HOLY CROSS CHURCH LOCATED AT THE SOUTHWEST CORNER OF NEWCOMB STREET AND NORTH GRAND AVENUE IN THE R-1 (ONE FAMILY RESIDENTIAL) ZONE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 5, 2006, conducted a public hearing to consider Zone Variance 1-2006 for the Holy Cross Church located at the southwest corner of Newcomb Street and North Grand Avenue in the R-1 (One Family Residential) Zone; and

WHEREAS: The applicant is requesting approval of a zone variance (Zone Variance 1-2006) to allow for a 5-foot 2-inch high (finished grade) wrought iron fence within the front setback across the full frontage of the subject site fronting on North Grand Avenue and Newcomb Street the depth of the 20-foot front setback, and a six-foot slatted chain link fence along the westerly property line within the front setback; and

WHEREAS: Pursuant to Section 233 of the Zoning Ordinance, a minimum 20-foot setback area is required in the front yard of the R-1 (One Family Residential) Zone. Within that setback area, fences that do not obstruct visibility, such as wrought iron fences, less than four feet tall are permitted. Solid material fences of any size, or any type of fence greater than four feet are not permitted within the minimum 20-foot setback.

WHEREAS: The applicant constructed the fence within the public right-of-way; however, the allowable fence heights are consistently enforced within the public right-of-way pursuant to the zoning standards of the adjacent property, and through the issuance of an encroachment permit; and

WHEREAS: In order to preserve the public health, safety and welfare, the existing fence must be modified to conform to the front property line and side property lines within the front setback; and

WHEREAS: The City Council made the following findings with respect to the project:

1. That because of special circumstances applicable to the subject development, including size, shape, topography, location or surrounding, the strict application of this ordinance deprives said development of privileges enjoyed by other such developments in the vicinity and under identical zone classification.

The zone variance relates to fence height for a church; a use that is allowed in zones other than the R-1 zone. In this circumstance, the presence of the R-1 Zone subjects the project to stricter fence height requirements than churches in other zones. Approval of the proposed zone variance would provide the church at this location the same privileges of similar uses in other zones throughout the community.
2. That granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity or zone in which the property is located.

The approval of Zone Variance 1-2006, subject to the proposed conditions, will not affect sight distances at project driveways or at the intersection of Newcomb Street and North Grand Avenue. No other potentially detrimental impacts will occur as a result of approval of the variance.

3. That the granting of such variance will not adversely affect the General Plan or the purposes of the Zoning Ordinance.

The existing and proposed use and zoning of the subject site are consistent with the General Plan and Zoning Ordinance, subject to the Conditional Use Permit, with the single exception of the location and height of fencing along the front property line. The granting of the variance will not affect the goals and policies of the General Plan, nor will it affect other aspects of the zoning on the subject site or adjacent properties.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Zone Variance 1-2006, subject to the following conditions:

1. The fence must be moved out of the right-of-way along North Grand Avenue to conform to the front property line.
2. The fence at the east and west ends of the front fence line shall be shortened in conformance with the new front fence location.

__________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By _________________________
Georgia Hawley, Chief Deputy City Clerk
We, the undersigned OWNERS of ADJACENT PROPERTY as shown upon the map attached to the application, hereby certify that we have read the foregoing petition and agree that the fact stated correctly and completely present the conditions surrounding the property involved in the application, and believe the application SHOULD BE GRANTED.

(Add additional sheets where necessary. These signatures are desirable but not required.)

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**OWNER'S DECLARATION**

**STATE OF CALIFORNIA**  

**COUNTY OF TULARE**  

I, [Name of Applicant], being duly sworn, declare and say that I am the owner of part (or all) of the property involved and that this application has been prepared in compliance with the requirements of the Porterville City Council as printed herein and that the foregoing information thoroughly and completely, to the best of my ability, presents the argument in behalf of the application except as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at [City], this [Date] day of [Month], 2006.

Telephone (559) 784-2800  
Signed [Signature]

Mailing Address [Street Address]  
Porterville, CA. 93257

This is to certify that the foregoing application has been inspected by me and found to be complete and acceptable for filing with the Porterville City Council.

Received [Date]  

Receipt No. [Number]

By [Signature]
NEGATIVE DECLARATION

LEAD AGENCY: City of Porterville
291 North Main Street
Porterville, California 93257

APPLICANT: Roman Catholic Bishop of Fresno
1550 N. Fresno
Fresno, CA 93703

PROJECT TITLE: Conditional Use Permit 1-2004

ADDRESS/LOCATION: Southwest corner of North Grand Avenue and Newcomb Street.

PROJECT APPLICANT: Roman Catholic Bishop of Fresno

PROJECT DESCRIPTION: The subject site is located generally on the southwest corner of North Grand Avenue and Newcomb Street. The northerly portion of the site fronts on West Grand Avenue. The westerly portion of the site fronts on Newcomb Street. Curb and gutter exists along the full east side of the subject site. The site consists of 13.30 ± acres which is vacant, with the exception of a small vacant single family dwelling located adjacent to the west side of Newcomb Street, approximately 600 ± feet south of the southwest corner of North Grand Avenue and Newcomb Street. Conditional Use Permit 1-2004 would allow for development of a proposed church and school. Phase 1 will include a 16,448 ± square foot church with a seating for 1,000 parishioners and a 1,420 square foot choir loft. Additionally, a proposed parking area and on-site bus loading and unloading area is proposed in Phase 1. The remaining portion of the site proposed for future development consists of the following:

An 11,200 ± square foot Parish hall (with a 3,500 ± square foot youth center). Proposed elementary school facilities including pre-kindergarten, a kindergarten, 8 to 10 school classrooms, school offices, library, and parish offices. A 2,400 ± square foot rectory and a 2,400 square foot residence, and an 8,400 ± square foot gym. The remaining portion of the site to the south proposed for future development consists of a pre-school play ground, school play ground and sports field.

CONTACT PERSON: Bradley D. Dunlap (559) 782-7460

Per Resolution No. 6956, the Environmental Review Committee of the City of Porterville has reviewed the proposed project described herein and has found that this project will have no significant impact on the environment for the following reasons:

1. The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

2. The project does not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

3. The project does not have possible environmental effects which are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

4. The environmental effects of a project will not cause substantial adverse effects on human beings, either directly or indirectly.

ATTACHMENT
ITEM NO. 7
5. Mitigation measures X were, ___ were not made a condition of the approval of the project.

On February 25, 2004, the Environmental Review Committee determined that the above project will have no significant effect on the environment.

Copies of plans and other documents relating to the subject project may be examined by interested parties at the City Planning Division, 291 North Main Street, Porterville, California.

Dated: February 25, 2004

Bradley D. Dunlap, Environmental Review Committee
RESOLUTION NO. 29-2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF CONDITIONAL USE PERMIT 1-2004 TO ALLOW THE CONSTRUCTION OF A CHURCH AND SCHOOL TO BE LOCATED GENERALLY ON THE SOUTHWEST CORNER OF NEWCOMB STREET AND NORTH GRAND AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of April 6, 2004, conducted a public hearing to consider Conditional Use Permit 1-2004, being a request to allow the construction of a church and school to be located generally on the southwest corner of Newcomb Street and North Grand Avenue;

WHEREAS: The proposed project will consist of the following:

Phase 1 will include a 16,448± square foot church with seating for 1,000 parishioners and a 1,420 square foot choir loft. Additionally, a proposed parking area and on-site bus loading and unloading area is proposed in Phase 1.

WHEREAS: The remaining portion of the site proposed for future development consists of the following:

An 11,200± square foot Parish hall (with a 3,500± square foot youth center). Proposed elementary school facilities include a pre-kindergarten, a kindergarten, 8 to 10 school classrooms, school offices, library, parish offices, a 2,400± square foot rectory, a 2,400 square foot residence, and an 8,400± square foot gym. The remaining portion of the site to the south proposed for future development consists of a pre-school play ground, school play ground and sports field.

WHEREAS: The City Council made the following findings with respect to the subject project:

1. That the proposed project is consistent with the site’s General Plan land use designation and zoning.

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

3. That the design of the project or the proposed improvements are not likely to cause substantial environmental damage.

4. That a Negative Declaration was prepared for this project indicating that such will not have a significant effect on the environment.
5. That the proposed location of the project and the conditions under which it will be 
operated and maintained will not be detrimental to the public health, safety or 
welfare, or material injurious to properties or improvements in the vicinity.

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

7. That Section 221 A- 4 of the Porterville Zoning Ordinance allows for churches, 
conducted wholly within a building, when on a lot of three (3) acres or more in size, 
subject to approval of a Conditional Use Permit.

WHEREAS: On February 25, 2004, the Environmental Review Committee accepted as 
complete a Negative Declaration for proposed Conditional Use Permit 1-2004.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of 
Porterville does hereby approve Conditional Use Permit 1-2004, subject to the following conditions:

1. That the proposed project will be constructed pursuant to Exhibit “A”.

2. The design plan appears to provide a curb separation between the developed portion of the 
site in Phase 1 and the remaining area. In the event project implementation varies from that 
proposed, provide a barrier curb between the developed portion of the site and the 
undeveloped portion. No parking is allowed on unpaved portions of the site.

3. Submit two copies of a landscape and irrigation plan and a $25.00 plan check fee. Said plans 
to include 28 street trees (17 on Newcomb and 11 on North Grand).

4. Upon completion of landscaping and prior to building occupancy, submit a certificate of 
substantial completion to the Parks and Leisure Services Director.

5. Plans for detached signage should be submitted for review with a building permit 
application. All signage shall be architecturally compatible with the main building to the 
satisfaction of the Community Development Director.

6. Clearly identify on the plans how the undeveloped portion of the site will be treated during 
the interim period until developed. Effort should be made to reduce the generation of dust 
from the site.

7. The existing residence shall be removed prior to the construction of the proposed rectory.
8. Clearly identify the material used for the wall/fence enclosure around the service yard. If a solid wall/fence, there is no need to construct a separate wall enclosure around the trash bins inside. A curb must be used to make the bins stationary within the service area and the location of which should be adjusted to allow for trash trucks to access without moving the bins. The gate entering the service area shall be wide enough to allow the trash trucks to enter and exit safely.

9. If required, any on site fire lines shall be per City standard with detector check.


11. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.

12. The developer/applicant shall follow Appendix Chapter 33 of the Uniform Building Code including provision of a grading and drainage plan signed by a licensed civil engineer or architect. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.

13. The developer/applicant shall construct and/or repair street, alley, curb, gutter, sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306).

14. The developer/applicant shall construct drainage facilities as required to serve the property (Ord. No. 1306). A master plan storm drain pipe is to be constructed in Newcomb Street along the full frontage of the parcel. Reimbursement is based on the lowest of not less than two competitive bids and is subject to funds available in the storm drain fund.

15. The developer/applicant shall dedicate right-of-way for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by the City Council, and dedication of required property for disabled ramp(s).

16. The developer/applicant shall provide street lights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer. Do not use wood poles without prior written approval of the City Engineer.

17. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 of the Zoning Ordinance.
18. On each phase, the developer/applicant shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, before the issuance of a certificate of occupancy (For example, basements, septic tanks, etc.).

19. On each phase, the developer/applicant shall abandon existing wells after first getting an abandonment permit from the County Department of Environmental Health, and providing the City Engineer with proof of compliance with County regulations before performing any grading or issuance of the building permit, whichever comes first.

20. The developer/applicant shall comply with Ordinance No. 1288 regarding Waste Water Discharge requirements and shall complete and submit the following:

   a. Non-residential Wastewater Connection Application; and
   b. Payment of an application fee, if applicable.

   If monitoring is required, based on the responses to questions in the Non-residential Wastewater Connection Application, then the developer/applicant shall obtain a permit and provide monitoring facilities complying with City standards to allow inspection, sampling, and flow measurement of the flows in the sewer and drainage system.

21. The developer/applicant shall install a refuse container enclosure according to City standards. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot.

22. The developer/applicant shall construct the pipe connecting to on-site fire hydrants to City water main standards and shall provide easements for maintenance to the on-site water mains.

23. When the community kitchen is constructed, the developer/applicant shall construct a grease interceptor that complies with the Uniform Plumbing code.

24. The developer/applicant shall show the existing house and well on the plans until they are removed.

25. Fire hydrants are required at a spacing not to exceed one every 300 feet.

26. On-site fire hydrants are required when any portion of the buildings exceed 150 feet from a water source.
27. Fire Department access must be provided where buildings are in excess of 150 feet from an access point.

28. That prior to issuance of building permits, the developer/applicant shall submit a signed notice agreeing to comply with all adopted mitigation measures.

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By Georgia Hawley, Deputy
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF CONDITIONAL USE PERMIT 1-2004
MODIFICATION NO. 1 TO MODIFY THE ORIGINALLY APPROVED PLANS
FOR THE HOLY CROSS CHURCH LOCATED AT THE SOUTHWEST CORNER
OF NEWCOMB STREET AND NORTH GRAND AVENUE
IN THE R-1 (ONE FAMILY RESIDENTIAL) ZONE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 5, 2006, conducted a public hearing to consider Conditional Use Permit 1-2004, Modification No. 1 to modify the originally approved plans for the Holy Cross Church located at the southwest corner of Newcomb Street and North Grand Avenue in the R-1 (One Family Residential) Zone; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of April 6, 2004, approved a negative declaration and conditional use permit for a proposed church campus including a 16,448± square foot church with seating for 1,000 parishioners and a 1,420± square foot choir loft. Additionally, a proposed parking area and on-site bus loading and unloading area was proposed. The remaining portion of the site proposed for future development consisted of an 11,200± square foot Parish hall (with a 3,500± square foot youth center), parish offices, a 2,400± square foot rectory, and a 2,400± square foot residence. In addition, proposed elementary school facilities included pre-kindergarten and kindergarten classes, 8 to 10 school classrooms, school offices, a library, and an 8,400± square foot gym. The remaining portion of the site to the south proposed for future development consisted of a pre-school play ground, school play ground and sports field; and

WHEREAS: The revised site plan proposes to eliminate some of the previously approved buildings and add new buildings with a major component being additional parking areas along Newcomb Street with the revised plans reflected on the approved plan; and

WHEREAS: In conjunction with Conditional Use Permit 1-2004, Modification No. 1 the applicant is requesting approval of a zone variance (Zone Variance 1-2006) to allow for a 5-foot 2-inch high (finished grade) wrought iron fence across the full frontage of the subject site along North Grand Avenue including the side fences within the front setback; and

WHEREAS: The City Council made the following findings with respect to the subject project:

1. The General Plan designates the subject site as Low Density Residential.

   The subject site is in the R-1 (One Family Residential) Zone and is consistent with the General Plan. The existing and proposed uses are allowed pursuant to approval of a Conditional Use Permit.

2. That the site is physically suitable for the type of development proposed.
The 13.30± acre level site is rectangular in nature. The soil is not highly expansive and therefore will not create any barriers to the project as proposed.

3. That the designs of the project or the proposed improvements are not likely to cause substantial environmental damage.

The modification to the site plan as proposed will blend in with the existing church and allow for the expansion of the site to facilitate future classrooms, Parish Hall and additional parking area. Additionally, Staff conducted an on-site inspection. With the exception of the existing church and parking area, the site is vacant and other than maintained landscaping is absent of any vegetation due to weed control. No natural habitat was observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

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

The storage of hazardous materials other than what is utilized by churches and school classrooms will be prohibited. Only those uses allowed in the R-1 Zone will be allowed.

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

The proposed project meets all of the requirements, to include off-street parking, lot coverage and landscaping required in the R-1 Zone set forth by Article Two of the Zoning Ordinance. Additionally, conditions of approval will ensure adequate development standards are met.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Modification No. 1 to Conditional Use Permit 1-2004, subject to the following conditions:

1. That conditions contained in City Council Resolution No. 29-2004 shall remain in full force and effect except as modified herein.

2. Any conditions of approval relative to Zone Variance 1-2006 will be adhered to.

3. That portion of the property beyond the south end of the proposed parking lot, located on the west side of the property just south of the proposed future parish hall, shall be blocked from vehicular access until such time that it is fully landscaped or built upon.

5. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.

6. The developer/applicant shall follow Appendix Chapter 33 of the Uniform Building Code including provision of a grading and drainage plan signed by a licensed civil engineer or architect. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.

7. The developer/applicant shall construct and/or repair street, alley, curb, gutter, sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306).

8. The developer/applicant shall construct drainage facilities as required to serve the property (Ord. No. 1306). A master plan storm drainpipe is to be constructed in Newcomb Street, along the full frontage of the parcel. Reimbursement is based on the lowest of not less than two competitive bids and is subject to funds available in the storm drain fund.

9. The developer/applicant shall dedicate right-of-way for a street width that matches the ultimate width in the adopted land Use and Circulation Element and/or the width established by the City Council, and dedication of required property for disabled ramp(s).

10. The developer/applicant shall provide streetlights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer. Do not use wood poles without prior written approval of the City Engineer.

11. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 of the Zoning Ordinance.

12. On each phase, the developer/applicant shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, before the issuance of a certificate of occupancy (For example, basements, septic tanks, etc.).

13. On each phase, the developer/applicant shall abandon existing wells after first getting an abandonment permit from the County Department of Environmental Health, and providing the city Engineer with proof of compliance with County regulations before performing any grading or issuance of the building permit, whichever comes first.

14. The developer/applicant shall comply with Ordinance No. 1288 regarding Waste Water Discharge requirements and shall complete and submit the following:
a. Non-residential Wastewater Connection Application; and
b. Payment of an application fee, if applicable.

If monitoring is required, based on the responses to questions in the Non-residential Wastewater Connection Application, then the developer/applicant shall obtain a permit and provide monitoring facilities complying with City standards to allow inspection, sampling, and flow measurement of the flows in the sewer and drainage system.

15. The developer/applicant shall submit a fence encroachment plan and execute an Encroachment Agreement in conjunction with the Modified Conditional Use Permit process. The fence shall not preclude access to existing utilities poles, streetlights, fire hydrants, etc. along the Newcomb Street and North Grand Avenue frontages. The fence shall also be placed so as not to impair the vision of vehicular traffic at the Newcomb Street/North Grand Avenue intersection.

16. The developer/applicant should consider expansion of the trash enclosure to accommodate an additional bin for recycling.

17. A minimum five (5) foot wide screen-planting strip shall be provided and permanently maintained adjacent to any property line separating a parking area from a public street.

18. A minimum of 5% of parking lot and driveway areas are to be landscaped with live plant materials. The parking lot and driveway areas are to be shaded with trees planted on the property at a minimum ratio of one tree per 8 parking spaces distributed throughout the paved area. Parking lot tree wells are recommended to be a minimum of twenty (20) square-feet in size.

19. The owner/applicant shall incorporate areas of public right-of-way between the back of sidewalk and property line into the site landscape areas. Landscape planting of the right-of-way areas shall be consistent with the site landscaping.

20. The owner/applicant is to install trees, approved as City Street Trees, along all public roadway frontages of the property. The number of trees to be planted shall be equivalent to a minimum of one tree per 35 feet of roadway frontage. The trees are to be a minimum of #15 size specimens incorporated into the designated landscape areas. Root barriers are required for all trees planted within ten feet of public sidewalks. The selection of planting locations, and performance of canopy maintenance for the trees shall be conducted to minimize vehicular sight safety conflicts.

21. The owner/applicant shall provide an automatic irrigation system for all landscape planting, including trees and right of way planting. All landscaping shall be installed prior to occupancy and be permanently maintained by the owner/applicant in a healthy and vigorous growing condition, and clean appearance. Concrete mow strips shall be installed at the base of all fencing adjoining or crossing turfed-landscaping.
22. The future chapel and residence as shown on plans will not be permitted as noted on plan submittal of the church. The existing church was constructed utilizing 60’ clear side yards, and sixty (60) foot side yards must be maintained on all four sides of the existing church.

23. Any locks placed on gates that hinder the access to the site must have a Knox Lock assembly.

24. The use of the property shall comply with the approved plans and local, state and federal regulations.

_____________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ___________________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: COMPARSION OF ARTIFICIAL TURF TO REAL TURF MAINTENANCE

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: Artificial turf was installed last year in the street median island in the northwest quadrant of the intersection of Main Street and Henderson Avenue. The Council has asked for this report as a follow-up. The interest is understood to be relative to the cost of artificial turf installation and maintenance to the cost of real turf installation and maintenance.

The maintenance of the artificial turf has been minimal. No direct tracking of cost has been done, but it is estimated that less than $1,000 of time and materials has been expended on maintenance of this island since the artificial turf was installed. Nut-grass appears to be growing underneath the artificial turf. This will occur in any planting area that is not properly prepared. Herbicides will be applied to control the infestation, but ultimately the solution may involve removal of the artificial turf and plant materials within the island area. The dirt within the island would then need to be excavated, and replaced with clean topsoil. This same process should be followed in areas in which real turf is to be planted in order to provide the highest possible avoidance of a noxious weed infestation.

An imputed cost for a similar area of real turf maintenance can be estimated by the amount of irrigation water and mowing activity. Irrigation of real turf in a similar size area is estimated to require $300.00 per year in water. Mowing and edging real turf is estimated to require $1,000.00 in labor per year for fescue type of grass. Herbicide application is deemed to be similar, but fertilizer, pesticide, and lawn disease treatment could cost approximately $200.00 per year for labor, equipment and materials. It is therefore thought that ongoing maintenance of real turf could be as much as one and one-half to three times the cost of artificial turf.

The cost of installing the artificial turf was $9,500. The cost to have similarly installed real turf is estimated at $4,500. It is roughly estimated that the increased artificial turf installation price is recaptured from maintenance savings in a five to ten year period.

RECOMMENDATION: City Council consideration and acceptance of the cost comparison between artificial turf and real turf maintenance.

Director Appropriated/Funded City Manager

ITEM NO.: 22
SUBJECT: GENERAL PLAN UPDATE PRESENTATION

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: The process of comprehensively updating the General Plan for the City is well underway. Staff and the consultant have facilitated multiple General Plan Update Advisory Committee (GPUAC) meetings and community workshops and have made presentations and solicited input from the Parks and Leisure Services Commission. The collective input from those efforts is embodied in the current Draft Preferred Plan that was the subject of discussion at the General Plan community meeting held on August 29, 2006.

Significant aspects of the plan include the following:

Population Growth: Projected population growth in the plan is approximately 55,000 people by the year 2030, bringing the total population to over 100,000.

Job Growth: The current Draft Preferred Plan would accommodate approximately 45,000 new jobs in various job sectors including industrial, commercial/service, etc.

Job Center: Industrial and Industrial Park uses are concentrated around the airport area. In addition, the formal downtown area designation is extended further south to SR 190.

Industrial Land Supply: A significant point of discussion with the GPUAC has been the need to provide an adequate supply of industrial land that would allow the City to recruit for all sizes of prospective industry with the flexibility to phase in infrastructure, and have the flexibility to cope with the willingness of property owners to sell for development.

Regional Commercial: Regional commercial centers are located along SR 65 and SR 190.

Parks/Open Space: A standard rule of thumb as established in the Quimby Act (State Law) is dedication of five acres of parks/open space per 1000 population. The plan proposes a ratio of approximately 10 acres per 1000 population. Much of this area is comprised of two additional Sports Complexes and trails that essentially wrap around the perimeter of the City.

Resort Residential Development: A concept that arose out of the preparation of a draft economic development element was the concept of a unique development concept at Lake Success. As excerpted from the draft document; “The City envisions the Resort-Residential Community and adjacent developable land along the shoreline in the Lake Success Planning Area as a resort-residential community for all ages and income levels with a mix of land uses and housing types, and an open space system with parks, trails, and natural reserves. It would include compact walkable neighborhoods, neighborhood centers, community facilities, a golf course and a small-scale visitor-oriented mixed use center that may have some overnight lodging for guests. Sensitive site planning and environmental
hillsides, supporting wildlife habitat and conserving critical resources. Sensitive habitat will not be disturbed in order to provide a natural scenic backdrop.”

Campus Locations: Recent collaborative efforts to improve access to higher education and in discussions regarding the City’s economic development efforts, a major emphasis of the GPUAC and other committees has been to plan for the future location of a college or university, most likely private. The plan shows a few locations that could accommodate schools of varying sizes, and potentially even orientations. Currently, the plan shows three potential sites that could accommodate campuses. One would likely be a university center which would be much smaller than a fully developed campus.

Focus on Neo-traditional neighborhood design: This reflects the concept of designing neighborhoods around commercial, park and school elements with a graduating density reduction the further away the housing is from the neighborhood center.

When the City initiated the General Plan update, it anticipated an 18 month timeline to complete the process, with a completion date of December 2006. There has been significant progress made to date. With the expanded scope of services to address the Enterprise Zone extension in the EIR, address changes in the updated Airport Layout Plan, changes in the Planning Area, coordination with the Hillside Development Ordinance, and the preparation of an Urban Water Management Plan, completion of the update is anticipated between December 2006 and March 2007.

RECOMMENDATION: No action recommended

ATTACHMENTS:

1. Draft Preferred Plan Diagram
SUBJECT: CHIEF OF POLICE RECRUITMENT

SOURCE: City Manager’s Office

COMMENTS: The City is currently developing a process for the recruitment of a Police Chief.

Staff has worked with various executive search firms in the past, such as Peckham and McKenney, Bob Murray and Associates, and Avery and Associates. Staff is recommending the use of Peckham and McKenney for the recruitment for a new Police Chief. This firm has the capacity to meet the City’s anticipated recruitment schedule and has vast experience in Police Chief recruitments.

Currently, City staff does not have the capacity to develop, implement, and coordinate a comprehensive recruitment process.

The anticipated cost for retaining an executive recruiter is estimated at $17,500 with another $6,500 for advertising and expenses. This would also include the assessment center process. Funds are available in the carry-over account.

RECOMMENDATION:

1) Authorize the City Manager to retain Peckham and McKenney for a fee of $24,000 to recruit a Chief of Police.

2) Authorize the City Manager to execute any and all necessary documents related to the recruitment process.

ATTACHMENTS: Recruitment Schedule

Item No. 24
MEMORANDUM

TO: John Longley, City Manager

FROM: Frank Guyton, Deputy City Manager

DATE: 8/30/2006

RE: Recruitment Schedule for Chief of Police

The following is proposed as the process for the selection of the new Chief of Police.

1. September 15 Sign agreement with recruitment firm

2. October 2nd Advertisement campaign by firm throughout the State of California by focusing on the South San Joaquin Valley.

3. November 17th Preliminary screening completed by recruitment firm

4. December 4th. (Week of) community panel interviews and professional assessment center. Community Panel selected as community-based committee on which each Council member has a designee. The professional panel will be selected by the City Manager and Deputy City Manager

5. December 11th (Week of) City consensus group consisting of Mayor, Mayor Pro Tem, City Manager and Deputy City Manager will meet to review applications, results of community panel interviews and professional assessment center.

6. December 18th (Week of) Target for selection of Chief of Police

7. February 5th Goal reporting date for new Chief of Police
SUBJECT: CONSIDERATION OF A STANDARD FORMAT FOR PLAQUES COMMEMORATING PROJECTS

SOURCE: Administration/City Clerk Division

COMMENT: At the City Council Meeting of August 8, 2006, staff was directed to bring back an agenda item to discuss a standardized plaque for project dedications. Council felt that a standardized plaque would best serve any City project being recognized.

Engineering has prepared the plaque template which is attached. Staff is proposing the following format for the plaque and its content:

- Size - Approximately 15" x 18"
- Material - Bronze
- Lettering size as specified on template
  - the lettering size would be proportionate in the event the maximum fifteen Council names were included
- Project Name
- City Council Member names only (to include, if different):
  - Council Members seated when the Design Contract was awarded;
  - Council Members seated when the Construction Contract was awarded; and
  - Council Members seated when the Notice of Completion was authorized to be filed.
- The Project Architect
- Project Contractor
- Constructed Date (Date of Project Acceptance)

RECOMMENDATION: That the City Council approve the format for project commemoration plaques as recommended and direct staff to implement their uniform use.

Attachment: Sample Plaque Template
COUNCIL AGENDA: SEPTEMBER 5, 2006

SUBJECT: PROCEDURE TO ACCOMMODATE LARGER EXPENDITURES WHEN REQUIRED BY PUBLIC PEACE, HEALTH OR SAFETY

SOURCE: Administration

COMMENT: Over the years, significant events occurred which required an immediate expenditure of funds above the limits set by City Resolution. Because of the City’s Resolution setting a maximum expenditure without prior Council approval, repairs were delayed by as much as two weeks. The most recent example is when the Fire Department’s air condition failed during the last heat wave of 113 degrees. On another occasion, a fire engine had transmission problems which required extensive repairs.

The proposed ordinance would, if approved by a 4/5ths vote, allow the City Manager to appropriate and/or expend up to $100,000.00 without additional prior Council approval, if (1) the City Manager has requested that such an appropriation/expenditure be made, (2) the Mayor has determined that the circumstances for the request constitute an extraordinary emergency, meaning that there is an immediate need to make such appropriation/expenditure for the preservation of the public peace, health or safety, and (3) the City Manager notifies the Council of the specific appropriation/expenditure in writing.

RECOMMENDATION: That the City Council adopt the draft ordinance, waive further reading and order to print.

ATTACHMENTS: 1- Draft Ordinance

Dir. [ ] Funded [ ] C/M [ ]

Item No. 26
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING SECTION 2-38 TO CHAPTER II, ARTICLE VII OF THE PORTERVILLE MUNICIPAL CODE ("EXPENDITURES, INDEBTEDNESS, AND REVOLVING CASH FUND") CONCERNING APPROPRIATIONS/EXPENDITURES IN CASES WHERE THERE IS AN IMMEDIATE NEED TO PRESERVE THE PUBLIC PEACE, HEALTH OR SAFETY

WHEREAS, Section 48 of the City of Porterville’s Charter, as amended on May 2, 2003, provides that the City Council may, by ordinance adopted by a four-fifths vote, authorize expenditures incurred on behalf of the City;

WHEREAS, the City Council of the City of Porterville finds that it is in the best interests of the City to establish a procedure for appropriations and/or expenditures in times where there is an immediate need to preserve the public peace, health or safety;

THE COUNCIL OF THE CITY OF PORTERVILLE DO ORDAIN AS FOLLOWS:

SECTION 1. That Porterville Municipal Code, Chapter 2, Article VII, Section 2-38 is hereby added as follows:

Sec. 2-38. Emergency Expenditures/Appropriations.

An appropriation and/or expenditure of up to $100,000.00 is authorized without additional prior Council approval, if (1) the City Manager has requested that such an appropriation/expenditure be made, (2) the Mayor has determined that the circumstances for the request constitute an extraordinary emergency, meaning that there is an immediate need to make such appropriation/expenditure for the preservation of the public peace, health or safety, and (3) the City Manager notifies the Council of the specific appropriation/expenditure in writing.

SECTION 2. This ordinance shall be in full force and effect thirty days after its passage.
ADOPTED, SIGNED AND APPROVED this _____ day of ___________, 2006.

President of the Council and
Mayor of the City of Porterville

ATTEST:

Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
SUBJECT: FIRE APPARATUS AVAILABLE FOR SURPLUS

SOURCE: Fire Department

COMMENT: A Council member has requested information on what type of Fire Apparatus may be available to donate to neighboring jurisdictions. Currently, the Fire Department has a 1969 Van Pelt Type I fire engine. However, the unit would need a complete overhaul before another jurisdiction could put it into service. Also, it does not meet the minimum requirements for operation under the National Fire Protection Association’s guidelines.

RECOMMENDATION: None - Informational Only

ATTACHMENT: None
SUBJECT: USE OF PROPOSITION 42, PROPOSITION 1B AND ½ CENT SALES TAX FUNDS – STREET PROJECTS

SOURCE: Public Works Department - Engineering Division

COMMENT: The City Council directed staff to create a 3-year street reconstruction, restoration and repair program during the August 29, 2006 Study Session. The City is expecting Proposition 42 funds to become available this fiscal year and potentially next fiscal year. In November, a ½ cent sales tax measure and Proposition 1B will be on the ballot. Both measures require a 67% “Yes” vote to pass.

Approximately $315,000 of Proposition 42 will be available this fiscal year and potentially $340,000 may become available next fiscal year, for an estimated total of $655,000. If the ½ cent sales tax measure passes, the City will receive approximately $635,000 annually for related street projects. Fiscal year 2007/2008 will be the first round of these yearly funds, if the measure passes. Total potential funding over a three (3) year period is $1,925,000.

If Proposition 1B passes, Senate Bill (SB) 1266 is enacted and the City can expect to receive “one time” funds in the amount of $1,436,694. SB 1266 is 19 pages long and staff has not had the opportunity to fully review the bill. A measure such as this is implemented normally with program rules that establish conditions and restrictions for the expenditure of the funds. Council expressed an interest in utilizing these funds for the Indiana Street Low Water (Tule River) Crossing Project.

Staff will present a 3-year street reconstruction, restoration and repair program for Council’s review during the October 17, 2006 meeting. The program will be tailored to the anticipated yearly allotment of funds stated herein.

RECOMMENDATION: Informational only.
SUBJECT: CONSIDER ADOPTION OF AUDIT COMMITTEE ORDINANCE

SOURCE: Administrative Services

COMMENT: It is proposed by the City Manager for the Council's consideration the formation of an audit committee. The committee is proposed to be comprised of the Mayor and one (1) additional member of City Council, the City Manager, the City Attorney, and the Chief Financial Officer.

The purpose of the committee would be to manage the City's independent auditor, reviewing the Annual Audit and the Comprehensive Annual Financial Report (CAFR) prior to submission to the Council, and managing special studies when assigned by the Council.

RECOMMENDATION: That the City Council set a public hearing for the adoption of the draft audit committee ordinance on September 19, 2006.

ATTACHMENT: Draft Ordinance

Dir. Appropriated/Funded C/M Item No. 29
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER II, ARTICLE IX, INTERNAL CITY AUDITS, OF THE CODE OF THE CITY OF PORTERVILLE

WHEREAS, the City Council has determined that it would be beneficial to create and utilize the services of a City of Porterville internal audit committee to manage the City’s independent auditor, and to review the Annual Audit and the Comprehensive Annual Financial Report (CAFR) prior to the submission of these documents to the City Council; and

WHEREAS, the Audit Committee would also review other financial matters as directed, and would manage special studies when assigned by the city council.

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

SECTION 1. That Porterville Municipal Code, Chapter 2, Article IX, is hereby Amended to read as follows:

ARTICLE IX. INTERNAL CITY AUDITS

Sec. 2-73. Purpose.
The city council shall conduct internal audits for the purpose managing the City’s independent audito, and reviewing the Annual Audit and the Comprehensive Annual Financial Report (CAFR) prior to the submission of these documents to the City Council.

Sec. 2-74 Audit Committee.

An audit committee is hereby established consisting of the mayor and one (1) additional member of the city council, the city manager, the city attorney, and the chief financial officer.

The Internal City Audit Committee shall manage the work of the independent auditor, reviewing both the Annual Audit and the Comprehensive Annual Financial Report (CAFR) prior to submission to the city council. The audit committee shall also manage special studies when assigned by the city council.

When called upon to do so by the mayor or any other member of the audit committee, the audit committee shall meet to review any other financial matter of the city.

The audit committee may, upon its own motion, establish and adopt bylaws or rules of order to govern the proceedings of the committee.
SECTION 2. This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

ADOPTED, SIGNED AND APPROVED this _____ day of ________________, 2006.

________________________________________
Cameron Hamilton, Mayor

ATTEST:

_______________________________
Georgia Hawley, Chief Deputy City Clerk
DEBARMENT PROCEDURES – CITY CONTRACTORS

COMMENT: At the June 6, 2006, City Council meeting, the City Council directed that this office develop regulations for the temporary and permanent barring of particular contractors from bidding or being awarded City contracts. Per the direction given, the attached ordinance has been developed. The regulations are modeled after the City of San Diego’s provisions, which have withstood legal challenge.

Under the proposed regulations, the City investigates a potential case for debarment and makes the initial determination. In the event a contractor requests a hearing, a Debarment Hearing Board is established for that particular case. Decisions of the Board may be appealed to the City Council.

The ordinance provides for a one-year, three-year, or permanent debarment, depending on the severity of the contractor’s conduct. Grounds for permanent debarment include final criminal conviction or civil judgments for violations of the law involving embezzlement, theft, fraud, bid rigging, or other crimes/actions indicating a lack of business integrity/honesty; violations under the Political Reform Act or FPPC enforcement orders; and certain other acts or omissions indicating a lack of business integrity that could directly affect the reliability and credibility of future contracts with the City. Contractors can be debarred for no less than three years and up to permanently for multiple actions such as unjustified refusal to properly perform/complete contract or warranty work, unjustified failure to honor/observe contractual or legal requirements, use of substandard materials or a failure to install in accordance with the contract, or the failure to cooperate in a debarment investigation or hearing. This ordinance also establishes a series of performance evaluations for contractors during their performance on City contracts. In the event the performance evaluations are unsatisfactory, the particular contractor may be debarred for at least a year (or longer) of the requirements of the ordinance are met. The City will maintain a list of debarred contractors.

If someone is debarred, he is excluded from conducting business with the City, and is precluded from submitting bids or responses to requests for proposals concerning City projects. Debarred contractors are also precluded from serving as subcontractors for other prime contractors on City projects.
As we discussed at the June 6 meeting, this ordinance, if adopted, will not apply to prior contracts/performance with the City. These regulations can only be applied to contracts and performance thereof after the effective date of these regulations. Due process must be afforded before debarment can occur.

RECOMMENDATION: That the City Council consider the proposed regulations and give first reading to the Draft Ordinance of the City Council of the City of Porterville Adding Article XIII, Sections 2-114 through 2-138 to Chapter 2 Concerning Debarment

ATTACHMENTS: Draft Ordinance
ORDINANCE NO. ________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE ADDING ARTICLE XIII, SECTIONS 2-
114 THROUGH 2-138 TO CHAPTER II OF THE
PORTERVILLE MUNICIPAL CODE CONCERNING
DEBARMENT

WHEREAS, the City Council of the City of Porterville finds that it is in the best
interest of the City to establish procedures for the Debarment of persons who have
contracted to or have otherwise done business with the City when the circumstances call
for such action;

THE COUNCIL OF THE CITY OF PORTERVILLE DO ORDAIN AS FOLLOWS:

SECTION 1. That Porterville Municipal Code, Chapter 2, Article XIII, Sections 2-114
through 2-138 are hereby added as follows:

Sec. 2-114 Standards of Responsibility and Statement of Purpose

(a) The covenant of good faith and fair dealing is contained in every City contract,
and city contractors and subcontractors shall at all times deal in good faith with the City
and shall submit invoices for payment, claims, requests for equitable adjustments,
requests for change orders, requests for contract modifications or requests of any kind
seeking compensation on a city contract, only upon good faith, honest evaluation of the
matter which is the subject thereof. The City requires in all of it procurement
procedures that all persons who submit bid, proposals or offers to enter into a contract
with the City to do so truthfully and in good faith, and shall not attempt to mislead the
City with respect to the following including, but not limited to, records regarding the
nature or quality of the work performed under the contract, payroll records, classification
of employees on payroll records, and payment of prevailing wages where called for by
the contract. All City contractors and subcontractors shall adhere to all applicable laws
and regulations, including but not limited to City ordinances/policies regarding
nondiscrimination, gifts to City officials, and conflict of interest regulations. Additionally,
all City contractors and subcontractors shall comply with all City policies applicable to
the contract to which they are a party. Finally, all City contractors and subcontractors
shall adhere to the highest standards of performance and workmanship in the
performance of work on City contracts.

(b) The City intends to accept bids or responses to requests for proposals or
qualifications from, award contracts to, execute contracts with, consent to subcontracts,
or do business in any way only with responsible persons. Debarment and suspension
are discretionary actions that, taken in accordance with this Division, are appropriate means to effectuate this policy. Debarment and suspension are designed to protect the City by ensuring full and open competition by having contractual relationships only with responsible persons.

c) The serious nature of debarment and suspension requires that these sanctions be imposed only in the public interest for the City's protection, not for purposes of punishment, and only for the grounds listed and in accordance with procedures set forth in this Division.

Sec. 2-115 Definitions

For purposes of this division:

"Adequate evidence" means information sufficient to support the reasonable belief that a particular act or omission has occurred.

"Affiliate" means a person who:
   (a) is the assignee, successor, subsidiary of, or parent company, of another person; or,
   (b) is a controlling stockholder; or,
   (c) has the same or similar management of the debarred corporate or other legal entity; or,
   (d) directly or indirectly controls, or has the power to control, another person, or is directly or indirectly controlled by another person. Indicia of control include but are not limited to, interlocking management or ownership, identity of interests among relatives, shared facilities and equipment, common use of employees, or a business entity organized following the debarment, suspension, or proposed debarment of a person which has the same or similar management, ownership or principal employees as the contractor that was debarred, suspended or proposed for debarment, or the debarred person or the business entity created after the debarment, suspension or proposed debarment operates in a manner designed to evade the application of this Article or to defeat the purpose of this Article.

"Agency" means the redevelopment agency of the City of Porterville.

"Bidder" means a person who has submitted a bid, proposal or other document seeking award of a contract.

"Contract" means any written agreement between the City and another person. It also includes a public works contract. It also includes a City issued purchase order.

"Controlling stockholder" means a stockholder who:
   (a) owns more than 25% of the voting stock of a corporation; or,
(b) notwithstanding the number of shares that the stockholder owns, has the power to direct or control the direction of the management or policies of a corporation.

"Debar" or "Debarment" means the disqualification of a person from:

(a) bidding on a contract; or,
(b) submitting responses to City's requests for proposals or qualifications; or,
(c) being awarded a contract; or,
(d) executing a contract; or
(e) participating in a contract as a subcontractor, material supplier, or employee of a prime contractor or another subcontractor for a period of time specified by the Debarment Hearing Board following a hearing.
(f) directly or indirectly (e.g. through an affiliate) submitting offers for, or executing contracts, or subcontracts with the City; or
(g) conducting business with, or reasonably may be expected to conduct business with, the City as an employee, agent, or representative of another person.

"Debarment Hearing Board" means a board established by the City to hold hearings, take evidence, and to make determinations about debarment for the City.

"Department" means a City department organized under authority of the City Manager.

"Final Construction Contractor Performance Evaluation" means a City-issued evaluation of a person's overall performance on a public works contract. This evaluation is generally issued subsequent to completion of performance on the public works contract. It does not include performance evaluations, final performance evaluations, or partial construction contractor performance evaluations.

"Final Performance Evaluation" means a City-issued final evaluation of a person's overall performance on a contract which is generally issued subsequent to completion of performance on the contract. It includes final construction contractor performance evaluations. It does not include performance evaluations or partial construction contractor performance evaluations.

"Management" means the officers, partners, owners, foremen or other individuals responsible for the financial and operational policies and practices of a person.

"Partial Construction Contractor Performance Evaluation" means a City-issued evaluation of a person's performance on a specific public works contract. It includes only evaluations issued during performance of a public works contract. It does not include final construction contractor performance evaluations.

It does not include final performance evaluations or final construction contractor performance evaluations.

“Person” has the same meaning as that in Porterville Municipal Code section 1-4. In addition, if a person is a corporate or other legal entity, it includes individuals who constitute the person’s management. It also includes any individual or other legal entity that:
   (a) Directly or indirectly (e.g. through an affiliate), submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a contract, or a subcontract under a contract; or
   (b) conducts business, or reasonably may be expected to conduct business, with the City as an agent or representative of another person.

“Preponderance of the evidence” means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

“Prime contractor” means a person who enters a contract directly with the City.

“Public works contract” means a contract for the construction, reconstruction or repair of public buildings, streets, utilities, and other public works.

“Relative” means:
   (a) an individual related by consanguinity within the second degree as determined by the common law; or,
   (b) a spouse; or,
   (c) an individual related to a spouse within the second degree as determined by the common law; or,
   (d) an individual in an adoptive relationship within the second degree as determined by the common law; or
   (e) any individual considered to be “family” in commonly understood terms of the word.

“Subcontractor” means:
   (a) a person who contracts directly with a prime contractor but not directly with the City; or,
   (b) any person under contract with a prime contractor or another subcontractor to provide any service, materials, labor or otherwise perform on a contract. Subcontractor includes a trade contractor or specialty contractor.

“Suspend” or “Suspension” means the debarment of a person for a temporary period of time pending the completion of an investigation and any proceedings before a Debarment Hearing Board and any appeals therefrom.

“Willfully failed to cooperate” means:
   (a) intentionally failed to attend a hearing and/or give testimony, or
(b) intentionally failed to provide documents, books, papers, or other information upon request of the City Manager, the Debarment Hearing Board, or the City Council.

Section 2-116 Scope of Article

(a) This Article establishes procedures for determining whether a person is to be debarred or suspended.
(b) This Article sets forth the grounds for debarment and suspension.
(c) This Article provides that a list of debarred and suspended persons is to be created and maintained by the City Manager. It further spells out the consequences of a person’s debarment and suspension.

Section 2-117 Investigation

(a) The City Manager may initiate debarment proceedings. If debarment proceedings are initiated, the City Manager shall cause an investigation to be conducted.

(b) If, upon investigation, it is determined that an act or omission which can give rise to debarment may have occurred, written findings shall be made containing the grounds for debarment as well as a recommendation. If it is determined that no act or omission which can give rise to debarment occurred or can be proven, written findings shall be made to that effect.

Section 2-118 Debarment Hearing Board to be Established

Upon receipt of a recommendation for debarment from a City department and request for a hearing by the person consistent with the provisions of this Article, the City Manager shall appoint a fair and impartial board called a Debarment Hearing Board to hear and determine whether a person should be debarred. The City Manager shall appoint three individuals to serve on each Debarment Hearing Board. These individuals shall be unbiased and may be City employees, but shall not be employees who have participated in the decision to recommend the debarment nor are subject to the authority, direction or discretion of employees or have participated in the decision to recommend debarment. The Debarment Hearing Board shall follow procedures set forth in this Division and shall make decisions based on evidence taken at a hearing. The Debarment Hearing Board’s scope of authority and duties are set forth in this Division.

Section 2-119 Suspension Once City Manager Decides to Recommend Debarment

(a) Once a determination has been made by the City Manager that adequate evidence exists supporting debarment, the City Manager may suspend the person
pending any written request for further proceedings and a debarment decision where the City Manager finds that doing so is in the public interest.

(b) The City Manager shall notify the person of the suspension in accordance with Section 2-120, pending any proceedings and decision by the Debarment Hearing Board or City Council's ruling on the matter.

(c) Once the City Manager has suspended a person, the suspension shall continue until the time, set forth in Section 2-120, for requesting a hearing before the Debarment Hearing Board has run and the proposed debarment goes into effect, the Debarment Hearing Board makes a final decision on the proposed debarment, or until there has been a final ruling by the City Council following an appeal of a permanent debarment decision, if any appeal is filed.

Section 2-120 Request for Hearing; Notices

(a) The City Manager shall provide written notice as specified in subsection (b) to the person. If debarment is recommended, the notice of proposed debarment shall contain the following: 1) notice that debarment is being considered; 2) the basis for the proposed debarment; 3) the potential consequences of the debarment; and 4) the City's procedures governing debarment. Within 15 days after receipt of the notice of proposed debarment, the person may submit a written request to be heard, in person or through a representative. Failure of the person to submit to the City a written request to be heard within the time provided by this section, or failure of the person to appear for a requested hearing, shall be deemed consent by the person to the proposed debarment, and the person shall automatically be deemed debarred.

(b) Whenever a notice is required to be delivered under this Division, the notice shall be delivered by any of the following methods. Service is effective as described herein unless different provisions are specifically stated to apply:

1. Personal delivery, service shall be deemed effective on the date of delivery; or,
2. Certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice that is sent by certified mail is returned unsigned, then delivery shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned. Service shall be deemed effective on the date of mailing; or,
3. Publication. Service shall be deemed effective on the first date of publication.

(c) Proof of delivery of notice may be made by the certificate of any officer or employee of the City or by declaration under penalty of perjury of any person over the age of eighteen years. The proof of delivery shall show that delivery was done in conformity with this Division or other provisions of law applicable to the subject matter concerned.

(d) The failure of any person to receive any notice served in accordance with this Division shall not affect the validity of any debarment proceedings.
Section 2-121  Grounds for Debarment

(a) A final conviction, including a plea of nolo contendere, or final unappealable civil judgment of any one or more of the grounds listed in Section 2-121(a),(1)-(4) constitutes grounds for permanent debarment of the person who is subject to, or is the affiliate of the person who is subject to, the criminal conviction, plea, or civil judgment:

(1) under any state or federal statute or municipal ordinance for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property or any offense indicating a lack of business integrity or business honesty which affects the person's or its affiliate's responsibility; or,

(2) for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; or,

(3) for violations of California Government Code sections 84300(c) and 84301 (sections of the California Political Reform Act requiring disclosure of true campaign donor), as they exist on May 15, 1996, or as amended thereafter, which violations occurred on or after May 15, 1996, and which violations occur with respect to a City election; or,

(4) for a conviction under federal or state antitrust statutes involving public contracts or the submission of offers or bid proposals,

(b) A Fair Political Practices Commission enforcement order against a person, either following a hearing or by stipulation, that makes a finding of a violation of California Government Code sections 84300(c) and 84301, as those sections exist on May 15, 1996, or as amended thereafter, which violations occurred on or after May 15, 1996, and which violations occurred with respect to a City election, constitutes grounds for permanent debarment of the person who is subject to, or is the affiliate of the person who is subject to, the enforcement order.

(c) Any one of the following acts or omissions by a person also constitute grounds for permanent debarment:

(1) the person committed any offense, took any action, or failed to take an action, which indicates a lack of business integrity and which could directly affect the reliability and credibility of performance of the person on future contracts with the City; or,

(2) the person committed collusion with any party or parties in the submission of any bid or for the purpose of preventing any other bid being made;

(3) the person has committed any corrupt practice in bidding for or in any way seeking award of a contract, or has committed any corrupt practice in any way relating to a City contract; or,

(4) the person was established to, or operates in a manner designed to evade the application of this Division or to defeat the purpose of this Division;
(d) Any two or more of the following acts or omissions by a person constitute grounds for debarment of that person for no less than three years and up to and including permanently:

(1) the person unjustifiably refused to properly perform or complete contract work or warranty performance; or,
(2) the person unjustifiably failed to honor or observe contractual obligations or legal requirements pertaining to the contract; or,
(3) the person used substandard materials, or has failed to furnish or install materials in accordance with contract requirements, even if the discovery of the defect is subsequent to acceptance of the project and expiration of the warranty thereof, if such defect amounts to intentionally deficient or grossly negligent performance of the contract under which the defect occurred; or,
(4) the person committed a violation of the Drug-Free workplace Act of 1988 (41 USC sections 701-707); or,
(5) the person willfully failed to cooperate in the investigation or hearing of the proposed debarment; or,
(6) the person performs, or fails to perform, a contract in such a way that environmental damage results or a violation of environmental laws or permits is committed; or,
(7) the person practices unlawful discrimination in employment, and the person has not taken corrective action after sufficient notice by the City; or
(8) the person has committed an act or omission of so serious or compelling a nature that:
   (i) it affects the present responsibility of the person to be awarded a contract or to participate as a subcontractor in a contract; or,
   (ii) it affects the integrity of the procurement process.
(9) Any one of the following acts or omissions by a person listed in Section 2-68(e)

(e) The following acts or omissions by a person constitute grounds for debarment of that person for no less than one year:

(1) the City issued the person two or more performance evaluations from the City with a rating of unsatisfactory within a two-year period; or,
(2) the City has issued the person a final performance evaluation with a rating of unsatisfactory.
(3) the person has failed to timely submit bond, contract documents, insurance documents or any other item required by the City, acceptable to the City which conform to bid, request for proposal and/or contract requirements.
(4) the person submitted two or more claims of computational or other error in a bid to the City within a two-year period.

Section 2-122 Debarment Proceedings before the Debarment Hearing Board or City Council

The proceedings shall be as informal as is compatible with the requirements of justice. The Debarment Hearing Board and/or City Council need not be bound by the
common law or statutory rules of evidence and procedure, but may make inquiries in
the matter through all means and in a manner best calculated to make a just factual
determination.

Section 2-123    Debarment Hearing Board’s Authority to Debar; Debarment
Hearing Board’s Decision Final

(a) After notice and hearing held in accordance with the procedures set forth in
this Article and as may be further developed in accordance with any additional polices
adopted by the City Council, the Debarment Hearing Board shall determine whether a
person is to be debarred and for what length of time. To debar a person, the Debarment
Hearing Board must find by a preponderance of the evidence that one or more grounds
for debarment stated in Section 2-121 exist.

(b) Except as provided in Section 2-123(c), a Debarment Hearing Board’s decision shall
be final.

(c) A decision by a Debarment Hearing Board to permanently debar a person may be
appealed to the City Council in accordance with Section 2-125 The filing of a request
for appeal of the debarment decision shall not stay the Debarment Hearing Board’s
decision pending a final decision of the City Council.

(d) The Debarment Hearing Board shall deliver notice of the decision to the person
subject to the debarment hearing and to the City Manager.

Section 2-124    Modification of Decision

(a) The Debarment Hearing Board may, but is not required to, modify a debarment
decision for any reason which obviates the need for the debarment or which indicates
that a shorter debarment period will adequately protect the public interest. Such
reasons include, but are not limited to, the following: 1) newly discovered evidence; 2)
reversal of the conviction or civil judgment upon which the debarment was based; 3)
bona fide change in ownership or management; or 4) elimination or other grounds for
which the debarment was imposed.

(b) Such modification of the debarment decision may be initiated by the debarred
person upon request by the debarred person submitted to the Debarment Hearing
Board. Such request by the debarred person shall be in writing and accompanied by
supporting documentation.

(c) The Debarment Hearing Board shall act upon any such written request submitted
by a debarred person within a reasonable time after receipt of the request and shall
promptly notify the debarred person of the decision made on such request.
(d) The debarred person may appeal the Debarment Hearing Board’s decision to the City Council, following the procedures specified in Section 2-125.

Section 2-125 Appeals to City Council from Certain Decisions of Debarment Hearing Board

(a) If a Debarment Hearing Board has made a determination to debar a person permanently, that person may appeal that decision to the City Council in accordance with procedures set forth in this Division and procedures adopted by the City Council.

(b) A person who has been debarred may request an appeal to the City Council no later than five working days from the date of the notice of the Debarment Hearing Board’s debarment decision. The debarred person’s request for appeal shall set forth in detail the reasons why the person disagrees with the decision. The person shall file the notice of appeal with the City Clerk, who shall calendar the appeal hearing in front of the City Council after consultation with the City Manager and Mayor.

(c) The filing of a request for an appeal shall not stay the Debarment decision.

Section 2-126 Submission of Argument on Appeal

(a) At the City Council hearing on the appeal, no new evidence may be presented by the City or any person. However, if the person who filed the appeal under Section 2-125 wishes to submit argument supporting the appeal, that person shall submit argument in writing with the City Clerk no later than 5:00 p.m. ten calendar days prior to the date on which the hearing is scheduled to be held. Filing shall also be made on all persons subject to the debarment and on the Debarment Hearing Board.

(b) Where argument is submitted in accordance with Section 2-126(a), the City may submit rebuttal arguments, which shall be filed with the City Clerk no later than 5:00 p.m. five calendar days prior to the date on which the hearing is scheduled to be heard. Filing shall also be made on all persons subject to the debarment.

Section 2-127 Standard of Proof

The standard of proof for the Debarment Hearing shall be a preponderance of the evidence.

Section 2-128 Imputation of Knowledge and Conduct

(a) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individuals associated with a person may be imputed to the person when the conduct occurred in connection with the individual’s performance of duties for, or on behalf of, the person, or with the person’s knowledge,
approval, or acquiescence. The person’s acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) The fraudulent, criminal, or other seriously improper conduct of a person may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the person who participated in, knew of, or had reason to know of the person’s conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one person participating in a joint venture or similar arrangement may be imputed to other participating persons if the conduct occurred for, on approval of, or acquiescence of these persons. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

Section 2-129 Judicial Review

Once a Debarment Hearing Board or the City Council has issued a final decision as provided in this Division, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure section 1094.6.

Section 2-130 Creation of List of Debarred and Suspended Persons

(a) The City Manager shall create and maintain a list of persons who have been debarred or suspended in accordance with polices and procedures of this Division.

   (1) This list shall include the names and addresses of all persons who have been debarred or suspended.

   (2) For each debarred or suspended person, the list shall state the date of commencement and expiration of the debarment or suspension.

(b) The City Manager shall establish procedures to provide for the effective use of the list to ensure that the City does not do business with persons who have been debarred or suspended.

Section 2-131 Effect of Debarment or Suspension

(a) Persons who have been debarred or suspended are excluded from conducting business with the City on behalf of themselves or as agents or representatives of other persons for the duration of the debarment or suspension.

(b) Persons who have been debarred or suspended are excluded from submitting bids, directly or indirectly (e.g., through an affiliate), submitting responses to requests for proposal or qualifications, receiving contract awards, executing contracts, participating as a subcontractor, employee, agent or representative of another person contracting with the City, or receiving contracts for the period of debarment or suspension.
(c) Persons who have been debarred or suspended are excluded from acting in a capacity where the person reasonably may be expected to submit offers for or be awarded, a contract, or a subcontract under a contract; or

(d) Persons who have been debarred or suspended are excluded from conducting business, or from acting in a capacity where the person reasonably may be expected to conduct business, with the City as an agent or representative of another person.

(e) The management of a corporate or other legal entity that has been debarred or suspended shall not conduct business or act in a capacity where they reasonably may be expected to conduct business with the City under a different corporate name.

(f) The City shall not accept, receive, open a bid, evaluate for award, or include any proposals, quotations, bids, or offers from any debarred or suspended person for the duration of the debarment or suspension.

(g) The City shall not award or approve the award of a contract or execute a contract under which a debarred or suspended person is intended to participate as a subcontractor or material supplier.

(h) A prime contractor who is awarded a contract shall not employ, subcontract with, nor purchase materials or services from a debarred or suspended person;

(i) When a debarred person sells or otherwise transfers to a relative or to any other person over whose actions the debarred person exercises substantial influence or control, then that relative or other person is automatically suspended or debarred or proposed for debarment to the same extent as the seller or transferor is debarred, suspended, or proposed for debarment.

Section 2-132 Effect of Debarment or Suspension on an Affiliate

(a) If the City determines that a person is an affiliate of a person that is debarred, suspended or proposed for debarment, the affiliate is debarred or suspended to the same extent as the person that is debarred, suspended or proposed for debarment.

(b) The affiliate debarred under Section 2-132(a) may request an appeal of the decision to the Debarment Hearing Board by submitting a written request to the City Clerk. An appeal under Section 22.0822(b) shall be governed by the same rules and regulations in accordance with this Division as are applicable to a Debarment Hearing Board’s procedure to debar a person.

(c) The filing of a request for review under Section 2-132(b) shall not stay the decision to debar the affiliate.
Section 2-133  Effect of Debarment or Suspension by Another Governmental Agency

If a person has been debarred by another governmental agency, that person may be automatically debarred by the City Manager permanently, or for three years, or until the other governmental agency's term of debarment expires, in the sole discretion of the City Manager.

Section 2-134  Liability for Increased Costs

Any person who enters a contract with the City, either directly as a prime contractor or indirectly as a subcontractor, during a period of suspension or debarment imposed upon that person by the City under its rules and regulations shall be liable to the City for increased costs incurred as a result of replacing the debarred or suspended person.

Section 2-135  Effect of Debarment or Suspension on Existing Contracts

(a) Except as otherwise provided in this section and notwithstanding the debarment, suspension, or proposed debarment, of a person, the City may continue contracts or subcontracts it has with that person that are in existence at the time the person was debarred, suspended, or proposed for debarment.

(b) If the basis of a person's debarment or suspension is so serious that the City Manager believes that termination of contracts or subcontracts the City has with that person that are in existence at the time the person is debarred or suspended is in the best interests of the City, the City Manager may take actions necessary to terminate those contracts or subcontracts only after consultation with the City Attorney to ensure the propriety and legality of the proposed action.

(c) The City may continue to place orders against existing contracts, including delivery contracts, held by a debarred or suspended person, unless the contract has been terminated.

(d) The City shall not renew or otherwise extend the duration of current contracts, or consent to subcontracts, with debarred or suspended persons, unless the City Manager states in writing the compelling reasons for renewal or extension.

Section 2-136  Agreement Not to Bid in Lieu of One Year Debarment

The City may, but is not required to, offer a person the opportunity to execute a written agreement not to bid for one year, in lieu of the City's pursuing a one year debarment under this Division. By executing this agreement, the person shall consent to waive a debarment hearing as described in Section 2-118, and this agreement will not constitute a debarment.
Section 2-137 Amendments and Compromises Allowed

Nothing in this chapter is intended to prevent the City, in its sole discretion, from amending, modifying or waiving the provisions of any City contract, or from entering into compromise agreements with persons about the future performance of contracts by a City contractor.

Section 2-138 Severability

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Article or any part thereof. The City Council hereby declares that it would have passed each section, subdivision, paragraph, sentence, clause, or phrase in this Article or any part thereof irrespective of the fact that any one of more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 2. This ordinance shall be in full force and effect thirty days from after its passage.

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

__________________________________________
President of the Council and
Mayor of the City of Porterville

ATTEST:

__________________________________________
Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
CITY COUNCIL AGENDA: SEPTEMBER 5, 2006

TITLE: AGGRESSIVE SOLICITATION ORDINANCE

SOURCE: CITY ATTORNEY

COMMENT: The City’s current regulation concerning begging, Section 18-1, is in need of updating, as the activity at issue is protected by the First Amendment of the U.S. Constitution. Attached is an ordinance that would prohibit “aggressive solicitation”—Solicitation involving the following of pedestrians, repetitive solicitations despite refusals, use of abusive or profane language, unwanted physical contact, intentional blocking of traffic, and soliciting that poses a dangerous condition for the solicitor or others.

RECOMMENDATION: That the City Council consider the proposed regulations and give first reading to the draft Ordinance of the City Council of the City of Porterville Repealing Section 18-1 of Chapter 18, Article I of the Porterville Municipal Code, and Adding Article IV, Sections 18-50 through 18-54,

ATTACHMENT: Draft Ordinance
ORDINANCE NO. ________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE REPEALING SECTION 18-1 OF CHAPTER 18, ARTICLE I OF THE PORTERVILLE MUNICIPAL CODE, AND ADDING ARTICLE IV, SECTIONS 18-50 THROUGH 18-54 CONCERNING AGGRESSIVE SOLICITATION

WHEREAS, the City Council of the City of Porterville finds that it is in the best interests of the City to establish regulations prohibiting aggressive solicitation;

THE COUNCIL OF THE CITY OF PORTERVILLE DO ORDAIN AS FOLLOWS:

SECTION 1. That Porterville Municipal Code, Chapter 18, Article I, Section 18-1 is hereby repealed.

SECTION 2. That Porterville Municipal Code, Chapter 18, Article IV, Section 18-50 through 18-54 is hereby added as follows:

18-50 Legislative Findings

(a) The city council finds that the increase in aggressive solicitation throughout the city has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder.

(b) The city council also finds that solicitation at major intersections in the city and near freeway on and off-ramps poses a dangerous condition for the solicitor and motorists in the area.

(c) Aggressive solicitation usually includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic. The city council further finds that the presence of individuals who solicit money from persons at or near banks, automated teller machines, or in public transportation vehicles is especially troublesome because of the enhanced fear of crime in those confined environments. Motorists also find themselves confronted by persons seeking money who, without permission, wash their automobile windows at traffic intersections, despite explicit instructions by drivers not to do so. People driving or parking on city streets frequently find themselves faced with persons seeking money by offering to open car doors or
locate parking spaces. Such activities carry with them an implicit threat to both persons and property.

(d) The city council is enacting this chapter pursuant to its police power, as stated in Article XI, Section 7 of the California Constitution, in addition to the power set forth in Section 647(c) of the state of California Penal Code. This law is timely and appropriate because current laws and city regulations are insufficient to address the aforementioned problems.

(e) The law is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Rather, its goal is to protect citizens from the fear and intimidation accompanying certain kinds of solicitation that have become an unwelcome and overwhelming presence in the city.

18-51 Definitions

As used in this chapter:

(a) “Solicit”, for the purposes of this chapter only, means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor’s purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

(b) “Aggressive manner” means and includes:

(1) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person’s consent;

(2) Following the person being solicited, if that conduct is: (I) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(3) Continuing to solicit within the immediate area of the person being solicited after the person has made a negative response, if continuing the solicitation is: (I) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take
evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one’s constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to City regulations, shall not constitute obstruction of pedestrian or vehicular traffic;

(5) Intentionally or recklessly using obscene or abusive language or gestures: (i) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession; or (ii) words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or

(6) Approaching the person being solicited in a manner that: (i) is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(c) “Automated teller machine” means a device, linked to a financial institution’s account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

(d) “Automated teller machine facility” means the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers during and after regular banking hours.

(e) “Bank” means any banking corporation, savings and loan association, or credit union chartered under the laws of this state or the United States.

(f) “Check cashing business” means any person duly permitted by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.

(g) “Public area” means an area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

18-52 Prohibited Acts

It is unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:
(a) In an aggressive manner in a public area;

(b) In any public transportation vehicle, or bus station or stop;

(c) Within fifteen feet to any entrance or exit of any bank or check cashing businesses or within fifteen feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. When an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit to the automated teller machine facility.

(d) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or

(e) From any operator of a motor vehicle that is in traffic on a public street, including, but not limited to, major intersections in the city and near freeway on and off-ramps, whether in exchange for cleaning the vehicle’s windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.

18-53 Penalties

Any person who violates Section 18-52 shall be guilty of a misdemeanor and subject to punishment in accordance with California Penal Code Section 19. Upon recommendation of the prosecuting attorney, the Court may reduce the charged offense from a misdemeanor to an infraction, as set forth under Section 1-9 of this Code. Nothing in this Article shall prevent the City from pursuing criminal, civil, administrative, or any other legal remedy to address violations of this Article.

18-54 Severability

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Article or any part thereof. The City Council hereby declares that it would have passed each section, subdivision, paragraph, sentence, clause, or phrase in this Article or any part thereof irrespective of the fact that any one of more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

**SECTION 3.** This ordinance shall be in full force and effect thirty days from and after its passage.
ADOPTED, SIGNED AND APPROVED this _____ day of ____________, 2006.

__________________________
President of the Council and
Mayor of the City of Porterville

ATTEST:

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

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TITLE: UPDATE – DEVELOPMENT OF LOCAL REGULATIONS CONCERNING SEX OFFENDERS

SOURCE: CITY ATTORNEY

COMMENT: Per direction given at the August 15, 2006 City Council Meeting, this office is in the process of developing local regulations limiting registered sex offenders’ opportunities for exposure to children in the community. As we discussed, the cities of La Mesa, National City, and Santee have adopted “Child Safety Zone Legislation,” and copies of the regulations are attached for your review. The regulations for the Cities of La Mesa and National City are identical, and the City of Santee’s regulations are very similar but have included specific exceptions that would likely be required in order to ensure that the provisions are constitutional. This office is also looking at the other issues raised at the August 15 meeting for possible incorporation into proposed regulations for the City of Porterville, such as reporting requirements to employers within the City, etc.

This office intends to present draft regulations for the Council’s consideration at the Council’s first meeting in October.

RECOMMENDATION: That the City Council review the attached sample regulations and provide any additional input and direction.

ATTACHMENTS: National City Municipal Code Sections 10.63.010 through 10.63.040
Santee Municipal Code Sections 9.76.010 through 9.76.040
Title 10 PUBLIC PEACE, MORALS AND SAFETY

Chapter 10.63 SEX OFFENDERS' PROXIMITY TO CHILDREN'S FACILITIES

10.63.010 Purpose.

Sex offenders pose a clear threat to the children residing, or visiting in the community. Because convicted sex offenders are more likely than any other type of offender to reoffend for another sexual assault, the city council of the city of National City desires to impose safety precautions in furtherance of the goal of protecting the children. The purpose of this regulation is to reduce the potential risk of harm to children of the community by impacting the ability for sex offenders to be in contact with unsuspecting children in locations that are primarily designed for use by, or are primarily used by children, namely, the grounds of a public or private school for children, a center or facility that provides day care or children's services, a video arcade, a playground, park, or an amusement center. The city of National City desires to add location restrictions to such offenders where the state law is silent. (Ord. 2276 § 1 (part), 2005)

Title 10 PUBLIC PEACE, MORALS AND SAFETY

Chapter 10.63 SEX OFFENDERS' PROXIMITY TO CHILDREN'S FACILITIES

10.63.020 Definitions.

"Children" mean those persons who are under the age of eighteen.
"Sex offender" means a person who has been required to register with a governmental entity as a sex offender. (Ord. 2276 § 1 (part), 2005)
10.63.030 Prohibitions.

A sex offender is prohibited from being on or within three hundred feet of a public or private school for children, a center or facility that provides day care or children's services, a video arcade, a playground, park, or an amusement center. This prohibition does not apply to a sex offender's place of residence when regulated by state law. (Ord. 2275 § 1 (part) 2005)

10.63.040 Violations.

Any person violating this section is guilty of a misdemeanor. A misdemeanor is punishable by a fine up to one thousand dollars or by imprisonment for up to one year, or both. The city attorney may reduce the violation to an infraction. An infraction is punishable by: (1) a fine not exceeding one hundred dollars for a first violation; (2) a fine not exceeding two hundred dollars for a second violation; (3) a fine not exceeding five hundred dollars for each additional violation of this provision. A person is guilty of a separate offense for each and every day during which a violation occurs. (Ord. 2275 § 1 (part) 2005)
Chapter 9.76 PROXIMITY OF REGISTERED SEX OFFENDERS TO CHILDREN'S FACILITIES

9.76.010 Definitions.

9.76.020 Prohibitions.

9.76.030 Exceptions.

9.76.040 Enforcement.

9.76.010 Definitions.

"Arcade" shall have the meaning ascribed by Section 17.04.140 of this code.

"Child" or "children" means any person under the age of eighteen years of age.

"Child care and development facility" shall have the meaning ascribed by California Education Code Section 8208.

"Loitering" means remaining or wandering in a public or private place for the apparent purpose of observing any minor or minors, or with the apparent purpose or intent of engaging or soliciting any person to engage in any sexual act of any kind, or after having been told to leave by the owner or any authorized official of such place or facility.

"Park and recreation facilities" shall have the meaning ascribed by Section 17.04.140 of this code.

"Playground" shall have the meaning ascribed by Section 9.14.020 of this title.

"Sex offender" means an individual who is currently required by law to register with a governmental entity as a sex offender. (Ord. 454 § 1 (part), 2006)

9.76.020 Prohibitions.

Any sex offender is prohibited from loitering on or within three hundred feet of a public or private school for children, a child care and development facility, a park or recreation facility, playground, or arcade. (Ord. 454 § 1 (part), 2006)

9.76.030 Exceptions.

A. Notwithstanding Section 9.76.020 of this chapter, this chapter shall not apply to restrict incidental proximity not amounting to loitering as defined by Section 9.76.010 of this chapter.

B. This chapter does not restrict access to public parks for the purpose of exercising the constitutional rights of free expression and assembly, so long as such activity does not amount to loitering as defined in Section 9.76.010 of this chapter.

C. This chapter does not apply to restrict a sex offender's place of residence when regulated by state law. (Ord. 454 § 1 (part), 2006)

9.76.040 Enforcement.

Any person who violates this chapter is guilty of a misdemeanor. Each offense shall be punished by a fine not less than twenty-five dollars or more than one thousand dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. A person is guilty of a separate offense for each and every day during which a violation occurs. (Ord. 454 § 1 (part), 2006)
CITY COUNCIL AGENDA: September 5, 2006

SUBJECT: REQUEST BY COUNCIL MEMBER--DISCUSSION OF PROCESS TO BE UTILIZED FOR THE APPOINTMENT OF A NEW COUNCIL MEMBER

SOURCE: Administration

COMMENT: A request has been made to add the above subject matter to this agenda for discussion and potential referral to staff for further action.

RECOMMENDATION: None

Attachment: None

Item No. 33

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CITY COUNCIL AGENDA: September 5, 2006

SUBJECT: REQUEST BY COUNCIL MEMBER—CONSIDERATION OF POP WARNER FIELD USE WITHOUT FEE CHARGES

SOURCE: Administration

COMMENT: A request has been made to add the above subject matter to this agenda for discussion and potential referral to staff for further action.

RECOMMENDATION: None

Attachment: None

Item No. 34
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – CASAS BUENA VISTA SLURRY SEAL PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Plans and Project Manual have been prepared for the Casas Buena Vista Slurry Seal Project. The street maintenance project includes the mixing of asphaltic emulsion, aggregate, set-control additives and water and spreading the mixture on pavement where shown on the plans after sweeping to remove all loose particles, dirt and other extraneous material. The slurry seal project will greatly increase the durability of the roadway.

The Plans and Project Manual are available for review in the Public Works Department - Engineering Division.

The Engineer’s Estimate for the complete project is $38,500 and is attached for review. An additional $3,500 is required for staff time and quality control testing for a total estimated probable cost of $42,000.

Funding approved for this project by the Agency at the July 18, 2006 meeting is available through the Redevelopment Low and Moderate Income Housing Fund.

RECOMMENDATION: That The Redevelopment Agency:

1. Approve the Plans and Project Manual; and

2. Authorize staff to advertise for bids.

ATTACHMENTS: Locator Map
Engineer’s Estimate

P:\pubwork\Engineering\Council Items\2006-09-05 Authorization to Advertise for Bids-Casas Buena Vista Slurry Seal Project.doc

Dir Appropriated/Funded CM P.R.A. Item No. 1
### CASAS BUENA VISTA SLURRY SEAL PROJECT

#### August 29, 2006

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**Estimate Certified**

- **Project Manager:** John Doe 8/29/06
- **Public Works Director:** John Doe 8/29/06
- **City Engineer:** Michael Reed 8/29/06
- **City Manager:** John Doe 8/29/06