CITY COUNCIL AGENDA
PORTERVILLE, CALIFORNIA
SEPTEMBER 19, 2006, 6:00 P.M.

Call to Order
Roll Call

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

CLOSED SESSION:
A. Closed Session Pursuant to:
   1 - Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: One Case.

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

Pledge of Allegiance Led by Council Member Pete McCracken
Invocation

PRESENTATIONS
Camron Ascencio - 2006 World Baton Twirling Jr. Solo Champion
Dahlia V. Martinez - 2006 USTA National Juvenile Solo Champion
City Manager’s Featured Projects

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 August 15, 2006

2. Authorization to Reject all Bids and Re-Advertise the Rails to Trails Project
   Re: Rejecting all bids and authorizing staff to re-advertise for bids for improvements to a portion of the former Tulare Valley Railroad right-of-way from Olive Avenue to Henderson Avenue.

3. Award of Contract - Singer Building Demolition Project
Re: Awarding contract to Wise Engineering of Visalia in the amount of $24,900 for demolition of the building at 35 West Oak Avenue.

4. **Award Contract - Sprayed Polyurethane Roofing Systems**  
   Re: Awarding contract to Universal Coatings, Inc. of Fresno in the amount of $127,832 for roofing systems at City Hall Annex on Main Street and the Porterville Community Center on Putnam Avenue.

5. **Statewide General Waste Discharge Requirements for Sanitary Sewer Systems**  
   Re: Approving Notice of Intent; authorizing payment of $872 permit fee; and directing staff to develop a Sewer System Management Plan, pursuant to State requirements.

6. **General Plan Update Presentation**  
   Re: Informational report of the status to date of the General Plan Update.

7. **Riverwalk Marketplace Commercial Center Project; Addendum to the Final EIR**  
   Re: Considering Addendum to evaluate a proposed change to a mitigation measure defined in the project’s Final EIR for the project located generally at the intersection of Jaye Street and Highway 190.

8. **Claim - M. Burciaga**  
   Re: Considering rejection of claim for $217 for impound fees Claimant was required to pay for the release of her vehicle which was allegedly inappropriately impounded due to lack of current registration and tags.

9. **Extension for One (1) Year Extension of Time for Three (3) Temporary Modular Units for the Porterville Evangelical Free Church**  
   Re: Considering an extension of time for the use of temporary units at 1091 West Linda Vista Avenue.

10. **Reappointment of Library Board Members and Announcing Vacancy on the Library Board**  
    Re: Considering the re-appointment of Board Member Ellen Nichols and announcing vacancy and the accepting of applications through October 10, 2006 at 5:00 p.m. to fill the vacancy.

11. **City of Porterville Conflict of Interest Code - Amendment No. 6**  
    Re: Considering approval of update to the City’s Conflict of Interest Code to change the annual limit on gifts and revise the designated employee list to reflect all applicable departmental staffing changes.

12. **Consideration of a Standard Format for a Plaques Commemorating Projects**  
    Re: Considering standardized format for commemoration plaques for project dedications.

13. **Consideration of Re-Striping Streets Within the City - Request for Continuation**  
    Re: Requesting continuation to the Meeting of October 3, 2006 to allow staff time for in-depth review.

13a. **City Policy Concerning Third Party Presentations During City Council Meetings and Use of City Equipment**  
    Re: Considering draft policy regarding third party presentations and the use of City equipment.

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

**PUBLIC HEARINGS**

14. **Conditional Use Permit 6-2006 - Proposed Church (Victory Outreach)**  
    Re: Considering CUP to allow for the conversion of a 7,434 ± square foot building into a church located at 129 North “D” Street.
15. Ennis Estates Tentative Subdivision Map (Ennis Homes)
Re: Considering approval of a Tentative Subdivision Map, and associated Negative Declaration, 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.

16. Consideration of the Adoption of a Noise Ordinance
Re: Considering the adoption of an ordinance regulating excessive noise.

17. Consider Adoption of Audit Committee Ordinance
Re: Considering draft ordinance establishing an Audit Committee comprised of the Mayor, a Council Member, City Manager, City Attorney and Chief Financial Officer to manage the City’s independent auditor and special assignments as determined by Council.

18. Water Conservation Phase II, Water System Status
Re: Considering the return to Phase I of the Water Conservation Plan.

SCHEDULED MATTERS

19. Chief of Police Recruitment
Re: Authorizing the City Manager to retain the executive search firm of Peckham and McKenney for a fee of $24,000 for the recruitment of a Chief of Police.

20. Request for One (1) Temporary Modular Structure to be Utilized as a Sales Office
Re: Considering approval of a six-month use of a modular structure on Lot 53 of Sierra Estates, formerly North Gate Estates, located generally on the southeast corner of Grand Avenue and Leggett Street.

21. Online Payments for Utility Bills
Re: Considering an upgrade to the City’s billing program to allow online payments.

22. Comparison of the Artificial Turf to Real Turf Maintenance
Re: Discussion of benefits of artificial turf versus real turf for use in medians.

23. 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.

24. 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.

25. 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.

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

27. Council Ad Hoc Committee Report on Status of City Council Member Appointment
Re: Presentation of Status Report and recommendations by the Ad Hoc Committee; and setting date for an Adjourned Meeting for the review of the candidates.
28. Request by Council Member–Consideration of Pop Warner Field Use Without Fee Charges
   Re: Request to consider field use without fee charges.

29. Request by Council Member–Discussion of City Council Member Picnic For City Employees
   Re: Request to discuss possible Council Member Picnic for all City Employees.

Adjourn to a Meeting of the Porterville Public Improvement Corporation

PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

Roll Call: Directors/President

WRITTEN COMMUNICATIONS

ORAL COMMUNICATIONS

SCHEDULED MATTER
PIC-1. Annual Meeting of the Porterville Public Improvement Corporation
   Re: Election of Officers and the approval of the 2006 Report for Certificates of Participation Projects.

Adjourn to a Meeting of the Porterville City Council.

ORAL COMMUNICATIONS

OTHER MATTERS

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

ADJOURNMENT - to the meeting of September 23, 2006, 9:00 a.m., Board Room of Sierra View District Hospital*

*Porterville City Charter Sec. 10 states–“Except for special meetings with the legislative bodies of other political subdivisions, or informational meetings held within the community where no action is to be taken, all meetings of the council shall be held in the city hall, unless by reason of fire, flood, or other disaster, or lack of seating capacity, the city hall cannot be used for that purpose, and all meetings shall be open to the public. informational meetings held within the community where no action is to be taken.”

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.

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 MANAGER’S FEATURED PROJECT FOR SEPTEMBER 2006

1. Acceptance of Traffic Signal No. 8

2. Receipt of Helen Putnam Award

3. Adoption of Ordinance to Regulate Construction, Operation
   And Maintenance of Wireless Communications Towers
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
AUGUST 15, 2006, 5:30 P.M.

Call to Order at 5:30 p.m.
Roll Call: Council Member McCracken, Council Member Pete Martinez, Mayor Pro Tem Felipe Martinez, Council Member Stadtherr, Mayor Hamilton

ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. Closed Session Pursuant to:
   1- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: Two Cases.
   2- Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: Two Cases.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that no action had been taken.

Pledge of Allegiance Led by Council Member Richard Stadtherr
Invocation - one individual participated.

PROCLAMATION
“Kelly C. Morgan Day” - September 5, 2006

PRESENTATION
Employee of the Month - Paula David
Outstanding Business Presentation - Sprague's
City Manager’s Featured Project for August 2006
   • Heritage Center Tot Lot Playground Project

ORAL COMMUNICATIONS
• Greg Shelton, 888 North Williford Drive, requested that he have the opportunity to speak during the Council’s consideration of Item No. 33.
• John Hale, a Bakersfield resident and applicant/developer of the proposed Porterville Commercial Center project, the subject of Item No. 36, indicated he was available to answer any questions pertaining to the project, and requested the Council’s reconsideration.
• Thomas Olson, Cornerstone Assembly of God, 108 N. Wisconsin Street, invited all to attend an event honoring retired Rev. Jack Grimes to be held at Cornerstone Assembly of God at 10:30 a.m. on Sunday, August 20th.
• Anita Stackhouse-Hite, 286 North Cottage, founder and CEO of “Celebrate the Child Within” thanked the Council for considering ways to address sexual offenders; spoke of the problem of sexual offenders; of her work as a rape victim counselor; and of the need for and work towards the development of a rape crisis center in Porterville.

• Donnette Silva-Carter, Porterville Chamber of Commerce, offered updates to the Council on its joint programs for graffiti abatement and gang prevention, and invited all to attend the Chamber Mixer set for Thursday, August 24th at the Tulare County Employment Connection in Tulare County Government Plaza.

• Allen Lombardi, 3333 South West Street, spoke regarding an upcoming item on the September 5, 2006 Agenda pertaining to the prolongation of Castle Avenue for the development of a new school. He requested the Council’s approval of the item, despite what he perceived as the “not in my backyard” attitude of the property owner.

CONSENT CALENDAR

Items 1, 12 and 16 were removed for further discussion.

2. CLAIMS - DAVID DINA LEON; KIMBERLY LONA; MIGUEL LEON; AND AUGUSTIN LEON

Recommendation: That the City Council reject said claims; refer the matter to the City’s insurance adjustor; and direct the City Clerk to give the claimants proper notification.

Documentation: M.O. 01-081506
Disposition: Approved.

3. ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION FOR THE AIRPORT WATER INTER-TIE AND WELL SYSTEM IMPROVEMENTS PROJECT

Recommendation: That the City Council consider and approve the addendum to the Mitigated Negative Declaration for the Airport Inter-Tie Project.

Documentation: M.O. 02-081506
Disposition: Approved.

4. AUTHORIZATION TO ADVERTISE FOR BIDS - AIRPORT WATER INTER-TIE PROJECT

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

Documentation: M.O. 03-081506
Disposition: Approved.

5. AUTHORIZATION TO ADVERTISE FOR BIDS - MUNICIPAL POOL COMPLEX WATER SLIDE PROJECT

Recommendation: That the City Council:
1. Approve the Plans and Project Manual; and
2. Authorize staff to advertise for bids.
6. AUTHORIZATION TO ADVERTISE FOR BIDS - MISCELLANEOUS CONCRETE IMPROVEMENTS PROJECT

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

Documentation: M.O. 05-081506
Disposition: Approved.

7. ACCEPTANCE OF CMAQ PROJECT - HYBRID VEHICLE

Recommendation: That the City Council:
1. Accept the project as complete; and
2. Direct the Public Works Director to complete all reimbursement documents and transmit same to Caltrans District 6 for reimbursement in the amount of $19,744.78.

Documentation: M.O. 06-081506
Disposition: Approved.

8. PORTERVILLE HERITAGE CENTER PLAYGROUND ACCEPTANCE

Recommendation: That the City Council:
1. Accept the project as complete, subject to staff determination of adequate performance of the landscape maintenance;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, less any funds that may be due to the City as part of a settlement agreement, and provided no stop notices have been filed.

Documentation: M.O. 07-081506
Disposition: Approved.

9. ACCEPTANCE OF THE BICYCLE STORAGE FACILITIES PROJECT

Recommendation: That the City Council:
1. Accept the project as complete; and
2. Authorize the filing of the Notice of Completion.

Documentation: M.O. 08-081506
Disposition: Approved.

10. ACQUISITION OF RIGHT OF WAY - PROPERTY LOCATED AT APN 254-010-036 - OWNER CARLOS A. MARQUES, JR. AND ANN MICHELE MARQUES, CO-SUCCESSOR TRUSTEES OF THE MARQUES LIVING TRUST - GRANITE HILLS STREET PROJECT
Recommendation: That the City Council:
1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Carlos A. Marques Jr. and Ann Michele Marques, Co-Successor Trustees of the Marques Living Trust in the amount of $75,000, after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

Documentation: Resolution 104-2006
Disposition: Approved.

11. ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-280-002 - KANDRA PAULETTE ELLSWORTH - PLANO STREET BRIDGE WIDENING

Recommendation: That the City Council:
1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Kandra Paulette Ellsworth in the amount of $27,500, after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

Documentation: Resolution 105-2006
Disposition: Approved.

13. EXTENDING REIMBURSEMENT PERIOD ON CIEDB SEWER LOAN

Recommendation: That the City Council:
1. Authorize the City Manager to execute the “First Amendment to Enterprise Fund Installment Sale Agreement”; and
2. Direct the City Clerk to attest to the signature and transmit the executed Amendment to the CIEDB.

Documentation: M.O. 09-081506
Disposition: Approved.

14. REIMBURSEMENT AGREEMENT FOR INSTALLATION OF A REGIONAL SEWER IMPROVEMENT PROJECT NORTH OF NORTH GRAND AVENUE

Recommendation: That the City Council 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 applicable owners. The total reimbursement amount to be collected shall not exceed $12,049.50.

Documentation: Resolution 106-2006
Disposition: Approved.
15. REIMBURSEMENT FOR UNDERGROUND IMPROVEMENTS ALONG PIONEER AVENUE BY SMEE BUILDERS, INC. - MEADOWOOD, PHASE THREE SUBDIVISION

Recommendation: That the City Council 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 Smee Builders, Inc. The total reimbursement amount to be collected shall not exceed $9,035.72.

Documentation: Resolution 107-2006
Disposition: Approved.

17. GENERAL PLAN UPDATE 2006 - REQUEST FOR APPROVAL OF ADDITIONAL SERVICES

Recommendation: That the City Council:
1. Authorize the changed scope of services, to be paid for from the above-referenced sources; and
2. Authorize the Mayor to sign an Addendum to the original Contract for Services with Dyett and Bhatia.

Documentation: M.O. 10-081506
Disposition: Approved.

18. APPROVAL FOR COMMUNITY CIVIC EVENT - TULE RIVER INDIAN TRIBAL COUNCIL PORTERVILLE POWWOW 2006 - SEPTEMBER 8-10, 2006

Recommendation: That the City Council approve the subject Community Civic Event Application and Agreement submitted by the Tule River Tribal Council, subject to the stated requirements contained in said document.

Documentation: M.O. 11-081506
Disposition: Approved.

19. SET A PUBLIC HEARING FOR CONSIDERATION OF POLICE FEES, OTHER FEES AND ADJUSTMENTS

Recommendation: That the City Council set a public hearing for September 5, 2006 to consider the proposed fee revisions.

Documentation: M.O. 12-081506
Disposition: Approved.

20. TRANSACTION AND USE TAX OVERSIGHT COMMITTEE

Recommendation: Informational item only.

21. CITY OF PORTERVILLE CONFLICT OF INTEREST CODE - BIENNIAL REPORT AND AMENDMENT

Recommendation: That the City Council accept the Conflicts and Disclosure Monitor Agency 2006 Biennial Report.
22. **AUTHORIZATION TO ROLL WEED ABATEMENT BALANCES TO THE PROPERTY TAX ROLLS**

**Recommendation:** That the City Council adopt the draft resolution authorizing the County Auditor to place these items on the property tax rolls for collection.

**Documentation:** Resolution 108-2006

**Disposition:** Approved.

23. **STATUS OF HEALTH INSURANCE FUND FOR FY 2005-2006**

**Recommendation:** That the City Council accept the staff report providing the status of Health Insurance Fund for the 2005-2006 Fiscal Year.

**Documentation:** M.O. 14-081506

**Disposition:** Approved.

24. **THIS ITEM HAS BEEN REMOVED.**

25. **AUTHORIZATION TO SUBDIVIDE AIRPORT LOT 31-C INTO SIX PARCELS**

**Recommendation:** That the City Council approve the request to split Lot 31-C into six parcels with Dr. Creager paying for all associated costs.

**Documentation:** M.O. 15-081506

**Disposition:** Approved.

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Council Member Pete Martinez that the Council approve Item Nos. 2 through 11, 13 through 15, and 17 through 25. The motion carried unanimously.

1. **CITY COUNCIL MINUTES OF JULY 18, 2006 AND AUGUST 1, 2006**

**Recommendation:** That the City Council approve the City Council Minutes of July 18, 2006 and August 1, 2006

The Deputy City Clerk requested that the Minutes of July 18, 2006 be pulled for a correction, and requested that the Minutes of August 1, 2006 be approved, as amended to change “September 15, 2006” on page one under Proclamation, to “August 15, 2006.”

**COUNCIL ACTION:** MOVED by Council Member Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council approve the City Council Minutes of August 1, 2006, as amended to change “September 15, 2006” on page one under Proclamation, to “August 15, 2006.”
AYES: McCracken, P. Martinez, F. Martinez, Hamilton
NOES: None
ABSTAIN: Stadtherr
ABSENT: None

Disposition: Minutes of July 18, 2006 removed; Minutes of August 1, 2006 approved, as amended.

12. ANNUAL RECLAMATION AREA REPORT

Recommendation: Informational item only.

A brief discussion regarding the budget and cost analysis ensued in response to questions posed by Council Member McCracken.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Mayor Pro Tem Felipe Martinez that the Council receive the Reclamation Area Annual Report. The motion carried unanimously.

M.O. 17-081506

Disposition: Report received by Council.

16. EXTENSION OF TIME FOR “SIERRA ESTATE,” FORMERLY “NORTHGATE ESTATES” TENTATIVE SUBDIVISION MAP

Recommendation: That the City Council adopt the draft resolution approving a two (2) year extension of time for “Northgates Estates” Tentative Subdivision.

Mayor Hamilton informed everyone that he would be abstaining from the vote on the item, noting that his campaign had received funds from the developer.

COUNCIL ACTION: MOVED by Council Member Pete Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council adopt the draft resolution approving a two (2) year extension of time for “Northgates Estates” Tentative Subdivision.

Resolution 109-2006

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

Disposition: Approved.

PUBLIC HEARINGS

26. 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 open the public hearing and continue Conditional Use Permit 4-2006 to the City Council Meeting of September 5, 2006.
City Manager John Longley noted that he resided within 300 feet of the proposed project and excused himself from the Council Chambers.

Council Member Stadtherr recused himself from the discussion and left the Council Chambers.

Deputy City Manager Frank Guyton presented the item, and Community Development Director Brad Dunlap presented the staff report. Mr. Dunlap noted a revision to the staff recommendation and requested that the public hearing be opened and continued to the Adjourned Meeting of August 17, 2006 at 6:30 p.m. and not the Meeting of September 5, 2006 as was stated in the staff report.

The public hearing opened at 7:45 p.m. and was continued to August 17, 2006 at 6:30 p.m.

Disposition: Continued to August 17, 2006.

27. CONDITIONAL USE PERMIT 5-2006 - WIRELESS COMMUNICATIONS TOWER (JAMES STRACHAN)

Recommendation: That the City Council adopt the draft resolution conditionally approving Conditional Use Permit 6-2005 subject to conditions of approval.

Mayor Hamilton recused himself from the discussion and left the Council Chambers.

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

The public hearing opened at 7:49 p.m.

• James Strachan, a Fresno resident and applicant, came forward and requested approval of the C.U.P.

The public hearing closed at 7:50 p.m.

In response to questions posed by the Council with regard to the potential for camouflaging the proposed towers, a discussion ensued. The applicant spoke of the limitations in camouflaging towers and of Ubiquitel’s attempt to limit the number of needed towers in the vicinity by proceeding with a co-location tower to allow more than one provider on the same tower.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Pete Martinez that the City Council adopt the draft resolution conditionally approving Conditional Use Permit 6-2005 subject to the conditions of approval.

Resolution 110-2006

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

Disposition: Approved.
28. **REIMBURSEMENT AGREEMENT FOR CONCRETE IMPROVEMENTS CONSTRUCTED BY THE CITY - HENDERSON AVENUE RECONSTRUCTION PROJECT**

Recommendation: That the City Council:
1. Open the public hearing, take public comments, concerns and questions;
2. Approve the draft Resolution Implementing Development Charges for Construction of Curbs, Gutters, Sidewalks, and Drive Approaches; and
3. Authorize staff to record a general notice of “Reimbursement Fee” with the office of the Tulare County Clerk-Recorder.

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

The public hearing opened at 8:09 p.m.

- Sam Hutchison came forward representing Jehovah’s Witness Kingdom Hall at 1981 W. Henderson Avenue, and inquired as to the timing of the billing and whether the City had an installment plan for payments.

Mr. Rodriguez indicated that payment arrangements could be made and requested that Mr. Hutchison contact the City as soon as possible.

The public hearing closed at 8:10 p.m.

**COUNCIL ACTION:** MOVED by Council Member Pete Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council approve the draft Resolution Implementing Resolution 111-2006 Development Charges for Construction of Curbs, Gutters, Sidewalks, and Drive Approaches; and authorize staff to record a general notice of “Reimbursement Fee” with the office of the Tulare County Clerk-Recorder.

Disposition: Approved.

29. **WATER CONSERVATION PHASE II, WATER SYSTEM STATUS**

Recommendation: That the City Council continue with Phase II of the Water Conservation Plan.

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

The public hearing opened at 8:13 p.m.

- Gerry Quinn, 734 W. Putnam Avenue, voiced concern with what she perceived was a lack of conservation by the City, and provided the Council with a memorandum and photos which she stated illustrated her contention. She then spoke of the need for greater conservation efforts.
- Fred Patrick, 1520 Lupita Court, spoke against increasing water rates, and pointed to a lack of conservation efforts by many. He suggested that those wasting water should bear the brunt of increased rates.

The public hearing closed at 8:21 p.m.
COUNCIL ACTION: MOVED by Council Member Stadherr, SECONDED by Council Member Pete Martinez that the Council approve continuing with Phase II of the Water Conservation Plan. The motion carried unanimously.

Disposition: Approved.

SECOND READING

30. ORDINANCE NO. 1702, DISESTABLISHMENT OF THE BUSINESS IMPROVEMENT AREA OF PORTERVILLE

Recommendation: That the City Council give Second Reading to Ordinance No. 1702; waive further reading; and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Council Member Pete Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council give Second Reading to Ordinance 1702, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE 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.

AYES: P. Martinez, F. Martinez, Stadherr, Hamilton

NOES: McCracken

ABSTAIN: None

ABSENT: None

The City Manager read the Ordinance by title only.

Disposition: Approved.

SCHEDULED MATTERS

31. DESIGN OVERLAY SITE REVIEW 3-2006

Recommendation: That the City Council adopt the draft resolution containing findings and conditions in support of approval of Design Overlay Site Review 3-2006.

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

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Stadherr that the Council adopt the draft resolution containing findings and conditions in support of approval of Design Overlay Site Review 3-2006. The motion carried unanimously.

Disposition: Approved.
The Council recessed for ten minutes.

32. CONSIDERATION OF REVISED AGREEMENT WITH THE CHAMBER OF COMMERCE

Recommendation: That the City Council approve the agreement, as presented, with the appropriate compensation to the Chamber of Commerce.

City Manager John Longley presented the item and the staff report. Mr. Longley noted for the record correspondence from Ms. Jennifer Lindgren that had been emailed to his office and Council that day which requested the Council’s consideration of increasing the annual stipend to $35,000 considering the proposed added responsibilities of the Chamber.

Mayor Hamilton suggested that Chamber CEO Donnette Silva Carter be afforded the opportunity to come forward and speak on the issue. He then clarified with the City Attorney that even though he was a member of the Chamber of Commerce, no financial conflict existed and he need not recuse himself.

- Donnette Silva Carter, Porterville Chamber of Commerce, 93 North Main Street, spoke of the long standing relationship between the City and the Chamber, and spoke in favor of the increase in its annual stipend to $35,000 to cover increased costs and added responsibilities. She spoke of the Chamber’s desire to move forward with an agreement quickly, noting the approaching deadline for the Community Festival. She requested that the Council consider all of the duties performed by the Chamber to benefit the community, both agreed and non-agreed.

The City Manager spoke of the great service provided by the Chamber.

Council Member Pete Martinez commended the Chamber for the great work that it did in the Community and for taking on even more responsibilities.

Council Member McCracken commented that he believed in addition to the added $8,000 for addition duties, the Chamber deserved the requested $7,000 additional for costs.

Mayor Pro Tem Felipe Martinez spoke in favor of the long term relationship between the City and the Chamber.

Mayor Hamilton noted that the requested $35,000 was only an annual contract and not a long term commitment, and voiced support for approving it.

COUNCIL ACTION: MOVED by Mayor Hamilton, SECONDED by Council Member P. Martinez that the Council approve the agreement with the Chamber of Commerce, as presented, with an annual stipend of $35,000. The motion carried unanimously.

M.O. 19-081506

Disposition: Approved.

33. FARM MANAGEMENT AND FARMLAND LEASE AGREEMENT RFP

Recommendation: That the City Council authorize staff to advertise for a farm consultant for the purpose of preparing a Farm Management RFP and assist the City Attorney and Staff in preparing a Farmland Lease Agreement.
City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

- Greg Shelton, 888 North Williford Drive, first spoke regarding Item No. 12 and attributed any gain in net revenue to a change to the accrual accounting method. With regard to the item at hand, Mr. Shelton spoke against language in the staff report pertaining to the lease, and spoke in favor of the proposed RFP, noting it should have occurred sooner. He then voiced concern with issues relating to the proposed timeline and shopping for a consultant, and suggested a change in the management of the farming operation as an alternative.
- Bob Nuckols, 13144 Road 216, indicated that nothing had been said to which he felt he needed to respond. He stated that all the points raised were moot.
- John Baker, Wastewater Treatment Facility Manager, rebutted Mr. Shelton’s comments with regard to the accrual method of accounting and any effects such accounting had on the revenue figures. He indicated that the operation had always been on an accrual method and the figures presented were accurate. He spoke of the success of the farming operation.

Mayor Hamilton questioned whether any of the CIEDB interest indebtedness was going back into the expense side for the capital improvements for farming. Staff responded that they were unaware at that time.

Council Member Stadtherr clarified that any profit or loss in one fund would not affect any other fund, as was suggested by Mr. Shelton.

In response to a question posed by Council Member Pete Martinez, Mr. Rodriguez indicated that he was uncertain as to how the Cease and Desist Order might be affected by going out to RFP. A discussion ensued, during which it was stated that the Regional Water Quality Control Board had left the City alone for the last two and a half years, and that the RFP process might initiate more frequent contact and risk additional scrutiny by the Board. The challenges involved in meeting the requirements of the Cease and Desist Order were then discussed.

Council Member Stadtherr questioned whether a performance-driven agreement had been considered to increase incentive for the farmer. Mr. Rodriguez indicated that there was a five percent commission based on the profit of the crops already in the contract.

Mayor Hamilton commented on the lengthy duration of the issue and thanked everyone for their patience, input on the subject, and hard work in researching the matter.

**COUNCIL ACTION:**

MOVED by Mayor Hamilton, SECONDED by Council Member Stadtherr that the City Council authorize staff to advertise for a farm consultant for the purpose of preparing a Farm Management RFP and assist the City Attorney and Staff in preparing a Farmland Lease Agreement.

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

**NOES:** P. Martinez

**ABSTAIN:** None

**ABSENT:** None

Disposition: Approved.
34. BUDGET ADJUSTMENT AND ALLOCATION OF FUNDS FOR THE PORTERVILLE COMMUNITY CENTER NON-USE MAINTENANCE EXPENDITURES

Recommendation: That the City Council consider to:
1. Authorize the cancellation of the Tule River Parkway Phase III Land Acquisition Project, and direct a budget adjustment of the general fund monies remaining in that project for allocation to the Porterville Community Center non-use maintenance expenditures, and
2. Establish a process for determining the Council’s vision for the future use of the Porterville Community Center.

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

Mayor Hamilton commented that he had thought staff had enough direction to move forward with the improvements with the allocated $105,000 as the Council directed, and questioned the why the matter was again before the Council.

Council Member McCracken voiced disappointment that staff had not come back and made recommendations as to how to utilize the additional $95,000 for needed repair work.

Mr. Perrine indicated that staff was seeking clarification as to how the estimated $30,000 in utility costs for the year would be paid. A discussion ensued as to costs incurred on the facility since July, during which Mr. Longley stated that detail could be provided to the Council. Mr. Perrine clarified that no staff members had been laid off due to the facility closure, but pointed out that some positions in Parks & Leisure Services remained frozen.

In response to a question posed by Mayor Pro Tem Felipe Martinez, Mr. Perrine stated that the staff had recommended that approximately $3,500 be budgeted for the Community Center, $2,400 of which was in risk management for the insurance coverage on the facility. Mayor Pro Tem Felipe Martinez requested that staff come back with a recommendation for utilizing the $95,000 for needed repairs and staffing requirements.

City Manager John Longley clarified that staff was seeking budgetary authority so as to operate, and requested that the Council consider at least budgeting for a quarter, after which staff could return with additional information.

In response to a question posed by Mayor Hamilton, Mr. Longley indicated that once a direction for the facility was established, staff could look into obtaining grant funds. A discussion ensued as to the staffing requirements of the facility.

Council Member Stadtherr moved that the Council approve the appropriation of $7,500 from reserve funds, out of the $95,000, to cover the budgetary expenditures for the first quarter of FY 2006-2007.

Council Member McCracken seconded the motion.

Council Member McCracken moved to amend Council Member Stadtherr’s motion to also include direction to staff to return to the Council with a program for necessary repairs for the remaining balance, and to define a rental and/or shared used program for the facility.
Council Member Stadherr seconded Council Member McCracken’s amendment.

Mr. Longley confirmed Council’s direction to be for staff to advertise for proposals for shared use, and then those proposals would be brought to the Council in Closed Session for property negotiations for terms and conditions.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Stadherr that Council Member Stadherr’s motion be amended to also include direction to staff to return to the Council with a program of necessary repairs for the remaining balance, and to define a rental and/or shared use program for the facility. The motion carried unanimously.

M.O. 21-081506

M.O. 22-081506 MOVED by Council Member Stadherr, SECONDED by Council Member McCracken that the Council approve the appropriation of $7,500 from reserve funds, out of the $95,000, to cover the budgetary expenditures for the first quarter of FY 2006-2007. The motion carried unanimously.

Disposition: Approved.

35. AMENDMENT TO TRAFFIC RESOLUTION NO. 10-2001 - INTERSECTION SAFETY IMPROVEMENT - DESIGNATION OF NORTH GRAND AVENUE AND NEWCOMB STREET AS A 4-WAY (ALL-WAY) STOP INTERSECTION

Recommendation: That the City Council:
1. Pass a resolution amending Traffic Resolution No. 10-2001, designating North Grand Avenue and Newcomb Street as a 4-way (all way) stop intersection;
2. Authorize the City Engineer to notify the public, by any effective means, of the application of a traffic control devise, namely a 4-way (all way) stop, at the intersection of North Grand Avenue and Newcomb Street; and
3. Authorize the City Engineer to install traffic control devices, namely 4-way (all way) stop signs, at the intersection of North Grand Avenue and Newcomb Street.

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

Council Member Pete Martinez moved that the Council approve staff’s recommendation.

Mayor Pro Tem Felipe Martinez seconded the motion.

Council Member Stadherr noted that the intersection was a good candidate for a roundabout due to the undeveloped lots and St. Anne’s parking lot on the four corners. He requested that if the Council ever considered a traffic light at that intersection, that a roundabout be considered.

In response to a question posed by Mayor Hamilton, Mr. Rodriguez explained the impetus of the traffic count, which he attributed primarily to requests from local residents. A brief discussion ensued as to the traffic count.
COUNCIL ACTION: MOVED by Council Member Pete Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council approve the draft resolution amending Traffic Resolution No. 10-2001, designating North Grand Avenue and Newcomb Street as a 4-way (all way) stop intersection; authorize the City Engineer to notify the public, by any effective means, of the application of a traffic control devise, namely a 4-way (all way) stop, at the intersection of North Grand Avenue and Newcomb Street; and authorize the City Engineer to install traffic control devices, namely 4-way (all way) stop signs, at the intersection of North Grand Avenue and Newcomb Street. The motion carried unanimously.

Disposition: Approved.

36. COUNCIL MEMBER REQUEST TO RECONSIDER PORTERVILLE COMMERCIAL CENTER

Recommendation: None

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

Mayor Hamilton noted that he had previously stated that he would allow individuals to speak on this item, but requested that the commentary be limited to only the circumstances as to why the Council had initially denied the General Plan Amendment and Zone Change, which was due to the pending General Plan Update and M-1 inventory. He stated that the issue dealt with land use and not competing projects.

- Ben Ennis, 643 North Westwood Street, voiced concern with concentrating all of the City’s M-1 inventory out at the airport, noting the needs of smaller users might not be met at that location. He suggested that the subject site should remain zoned M-1.
- John Hale, a Bakersfield resident and applicant, spoke in favor of the Council’s reconsideration of the requested General Plan Amendment and Zone Change. He suggested that pursuant to the consensus of the citizens at the General Plan Update meetings, Jaye Street and Highway 190 should be commercial and the M-1 properties should be at the airport. He stated that since the City knew the direction that the citizens wanted to head on the General Plan Update, that the Council should move forward now so as to implement the necessary improvements at that intersection in concert with the other development to address traffic issues.

Council Member Pete Martinez indicated that he had requested that the item be brought to the Council for reconsideration. He spoke of discussions he had with current owners of M-1 zoned properties and the lack of interest in those properties. He then commented that the need to create jobs was an excellent incentive to move forward now with the zone change, which would likely occur with the General Plan Update anyway. Council Member Martinez noted his conversations with other City Officials at the conference he recently attended in Monterey, which clarified in his mind the appropriateness for a zone change of the subject property. He commented that he did not believe the Council risked depleting the inventory of M-1, since there was adequate inventory remaining. He then spoke of the tax revenue that would be generated by moving forward with making the intersection a commercial zone, and the benefit to the citizens. He then apologized to any individuals that he upset with his decision, but indicated that the benefits to the citizens necessitated his decision.

Mayor Pro Tem Felipe Martinez noted a recent General Plan Amendment and Zone Change that changed M-1 to Residential. He commented that while residential was important for the families of Porterville, so was Commercial for the employment of the citizens. He suggested that Porterville was on the cusp of becoming a very
proactive City and noted the lower land costs in our community than in most places in California. He spoke of the importance of growth in the community and spoke in favor of moving the project forward. Mayor Pro Tem Martinez pointed out the benefits to the citizens in terms of tax revenue and employment, and noted that both projects at Jaye Street and Highway 190 were worthy and deserved the support of everyone.

Council Member McCracken commented that he had not seen anything change in the circumstance that would lead him to change his mind or vote to reconsider the item. He stated that the General Plan Update was just around the corner and suggested that since the City was paying for a consultant, the Council should at least wait until the Consultant had made its recommendation for the Update.

Council Member Stadtherr spoke of how lengthy the deliberative process was, and pointed out that this matter not only constituted deliberating on the item, but reversing a previous decision of the Council. He commented that he would like to see both projects move forward and noted that this was likely what would eventually happen, however, he did not find it prudent to take action prior to the General Plan Update. He voiced concern that if the previous decision was reversed, it would send the message that the prior Council’s decision was in error. Council Member Stadtherr then commented that he saw no change in the facts that would rationalize a reversal of the Council’s previous decision.

Council Member Pete Martinez clarified with staff that the majority of the inquiries for M-1 property received by the City were centered around the Porterville Municipal Airport due to the need for larger acreage. Staff elaborated that while industrial uses, such as WalMart Distribution Center, were currently in the area of Highway 190 and Jaye Street, the performance of the intersection was affected due to high truck volume. Staff indicated that more intense development of industrial at that intersection would make the flow of traffic through that intersection more challenging. A discussion then ensued as to whether the concurrent development of the two commercial projects proposed at that intersection would be beneficial in terms of traffic flow and cost to the City for street reconstruction. Council Member Martinez next posed questions to Mr. Greg Shelton.

- Greg Shelton, address on record, confirmed that he owned a large amount of M-1 zoned property in the City, and indicated that he intended to attempt to have the property re-zoned out of M-1. He contended his M-1 property located in the City’s core area was basically useless due to language in the Municipal Code setting forth limitations in usage near residentially-zoned properties. Mr. Shelton then suggested that any discussion of the value of M-1 property in the core area of the City was a rouse, noting that the M-1 facilities currently in the vicinity of the subject intersection were vacant.

Council Member Martinez reiterated his desire to move the proposed Porterville Commercial Center forward, citing the need to create jobs in the community.

Mayor Pro Tem Felipe Martinez noted that while some Council Members voiced concern with changing a decision of a previous Council, he suggested that the Council had in fact modified other decisions. He cited the Sports Complex fees and the Chamber’s annual stipend as examples.

Mayor Hamilton commented that he had requested the discussion on the item that evening pertain only to the basis of the previous decision – land use. He stated that regardless of that direction, everything had been brought into the discussion, including traffic circulation, the need for M-1 inventory, and the need for jobs. Mayor Hamilton noted that the previous decision of the Council was merely to wait until the completion of the General Plan Update. He stated that he too wished to bring jobs to the community, yet he did not see the urgency in proceeding before the General Plan Update was ready. Mayor Hamilton then commented that there was a need in the community for smaller M-1, and suggested that property owners were hesitant to build M-1 facilities due to the possibility of earning higher rents with commercial.
A discussion ensued as to whether or not any cost savings would be realized if the project moved forward sooner. The Council Members reiterated their respective concerns.

At the request of the Council, City Attorney Julia Lew clarified the process involved in reconsidering the previous action. She indicated that the Council would first need a motion to reconsider, which she explained could only be made by a Council Member who voted in the majority of the initial decision to not move forward. She pointed out that only two Council Members were currently present who would be eligible to make the motion. She then clarified that any other Council Member would be eligible to second the motion and all could participate in the vote.

**COUNCIL ACTION:** MOVED by Council Member Pete Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council reconsider the General Plan Amendment and Zone Change pertaining to the Porterville Commercial Center; and that an adjourned meeting on August 29, 2006 be set as the time for a public hearing and Council's consideration of the General Plan Amendment, Zone Change and EIR Certification for the Porterville Commercial Center.

<table>
<thead>
<tr>
<th>AYES:</th>
<th>P. Martinez, F. Martinez</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOES:</td>
<td>McCracken, Stadtherr, Hamilton</td>
</tr>
<tr>
<td>ABSTAIN:</td>
<td>None</td>
</tr>
<tr>
<td>ABSENT:</td>
<td>None</td>
</tr>
</tbody>
</table>

Disposition: Denied.

37. ENGINEER'S ESTIMATE OF PROBABLE COST - OLIVE AVENUE


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

Mayor Pro Tem Felipe Martinez requested that an off-meeting Tuesday be set aside for a study session to review the 10-Year Capital Improvement Plan.

Mayor Hamilton commented that he had no problem with setting a meeting, but suggested that perhaps waiting until after the election and the outcome of Measure R was known. He stated that in the event it passed, it would affect the City’s budget for improvements.

The Council agreed to Mayor Pro Tem Martinez’s request and requested that the staff report for the study session also include an analysis of the possible budgetary effects in the event County tax measure was passed. It was decided to schedule the Adjourned Meeting for August 29, 2006 at 6:30 p.m.

Disposition: Adjourned Meeting set for August 29, 2006 at 6:30 p.m.

38. REQUEST BY COUNCIL MEMBER - DISCUSSION OF DRAFTING ORDINANCE PROHIBITING SEXUAL OFFENDERS MOVING TO THE COMMUNITY

Recommendation: None
City Manager John Longley presented the item.

Council Member Pete Martinez indicated that he had requested that the item be brought forward. He noted the need for addressing the issue of Sexual Offenders in the Community and how other cities have addressed the issue. He questioned whether the City of Porterville had legal options.

City Attorney Julia Lew indicated that some cities were adopting "child safety zone" regulations that were not currently covered under State Law, except perhaps conditions of parole for some sex offenders. She stated that there were some cities in Southern California that had adopted ordinances that designated buffer zones of 300 feet where children tended to frequent and prohibited the loitering of registered sexual offenders, including those currently on parole and otherwise. She stated that locations could be specified that could be determined to be frequented by children, such as libraries. She noted that the ordinances had not been legally-tested in the State of California, however, she stated that other Federal Circuit Courts had ruled favorably with regard to similar regulations.

A discussion ensued as to the scope of Jessica’s Law and how it would impact any regulations imposed by the Council. Ms. Lew stated that Jessica’s Law would further extend current residential restrictions in the State of California. She indicated that current restrictions prohibit a sexual offender on parole from living within a certain distance from schools. She indicated that in addition to other provisions, Jessica’s Law would extend that prohibition to the life of the registration of sexual offenders. Enforcement was then discussed, during which Ms. Lew indicated that enforcement was likely difficult, but not impossible. She added that there would be intensive GPS tracking involved with Jessica’s Law that would probably make enforcement of local regulations easier.

Council Member Pete Martinez inquired whether the City could impose regulations that would require sexual offenders to disclose to employers their status as sexual offenders when employment involved contact with children, either accompanied or not by other adults. Ms. Lew responded that the restriction sounded reasonable, however she was unaware if there was any State Law that preempted such a regulation. She stated that she could look into the issue further.

Mayor Hamilton spoke in favor of pursuing the matter further.

City Attorney Julia Lew recommended that any regulations the Council decides upon should be, at least from a legal standpoint, enforceable. She noted the importance of drafting something that would stand up to any challenge and was not merely drafted to send a message.

At the Council’s request, Interim Police Chief Chuck McMillan came forward and spoke of the current number of sexual offenders registered within the City of Porterville and offered a brief status report. Chief McMillan stated that the Police Department was required to physically visit the addresses given by the registrants to ensure the information was up to date. He stated that five sexual registrants currently resided at the Porterville Hotel, one of which was on parole. He stated that one registrant in the City of Porterville was currently out of compliance, the case for which was currently under review by the D.A.’s Office. Chief McMillan explained that the last city or jurisdiction that registered a sexual offender was responsible for that individual until it could be proven that the offender had relocated. He added that according to the Megan’s Law website, approximately 130 sexual offenders resided in Porterville, yet pointed out that some were in the County, and some resided within the Porterville Developmental Center (“PDC”). He stated that the PDC was their own jurisdiction and therefore was responsible for registering those offenders.

A discussion next ensued as to the possibility of the sexual offenders currently residing at the PDC being released into the City of Porterville. Ms. Lew indicated that the Penal Code states that the offenders be released back into the County of residence of the offender prior to incarceration, unless it is determined that such return
would be detrimental to the safety of the Community. She added that victims and residents were given precedence in that consideration. She stated that this requirement was supposed to help avoid creating a high concentration of offenders in one area. Ms. Lew then clarified that in the event the perception was that Porterville was receiving a higher than normal concentration of sexual offenders, it could contact State authorities who would then make a determination and possibly correct the situation.

In response to a question posed by Council Member Pete Martinez, Interim Police Chief McMillan indicated that in 2006, as of August 15th, 32 cases of rape had been investigated and 27 arrests had been made.

Council Member Stadtherr confirmed with Chief McMillan that an indecent exposure conviction would fall under a sexual offense in the “Other” category. Chief McMillan elaborated that there were three categories: Sexual Offender-High Risk; Sexual Offender-Serious; and Sexual Offender-Other. Council Member Stadtherr voiced concern with confusing a sexual predator with a sexual offender and noted the varying degrees of seriousness. He spoke against painting the issue with such a broad brush in an effort to regulate sexual predators and serious sexual offenders, that individuals who were convicted for lesser offenses like urinating in public were included.

It was the consensus of the Council to move forward with the item and direct staff to further investigate ways in which the City can regulate sexual offenders.

Disposition: Direction given to staff to research item further and bring it back to the Council.

39. PRELIMINARY PROPOSAL FOR INFRASTRUCTURE AND OPERATIONAL ENHANCEMENTS

Recommendation: That the City Council:
1. Authorize staff to complete the Performance Development Agreement with Johnson Controls for the project to include only the infrastructural enhancements for energy savings purposes; and
2. Authorize staff to independently investigate further the water meter system and potential for self-performing its upgrade.

City Manager John Longley presented the item, and Administrative Services Manager John Lollis presented the staff report, which included four options for Council’s consideration:

Option No. 1: That the City contract with Johnson Controls to facilitate infrastructural modifications to achieve energy savings, to include or not to include a water meter system upgrade for revenue enhancement;

Option No. 2: That the City self-perform infrastructural modifications to achieve energy savings with the assistance of its energy utility (Southern California Edison), to include or not include a water meter system upgrade for revenue enhancement.

Option No. 3: That the City contract with Johnson Controls to facilitate infrastructural modifications to achieve energy savings, and self-perform a water meter system upgrade for revenue enhancement.

Option No. 4: That the City maintain the status quo and not pursue either infrastructural modifications or upgrades to the water meter system.
Council Member Stadtherr commented that he believed the Council should move forward with at least contracting the Johnson Controls to facilitate infrastructural modifications, and noted that he was interested in hearing the opinions of other Council Members with respect to the water meter system upgrade. He spoke in favor of Option No. 1.

Mayor Pro Tem Felipe Martinez spoke in favor of approving Option No. 3, and voiced surprise at the 95% efficiency for water distribution as stated in the staff report.

Council Member Pete Martinez commented that the Council should definitely look into the matter, and voiced support for Option No. 2.

Council Member McCracken spoke of a plaque the City received in the past from Southern California Edison in recognition of its energy savings efforts, and stated that he did not believe any consultant was utilized to achieve that savings. He commented that Johnson Controls had given the Council direction and if the City was in fact charging for 95% of the water it pumped with 20 year old water meters, it appeared the City was doing well. He then voiced concern with making decisions after 11:00 p.m. in the evening, unless the other Council Members wished to move forward.

Mayor Hamilton stated that if Johnson Controls came up with the 95% figure, he felt comfortable with it.

- Ralph Tyrell, Johnson Controls, came forward and clarified that the 95% figure was not derived by Johnson Controls, but was rather provided by the City. He indicated that Johnson Controls was actually uncomfortable with the figure and indicated that water meters as old as the City’s typically benefitted the consumer. Mr. Tyrell then spoke of the advantages to the City with moving forward with contracting with Johnson Controls for infrastructural and operational enhancements, elaborating the City would receive any savings realized from day one.

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Felipe Martinez that the City Council authorize staff to complete the Performance Development Agreement with Johnson Controls for the project to include only the infrastructural enhancements for energy savings purposes; and authorize staff to independently investigate further the water meter system and potential for self-performing its upgrade.

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

Disposition: Approved.

**ORAL COMMUNICATIONS**
- Greg Shelton, address on record, commented that he expected the deadlines identified in Item 33 to be met.
- Gerry Quinn, 734 W. Putnam Avenue, voiced concern that the City was moving too slowly in the area of commercial development; spoke of the need to relocate pedestrian signs; and spoke in favor the City’s recently implemented curbside recycling program.
- Dick Eckhoff, address on record, 1) supported addressing the sexual offender issue, but warned of being over broad or drafting something that was unenforceable; 2) questioned the reasoning
behind the Council’s interest in rehabilitating the Putnam Community Center; and 3) indicated that at times, the Council’s comments were inaudible and requested that all Council Members speak more directly into their microphones.

- Cathy Capone, 806 West Westfield Avenue, thanked the Council Members for their continued support of the Tule River Parkway Project.
- Aaron Burgin, 115 East Oak Avenue, came forward on behalf of Celebrate the Child Within and thanked the Council for its consideration towards addressing the issue of sexual predators in the Community.

OTHER MATTERS

- Council Member Pete Martinez requested that the Council consider a letter of recognition or Proclamation acknowledging the 10th anniversary of Landmark Christian Center in Porterville. The Council concurred.
- Mayor Hamilton requested that staff look into tree plantings along South Main Street for beautification purposes.
- Council Member Pete Martinez requested that the Council revert back to utilizing the older voter system.

ADJOURNMENT

The Council adjourned at 11:29 p.m. to the meeting of August 17, 2006 at 6:30 p.m.

__________________________________________
Patrice Hildreth, Deputy City Clerk

ATTEST:

__________________________________________
Cameron Hamilton, Mayor
COUNCIL AGENDA: SEPTEMBER 19, 2006

SUBJECT:  AUTHORIZATION TO REJECT ALL BIDS AND RE-ADVERTISE THE RAILS TO TRAILS PROJECT

SOURCE  Public Works Department - Engineering Division

COMMENTS:  On August 29, 2006, staff received two (2) bids for the Rails to Trails Project. The project consists of the improvements of a portion of the former Tulare Valley Railroad right-of-way with a pedestrian and bicycle pathway from Olive Avenue to Henderson Avenue.

The Base Bid project cost estimate including a 10% contingency is $330,422. The low bid exceeded the project cost estimate by 17.8%.

The bids are as follows:

1. Central Valley Asphalt
   Lindsay, CA  $389,316.00

2. Halopoff & Sons
   Porterville, CA  $426,996.64

Staff found all bids to be unacceptable.

Staff is currently working with the design consultant, who provided the final cost estimate, to come up with options to bring the project within the available budget.

RECOMMENDATION:  That the City Council:

1) Reject all bids for the Rails to Trails Project; and

2) Authorize staff to re-advertise for bids once final options are agreed upon and plans are modified to bring the project within the available budget.
COUNCIL AGENDA: SEPTEMBER 19, 2006

SUBJECT: AWARD OF CONTRACT – SINGER BUILDING DEMOLITION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On September 7, 2006, staff received three (3) bids for the demolition of the old Singer Building located at 35 W. Oak Avenue. The City purchased the building and surrounding property for the purpose of enhancing downtown parking and for the development of the Transit Center Complex. The building is in conflict with the second phase (remaining parking area) of the parking lot constructed during the summer of 2004.

The low bid is 1.6% under the $25,300 estimated probable cost for the project. Federal Grants will finance the project and approval was obtained by the adoption of the 06/07 fiscal year budget.

The bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Wise Engineering Visalia, CA</td>
<td>$24,900</td>
</tr>
<tr>
<td>2. Bowen Engineering &amp; Environmental Fresno, CA</td>
<td>$29,300</td>
</tr>
<tr>
<td>3. H.D. Matthews Demolition &amp; Excavation Fresno, CA</td>
<td>$45,100</td>
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</tbody>
</table>

Staff has found the low bid acceptable.

RECOMMENDATION: That the City Council:

1. Award the Singer Building Demolition Project to Wise Engineering in the amount of $24,900;

2. Authorize progress payments per the Special Provisions, Part I, Supplementary Special Provisions, Final Payment of the Project Manual, which states that within 30 days of the Contractors final billing, the City must pay 100% of the sum due the contractor, provided that the City Engineer recommends and the City Council accepts the work as complete; and

3. Authorize a 10% contingency to cover unforeseen construction costs.

ATTACHMENT: Locator Map

[Signatures]
COUNCIL AGENDA: September 19, 2006

SUBJECT: AWARD CONTRACT – SPRAYED POLYURETHANE ROOFING SYSTEMS

SOURCE: DEPARTMENT OF FINANCE/PURCHASING

COMMENT: Staff solicited bids for sprayed polyurethane foam roofing systems for the City Hall Annex and Porterville Community Center. Three (3) bids were received as follows:

<table>
<thead>
<tr>
<th>BIDDER</th>
<th>AMOUNT</th>
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<tbody>
<tr>
<td>Universal Coatings</td>
<td>$127,832</td>
</tr>
<tr>
<td>Fresno, CA</td>
<td></td>
</tr>
<tr>
<td>Phoenix Coatings</td>
<td>$148,934</td>
</tr>
<tr>
<td>Madera, CA</td>
<td></td>
</tr>
<tr>
<td>Cook Coatings, Inc.</td>
<td>$196,828</td>
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<tr>
<td>Menifee, CA</td>
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</table>

Staff has reviewed the low bid and found it acceptable. Funds for this project are available from Capital Project Nos. 89-9086.88 and 89-9478.88. The Engineer’s estimate of probable cost is $155,000. The low bid is 18% under the estimate.

RECOMMENDATION:

That City Council:

1. Award the contract for the sprayed polyurethane foam roofing systems project to Universal Coatings, Inc., of Fresno, CA, in the amount of $127,832;

2. Authorize progress payments up to 90% of the contract amount; and

3. Authorize a 10% contingency to cover unforeseen costs.

D.D. Appropriated/Funded C.M. Item No. 4
SUBJECT: STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR SANITARY SEWER SYSTEMS

SOURCE: Public Works Department - Field Services Division

COMMENT: On May 2, 2006, the State Water Resources Control Board (SWRCB) adopted Order No. 2006-0003 “Statewide General Waste Discharge Requirements for Sanitary Sewer Systems.” All federal and state agencies, municipalities, counties, districts, and other public entities that own or operate sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California are required to comply with the terms of this Order.

The City of Porterville is required to submit a “Notice of Intent” to comply and pay a fee of $872.00. The Notice of Intent and fee are due by November 2, 2006.

This annual fee is based on the City's current population of less than 50,000. The City's population will surpass the 50,000 mark next year and the annual fee will increase to $4,676.00.

The Order requires enrolled agencies to develop and implement a system specific to a Sewer System Management Plan (SSMP) that includes provisions to provide proper and efficient management, operation and maintenance of sanitary sewer systems. Additionally, a SSMP must contain a spill response plan that establishes standard procedures for immediate response to a Sanitary Sewer Overflow (SSO), in a manner designed to minimize water quality impacts and potential nuisance conditions. The Order also requires all agencies to electronically report all SSOS to the SSO database, which is accessed through the State Water Board's information management system.

RECOMMENDATION: That the City Council:

1. Approve the Notice of Intent and authorize the Water Utilities Superintendent to sign on behalf of the City;

2. Authorize payment of the $872 permit fee; and

3. Direct staff to develop a Sewer System Management Plan.

ATTACHMENT: Notice of Intent to Comply

P:\pub\work\Engineering\Council Items\2005-06-19 Statewide General Waste Discharge Requirements.doc

Dir Appropriated/Funded CM Item No. 5
State Water Resources Control Board
NOTICE OF INTENT
TO COMPLY WITH THE TERMS OF THE STATEWIDE GENERAL WASTE DISCHARGE
REQUIREMENTS FOR SANITARY SEWER SYSTEMS
(WATER QUALITY ORDER NO. 2006 - 0003 - DWQ)

I. Notice of Intent (NOI) Status
Mark Only One Item 1. [x] New Permittee 2. [ ] Change of Information WDID #: 58S011243

II. Agency Information
A. Legally Responsible Official
   Richard Bartlett

B. Agency
   Porterville, City of

C. Title
   Water Utilities Superintendent

D. Mailing Address
   291 N. Main Street

E. Address (Line 2)

F. City
   Porterville

G. State
   CA

H. Zip
   93257

I. Phone
   (559) 782-7514

J. FAX
   (559) 782-8937

K. Email Address
   rbartlett@ci.porterville.ca.us

L. Sanitary Sewer System
   Porterville, City of

M. Regional Water Quality Control Board
   Region 55 - Central Valley

N. Agency Type (check one)
   1. [x] City 2. [ ] County 3. [ ] State 4. [ ] Federal 5. [ ] Special District 6. [ ] Government Combination

O. Population of Community Served (check one)
   [x] Less than 50,000  [ ] Greater than or equal to 50,000

III. Billing Information
A. Agency
   Porterville, City of

B. Contact Person
   Richard Bartlett

C. Title
   Water Utilities Superintendent

D. Mailing Address
   291 N. Main Street

E. Address (Line 2)

F. City
   Porterville

G. State
   CA

H. Zip
   93257

I. Phone
   (559) 782-7514

J. FAX
   (559) 782-8937

K. Email Address
   rbartlett@ci.porterville.ca.us

The annual fee, which is required by the California Water Code (section 13260), is based on the daily population served by the sanitary sewer system. Additionally, an ambient water monitoring surcharge of 9 percent is required for each annual fee. The total fee is the sum of the annual fee and ambient water monitoring surcharge. Please see the instructions on completing this NOI for a detailed explanation of the fee structure.

L. Total Fee (check one)
   [x] Population served < 50,000 - total fee submitted is $ 872.00
   [ ] Population served ≥ 50,000 - total fee submitted is $ 4,676.00

A check for the appropriate total fee amount should be made payable to SWRCB and mailed with this completed NOI to the following address:

State Water Board Accounting Office
P O Box 1888
Attn: SSO Fees
Sacramento, CA 95812-1888

SWRCB Tax ID is: 68-0291986
IV. Electronic Submittal Authorization

I, _______________, certify that I am the legally responsible official for _______________, Porterville, City of _______________. My signature on this form certifies that, I agree, my California Integrated Water Quality System (CIWQS) user ID and password constitute my electronic signature and any information I indicate I am electronically certifying contains my signature. I understand that I am legally bound, obligated, and responsible by use of my electronic signature as much as by a hand-written signature.

I agree that I will protect my electronic signature from unauthorized use, and that I will contact the State Water Resources Control Board, within 24-hours of discovery, if I suspect that my electronic signature has been lost, stolen, or otherwise compromised. I certify that my electronic signature is for my own use, that I will keep it confidential, and that I will not delegate or share it with any other person.

V. Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. Additionally, I certify that the provisions of the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, including electronic reporting of all sanitary sewer overflows and development and implementation of a sewer system management plan, will be complied with."

<table>
<thead>
<tr>
<th>A. Printed Name:</th>
<th>Richard Bartlett</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Title:</td>
<td>Water Utilities Superintendent</td>
</tr>
<tr>
<td>C. Signature:</td>
<td>____________________________</td>
</tr>
<tr>
<td>D. Date:</td>
<td>____________________________</td>
</tr>
</tbody>
</table>

NOTE: Mail completed and signed form with a check for fee payment to the address below.

State Water Board Accounting Office
P O Box 1888
Attn: SSO Fees
Sacramento, CA 95812-1888
CITY COUNCIL AGENDA: SEPTEMBER 19, 2006

SUBJECT: GENERAL PLAN UPDATE PRESENTATION

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: At the meeting of September 5, 2006, by Minute Order Number 15-090506, the City Council continued this item. No changes have been made since the initial staff report was routed. 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 design will protect the 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: RIVERWALK MARKETPLACE COMMERCIAL CENTER PROJECT: ADDENDUM TO THE FINAL EIR

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: On August 1, 2006, the Porterville City Council adopted Resolution 101-2006 approving a Final EIR for the Riverwalk Marketplace Commercial Center project. The Final EIR evaluated the impacts of a request to adopt a specific plan within the Viejo Robles Planned Development as proposed; permit construction of an outdoor building materials retailer and permit the sale of alcohol under an on-sale license at a restaurant with a separate bar area generally located at the northwest corner of Jaye Street and State Route 190.

The purpose of this addendum is to evaluate a proposed change to a mitigation measure defined in the project’s Final EIR. After reviewing initial mitigation at the intersections of Olive Avenue/Jaye Street and Orange Avenue/Jaye Street and conducting further field review and analysis, it has been determined that the lane geometrics and control shown on the attached Figure 14 will provide an acceptable level of service (LOS) at said intersections. The proposed modifications to the geometrics are shown in the revised Figure 14 - Year 2030 Base plus Project Mitigated Lane Geometrics and Control for the Draft Riverwalk Market Place Traffic Impact Study (OMNI-MEANS – April 2006).

As shown in revised Figure 14 and presented in the technical memorandum, the intersection at Olive Avenue/Jaye Street is forecasted to operate at LOS “D” within the existing right of way on all approaches except for the northbound approach. In order to accommodate a shared thru-right lane, it was determined that sidewalk east of Jaye Street could be reduced to provide for a larger lane.

At the intersection of Orange Avenue/Jaye Street, it is projected that this intersection would operate at acceptable LOS “C” conditions with lane geometrics and control shown on revised Figure 14. Within the area resulting from the elimination of parking on the westbound approach, Orange Avenue could be re-striped to allow for a left turn lane and a shared thru-right lane.

The proposed mitigation measures, though modified from those included in the Final EIR, result in the same level of service and thus mitigate to the same level the traffic related project impacts.

This Final EIR Addendum demonstrates that the environmental analysis, impacts, and mitigation requirements identified in the Final EIR remain substantively unchanged by the situation described herein, and supports the finding that the proposed project does not raise any new issues and does not exceed the level of impacts identified in the previous Final EIR.
The proposed project meets the criteria established in Public Resources Code Sections 15162 and 15164 of the CEQA Guidelines for an addendum to an Environmental Impact Report. In order to approve the addendum, the following findings must be made based on substantial evidence:

1. No substantial changes are proposed which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The purpose of this addendum is to evaluate a proposed change to a mitigation measure defined in the project’s Final EIR. After reviewing initial mitigation at the intersections of Olive Avenue/Jaye Street and Orange Avenue/Jaye Street and conducting further field review and analysis, it has been determined that the lane geometrics and control shown on the attached Figure 14 will provide an acceptable level of service (LOS) at said intersections. The proposed modifications to the geometrics are shown in the revised Figure 14 - Year 2030 Base plus Project Mitigated Lane Geometrics and Control for the Draft Riverwalk Market Place Traffic Impact Study (OMNI-MEANS – April 2006).

2. No substantial changes occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The proposed mitigation measures, though modified from those included in the Final EIR, result in the same level of service and thus mitigate to the same level the traffic related project impacts.

3. There is no new information of substantial importance, which was shown or could have been known with the exercise of reasonable diligence at the time the previous EIR was adopted as complete that shows that:

a. The project will have one or more significant effects not discussed in the previous EIR; or
b. Significant effects previously examined will be substantially more severe than shown in the previous EIR; or

c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would
substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

This Final EIR Addendum demonstrates that the environmental analysis, impacts, and mitigation requirements identified in the Final EIR remain substantively unchanged by the situation described herein, and supports the finding that the proposed project does not raise any new issues and does not exceed the level of impacts identified in the previous Final EIR.

Based on the discussion provided above, no subsequent changes are proposed or would occur that necessitate the preparation of a subsequent EIR.

RECOMMENDATION: That the City Council consider and approve the addendum to the Final EIR for the Riverwalk Marketplace Commercial Center project.

ATTACHMENTS:

1. Addendum to the Final EIR for the Riverwalk Marketplace Commercial Center.
2. Location Map
3. Technical Memorandum
ADDENDUM – RIVERWALK MARKET PLACE PROJECT FINAL EIR

INTRODUCTION

On August 1, 2006, the Porterville City Council adopted Resolution 101-2006 approving a Final EIR for the Riverwalk Marketplace Commercial Center project. The Final EIR evaluated the impacts of a request to adopt a specific plan within the Viejo Robles Planned Development as proposed; permit construction of an outdoor building materials retailer and permit the sale of alcohol under an on-sale license at a restaurant with a separate bar area generally located at the northwest corner of Jaye Street and State Route 190.

The purpose of this addendum is to evaluate a proposed change to a mitigation measure defined in the project’s Final EIR. After reviewing initial mitigation at the intersections of Olive Avenue/Jaye Street and Orange Avenue/Jaye Street and conducting further field review and analysis, it has been determined that the lane geometrics and control shown on the attached Figure 14 will provide an acceptable level of service (LOS) at said intersections. The proposed modifications to the geometrics are shown in the revised Figure 14 - Year 2030 Base plus Project Mitigated Lane Geometrics and Control for the Draft Riverwalk Market Place Traffic Impact Study (OMNI-MEANS – April 2006).

As shown in revised Figure 14 and presented in the technical memorandum, the intersection at Olive Avenue/Jaye Street is forecasted to operate at LOS “D” within the existing right of way on all approaches except for the northbound approach. In order to accommodate a shared thru-right lane, it was determined that sidewalk east of Jaye Street, could be reduced to provide for a larger lane.

At the intersection of Orange Avenue/Jaye Street, it is projected that this intersection would operate at acceptable LOS “C” conditions with lane geometrics and control shown on revised Figure 14. Within the area resulting from the elimination of parking on the westbound approach, Orange Avenue could be re-striped to allow for a left turn lane and a shared thru-right lane.

STATUTORY BACKGROUND

Under the California Environmental Quality Act (CEQA), an addendum to a certified Environmental Impact Report (EIR) or a Negative Declaration is needed if minor technical changes or modifications to the proposed project occur (CEQA Guidelines § 15164). An addendum is appropriate only if these minor technical changes or modifications do not result in any new significant impacts or a substantial increase in severity of previously identified significant impacts. The addendum need not be circulated for public review (CEQA Guidelines § 15164[c]); however, an addendum is to be considered by the decision-making body prior to making a decision on the project (CEQA Guidelines § 15164[d]).
The proposed mitigation measures, though modified from those included in the Final EIR, result in the same level of service and thus mitigate to the same level the traffic related project impacts.

This Final EIR Addendum demonstrates that the environmental analysis, impacts, and mitigation requirements identified in the Final EIR remain substantively unchanged by the situation described herein, and supports the finding that the proposed project does not raise any new issues and does not exceed the level of impacts identified in the previous Final EIR.

ENVIRONMENTAL ANALYSIS

The proposed minor project modification, the revised Figure 14 – Year 2030 Base plus Project Mitigated Lane Geometrics and Control for the Draft Riverwalk Market Place Traffic Impact Study (OMNI-MEANS – April 2006), will result in no substantive change of impacts from those evaluated previously. The infrastructure revisions would be placed concurrently, and the impacts associated with construction will not be significantly increased by the reduction in sidewalk along the east side of Jaye Street within the same right of way along the same route. Impacts associated with the revised Project Mitigated Lane Geometrics and Control, such as construction related noise, will not increase and were evaluated in the Final EIR.

CEQA FINDINGS

The proposed project meets the criteria established in Public Resources Code Sections 15162 and 15164 of the CEQA Guidelines for an addendum to an Environmental Impact Report. In order to approve the addendum, the following findings must be made based on substantial evidence:

1. No substantial changes are proposed which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The purpose of this addendum is to evaluate a proposed change to a mitigation measure defined in the project’s Final EIR. After reviewing initial mitigation at the intersections of Olive Avenue/Jaye Street and Orange Avenue/Jaye Street and conducting further field review and analysis, it has been determined that the lane geometrics and control shown on the attached Figure 14 will provide an acceptable level of service (LOS) at said intersections. The proposed modifications to the geometrics are shown in the revised Figure 14 - Year 2030 Base plus Project Mitigated Lane Geometrics and Control for the Draft Riverwalk Market Place Traffic Impact Study (OMNI-MEANS – April 2006).
2. No substantial changes occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

   The proposed mitigation measures, though modified from those included in the Final EIR, result in the same level of service and thus mitigate to the same level the traffic related project impacts.

3. There is no new information of substantial importance, which was shown or could have been known with the exercise of reasonable diligence at the time the previous EIR was adopted as complete that shows that:

   a. The project will have one or more significant effects not discussed in the previous EIR; or
   b. Significant effects previously examined will be substantially more severe than shown in the previous EIR; or
   c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
   d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

   This Final EIR Addendum demonstrates that the environmental analysis, impacts, and mitigation requirements identified in the Final EIR remain substantively unchanged by the situation described herein, and supports the finding that the proposed project does not raise any new issues and does not exceed the level of impacts identified in the previous Final EIR.

Based on the discussion provided above, no subsequent changes are proposed or would occur that necessitate the preparation of a subsequent EIR.
The purpose of this Technical Memorandum is to provide a revised Figure 14 – Year 2030 Base plus Project Mitigated Lane Geometrics and Control for the Draft Riverwalk Market Place Traffic Impact Study (OMNI-MEANS – April 2006). After reviewing initial mitigation at the intersections of Olive Avenue/Jaye Street and Orange Avenue/Jaye Street and conducting further field review and analysis, it has been determined that the lane geometrics and control shown on the attached Figure 14 will provide an acceptable level of service (LOS) at said intersections.

As shown in revised Figure 14 and presented in the LOS summary report, the intersection at Olive Avenue/Jaye Street is forecasted to operate at LOS “D” within the existing right of way on all approaches except for the northbound approach. In order to accommodate a shared thru-right lane, it was determined that sidewalk east of Jaye Street be reduced to provide for a larger lane.

At the intersection of Orange Avenue/Jaye Street, it is projected that this intersection would operate at acceptable LOS “C” conditions with lane geometrics and control shown on revised Figure 14. With the elimination of parking on the westbound approach, the Orange Avenue could be re-striped to allow for a left turn lane and a shared thru-right lane.
**Intersection #3 OLIVE AVENUE / JAYE STREET**

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| Control | Protected | Protected | Protected | Protected |
| Rights | Include | Include | Include | Include |
| Min. Green | 0 | 0 | 0 | 0 |
| Lanes | 2 | 0 | 0 | 0 |

**Volume Module:**

| Base Vol. | 350 258 | 97 | 63 | 206 | 133 | 150 | 949 | 298 | 110 | 1028 |
| Growth Adj | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| Initial Bse | 350 258 | 97 | 63 | 206 | 133 | 150 | 949 | 298 | 110 | 1028 |
| Added Vol. | 207 | 32 | 32 | 0 | 29 | 0 | 0 | 0 | 191 | 29 | 0 |
| PasserByVol | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Initial Put | 557 | 290 | 129 | 63 | 235 | 133 | 150 | 949 | 489 | 139 | 1028 |
| User Adj | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| PHF Adj | 0.32 | 0.92 | 0.52 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 |
| PHF Volume | 605 315 | 140 | 68 | 255 | 145 | 163 | 1032 | 532 | 151 | 1117 |
| Reduct Vol | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reduced Vol | 605 315 | 140 | 68 | 255 | 145 | 163 | 1032 | 532 | 151 | 1117 |
| PCE Adj | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| MLF Adj | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| Final Vol. | 605 315 | 140 | 68 | 255 | 145 | 163 | 1032 | 532 | 151 | 1117 |

**Saturation Flow Module:**

| Sat/Lane | 1900 1900 | 1900 | 1900 | 1900 | 1900 | 1900 | 1900 | 1900 | 1900 | 1900 | 1900 |
| Adjustment | 0.89 | 0.93 | 0.93 | 0.92 | 0.92 | 0.97 | 0.63 | 0.92 | 0.92 | 0.83 | 0.92 | 0.92 |
| Lanes | 2.00 | 0.69 | 0.31 | 1.00 | 1.00 | 1.00 | 1.00 | 2.00 | 1.00 | 1.00 | 1.00 |
| Final Sat | 3400 | 1218 | 542 | 1753 | 1845 | 1568 | 1753 | 3505 | 1568 | 1753 | 3392 |

**Capacity Analysis Module:**

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| Volume/Cap | 0.87 | 0.82 | 0.82 | 0.82 | 0.87 | 0.58 | 0.87 | 0.76 | 0.87 | 0.87 | 0.87 |
| Delay/Veh | 52.5 | 43.0 | 43.0 | 95.5 | 67.3 | 44.5 | 78.7 | 30.5 | 43.2 | 82.4 | 36.7 | 36.7 |
| User Del/Adj | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| AdjDel/Veh | 52.5 | 43.0 | 43.0 | 95.5 | 67.3 | 44.5 | 78.7 | 30.5 | 43.2 | 82.4 | 36.7 | 36.7 |
| HCM2KAvg | 13 | 16 | 16 | 4 | 11 | 5 | 8 | 16 | 19 | 8 | 20 | 20 |

Traffic 7.7.0715 (c) 2004 Dowling Assoc. Licensed to OMNI-MEANS, VISALIA, CA
### Intersection #4 ORANGE AVENUE / JAY STREET

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- Added Vol: | 0 270 21 0 249 0 0 0 0 20 0 0 |
- PasserByVol: | 0 0 0 0 | 0 0 0 0 0 0 0 0 |
- Initial Fut: | 44 721 282 116 697 49 36 45 53 297 77 201 |
- User Adj: | 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 |
- PHF Adj: | 0.92 0.92 0.92 0.92 0.92 0.92 0.92 0.92 0.92 0.92 0.92 0.92 |
- PHF Volume: | 48 784 307 126 758 53 39 49 58 323 84 218 |
- Reduct Vol: | 0 0 0 0 0 0 0 0 0 0 0 0 |
- Reduced Vol: | 48 784 307 126 758 53 39 49 58 323 84 218 |
- FCE Adj: | 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 |
- MLF Adj: | 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 |
- Final Vol.: | 48 784 307 126 758 53 39 49 58 323 84 218 |

#### Saturation Flow Module:
- Sat/Lane: | 1900 1900 1900 1900 1900 1900 1900 1900 1900 1900 1900 1900 |
- Adjustment: | 0.77 0.77 0.77 0.54 0.54 0.54 0.78 0.78 0.78 0.78 0.78 0.78 |
- Lanes: | 0.08 1.38 0.54 0.27 1.62 0.11 0.27 0.34 0.39 1.00 0.28 0.72 |
- Final Sat.: | 123 2009 786 279 1674 118 396 495 583 1323 456 1190 |

#### Capacity Analysis Module:
- Vol/Sat: | 0.39 0.39 0.39 0.45 0.45 0.45 0.10 0.10 0.10 0.24 0.18 0.18 |
- Crit Moves: | **** |
- Green/Cycle: | 0.60 0.60 0.60 0.60 0.60 0.60 0.32 0.32 0.32 0.32 0.32 0.32 |
- Volume/Cap: | 0.65 0.65 0.65 0.76 0.76 0.76 0.31 0.31 0.31 0.31 0.76 0.57 |
- Delay/Veh: | 14.2 14.2 14.2 17.5 17.5 17.5 25.9 25.9 25.9 38.0 29.6 29.6 |
- User Del/Veh: | 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 |
- AdjDeli/Veh: | 14.2 14.2 14.2 17.5 17.5 17.5 25.9 25.9 25.9 38.0 29.6 29.6 |
- HCM2xAvg: | 14 14 14 19 19 19 4 4 4 14 8 8 |
COUNCIL AGENDA - September 19, 2006

SUBJECT: CLAIM - MICHELLE BURCIAGA

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Michelle Burciaga has filed a claim against the City. She is claiming that on August 14, 2006, her vehicle was towed and impounded because it did not have current tags and registration. Ms. Burciaga alleges that because her vehicle registration was sent to a previous address she should not have to pay towing, impound fees and release fees.

The amount being claimed as of the date of this claim is $217.00 based on towing, impound fees and release fees.

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

Attachment: Claim Form

Item No. 8
CITY OF PORTERVILLE
CLAIM FORM

FORM B
(Please Type Or Print)

CLAIM AGAINST CITY OF PORTERVILLE
Claimant's name: Michelle Burciaga
Claimant's Telephone No.: (559) 783-9585
Claimant's address: 208 S. Altavista Porterville CA 93257
Address where notices about claim are to be sent, if different from above:

Date of incident/accident: 8.14.06
Date injuries, damages, or losses were discovered: 8.14.06
Location of incident/accident: Morton and EL Granito

What did entity or employee do to cause this loss, damage, or injury? The Police officer had my vehicle towed and impounded because I was told that I had an expired

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? The name of the arresting officer is Brain Clements.

What specific injuries, damages, or losses did claimant receive? The incident resulted in a cost of $217. that I was required to pay in order to have my vehicle released.

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)] I wish to be reimbursed for the towing, impound, and release form which came out to $217.

How was this amount calculated (please itemize)? The cost of the towing and impound was $155, and the cost of the release form was $62. The amount of the

Date Signed: 8.22.06 Signature: [Signature]

If signed by representative:
Representative's Name
Address
Telephone #
Relationship to Claimant
1. License and tags; however, I had already paid for my renewal fees. But they were sent to my former address.

2. Services and fees added up to $217. I have attached copies of the receipts as verification, and I have also affixed copies of my driver's license and registration fees to serve as additional proof to my claim.
CITY COUNCIL AGENDA: SEPTEMBER 19, 2006

SUBJECT: REQUEST FOR A ONE (1) YEAR EXTENSION OF TIME FOR THREE (3) TEMPORARY MODULAR UNITS FOR THE PORTERVILLE EVANGELICAL FREE CHURCH

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT-PLANNING DIVISION

COMMENT: The Porterville Evangelical Free Church is requesting an extension of time for the three (3) existing modular units that are being utilized as Sunday school classrooms located at 1091 West Linda Vista Avenue. The last extension of time allowed the modular units to be placed at this location for one (1) year that will expire on September 16, 2006.

The Planning Division is now in receipt of a conditional use permit application. Although the letter does not request how long the additional time is requested for, the plans indicated that the modular units are to remain until the second phase of the sanctuary is completed.

HISTORY: The Porterville City Council, on September 16, 2003, by City Council Resolution 120-2003 approved a temporary use to allow for the placement of one (1) modular unit to be located at 1091 West Linda Vista Avenue.

On June 15, 2004, by City Council Resolution 73-2004, the Council allowed the placement of two (2) additional modular units to be located at 1091 West Linda Vista Avenue. The letter of request indicated the church has outgrown their existing classroom space on Sunday mornings and is in need of immediate space. The church has purchased two (2) contiguous lots and is currently in the design process for a permanent building to meet their facilities needs. They anticipate that within two (2) years the new building(s) should be completed. The temporary modular structures will be located to the south of the parking lot currently utilized for church parking.

As a result of the above, City Council Resolution 73-2004 combined the two temporary uses into one. Condition 1 of that resolution stated:

"That the temporary modular structures shall be allowed for a period not to exceed two (2) years from the date of City Council approval and that said modular structure shall no longer be allowed on the site at the close of said two (2) year period unless an extension of time is granted by the City Council".
On September 6, 2005, the Porterville City Council by City Council Resolution 132-2005 granted an additional one (1) year extension of time.

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

RECOMMENDATIONS: That the City Council:

1. Adopt the draft resolution approving a one (1) year extension of time commencing on September 16, 2006 and terminating on September 16, 2007.

ATTACHMENTS:

1. Letter of request
2. Site plan
3. City Council Resolution 120-2003
4. City Council Resolution 73-2004
5. City Council Resolution 132-2005
6. Draft Resolution
City Of Porterville  
Attn: Bubba Frasier  
291 N. Main St.  
Porterville Ca, 93257  

September 11, 2006

Dear Bubba Frasier,

Porterville Evangelical Free Church is requesting an extension of its usage of the three module buildings until the completion of Phase II of the construction project that is currently with the city for approval. We appreciate your consideration and look forward to the approval of our site plans so Porterville Evangelical Free Church can continue to provide its services to this community.

Sincerely,

Rudy Martinez  
Lead Pastor  
Porterville Evangelical Free Church

1091 W Linda Vista Ave • Porterville, CA 93257 • Ph: (559) 783-2636 • Fax: (559) 783 2682
Web: www.nefonline.org • Email: nef@cscnet.net
RESOLUTION NO. 120-2003

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING A TEMPORARY
MODULAR STRUCTURE FOR THE PORTERVILLE EVANGELICAL FREE CHURCH
LOCATED AT 1091 WEST LINDA VISTA AVENUE

WHEREAS: The Porterville City Council, on September 16, 2003, conducted a public
meeting to consider a request to place a temporary modular structure on the south side of the existing
parking lot utilized by the Porterville Evangelical Free Church located at 1091 West Linda Vista
Avenue; and

WHEREAS: The proposed temporary 60' x 23.8' modular structure is intended to be utilized for two (2) classrooms; and

WHEREAS: The letter of request indicates the church has outgrown their existing classroom space on Sunday mornings and is in need of immediate space; and

WHEREAS: The church has purchased two (2) contiguous lots and is currently in the design process for a permanent building to meet their facilities needs. They anticipate that within two (2) years the new building(s) should be completed; and

WHEREAS: The time requested for the proposed temporary modular structure at this location is anticipated to be no more than two (2) years; and

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

WHEREAS: The City Council has thoroughly reviewed and examined the request for temporary structures;

NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the temporary modular structure to be utilized for two (2) classrooms located on the south side of the parking lot utilized for the church located at 1091 West Linda Vista Avenue be approved subject to the following conditions:

1. That the temporary modular structure shall be allowed for a period not to exceed two (2) years from the date of City Council approval and that said modular structure shall no longer be allowed on the site at the close of said two (2) year period unless an extension of time is granted by the City Council.

ATTACHMENT
ITEM NO. 3
STATE OF CALIFORNIA  )
CITY OF PORTERVILLE    )  SS
COUNTY OF TULARE     )

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 16nd day of September, 2003.

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

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<th>Councilmen:</th>
<th>WEST</th>
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<th>HAMILTON</th>
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JOHN LONGLEY, City Clerk

[Signature]

by Georgia Hawley, Deputy City Clerk
RESOLUTION NO. 73-2004

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING TWO (2) TEMPORARY
MODULAR STRUCTURES FOR THE PORTERVILLE EVANGELICAL FREE CHURCH
LOCATED AT 1091 WEST LINDA VISTA AVENUE

WHEREAS: The Porterville City Council, on June 15, 2004, conducted a public
meeting to consider a request to place two (2) temporary modular structures on the south side of the
existing parking lot utilized by the Porterville Evangelical Free Church located at 1091 West Linda
Vista Avenue; and

WHEREAS: The proposed temporary 24' x 40' modular structures are intended to be
utilized for classrooms; and

WHEREAS: The letter of request indicates that Wednesday night youth and children's
programs are continuing to grow. As a result, existing classrooms are reaching maximum capacity;
and

WHEREAS: The church is currently trying to obtain a secondary emergency access to this
facility. Once this has been accomplished, plans for a permanent structure will be submitted; and

WHEREAS: On September 16, 2003, the Porterville City Council approved a Temporary
Use Permit for a 60' x 23.8' modular unit for a period not to exceed two (2) years at this location. The
proposed modular structures will be located to the east and west of the existing temporary structure;
and

WHEREAS: That the two (2) temporary modular structures shall be allowed for a period
of time expiring on September 16, 2005. Any additional time after this date would require an
extension of time to be granted by the City Council; and

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

WHEREAS: The City Council has thoroughly reviewed and examined the request for
temporary structures;
NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the two (2) temporary modular structures to be utilized for classrooms located on the south side of the parking lot utilized for the church located at 1091 West Linda Vista Avenue be approved subject to the following conditions:

1. The two (2) temporary modular structures shall be allowed for a period of time expiring on September 16, 2005. Any additional time after this date would require an extension of time to be granted by the City Council.

2. The developer/applicant shall install a refuse container enclosure according to City standards. Enclosure location to be approved by City prior to issuance of building permit. 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.

3. The proposed classroom is considered B occupancy. Upon submittal of a building permit the following will be required:
   a. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include three (3) sets of energy calculations and structural calculations.
   b. Compliance with access laws (both State and Federal) is required.
   c. Compliance with all applicable codes is required.
   d. Plan check fees are required at the time of building permit submittal.
   e. Soils compaction test may be required.
   f. School Development fees and all other City fees are due at the time of building permit issuance.
   g. Signs require a separate permit.
   h. Federal and or State listing of coach is required.

Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By Georgia Hawley, Deputy
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 15th day of June, 2004.

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

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JOHN LONGLEY, City Clerk

[Signature]

by Georgia Hawley, Deputy City Clerk
RESOLUTION NO. 132-2005

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING A ONE YEAR EXTENSION OF TIME FOR THREE
(3) TEMPORARY MODULAR UNITS FOR THE PORTERVILLE EVANGELICAL FREE
CHURCH LOCATED AT 1091 WEST LINDA VISTA AVENUE

WHEREAS: The Porterville City Council, on September 6, 2005, conducted a public
meeting to consider a request for a one (1) year extension of time for three (3) temporary modular
units to be utilized for Sunday school classrooms located on the south side of the parking lot utilized
for the church for the Porterville Evangelical Free Church located at 1091 West Linda Vista Avenue; and

WHEREAS: The letter of request states that the church is currently trying to obtain a
secondary emergency access to this facility. Once this has been accomplished, plans for a permanent
structure will be submitted. The request for the one (1) year extension of time will allow for the
church to pursue the right of way from the railroad.

WHEREAS: The Porterville City Council, on September 16, 2003, by City Council
Resolution 120-2003 approved a temporary use to allow for the placement of one (1) modular unit
to be located at 1091 West Linda Vista Avenue; and

WHEREAS: The Porterville City Council, on June 15, 2004, by City Council Resolution
73-2004 allowed for the placement of an additional modular unit to be located at 1091 West Linda
Vista Avenue; and

WHEREAS: As a result of the above, City Council Resolution 73-2004 combined the two
temporary uses into one. Condition 1 of that resolution stated:

"That the temporary modular structure shall be allowed for a period not to exceed
two (2) years from the date of City Council approval and that said modular structure
shall no longer be allowed on the site at the close of said two (2) year period"; and

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

WHEREAS: The City Council has thoroughly reviewed and examined the request for
temporary structures;
NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the one (1) year extension of time for the three (3) temporary modular units to be utilized for Sunday school classrooms located on the south side of the parking lot utilized for the church located at 1091 West Linda Vista Avenue be approved subject to the following conditions:

1. That all conditions outlined in City Council Resolution 73-2004 be adhered to.

2. That the temporary modular structures shall be allowed for a period not to exceed one (1) year of time commencing on September 16, 2005 and terminating on September 16, 2006 or upon completion of the permanent structure if sooner.

3. Any future extension of time will require City Council approval.

[Kelly West]
Kelly West, Mayor

ATTEST:
John Longley, City Clerk

[Georgia Hawley]
Georgia Hawley, Chief Deputy City Clerk
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 6th day of September, 2005.

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

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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
APPROVING A ONE YEAR EXTENSION OF TIME FOR THREE (3) TEMPORARY
MODULAR UNITS FOR THE PORTERVILLE EVANGELICAL FREE CHURCH
LOCATED AT 1091 WEST LINDA VISTA AVENUE

WHEREAS: The Porterville City Council, on September 19, 2006, conducted a public
meeting to consider a request for a one (1) year extension of time for three (3) temporary modular
units to be utilized for Sunday school classrooms located on the south side of the parking lot utilized
for the church for the Porterville Evangelical Free Church located at 1091 West Linda Vista Avenue; and

WHEREAS: The Planning Division is now in receipt of a conditional use permit
application. Although the letter does not request how long the additional time is requested for, the
plans indicated that the modular units are to remain until the second phase of the sanctuary is
completed; and

WHEREAS: The Porterville City Council, on September 16, 2003, by City Council
Resolution 120-2003 approved a temporary use to allow for the placement of one (1) modular unit to
be located at 1091 West Linda Vista Avenue; and

WHEREAS: The Porterville City Council, on June 15, 2004, by City Council Resolution
73-2004 allowed for the placement of an additional modular unit to be located at 1091 West Linda
Vista Avenue; and

WHEREAS: As a result of the above, City Council Resolution 73-2004 combined the two
temporary uses into one. Condition 1 of that resolution stated:

"That the temporary modular structure shall be allowed for a period not to exceed two (2)
years from the date of City Council approval and that said modular structure shall no longer
be allowed on the site at the close of said two (2) year period"; and

WHEREAS: The Porterville City Council, on September 6, 2006, by City Council
Resolution 132-2005 allowed for an additional extension of time of one (1) year for the three (3)
modular units; and

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

WHEREAS: The City Council has thoroughly reviewed and examined the request for
temporary structures;
NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the one (1) year extension of time for the three (3) temporary modular units to be utilized for Sunday school classrooms located on the south side of the parking lot utilized for the church located at 1091 West Linda Vista Avenue be approved subject to the following conditions:

1. That all conditions outlined in City Council Resolution 73-2004 be adhered to.

2. That the temporary modular structures shall be allowed for a period not to exceed one (1) year of time commencing on September 20, 2006 and terminating on September 20, 2007 or upon completion of the permanent structure, whichever is sooner.

3. Any future extension of time will require City Council approval.

________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By _______________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: REAPPOINTMENT OF LIBRARY BOARD MEMBERS AND ANNOUNCING VACANCY ON THE LIBRARY BOARD

SOURCE: Department of Parks and Leisure Services

COMMENTS: The Library Board terms of Ellen Nichols and Pam Clark are due to expire as of October 2006. Mrs. Nichols is completing Michelle Pengilly’s unexpired term and is now eligible to be appointed to begin serving her first complete term. She has expressed her willingness to be reappointed.

Pam Clark has served her full two terms on the Board and is not eligible to be reappointed which creates a vacancy on the Board.

RECOMMENDATIONS: (1) That the City Council reappoint Ellen Nichols to the Porterville Public Library Board of Trustees; and
(2) That the City Council announce the vacancy on the Library Board of Trustees; that application be accepted up to 5:00 p.m. on October 10 for Council consideration at the meeting of October 17, 2006.
SUBJECT: CITY OF PORTERVILLE CONFLICT OF INTEREST CODE - AMENDMENT NO. 6

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Government Code Section 87306.5 requires local agencies to submit to their code reviewing body a biennial report identifying changes in its code, or a statement that their code is not in need of amendment. The City Council accepted the Conflicts and Disclosure Monitor Agency Biennial Report for 2006 at its regular meeting of August 15, 2006. The Report made the determination that amendments to the Code were required.

The City Clerk has reviewed the City of Porterville’s current Conflict of Interest Code and has drafted an amendment to include the changes required. The revisions are substantially the change to a annual $250 limit on gifts, and revising the designated employee list to reflect all applicable City departmental position changes. Staff is also recommending that the annual filing date for designated employees be changed from February 1 to March 1. The Fair Political Practices Commission provides the 700 form for filing purposes each year, but whereas it was first received in mid-December, it is now mid-January before the form is provided. The change to March 1 would allow designated employees at least thirty days to receive and submit their forms.

The Code revision has been reviewed and approved by the City Attorney.

RECOMMENDATION: That the City Council adopt the resolution approving the revised City of Porterville Conflict of Interest Code.

ATTACHMENTS: 1. Draft Resolution of Adoption.
                2. Amended Conflict of Interest Code

Item No. 11
RESOLUTION NO. _____-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING A REVISED CONFLICT OF INTEREST CODE FOR THE CITY OF PORTERVILLE

BE IT HEREBY RESOLVED by the City Council of the City of Porterville that the attached Conflict of Interest Code for the City of Porterville is hereby adopted, and the City Manager, as Administrative Supervisor, is hereby authorized to execute said document.

ADOPTED this 19th day of September, 2006.

_______________________________
Cameron Hamilton, Mayor

ATTEST:

Georgia Hawley, Chief Deputy City Clerk

STATE OF CALIFORNIA)
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 of a resolution duly and regularly passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council regularly called and held on the 19th day of September, 2006.

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

COUNCIL: AYES:
COUNCIL: NOES:
COUNCIL: ABSENT:
COUNCIL: ABSTAIN:

JOHN LONGLEY, City Clerk

By _____________________________
Patrice Hildreth, Deputy City Clerk
SECTION 1. Establishment. The City Council of the City of Porterville has heretofore established a Conflicts and Disclosure Monitor Agency (hereinafter "Agency") having jurisdiction as set forth herein over all officers, officials, and employees of the City. The City Manager shall be the Administrative Supervisor of such Agency with authority to act for and on behalf of such Agency. Such Agency shall not affect the duties, responsibilities, or chain of command of any Department, Board, or Commission except to administer and enforce the requirements, rules, and regulations set forth herein. The City Council shall be deemed the "Code Reviewing Body" of said Agency pursuant to the provisions of Section 87300 et seq. of the Government Code.

SECTION 2. Purpose. The Conflicts and Disclosure Monitor Agency of the City of Porterville hereby adopts this document as its "Conflict of Interest Code" in accordance with the requirements of the Political Reform Act of 1974.

SECTION 3. Designated Positions. The positions listed on Exhibit "A" attached hereto are designated positions. Officers and employees holding those positions are designated employees and are deemed, for the purposes of this Code, to make, or participate in the making of, decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or
the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employees by virtue of his or her position.

SECTION 4. Disclosure Statements. Each such designated employee shall file disclosure statements disclosing reportable investments, business positions, interests in real property, and income, to the extent required by the Act, and on forms prescribed by the Fair Political Practices Commission and supplied by the City Clerk.

SECTION 5. Place and Time of Filing.

A. All designated employees required to file disclosure statements shall file same with the City Clerk, as Secretary to the Code Reviewing Body.

B. A designated employee required to submit a disclosure statement shall file their initial statement within thirty (30) days after the effective date of this Code disclosing reportable investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12-months before the effective date of the Conflict of Interest Code.

C. Individuals hereafter appointed to designated positions shall file his or her initial statement within thirty (30) days after assuming office disclosing reportable investments, business positions, and interests in real property held on, and income received during the twelve (12) months before, the date of assuming office.

D. After the initial filing, each person holding a designated position, shall, on or before the first day of March February of each calendar year, file an annual disclosure statement disclosing reportable investments, business positions, interests in real property and income held or received at any time during the previous calendar year, or since the date the designated employee took office if during the calendar year. Such annual statements shall cover the period of the preceding calendar year.
E. Every designated employee who leaves office shall file, within thirty (30) days of leaving office, a statement disclosing reportable investments, business positions, interests in real property and income held or received at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

F. Any designated employee who resigns their position within twelve (12) months following initial appointment or within thirty (30) days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position. Within thirty (30) days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

1) File a written resignation with the appointing power.

2) File a written statement with the filing officer on a form prescribed by the Commission and signed under the penalty of perjury stating that the individual during the period between appointment and resignation, did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

G. A designated employee required to file a statement of economic interest with any other public agency whose disclosure requirements are comparable hereto, may comply with the provisions of this Code by filing a duplicate copy of the statement filed with such other agency, in lieu of an entirely separate statement.

SECTION 6. Contents of Disclosure Statements. Disclosure statements shall be submitted on forms supplied by the City Clerk, and shall contain the following information:
A. Disclosure of Investment or Interest in Real Property.

1) When an investment or an interest in real property is required to be disclosed the statement shall contain:

   a) A statement of the nature of the investment or interest;
   b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
   c) The address or other precise location of the real property;
   d) A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars ($2,000) but does not exceed ten thousand dollars ($10,000), whether it exceeds ten thousand dollars ($10,000) but does not exceed one hundred thousand dollars ($100,000), whether it exceeds one hundred thousand dollars ($100,000) but does not exceed one million dollars ($1,000,000), or whether it exceeds one million dollars ($1,000,000);
   e) In the case of a statement filed under Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.
   f) For purposes of disclosure, interest in real property does not include the principal residence of the filer or any other property which the filer utilizes exclusively as a personal residence of the filer.

B. Disclosure of Income.

1) When income is required to be reported the statement shall contain, except as provided in subdivision (b):
a) The name and address of each source of income aggregating five hundred ($500) or more in value, or fifty dollars ($50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

b) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred ($500) but did not exceed one thousand dollars ($1,000), whether it was in excess of one thousand dollars ($1,000) but not greater than ten thousand dollars ($10,000), whether it was in excess of ten thousand dollars ($10,000) but not greater than one hundred thousand dollars ($100,000), or whether it was greater than one hundred thousand dollars ($100,000);

c) A description of the consideration, if any, for which the income was received;

d) In the case of a gift, the amount and the date on which the gift was received;

e) In the case of a loan, the annual interest rate and the security, if any, given for the loan, and the term of the loan.

2) When the filer's pro rata share of income to a business entity, including income to a sole proprietorship, is required to be reported, the statement shall contain:

a) The name, address, and a general description of the business activity of the business entity;

b) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person
was equal to or greater than ten thousand dollars ($10,000) during a calendar year.

3) When a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interest. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income.

4) When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, or as to which he or she is a paid consultant, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity. If the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or has done business, or plans to do business in the jurisdiction at any time during the two years prior to the date of the statement, it is required to be filed.

5) In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired to disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal;

SECTION 7. Prohibition on Receipt of Honoraria.

A. No member of the City Council or candidate for the office of City Council shall accept any honorarium. No designated employee shall accept any honorarium from any source if
the employee would be required to report the receipt of income or gifts from that source on
his or her statement of economic interests.

Subdivisions (b) of Government Code Section 89502 shall apply to the prohibitions
in this section. This section shall not limit or prohibit payments, advances, or
reimbursements for travel and related lodging and subsistence authorized by Government
Code Section 89506.

SECTION 8. Prohibition on Receipt of Gifts of $320 or More.
A. No member of the City Council, candidate for the office of City Council, or designated
employee shall accept any gifts with a total value of more than \text{two hundred fifty}
twenty-dollars ($250) in a calendar year from any single source.

Subdivision (b) of Government Code Section 89503 shall apply to this section.

SECTION 9. Disqualification. No designated employee shall make, participate in making, or in any
way attempt to use his or her official position to influence the making of any governmental decision
which he or she knows or has reason to know will have a reasonably foreseeable material financial
effect, distinguishable from its effect on the public generally, on the employee or a member of his
or her immediate family or on:

A. Any business entity in which the designated employee has a direct or indirect
investment worth two thousand dollars ($2,000) or more;

B. Any real property in which the designated employee has a direct or indirect interest
worth two thousand dollars ($2,000) or more;

C. Any source of income, other than gifts or loans by a commercial lending institution
in the regular course of business on terms available to the public without regard to official
status, aggregating five hundred dollars ($500) or more in value provided to, received by or
promised to the designated employee within twelve (12) months prior to the time when the decision is made;

D. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

E. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two three hundred fifty twenty dollars ($250 320) or more in value provided to, received by, or promised to the designated employee within twelve (12) months prior to the time when the decision is made.

F. No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

G. For purposes of this Section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

1. Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.
SECTION 10. **Manner of Disqualification.** When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor. This notice shall be forwarded to the Administrative Supervisor, who shall record the employee's disqualification. Upon receipt of such statement, the Administrative Supervisor shall immediately arrange for the matter to be reassigned to another employee.

SECTION 11. **Interpretation.** In the event of any ambiguity in these rules as to interpretation, construction, or applicability, the Administrative Supervisor shall, by written instrument, clarify such ambiguity. Any designated employee who is unsure of his or her duties under this Code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114, or from the City Attorney, provided that nothing in this section requires the attorney for the City to issue any formal or informal opinion.

SECTION 12. **Violation.** Violation of any provision of this Code, including: (1) willful failure to file, or timely file, any requisite Disclosure Statement, (2) willful failure to disclose any financial or other interest required to be disclosed in such Disclosure Statement, or (3) filer's willful failure to disqualify himself or herself as required herein, shall be grounds for discipline or removal from office, pursuant to Government Code Section 91003.5. Upon ascertaining any such violation, the Administrative Supervisor shall report the same to the appointing official for appropriate proceedings. Such violation shall not, however, invalidate or otherwise affect any decision or action to which such violations might relate. Designated employees violating any provision of this Code are subject to the administrative, criminal and civil sanctions provided in the Act, Government Code Sections
81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

SECTION 13. Effective Date. The City of Porterville Conflict of Interest Code, and any amendments to said Code, shall become effective immediately upon passage and approval by the City Council.

Adopted this 19th day of September, 2006.

CONFLICTS AND DISCLOSURE MONITOR AGENCY

By _________________________________________

John Longley, Administrative Supervisor
A. ADMINISTRATION:
   1. Deputy City Manager

B. DEPARTMENT DIRECTORS:
   1. Community Development Director
   2. Fire Chief
   3. Parks and Leisure Services Director
   4. Police Chief
   5. Public Works Director

C. DEPARTMENTAL EMPLOYEES AS FOLLOWS:
   1. Administrative Services Department
      a. Purchasing Agent
   2. Community Development Department:
      a. Development Associate
   3. Fire Department:
      a. Chief of Fire Operations
   4. Public Works Department
      a. Chief Building Official
      b. City Engineer
      c. Field Services Manager

D. CONSULTANTS: Consultants shall disclose pursuant to the broadest disclosure category in the Code subject to the following limitations:

The Administrative Supervisor may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Administrative Supervisor's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

* This designation does not include the following City officials or employees required to report their financial interests pursuant to Article 2 of Chapter 7 of the Act, Government Code Sections 87200, et seq.:
   a. City Council Members
   b. City Manager
   c. City Attorney
   d. Administrative Services Manager (In lieu of Finance Director)
   e. Chief Financial Officer (In lieu of Treasurer)
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

Item No. 12
SUBJECT: CONSIDERATION OF RE-STRIPI NG STREET S WITHIN THE CITY – REQUEST FOR CONTINUATION

SOURCE: Public Works Department - Engineering Division

COMMENT: The Engineering Division of the Public Works Department is currently working to gather information for re-striping streets within the City. It is staff’s intent to define costs, options and potential sources of funding. Presentation of this item was scheduled for the September 19, 2006 Council meeting; however, as of this date the report has not been finalized due to the need for in-depth review.

RECOMMENDATION: That the City Council continue this item to October 3, 2006.
SUBJECT: CITY POLICY CONCERNING THIRD PARTY PRESENTATIONS DURING CITY COUNCIL MEETINGS AND USE OF CITY EQUIPMENT

SOURCE: CITY ATTORNEY

COMMENT: The City has been receiving frequent requests by third parties to utilize the City’s equipment for the purposes of presenting information, via use of the City’s computers and overhead screen, during the City Council Meetings. Given the possibility of technical difficulties, especially if the information is not received enough in advance to ensure that the presentation will work, and this office’s concern regarding due process considerations, this office and City Staff recommends that the City Council consider adopting a policy with regard to such presentations. A draft policy is attached for the Council’s consideration.

RECOMMENDATION: That the City Council consider and adopt the draft resolution and proposed City Policy Concerning Third Party Presentations During City Council Meetings and Use of City Equipment

ATTACHMENTS: 1. Draft Resolution
2. City Policy Concerning Third Party Presentations During City Council Meetings and Use of City Equipment

Item No. 13A
RESOLUTION NO. _____-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING A CITY COUNCIL POLICY REGARDING THIRD PARTY PRESENTATIONS DURING CITY COUNCIL MEETINGS AND USE OF CITY EQUIPMENT

BE IT HEREBY RESOLVED by the City Council of the City of Porterville that the attached Third Party Presentations During City Council Meetings and Use of City Equipment Policy for the City of Porterville is hereby adopted, and the City Manager is hereby authorized to execute said document.

ADOPTED this 19th day of September, 2006.

______________________________
Cameron Hamilton, Mayor

ATTEST:

______________________________
Georgia Hawley, Chief Deputy City Clerk
The City has been receiving frequent requests by third parties to utilize the City’s equipment for the purposes of presenting information electronically, via use of the City’s computers and overhead screen, during the City Council Meetings. It is important that the City Council meetings proceed with efficiency and that information that third parties wish to ensure are part of the public record are in fact entered into the public record. Therefore, the City sets forth the following policy concerning third party presentations and use of City equipment during the City Council Meetings.

1. If any individual or organization wishes to present information via the City’s electronic equipment during a City Council meeting, the information, in both electronic and written form, must be delivered to the City Clerk’s office no later than 12:00 p.m. (noon) the Thursday before the City Council’s regular meeting the following Tuesday. If the presentation is for a Special Meeting, the information must be delivered to the City Clerk’s office during regular business hours, at least 24 hours in advance of the meeting.

2. City staff shall review the information to be presented and will contact the presenter if any of the material is objectionable and requires modification. This provision will be interpreted in accordance with the requirements of the Brown Act and other applicable laws.

3. The presenter is required to utilize his/her own computer equipment and a compatible interface with the City’s equipment, for the presentation. The presenter is required, prior to giving the presentation, to have consulted with City staff to ensure that the presenter’s equipment and software is compatible with the City’s equipment and software.

4. The City shall not be responsible for any technological or equipment failure with regard to the proposed presentation. It is the responsibility of the presenter and/or third party to provide the presentation in written form to the City, on or before the time for the presentation or hearing, for the purposes of entering the material into the public record.

5. The standard time allowed for oral communications and oral testimony during public hearings, is 3 minutes per person. The City Council has and continues to maintain the discretion to allow additional time. The presenter must provide written copies of the presentation materials, during the time frames as required by law for delivery such materials, in order to ensure entry into the public record.
CITY COUNCIL AGENDA: SEPTEMBER 19, 2006

PUBLIC HEARING

SUBJECT: CONDITIONAL USE PERMIT 6-2006 - PROPOSED CHURCH (VICTORY OUTREACH)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of Conditional Use Permit 6-2006 to allow for the conversion of a 7,434± square foot building into a church consisting of a sanctuary, classrooms, offices, library and meeting rooms for that site located at 129 North "D" Street in the C-2 (Central Commercial) Zone. Pursuant to Section 801.5 of the Porterville Zoning Ordinance, churches are allowed with approval of a conditional use permit. Approval of this request would rectify a current violation in that the building has been converted into a church without an approved conditional use permit or building permit.

Pursuant to Section 2202 A-3 of the Zoning Ordinance, one (1) parking space is required for every five (5) seats within the sanctuary of a church. The main sanctuary for the subject project has a capacity for 299 occupants, therefore, 60 parking spaces are required. The subject site has only ten (10) spaces.

Section 2205 A-2 of the Zoning Ordinance allows off-site parking for the proposed use, but spaces shall not be more than three hundred (300) feet from the building or use served thereby.

The applicant has sent a letter to property owners in the vicinity of the church requesting use of their property for church parking which stated the following:

“Our services are held on Friday evenings at 7:00 pm, and Sunday mornings at 10:00 am and 6:00 pm. It would be during these times that we would need the parking spaces if at all necessary”.

Accordingly, a condition of approval has been added to limit the assembly use of the facility to the times specified. Five neighboring property owners located within a 500-foot radius of the subject site have submitted letters of commitment to allow the use of their parking spaces, resulting in a total of 83 spaces available for use by the Victory Outreach Church during the above referenced times. Within a 300-foot radius, neighboring property owners have committed to provide a total of 35 parking spaces. Including the 10 parking spaces on site, this results in a total of 45 parking spaces within the 300-foot radius of the subject site. The remaining 48 committed parking spaces are outside of the 300-foot radius.

ITEM NO. 14
STAFF ANALYSIS:

Although fifteen (15) required parking spaces are outside of the 300-foot radius, it is in keeping with the concept of shared parking within the downtown area due to the limited nature of the use and the use's temporary status, Staff believes that the proposed parking will adequately serve the use. After review of the situation, staff has defined three alternatives for Council to consider.

**ALTERNATIVE A:** Approve Conditional Use Permit 6-2006, while allowing the seating capacity to remain the same with an occupancy of 299 seats. The City Council could grant an exception to Section 2205 A-2 of the Zoning Ordinance to allow the use of the required 15 parking spaces available beyond the 300-foot radius of the subject site to be considered in the overall parking requirement of 60 parking spaces.

**ALTERNATIVE B:** Approve Conditional Use Permit 6-2006 with a modification to the site plan to reduce the square footage of the sanctuary to accommodate a maximum of 225 occupants, resulting in a total of 45 parking spaces required, which would be available on site and within 300 feet of the church and in conformance with Section 2205 A-2 of the Zoning Ordinance.

**ALTERNATIVE C:** Deny Conditional Use Permit 6-2006 and require that appropriate permits required by the Building Division be acquired, the interior construction of the building be removed, and the existing building brought back into its original character.

In response to this request and due to the current condition, use, and function of the building, Staff is proposing Alternative A as the preferred solution.

ENVIRONMENTAL: This project is Categorically Exempt pursuant to Section 15303, Class 3 of the CEQA Guidelines – new construction or conversion of small structures. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

RECOMMENDATION: That the City Council:

1. Adopt the Draft Resolution conditionally approving Conditional Use Permit 6-2006 as recommended by Staff in Alternative A.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: SEPTEMBER 19, 2006

PUBLIC HEARING - STAFF REPORT

TITLE:  CONDITIONAL USE PERMIT 6-2006- PROPOSED CHURCH (VICTORY OUTREACH)

APPLICANT:  Pastor Nestor Lambarena
1192 E. Jasmin
Porterville, CA. 93257

AGENT: Townsend Architectural Group
633 N. Westwood St. Suite “A”
Porterville, CA 93257

SPECIFIC REQUEST: The applicant is requesting approval of Conditional Use Permit 6-2006 to allow for the conversion of a 7,434± square foot building into a church consisting of a sanctuary, classrooms, offices, library and meeting rooms for that site located at 129 North “D” Street in the C-2 (Central Commercial) Zone. Pursuant to Section 801.5 of the Porterville Zoning Ordinance, churches are allowed with approval of a conditional use permit. Approval of this request would rectify a current violation in that the building has been converted into a church without an approved conditional use permit or building permit.

PROJECT DETAILS: Pursuant to Section 2202 A-3 of the Zoning Ordinance, one (1) parking space is required for every five (5) seats within the sanctuary of a church. The main sanctuary for the subject project has a capacity for 299 occupants, therefore, 60 parking spaces are required. The subject site has only ten (10) spaces.

Section 2205 A-2 of the Zoning Ordinance allows off-site parking for the proposed use, but spaces shall not be more than three hundred (300) feet from the building or use served thereby.

The applicant has sent a letter to property owners in the vicinity of the church requesting use of their property for church parking which stated the following:

"Our services are held on Friday evenings at 7:00 pm, and Sunday mornings at 10:00 am and 6:00 pm. It would be during these times that we would need the parking spaces if at all necessary”.

Accordingly, a condition of approval has been added to limit the assembly use of the facility to the times specified. Five neighboring property owners located within a 500-foot radius of the subject site have submitted letters of commitment to allow the use of their parking spaces, resulting in a total of 83 spaces available for use by the Victory Outreach Church during the above referenced times. Within a 300-foot radius, neighboring property owners have committed to provide a total of 35 parking spaces. Including the 10 parking spaces on site, this results in a total of 45 parking spaces.
within the 300-foot radius of the subject site. The remaining 48 committed parking spaces are outside of the 300-foot radius.

GENERAL PLAN AND ZONING: The General Plan designates the site as General Commercial. The subject site is zoned City C-2 (Central Commercial).

SURROUNDING ZONING AND LAND USE:

North: Commercial uses.
South: Commercial uses.
East: Commercial uses.
West: Commercial uses.

STAFF ANALYSIS:

Although fifteen (15) required parking spaces are outside of the 300-foot radius, it is in keeping with the concept of shared parking within the downtown area due to the limited nature of the use and the use’s temporary status. Staff believes that the proposed parking will adequately serve the use. After review of the situation, staff has defined three alternative actions for Council to consider.

ALTERNATIVE A: Approve Conditional Use Permit 6-2006, while allowing the seating capacity to remain the same with an occupancy of 299 seats. The City Council could grant an exception to Section 2205 A-2 of the Zoning Ordinance to allow the use of the required 15 parking spaces available beyond the 300-foot radius of the subject site to be considered in the overall parking requirement of 60 parking spaces.

ALTERNATIVE B: Approve Conditional Use Permit 6-2006 with a modification to the site plan to reduce the square footage of the sanctuary to accommodate a maximum of 225 occupants, resulting in a total of 45 parking spaces required, which would be available on site and within 300 feet of the church and in conformance with Section 2205 A-2 of the Zoning Ordinance.

ALTERNATIVE C: Deny Conditional Use Permit 6-2006 and require that appropriate permits required by the Building Division be acquired, the interior construction of the building be removed, and the existing building brought back into its original character.

In response to this request and due to the current condition, use, and function of the building, Staff is proposing Alternative A as the preferred solution.

ENVIRONMENTAL: This project is Categorically Exempt pursuant to Section 15303, Class 3 of the CEQA Guidelines – new construction or conversion of small structures. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: July 19, 2006
DATE ACCEPTED AS COMPLETE: August 3, 2006

RECOMMENDATION: That the City Council:

1. Adopt the Draft Resolution conditionally approving Conditional Use Permit 6-2006 as recommended by Staff in Alternative A.

ATTACHMENTS:

1. Land Use/Zoning/General Plan Map
2. Application
3. Notice of Exemption
4. Typical letter sent to business owners requesting parking after business hours
5. Aerial locator of businesses contacted
6. Site plans of businesses contacted
7. Response letters from businesses contacted
8. Draft Resolution conditionally approving Conditional Use Permit 6-2006 as recommended by Staff in Alternative A and site plan/floor plan Exhibit “A”.
CITY OF PORTERVILLE

APPLICATION FOR CONDITIONAL USE PERMIT

NOTE: The basic purpose of the Conditional Use Permit Article 29 of The City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the Ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

PROJECT NAME: 

Victory Outreach Church Porterville

_____________________________________________________

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF PROPERTY OWNER(S):

Dwight Martin Trust Joanne M. Stephen TEE
P.O. Box 10611 Terra Bella, CA 93270

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF APPLICANT/CONTACT PERSON:

Nestor Lambarena 559-793-0845
192 E Jasmine Porterville CA 93257

PROJECT ADDRESS AND NEAREST CROSS STREETS:

129 N 1st Porterville CA
(OAK ST)

The applicant requests a Conditional Use Permit to use the above described property for the following purposes:

Church / Sanctuary

_____________________________________________________

Date of most recent sale of property: N/A

If applicant is the lessee, give date property was leased: 2-17-06

List below the original deed restrictions pertaining to the type of improvements permitted.

N/A

_____________________________________________________

Date said restrictions expire: _______________________

(Please attach a copy of original printed restrictions in answer to this question. Properly underline those features controlling the type and class of uses permitted).
A Plot Plan and 300’ radius property owners map, and corresponding mailing list are attached and made a part of this application. (See detailed instructions on Page 4 of this form).

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

   \[ U/A \]

2. Principal requirements of intended use (Please answer the following statements as completely as possible).

   (a) Total number of people that the building can accommodate at one time, or grounds if the use is not conducted in the building at one time (Occupancy Capacity).

      \[ 299 \]

   (b) Total number of employees that will work on the property.

      \[ 5 \]

   (c) Total number of off-street parking spaces provided or planned.

      \[ 83 \]

   (d) Maximum height of buildings or structures.

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

      \[ 2-3 \text{ years} \]
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).

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Name</th>
<th>Address</th>
<th>APN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Joanne M. Stephe</td>
<td>P.O. Box 19</td>
<td>252-200-012-000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>129 N. O St</td>
<td></td>
</tr>
</tbody>
</table>

OWNER'S DECLARATION

STATE OF CALIFORNIA  )  ss  
COUNTY OF TULARE  )

I, Joanne M. Stephe, 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

1941 W. Devin Ave this 3rd day of August, 2006.

Telephone (559) 359-7265  Signed Joanne M. Stephe

Mailing Address: P.O. Box 10611
Terra Bella, CA 93220

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 ___________________________  Receipt No. ____________

Date

By ___________________________________________
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Tulare

On 9-3-2006 before me, Keri Dunning Notary Public.

personally appeared Joanne Stephen

Names(s) of Signer(s)

☐ personally known to me

☐ (or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document
and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: ________________________________

Document Date: ________________________________ Number of Pages: ________________________________

Signer(s) Other Than Named Above: ________________________________

Capacity(ies) Claimed by Signer(s)

Signer’s Name: ________________________________

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: ________________________________

Signer Is Representing: ________________________________

Signer’s Name: ________________________________

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: ________________________________

Signer Is Representing: ________________________________
NOTICE OF EXEMPTION

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

Tulare County Clerk
County Civic Center
Visalia, CA 93291

FROM: City of Porterville
291 N. Main Street
Porterville, California 93257

Nestor Lambarena
1192 E. Jasmine South Dr.
Porterville, CA 93257

Conditional Use Permit 6-2006

Project Title

129 North “D” Street

Project Location (Specific)

City of Porterville

Tulare

Project Location (City)

Project Location (County)

Conditional Use Permit to allow for the conversion of an existing 7350+ square foot commercial building into a church.

Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville

Name of Public Agency Approving Project

Nestor Lambarena, 1192 E. Jasmine South Dr., Porterville, CA 93257

Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

____________ Ministerial (Section 15073)

_________ Declared Emergency (Section 15071 (a) )

_________ Emergency Project (Section 15071 (b) and (c) )

X ______ Categorical Exemption. State type and section number: 15303, Class 3

New construction or conversion of small structures

Reasons why project is exempt

Bradley D. Dunlap, AICP, Community Development Director

Contact Person

IfFiled by Applicant:

1. Attached certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the Project? Yes: ______ No: ______

Date Received for filing: ____________________________

Signature
ACTING CD DIRECTOR
Community Development Director
Title

U/NoticeExempt CUP 6-2006

ATTACHMENT
ITEM NO. 3
March 23, 2006

To: Len’s Electro Tune
148 N. ‘D’ St.
Porterville, Ca.

Attn.: Manager / Owner

RE: Parking Lot Usage

To Whom It May Concern:

We, Victory Outreach Church of Porterville, are in the process of obtaining the use of the facility located at 129 N. ‘D’ St., Porterville for our offices and church services. We have been in existence here in the city of Porterville for the past 10 years with a congregation of 150 people.

Due to city ordinances, we are required to have ample parking spaces for the size of our facility. It is at this time that we would like to ask for your permission to use your parking lot after your business hours. Our services are held on Friday Evenings at 7:00 p.m., Sunday Mornings at 10:00 a.m. and 6:00 p.m. It would be during these times that we would need the parking spaces if at all necessary.

Thank you very much for your time and consideration in this matter. Should you have any questions, please do not hesitate to call me.

Sincerely,

[Signature]

Pastor Nestor Lambarena
Senior Pastor

we are hereby granting min of 12 parking spaces to Victory Outreach of Porterville for use at their discretion.

129 N. ‘D’ St. * Mailing: 1279 W. Henderson, #195 * Porterville, CA 93257

Phone: (559) 782-8759 * Fax: (559) 782-5971 * E-mail: portervo@earthlink.net

ATTACHMENT
ITEM NO. 4
Area Parking Plot Plan

Len's Electro Tune, Approx. 143ft away.

Porterville Physical Therapy, Approx. 239ft. away.

Dr. Tindall M.D., Approx. 356ft. away.

Sprague's, Approx. 355ft. away.

Smith Flower Shop, Approx. 478ft. away.

Total Parking Stalls Accumulated, 83.
Len's Electro Tune 148 N "D" St.
Porterville Physical Therapy 112 N "D" St.
Dr. Tindall M.D. 108 N "D" St.
Sprague's 75 N "D" St.
Victory Outreach 129 N "D" St.
Martin South 40, Inc.
P.O. Box 10611
Terra Bella, CA 93270
(559) 535-5174

April 6, 2006

To Whom It May Concern:

RE: Parking spaces allocated to the building located at 149 N. D St. Porterville, CA 93257.
Victory Outreach has the permission of Martin South 40, Inc. as owners and The Sound Garden as renters to use any parking spaces necessary during church services.

Sincerely,

Joanne M. Stephen, President
Martin South 40, Inc.

Vernon Martin, Owner
The Sound Garden
March 28, 2006

Victory Outreach
129 N. D Street
Porterville, Ca 93257

RE: Parking Lot Usage

To Whom It May Concern:

Porterville Physical Therapy will allow Victory Outreach to utilize our parking area after our business hours for their services. If more information is needed regarding this matter, please contact our facility.

Sincerely,

Chris Lewis, P.T.

Chris Lewis, RPT
To Whom It May Concern:

We at Enterprise Rent-A-Car located at 119 North D Street in Porterville, CA would like to give Victory Outreach Church permission to use our parking lot for parking of their guests during hours of non operation at our business. We have a total of 10 spaces available and if these spaces are available to them during the hours that we are closed, they are more then welcome to use them. If we have units that are parked in some of these 10 spaces on the weekend when we are closed, we ask that no cars are parked near these units to avoid any liability of damage to the rentals. As for the remaining parking spaces that will be available, they will have our permission to use these parking spaces. Feel free to call me should you have any further questions. Thank You.

Sincerely,

[Signature]
Desiree Espinoza
Branch Rental Manager
Enterprise Rent-A-Car/ Porterville, CA
March 30, 2006

Victory Outreach Porterville

RE: Parking Lot Usage

To Whom It May Concern:

In response to your letter asking for the use of Smith’s Flowers parking lot at 55 N. “D” Street for church services on Saturdays and Sundays, there is no conflict as the use would be after our business hours.

The Victory Outreach Church has permission from Smith’s Flowers for use of our parking Lot.

Sincerely,

Mary Fernandez
Manager

20 parking spaces – MET
March 29, 2006

Victory Outreach Program
129 N D Street
Porterville, CA 93257

Dear Pastor Lambarena:

We would be happy to share our parking spaces with you for your Friday evening and Sunday services. We have approximately 10 to 12 spaces for you to use.

Sincerely,

[Signature]
Renay Sprague
March 28, 2006

Pastor Nester Lambarena
1279 W. Henderson
Porterville, CA 93257

Dear Pastor Lambarena:

Please feel free to use our parking lot at the times stated if you need it.

Best personal regards,

[Signature]

Mark Tindall, M.D.

MLT:bl
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF CONDITIONAL USE PERMIT 6-2006 TO
ALLOW THE CONVERSION OF A 7,434± SQUARE FOOT BUILDING INTO A CHURCH
FOR THAT SITE LOCATED AT 129 NORTH “D” STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of September 19, 2006, conducted a public hearing to consider Conditional Use Permit 6-2006,
being a request to allow for the conversion of a 7,434± square foot building into a church consisting
of a sanctuary, classrooms, offices, library and meeting rooms for that site located at 129 North “D”
Street in the C-2 (Central Commercial) Zone; and

WHEREAS: Pursuant to Section 801.5 of the Porterville Zoning Ordinance, churches are
allowed with approval of a conditional use permit; and

WHEREAS: Pursuant to Section 2202 A-3 of the Zoning Ordinance, one (1) parking place
is required for every five (5) seats within the sanctuary of a church. The main sanctuary for the
subject project has a capacity for 299 occupants, therefore, a total of 60 parking spaces are required.
The subject site has only ten (10) spaces; and

WHEREAS: Section 2205 A-2 of the Zoning Ordinance allows off-site parking for the
proposed use, but spaces shall not be more than three hundred (300) feet from the building or use
served thereby; and

WHEREAS: The applicant has obtained approval of property owners in the vicinity of the
church for use of their property for church parking; and

WHEREAS: Five neighboring property owners located within a 500-foot radius of the
subject site have submitted letters of commitment to allow the use of their parking spaces, providing
a total of 83 spaces available for use by the Victory Outreach Church during the above referenced
times. Within a 300-foot radius, neighboring property owners have committed to provide a total of
35 parking spaces. Including the 10 parking spaces on site, this results in a total of 45 parking spaces
within the 300-foot radius of the subject site. Of the remaining 48 committed parking spaces, 15
parking spaces are required, and are outside of the 300-foot radius; and

WHEREAS: The City Council made the following findings with respect to the subject
project:

1. The General Plan designates the subject site as General Commercial.
   The subject site is zoned C-2 (Central Commercial) which is supported by the
   General Plan. The proposed use is allowed pursuant to approval of a Conditional Use
   Permit.

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

ATTACHMENT
ITEM NO. 8
The soil is not highly expansive and therefore will not create any barriers to conversion of the existing building into a church. The masonry building currently exists, and the parking areas, both on and off site are constructed to City Standards.

3. That the design of the project or the proposed improvements are not likely to cause substantial environmental damage.

The subject site is developed with an existing building and paved parking area. 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.

Conditions of approval are included to ensure adequate development standards are met.

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.

6. That the project as proposed complies with all design standards of the Zoning Ordinance with the exception of the availability of the total number of parking spaces required on site and/or within 300 feet from the building or use served thereby. Due to the limited use of the facility, the Council has found that it is appropriate to extend the allowable distance for required parking.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 6-2006, subject to the following conditions:

1. As seating capacity is to remain the same with an occupancy of 299, the project must be granted by the City Council an exception to Section 2205 A-2 of the Zoning Ordinance to allow the use of the required 15 parking spaces available located outside of the 300 foot radius of the subject site to be considered in the overall parking ratio of 60 parking spaces required.

2. The Conditional Use Permit shall be effective for a period of two (2) years from the date of building permit issuance; at that time, the Council will evaluate the adequacy of parking provided on surrounding properties. If parking or other operational issues arise, the City Council can choose to call up the Conditional Use Permit for review at any time.
3. At all times, the facility shall be operated and maintained to comply with State law, the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.


5. The developer/applicant shall pay all applicable fees in accordance with the Municipal Code and State law. 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.

6. The developer/applicant shall construct new and/or repair damaged City improvements, if any (e.g. street "pave-out", alley "pave-out", sidewalk, wheelchair ramp, curb, gutter, etc.) along the full frontage of 129 North “D” Street.

7. The developer/applicant shall follow Appendix Chapter 33 of the California Building Code including provision of a grading and drainage plan signed by a licensed civil engineer or architect, should the construction of a parking lot become part of the proposal to resolve parking requirements. 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.

8. The developer/applicant shall comply with the City standard for "backflow" prevention pursuant to Resolution No. 9615.

9. The developer/applicant shall install a refuse container enclosure according to City standards. The enclosure location is to be approved by City staff prior to issuance of building permit. Enclosure should be oriented for direct stab pick up. 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.

10. The existing Palm tree in front of the building shall be retained within a minimum twenty (20) square-foot planter area bordered by a 6-inch raised concrete curb. A minimum of one hundred (100) square-feet of additional planter area shall be provided on the site, and shall be fully landscaped with live plant material. At least one additional tree is to be included within the planter area. 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.

11. The owner/applicant shall provide an automatic irrigation system for all landscape 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 cleanly appearance.
12. The proposed church is designated an A-3 occupancy under the California Building Code.

13. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include two (2) sets of energy and structural calculations.

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

15. Compliance with all applicable codes is required.

16. Plan check fees are required at the time of building permit submittal. All other City fees are due at the time of building permit issuance.

17. Signs require a separate permit.

18. Exit doors must swing outward only.

19. The following Occupancy Load sign must be posted conspicuously above the doorway of the main auditorium: Maximum Occupancy not to exceed 299 persons.

20. That the proposed project will be constructed pursuant to Exhibit “A”.

21. The hours of operation shall be on Friday evenings at 7:00 pm, and Sunday mornings at 10:00 am and Sunday evenings at 6:00 pm. At no time will the hours of church functions be allowed during business hours of adjoining business owners allowing the church to utilize their parking area. Any change in the days/hours of church functions shall require a modification to the conditional use permit.

22. Section 3101A-4 (Grounds for Revocation) of the Porterville Zoning Ordinance states in brief that any violation of or failure to observe the terms or conditions of the permit could result in the conditional use permit becoming null and void and the use of the site for the church would no longer be allowed until a new use permit is approved. Further, the conditional use permit shall become null and void at the expiration of the term thereof, or if not undertaken and actively and continuously pursued within the time specified in the permit or within one (1) year if no time is specified therein.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By _______________________
Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: SEPTEMBER 19, 2006

PUBLIC HEARING- CONTINUED

SUBJECT:  ENNIS ESTATES TENTATIVE SUBDIVISION MAP (ENNIS HOMES)

SOURCE:  COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT:  On September 5, 2006, by Minute Order 14-090506, the City Council continued the public hearing for the proposed Ennis Estates project and requested that a closed session on the matter be scheduled. That evening, representatives of Ennis Homes and Burton School District presented information to the City Council regarding the compatibility of the project and adjacent projects.

As there was such lengthy testimony and there has been adequate threat of litigation, the Council determined that in the best interest of all parties, the public hearing should be continued to the next meeting to allow the Council to discuss the matter in Closed Session. The majority of comments received at the public hearing addressed connectivity, both vehicular and pedestrian in nature.

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 (17,000 square foot average) 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.

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

Item No. 15
2. Adopt the draft resolution approving Ennis Estates Tentative Subdivision Map, subject to conditions of approval.

ATTACHMENT:

1. Complete Staff Report from September 5, 2006, including resolutions.
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. A

And
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    ☑ Air Quality
☐ Biological Resources    ☐ Cultural Resources    ☐ Geology/Soils
☐ Hazards & Hazardous Materials    ☑ Hydrology/Water Quality    ☐ Land Use / Planning
☐ Mineral Resources    ☐ 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:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☑ 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 MIGITATED 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

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?  

<table>
<thead>
<tr>
<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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</tbody>
</table>

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

<table>
<thead>
<tr>
<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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</tbody>
</table>

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?  

<table>
<thead>
<tr>
<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>

**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.
<table>
<thead>
<tr>
<th>Regulation VIII Control Measures — The following controls are required to be implemented at all construction sites.</th>
</tr>
</thead>
<tbody>
<tr>
<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>
</tr>
<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>
</tr>
<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>
</tr>
<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>
</tr>
<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>
</tr>
<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>
</tr>
<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>
</tr>
<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>
</tr>
<tr>
<td>Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.</td>
</tr>
<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>
</tr>
</tbody>
</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>A dust control plan shall contain all of the following 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>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.</th>
</tr>
</thead>
<tbody>
<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>Suspended 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>
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<th>No Impact</th>
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<tbody>
<tr>
<td>a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</td>
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<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>
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<tr>
<td>ii) Strong seismic ground shaking?</td>
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<tr>
<td>iii) Seismic-related ground failure, including liquefaction?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>iv) Landslides?</td>
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<tr>
<td>b) Result in substantial soil erosion or the loss of topsoil?</td>
<td>☐</td>
<td>☐</td>
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<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>
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<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>
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<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>
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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? | □ | □ | □ | ✗ |
| 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? | □ | □ | □ | ✗ |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | □ | □ | □ | ✗ |
| 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? | □ | □ | □ | ✗ |
| 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? | □ | □ | □ | ✗ |
| 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? | □ | □ | □ | ✗ |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | □ | □ | □ | ✗ |
| 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? | □ | □ | □ | ✗ |

**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 plan.

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:**

a) Physically divide an established community?

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?

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

**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:

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<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
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<th>No Impact</th>
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</table>

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.
XI. NOISE — Would the project result in:

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<tbody>
<tr>
<td>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?</td>
<td>☐</td>
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<td>b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?</td>
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<td>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
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<td>d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
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<td>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?</td>
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<td>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?</td>
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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:

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)?

   □   □   □   □   ☒

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:

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<th>Potentially Significant Impact</th>
<th>Less than Significant Impact With Mitigation Incorporation</th>
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<tr>
<td>Fire protection?</td>
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<td>Police protection?</td>
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<td>Parks?</td>
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<td>Other public facilities?</td>
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**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:

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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:

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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)?

b)  Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

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c)  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?

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d)  Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

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e)  Result in inadequate emergency access?

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f)  Result in inadequate parking capacity?

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g)  Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

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<th>Less than Significant With Mitigation Incorporation</th>
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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?

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 be 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 project’s 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? ☐ ☐ ☐ ☒

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)? ☐ ☐ ☐ ☒

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? ☐ ☐ ☐ ☒

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>
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<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 1 and 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>
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<td>Potential Impact</td>
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<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 Lombardi 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>
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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
PROLONATION 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: The City Council of the City of Porterville continued the public hearing to
September 19, 2006; 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).

ATTACHMENT
ITEM NO. 4
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 65 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 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 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: The City Council of the City of Porterville continued the public hearing to September 19, 2006; 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 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:


2. 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.

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

5. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. 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.

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

7. The developer/applicant shall cause all unnecessary easements to be vacated prior to or in conjunction with the Final Map processing.

8. 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.

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:

- 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;

c. Lot corners are marked;

d. 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 turn-around 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.

ATTACHMENT
ITEM NO. 6
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 “lollypop” 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
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.
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 Porterville 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 Matthew 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

J:\wdocs\00298\023\tr\00138122.DOC
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

Board of Trustees
Mr. Leonard Ratekin, President  Mr. Eric Kroutil, Vice President  Mrs. Obdulia Guzman-Alvarado, Clerk
Dr. John Buck, Member  Mr. John Burkey, Member
564 North Westwood Street • Porterville, California 93257-2542 • (559) 781-8020 • FAX (559) 781-1403
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.

ATTACHMENT
ITEM NO. 7
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 19, 2006

PUBLIC HEARING

SUBJECT: CONSIDERATION OF THE ADOPTION OF A NOISE ORDINANCE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: When the City Council adopted the Noise Element of the General Plan in 1987, it included a draft noise ordinance proposed for adoption. For reasons unknown to Staff, the draft ordinance was not adopted. In July of 2005, Staff brought to Council a revised draft of this ordinance to be adopted in response to a number of noise related issues. At that time, a Council member requested modifications to the ordinance. The ordinance presented to Council tonight addresses those comments. It should be noted that upon development of the updated Noise Element to be completed with the comprehensive General Plan Update, revisions to the ordinance might be necessary.

A specific request of a Council member was to codify a process wherein a complainant of a noise violation would not be required to follow through with filing a complaint, and would instead allow the responding officer to process the complaint on the complainant's behalf. Based on information from the Police Department, staff could find no legal method to achieve this goal. As is currently the case, a complainant must be involved in processing the paperwork if more than just a visit is required.

RECOMMENDATION: That the City Council:

1. Approve the proposed ordinance and give first reading to the draft ordinance.

2. Waive further reading of the Ordinance and order the Ordinance to print.

ATTACHMENTS:

1. Complete Staff Report

DD [Signature] Appropriated/Funded [Signature] CM Item No. 16
SUBJECT: CONSIDERATION OF THE ADOPTION OF A NOISE ORDINANCE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: When the City Council adopted the Noise Element of the General Plan in 1987, it included a draft noise ordinance proposed for adoption. For reasons unknown to Staff, the draft ordinance was not adopted. In July of 2005, Staff brought to Council a revised draft of this ordinance to be adopted in response to a number of noise related issues. At that time, a Council member requested modifications to the ordinance. The ordinance presented to Council tonight addresses those comments. It should be noted that upon development of the updated Noise Element to be completed with the comprehensive General Plan Update, revisions to the ordinance might be necessary.

A specific request of a Council member was to codify a process wherein a complainant of a noise violation would not be required to follow through with filing a complaint, and would instead allow the responding officer to process the complaint on the complainant’s behalf. Based on information from the Police Department, staff could find no legal method to achieve this goal. As is currently the case, a complainant must be involved in processing the paperwork if more than just a visit is required.

As noted when Council last reviewed this project, Staff reviewed the originally proposed draft ordinance and is recommending that the Council consider amending a few provisions prior to adoption. Following is a brief discussion of the issue areas that Staff believes should be addressed:

**Section 18-82 Noise Measurements Criteria**

The draft ordinance defines noise levels specifically by using decibel levels, which is certainly effective, but not always feasible. Staff, including police officers, may not always have at their disposal a noise measurement device, so it is recommended that additional, supplemental options for determining whether a violation exists be included in the Ordinance.

**Section 18-85 Noise Source Exemptions**

The draft ordinance includes a list of exemptions from the noise level standards as defined. The Council may want to consider whether the full extent of the exemptions outlined in this section will provide the desired level of control over noise sources. It is Staff’s understanding that the primary reason for exploring the adoption of the draft ordinance is a result of noise generated from public parks and other public facilities that could include the fairgrounds as provided for in subparagraph D.
Section 18-87 Waste and Garbage Collection Equipment

Staff has coordinated the operational timeframes and noise ratings associated with this section to operations of the Field Services Division.

Section 18-90 Variances

Staff is recommending deleting this paragraph due to the fact operational characteristics are more closely associated with the use and not an actual development standard. Variances generally apply to deviations from development standards not aspects of use; granting a use variance is not considered legal practice. If someone has a legitimate case for a variation from a noise development standard, the Zoning Ordinance is already set up to account for the variance process. However, this would generally require these standards to be codified within the Zoning Ordinance.

In addition to the draft ordinance provisions for regulating noise sources, there are a number of provisions currently in the municipal code and zoning ordinance. These existing provisions are attached in Attachment B for reference. It does not appear that the existing provisions cover all the potential noise sources to be regulated. Therefore, it would appear that a noise ordinance would be beneficial to the City to protect the community's health, safety and general welfare against the establishment and proliferation of excessive noise sources.

ENVIRONMENTAL: The Environmental Coordinator on September 7, 2006 made a preliminary determination that a Notice of Exemption would be appropriate for the proposed project. The project is exempt as per section 15061(b)(3) of the California Environmental Quality Act (CEQA) statutes and guidelines.

ATTACHMENTS:

1. Draft Noise Ordinance
2. Originally proposed draft ordinance, with changes highlighted
3. Existing Code Provisions for Noise
ORDINANCE NO.____________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADDING TO THE MUNICIPAL CODE CHAPTER 18, ARTICLE V
PERTAINING TO NOISE

WHEREAS: In 1987, the City Council adopted the Noise Element of the General
Plan which included a draft noise ordinance proposed for adoption; and

WHEREAS: The City Council directed Staff to draft an item for review to
determine a need for a Noise Ordinance; and

WHEREAS: Draft Ordinance section addition CHAPTER 18, Article V regulates
excessive noise that may be detrimental to public health, safety and welfare; and

WHEREAS: the City Council has duly considered staff recommendations to add
to the current Municipal Code CHAPTER 18, ARTICLE V to regulate noise that may be
detrimental to public health, safety and welfare; and

WHEREAS: An increasing number of issues pertaining to noise have risen and
enforcement has been problematic due to the lack of enforceable standards;

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of
Porterville does hereby add Porterville Municipal Code Chapter 18, Article V as follows:

NOISE ORDINANCE

Chapter 18 Article V

Sections:
18-80 Purpose.
18-81 Definitions.
18-82 Noise measurements criteria.
18-83 Exterior noise standards.
18-84 Interior noise standards.
18-85 Noise source exemptions.
18-86 Air conditioning and refrigeration.
18-87 Waste and garbage collection equipment.
18-88 Electrical substations.
18-89 Warning signs in places of public entertainment.
18-90 Variances.
18-91 Violations.
18-80 Purpose.

The City Council declares and finds that excessive noise levels are detrimental to the public health, safety and welfare and contrary to the public interest as follows:

A. By interfering with sleep, communication, relaxation and the full use of one’s property; and

B. By contributing to hearing impairment and a wide range of adverse physiological and psychological stress conditions; and

C. By adversely affecting the value of real property.

It is the intent of this chapter to protect persons from excessive levels of noise within or near a residence, school, church, hospital or public library and to warn persons of the hazards of excessive noise in places of public entertainment.

18-81 Definitions.

The following words, phrases and terms as used in this chapter shall have the following meanings:

A. “Ambient noise level” means the composite of noise from all sources excluding the alleged offensive noise. In this context it represents the normal or existing level of environmental noise at a given location for a specific time of the day or night.

B. “A-weighted sound level” means the sound level in decibels as measured with a sound level meter using the “A” weighted network (scale) at slow meter response. The unit of measurement is referred to herein as dBA.

C. “Construction” means construction, enlargement, alteration, conversion or movement of any building, structures or land together with any scientific surveys associated therewith.

D. “Cumulative period” means an additive period of time composed of individual time segments, which may be continuous or interrupted.

E. “Decibel” means a unit for measuring the amplitude of a sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

F. “Emergency work” means the use of any machinery, equipment, vehicle, manpower or other activity in a short-term effort to protect, or restore safe conditions in the community, or work by private or public utilities when restoring utility service.
G. "Fixed noise source" means a device, machine or combination thereof which creates sounds while fixed or stationary, including but not limited to residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

H. "Hospital" means any building or portion thereof used for the accommodation and medical care of sick, injured or infirm persons including rest homes and nursing homes.

I. "Impulsive noise" means a noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

J. "Intruding noise level" means the sound level created, caused, maintained or originating from an alleged offensive source, measured in decibels, at a specified location while the alleged offensive source is in operation.

K. "Mobile noise source" means any source other than a fixed noise source.

L. "Noise disturbance" means any sound which violates the quantitative standards set forth in this chapter.

M. "Residential property" means a parcel of real property which is developed and used either in whole or in part for residential purposes.

N. "School" means public or private institutions conducting regular academic instruction at preschool, kindergarten, elementary, secondary or collegiate levels.

O. "Pure tone noise" means any noise which is distinctly audible as a single pitch (frequency) or set of pitches. For the purposes of this ordinance, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

P. "Sounding amplifying equipment" means any machine or device for the amplification of the human voice, music, or any other sound. Sound amplifying equipment shall not include standard automobile radios or tape players when heard only by the occupants of the vehicle in which the automobile radio is installed. Sound amplifying equipment as used in this chapter shall not include warning devices in authorized emergency vehicles, or horns or other warning devices in any vehicle, which are used only for traffic safety purposes.”

Q. "Sound level meter" means an instrument meeting American National Standard Institute (ANSI) Standard S1.4-1971 for Type 1 or Type 2 sound level meters or
an instrument and the associated recording and analyzing equipment, which will provide equivalent data.

R. "Sound truck" means any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon any sound amplifying equipment.

18-82 Noise Measurement Criteria.

The standards which shall be considered in determining whether a violation of Section 18-83 or 18-84 exists shall include but not be limited to the following:

a. The volume of the noises
b. The intensity of the noises
c. Whether the nature of the noise is usual or unusual
d. Whether the origin of the noise is natural or unnatural
e. The volume and intensity of the background noise, if any
f. The proximity of the noise to residential sleeping facilities
g. The nature and zoning of the area within which the noise emanates
h. The density of habitation of the area within which the noise emanates
i. The time of day or night the noise occurs
j. The duration of the noise
k. Whether the noise is recurrent, intermittent, or constant
l. Whether the noise is produced by a commercial or noncommercial activity

It is unlawful for any person to make, continue, allow, or cause to be made or emanate any excessively, unnecessarily, unnaturally, or unusually loud noise or sound from any radio, compact disk player, stereo, television or other mechanical, electrical, or electronic sound amplification device or instrument which annoys, disturbs, injures, or endangers the comfort, repose, quiet, health, peace, or safety of other persons in the city; such acts are hereby being declared a public nuisance. In interpreting and applying this section, the following shall apply:

A. Emanating noise or sound shall be defined for these purposes as excessively, unnecessarily, unnaturally, or unusually loud when it is plainly audible to a person at a minimum distance of 100 feet from the source of such noise or sound. Proof of same shall be prima facie evidence of a violation of this section.

B. Prima facie evidence that such noise or sound annoys, disturbs, injures, or endangers the comfort, repose, quiet, health, peace, business, or safety of other persons is shown by proof of subsections (A) and (D) of this section, or a complaint by a person or persons regarding such noise or sound. A complainant must have standing to file a complaint.

C. The distance from the source of such noise or sound shall be measured from the actual source itself except where the source is located on private
property in which case the distance shall be measured from the property line.

D. Alternative prima facie evidence that such noise or sound is excessively, unnecessarily, unnaturally, or unusually loud is shown by a sound level exceeding the ambient sound level by more than five decibels measured at the property line or, in the case of common wall construction such as condominiums, apartments, or business facilities, measured within the adjoining occupied unit.

E. Nothing in this section prohibits or declares unlawful or a nuisance:
   i. The operation of warning or amplification devices by emergency, fire, or law enforcement vehicles or personnel;
   ii. Lawful use of vehicle horns or backup warning devices;
   iii. Private or public warning equipment or systems;
   iv. The conduct of previously authorized and otherwise lawful public activity such as parades, speeches, lectures, ceremonies, entertainment, sports, music, or recreation events;
   v. The usual and customary operations of bells, gongs, buzzers, or similar mechanical, electrical or electronic sound amplification devices to mark time or call to attendance for an otherwise lawful use or purpose, except within public rights of way pursuant to Section 20-6 of the Municipal code.

F. Sound Amplification Devices (Refer to Advertising and Signs Code, Section 3-15): The use of sound trucks or any other vehicle in the city with sound amplifying equipment in operation shall be subject to the following regulations:
   i. The only sounds permitted are music
   ii. Operations of sound equipment shall be permitted during the hours of 9:00 am and 8:00 pm
   iii. Sound amplifying equipment shall not be operated unless the vehicle or sound truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour except when such vehicle is stopped or impeded by traffic. Where the vehicle is stopped, the sound amplifying equipment shall not be operated for longer than one (1) minute at each stop.
   iv. Sound shall not be issued within one hundred (100) yards of hospitals, schools, churches, or courthouses.
   v. The music amplified shall not be profane, lewd, indecent, or slanderous.
   vi. The volume of sound shall be controlled so that it will not be audible for a distance in excess of fifty (50) feet from the vehicle or sound truck and so that such volume is not unreasonable, loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility.
   vii. No sound amplifying equipment shall be operated within excess of fifteen (15) watts of power in the last stage of amplification.
G. Public Park/City Facilities
   i. Sound or noise produced by amplification equipment used at all city parks and other city facilities shall be measured at a point(s) not greater than one hundred forty (140) feet from the sound source within the city parks or facilities and shall not exceed eighty five (85) decibels.
   ii. It should be the event sponsor’s responsibility to monitor and measure the sound at regular intervals of approximately thirty (30) minutes to insure that sound levels are below the standard decibels. The sponsor shall provide a sound level meter to accomplish this task.
   iii. Failure of the event sponsor to enforce the sound limits may result in any or all of the following:
       1. The forced curtailment of activities as ordered by the police department
       2. Citation issued by the police department under the City’s nuisance abatement ordinance
       3. Forfeiture of deposits placed with City by the sponsor for use of the facility.

Any noise measurement made pursuant to the provisions of this chapter shall be made with a sound level meter using the “A” weighted network (scale) at slow meter response. Fast meter response shall be used for impulsive type sounds. Calibration of the measurement equipment utilizing an acoustical calibrator certified by its manufacturer to be in compliance with National Institute of Standards and Technology (NIST) reference calibration levels shall be performed immediately prior to recording noise level data.

Exterior noise levels shall be measured from the nearest residential, school, hospital, church or public library property line to the noise source. Where practical, the microphone shall be positioned three to five feet above the ground and away from reflective surfaces.

Interior noise levels shall be measured within the affected dwelling unit, at points at least four feet from the wall, ceiling or floor nearest the noise source, with windows in the normal seasonal configuration. Reported interior noise levels shall be determined by taking the arithmetic average of the readings taken at the various microphone locations.

18-83 Exterior Noise Standards

A. It is unlawful for any person at any location within the incorporated areas of the City to create any noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person which causes the exterior noise level when measured at any affected residence, school, hospital, church or public library to exceed the noise level standards as set forth in the following table:
<table>
<thead>
<tr>
<th>Category</th>
<th>Cumulative Number of minutes in any one-hour time period</th>
<th>Daytime 7 a.m. to 10 p.m.</th>
<th>Nighttime 10 p.m. to 7 a.m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>30</td>
<td>50</td>
<td>45</td>
</tr>
<tr>
<td>2</td>
<td>15</td>
<td>55</td>
<td>50</td>
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<tr>
<td>3</td>
<td>5</td>
<td>60</td>
<td>55</td>
</tr>
<tr>
<td>4</td>
<td>1</td>
<td>65</td>
<td>60</td>
</tr>
<tr>
<td>5</td>
<td>0</td>
<td>70</td>
<td>65</td>
</tr>
</tbody>
</table>

B. In the event the measured ambient noise level without the alleged offensive source in operation exceeds an applicable noise level standard in any category above, the applicable standard or standards shall be adjusted so as to equal the ambient noise level.

C. Each of the noise level standards specified above shall be reduced by five dB for pure tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

D. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level without the source can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

18-84 Residential Interior Noise Standards

A. It is unlawful for any person at any location within the incorporated areas of the City, to operate or cause to be operated within a dwelling unit, any source of sound or to allow the creation of any noise which causes the noise level when measured inside another dwelling unit to exceed the noise level standards as set forth in the following table:

<table>
<thead>
<tr>
<th>Category</th>
<th>Cumulative Number of minutes in any one-hour time period</th>
<th>Daytime 7 a.m. to 10 p.m.</th>
<th>Nighttime 10 p.m. to 7 a.m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5</td>
<td>45</td>
<td>35</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>50</td>
<td>40</td>
</tr>
<tr>
<td>3</td>
<td>0</td>
<td>55</td>
<td>45</td>
</tr>
</tbody>
</table>
B. In the event the measured ambient noise level without the alleged offensive source in operation exceeds an applicable noise level standard in any category above, the applicable standard or standards shall be adjusted so as to equal the ambient noise level.

C. Each of the noise level standards specified above shall be reduced by five dB for pure tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

D. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level without the source can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

18-85 Noise Source Exemptions.

The following activities shall be exempted from the provisions of this chapter.

A. Noises from safety signals, warning devices, and emergency pressure relief valves.

B. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.

C. Noises resulting from emergency work.

D. Activities conducted in public parks, public playgrounds and public or private school grounds, including but not limited to school athletic and school entertainment events.

E. Any mechanical device, apparatus or equipment used, related to, or connected with emergency activities or emergency work.

F. Noise sources associated with construction, whether private or public, within 500 feet of the uses mentioned in Section 18-83, paragraph A, provided such activities do not take place before 6:00 a.m. or after 9:00 p.m. on any day except Saturday or Sunday, or before 7:00 a.m. or after 5:00 p.m. on Saturday or Sunday.

G. Noise sources associated with the maintenance of residential property provided such activities take place between the hours of 6:00 a.m. and 9:00 p.m. on any day except Saturday or Sunday, or between the hours of 7:00 a.m. and 9:00 p.m. on Saturday or Sunday.

H. Noise sources associated with a lawful commercial or industrial property caused by mechanical devices or equipment, including air conditioning or refrigeration
systems, installed prior to the effective date of this chapter; that this exemption shall expire 12 months after the effective date of this chapter.

I. Noise sources associated with the collection of waste or garbage from property devoted to commercial or industrial uses.

J. Noise sources associated with seasonal agricultural packing operations provided that noise levels produced by such operations do not exceed the exterior noise level standards set forth in Section 18-82 when measured as provided in Section 18-83 for a cumulative period of more than 90 days out of the year.

K. Any activity to the extent regulation thereof has been preempted by state or federal law.

18-86 Residential Air Conditioning and Refrigeration Systems.

Notwithstanding the provisions of Section 18-82 where the intruding noise source when measured as provided in Section 18-83 is an existing residential air conditioning or refrigeration system or associated equipment, the exterior noise level shall not exceed fifty-five (55) dBA. For residential air conditioning or refrigeration systems or associated equipment installed after the effective date of this chapter, the exterior noise level when measured as provided in Section 18-83 shall not exceed fifty (50) dBA.

18-87 Waste and Garbage Collection Equipment.

Notwithstanding the provisions of Section 18-82, the collection of waste or garbage from residential property by persons authorized to engage in such activity, and who are operating truck-mounted loading or compacting equipment, shall not take place before 6:00 a.m. or after 7:00 p.m. The noise level created by such activities when measured at a distance of fifty (50) feet in an open area shall not exceed the following standards:

A. Eighty-five (85) dBA for equipment in use, purchased or leased prior to the effective date of this chapter;

B. Eighty (80) dBA for new equipment purchased or leased after the effective date of this chapter.

18-88 Electrical Substations.

Notwithstanding the provisions of Section 18-82, noise sources associated with the operation of electrical substations shall not exceed fifty (50) dBA when measured as provided in Section 18-83.
18-89  Warning signs in places of public entertainment.

It is unlawful for any person to operate or permit the operation or playing of any loudspeaker, musical instrument, motorized racing vehicle, or other source of sound for public entertainment within a building or structure wherein the noise level exceeds ninety-five (95) dBA as determined by using the slow response of a sound level meter at any point normally occupied by a customer, without a conspicuous and legible sign stating: “WARNING! SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT.”

18-90  Permit for relief

Applications for a permit relief from the noise level designated in this chapter on the basis of undue hardship and special events may be made to the City Manager or his duly authorized representative for recommendation to the City Council. Any permit granted by the City Council under this section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The City Council may grant the relief as applied for if the Council finds:

A. That additional time is necessary for the applicant to alter or modify his/her activity or operation to comply with this chapter; or
B. The activity, operation, or noise source will be of temporary duration. The noise source cannot be done in a manner that would comply with this chapter; and
C. That no other reasonable alternative is available to the applicant; and
D. The City Council may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or surrounding neighborhood.

18-91  Violations.

Penalty.
Each violation of the provisions of this chapter shall be deemed a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1000), or both. Upon recommendation of the prosecuting attorney, the Court may reduce the charged offense from misdemeanor to an infraction, punishable under Chapter 1-9 of this Code.

Prosecution.
Violations of this chapter shall be prosecuted in the same manner as other misdemeanor violations of the City’s Code; provided, however, that in the event of violation, a written notice of intention to prosecute will be given to the alleged violator not less than five calendar days prior to the issuance of a misdemeanor complaint. No complaint shall be issued in the event the cause of violation is removed, the condition abated or fully corrected within the five-day period. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required in this section shall be deemed to be given upon mailing the notice by registered or certified mail to the alleged violator at his/her last known address or at the place where the violation occurred,
in which event the five-day period shall commence at the date of the day following the mailing of the notice.

Effective Date and Publication.

This Ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED, AND ADOPTED this 19th day of September, 2006.

________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By____________________________
Georgia Hawley, Chief Deputy City Clerk
Chapter 18 Article V

Sections:

18-80 Purpose.
18-81 Definitions.
18-82 Noise measurements criteria.
18-83 Exterior noise standards.
18-84 Interior noise standards.
18-85 Noise source exemptions.
18-86 Air conditioning and refrigeration.
18-87 Waste and garbage collection equipment.
18-88 Electrical substations.
18-89 Warning signs in places of public entertainment.
18-90 Variances.
18-91 Violation Enforcement.
18-80 Purpose.

The City Council declares and finds that excessive noise levels are detrimental to the public health, safety and welfare and contrary to the public interest as follows:

A. By interfering with sleep, communication, relaxation and the full use of one’s property; and

B. By contributing to hearing impairment and a wide range of adverse physiological and psychological stress conditions; and

C. By adversely affecting the value of real property.

It is the intent of this chapter to protect persons from excessive levels of noise within or near a residence, school, church, hospital or public library and to warn persons of the hazards of excessive noise in places of public entertainment.

18-81 Definitions.

The following words, phrases and terms as used in this chapter shall have the following meanings:

A. "Ambient noise level" means the composite of noise from all sources excluding the alleged offensive noise. In this context it represents the normal or existing level of environmental noise at a given location for a specific time of the day or night.

B. "A-weighted sound level" means the sound level in decibels as measured with a sound level meter using the "A" weighted network (scale) at slow meter response. The unit of measurement is referred to herein as dBA.

C. "Construction" means construction, enlargement, alteration, conversion or movement of any building, structures or land together with any scientific surveys associated therewith.

D. "Cumulative period" means an additive period of time composed of individual time segments, which may be continuous or interrupted.

E. "Decibel" means a unit for measuring the amplitude of a sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

F. "Emergency work" means the use of any machinery, equipment, vehicle, manpower or other activity in a short-term effort to protect, or restore safe
conditions in the community, or work by private or public utilities when restoring utility service.

G. "Fixed noise source" means a device, machine or combination thereof which creates sounds while fixed or stationary, including but not limited to residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

H. "Hospital" means any building or portion thereof used for the accommodation and medical care of sick, injured or infirm persons including rest homes and nursing homes.

I. "Impulsive noise" means a noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

J. "Intruding noise level" means the sound level created, caused, maintained or originating from an alleged offensive source, measured in decibels, at a specified location while the alleged offensive source is in operation.

K. "Mobile noise source" means any source other than a fixed noise source.

L. "Noise disturbance" means any sound which violates the quantitative standards set forth in this chapter.

M. "Residential property" means a parcel of real property which is developed and used either in whole or in part for residential purposes.

N. "School" means public or private institutions conducting regular academic instruction at preschool, kindergarten, elementary, secondary or collegiate levels.

O. "Pure tone noise" means any noise which is distinctly audible as a single pitch (frequency) or set of pitches. For the purposes of this ordinance, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

P. "Sounding amplifying equipment" means any machine or device for the amplification of the human voice, music, or any other sound. Sound amplifying equipment shall not include standard automobile radios or tape players when heard only by the occupants of the vehicle in which the automobile radio is installed. Sound amplifying equipment as used in this chapter shall not include warning devices in authorized emergency vehicles, or horns or other warning devices in any vehicle, which are used only for traffic safety purposes.”
Q. "Sound level meter" means an instrument meeting American National Standard Institute (ANSI) Standard S1.4-1971 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment, which will provide equivalent data.

R. "Sound truck" means any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon any sound amplifying equipment.

18-82 Noise Measurement Criteria.

The standards which shall be considered in determining whether a violation of Section 18-83 or 18-84 exists shall include but not be limited to the following:

a. The volume of the noises
b. The intensity of the noises
c. Whether the nature of the noise is usual or unusual
d. Whether the origin of the noise is natural or unnatural
e. The volume and intensity of the background noise, if any
f. The proximity of the noise to residential sleeping facilities
g. The nature and zoning of the area within which the noise emanates
h. The density of inhabitation of the area within which the noise emanates
i. The time of day or night the noise occurs
j. The duration of the noise
k. Whether the noise is recurrent, intermittent, or constant
l. Whether the noise is produced by a commercial or noncommercial activity

It is unlawful for any person to make, continue, allow, or cause to be made or emanate any excessively, unnecessarily, unnaturally, or unusually loud noise or sound from any radio, compact disk player, stereo, television or other mechanical, electrical, or electronic sound amplification device or instrument which annoys, disturbs, injures, or endangers the comfort, repose, quiet, health, peace, or safety of other persons in the city; such acts are hereby being declared a public nuisance. In interpreting and applying this section, the following shall apply:

A. Emanating noise or sound shall be defined for these purposes as excessively, unnecessarily, unnaturally, or unusually loud when it is plainly audible to a person at a minimum distance of 100 feet from the source of such noise or sound. Proof of same shall be prima facie evidence of a violation of this section.

B. Prima facie evidence that such noise or sound annoys, disturbs, injures, or endangers the comfort, repose, quiet, health, peace, business, or safety of other persons is shown by proof of subsections (A) and (D) of this section, or a complaint by a person or persons regarding such noise or sound.

C. The distance from the source of such noise or sound shall be measured from the actual source itself except where the source is located on private
property in which case the distance shall be measured from the property line.

D. Alternative prima facie evidence that such noise or sound is excessively, unnecessarily, unnaturally, or unusually loud is shown by a sound level exceeding the ambient sound level by more than five decibels measured at the property line or, in the case of common wall construction such as condominiums, apartments, or business facilities, measured within the adjoining occupied unit.

E. Nothing in this section prohibits or declares unlawful or a nuisance:
   i. The operation of warning or amplification devices by emergency, fire, or law enforcement vehicles or personnel;
   ii. Lawful use of vehicle horns or backup warning devices;
   iii. Private or public warning equipment or systems;
   iv. The conduct of previously authorized and otherwise lawful public activity such as parades, speeches, lectures, ceremonies, entertainment, sports, music, or recreation events including but not limited to those at the Fairgrounds;
   v. The usual and customary operations of bells, gongs, buzzers, or similar mechanical, electrical or electronic sound amplification devices to mark time or call to attendance for an otherwise lawful use or purpose. Conflicts with Section 20-6 of our code.

F. Sound Amplification Devices (Refer to Advertising and Signs Code, Section 3-15): The use of sound trucks or any other vehicle in the city with sound amplifying equipment in operation shall be subject to the following regulations:
   i. The only sounds permitted are music
   ii. Operations of sound equipment shall be permitted during the hours of 9:00 am and 8:00 pm
   iii. Sound amplifying equipment shall not be operated unless the vehicle or sound truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour except when such vehicle is stopped or impeded by traffic. Where the vehicle is stopped, the sound amplifying equipment shall not be operated for longer than one (1) minute at each stop.
   iv. Sound shall not be issued within one hundred (100) yards of hospitals, schools, churches, or courthouses.
   v. The music amplified shall not be profane, lewd, indecent, or slanderous.
   vi. The volume of sound shall be controlled so that it will not be audible for a distance in excess of fifty (50) feet from the vehicle or sound truck and so that such volume is not unreasonable, loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility.
   vii. No sound amplifying equipment shall be operated within excess of fifteen (15) watts of power in the last stage of amplification.
G. Public Park/City Facilities
   i. Sound or noise produced by amplification equipment used at all city parks and other city facilities shall be measured at a point(s) not greater than one hundred forty (140) feet from the sound source within the city parks or facilities and shall not exceed eighty five (85) decibels.
   ii. It should be the event sponsor's responsibility to monitor and measure the sound at regular intervals of approximately thirty (30) minutes to insure that sound levels are below the standard decibels. The sponsor shall provide a sound level meter to accomplish this task.
   iii. Failure of the event sponsor to enforce the sound limits may result in any or all of the following:
       1. The forced curtailment of activities as ordered by the police department
       2. Citation issued by the police department under the City’s nuisance abatement ordinance
       3. Forfeiture of deposits placed with City by the sponsor for use of the facility

Any noise measurement made pursuant to the provisions of this chapter shall be made with a sound level meter using the “A” weighted network (scale) at slow meter response. Fast meter response shall be used for impulsive type sounds. Calibration of the measurement equipment utilizing an acoustical calibrator certified by its manufacturer to be in compliance with National Institute of Standards and Technology (NIST) reference calibration levels shall be performed immediately prior to recording noise level data.

Exterior noise levels shall be measured from the nearest residential, school, hospital, church or public library property line to the noise source. Where practical, the microphone shall be positioned three to five feet above the ground and away from reflective surfaces.

Interior noise levels shall be measured within the affected dwelling unit, at points at least four feet from the wall, ceiling or floor nearest the noise source, with windows in the normal seasonal configuration. Reported interior noise levels shall be determined by taking the arithmetic average of the readings taken at the various microphone locations.

18-83 Exterior Noise Standards

A. It is unlawful for any person at any location within the incorporated areas of the City to create any noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person which causes the exterior noise level when measured at any affected residence, school, hospital, church or public library to exceed the noise level standards as set forth in the following table:
### Noise Level Standards, dBA

<table>
<thead>
<tr>
<th>Category</th>
<th>Cumulative Number of minutes in any one-hour time period</th>
<th>Daytime 7 a.m. to 10 p.m.</th>
<th>Nighttime 10 p.m. to 7 a.m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>30</td>
<td>50</td>
<td>45</td>
</tr>
<tr>
<td>2</td>
<td>15</td>
<td>55</td>
<td>50</td>
</tr>
<tr>
<td>3</td>
<td>5</td>
<td>60</td>
<td>55</td>
</tr>
<tr>
<td>4</td>
<td>1</td>
<td>65</td>
<td>60</td>
</tr>
<tr>
<td>5</td>
<td>0</td>
<td>70</td>
<td>65</td>
</tr>
</tbody>
</table>

B. In the event the measured ambient noise level without the alleged offensive source in operation exceeds an applicable noise level standard in any category above, the applicable standard or standards shall be adjusted so as to equal the ambient noise level.

C. Each of the noise level standards specified above shall be reduced by five dB for pure tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

D. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level without the source can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

18-84 Residential Interior Noise Standards

A. It is unlawful for any person at any location within the incorporated areas of the City, to operate or cause to be operated within a dwelling unit, any source of sound or to allow the creation of any noise which causes the noise level when measured inside another dwelling unit to exceed the noise level standards as set forth in the following table:

### Noise Level Standards, dBA

<table>
<thead>
<tr>
<th>Category</th>
<th>Cumulative Number of minutes in any one-hour time period</th>
<th>Daytime 7 a.m. to 10 p.m.</th>
<th>Nighttime 10 p.m. to 7 a.m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5</td>
<td>45</td>
<td>35</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>50</td>
<td>40</td>
</tr>
<tr>
<td>3</td>
<td>0</td>
<td>55</td>
<td>45</td>
</tr>
</tbody>
</table>
B. In the event the measured ambient noise level without the alleged offensive source in operation exceeds an applicable noise level standard in any category above, the applicable standard or standards shall be adjusted so as to equal the ambient noise level.

C. Each of the noise level standards specified above shall be reduced by five dB for pure tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

D. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level without the source can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

18-85 Noise Source Exemptions.

The following activities shall be exempted from the provisions of this chapter.

A. Noises from safety signals, warning devices, and emergency pressure relief valves.

B. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.

C. Noises resulting from emergency work.

D. Activities conducted in public parks, public playgrounds and public or private school grounds, including but not limited to school athletic and school entertainment events.

E. Any mechanical device, apparatus or equipment used, related to, or connected with emergency activities or emergency work.

F. Noise sources associated with construction, whether private or public, within 500 feet of the uses mentioned in Section 18-83, paragraph A, provided such activities do not take place before 6:00 a.m. or after 9:00 p.m. on any day except Saturday or Sunday, or before 7:00 a.m. or after 5:00 p.m. on Saturday or Sunday.

G. Noise sources associated with the maintenance of residential property provided such activities take place between the hours of 6:00 a.m. and 9:00 p.m. on any day except Saturday or Sunday, or between the hours of 7:00 a.m. and 9:00 p.m. on Saturday or Sunday.

H. Noise sources associated with a lawful commercial or industrial property caused by mechanical devices or equipment, including air conditioning or refrigeration
systems, installed prior to the effective date of this chapter; that this exemption shall expire 12 months after the effective date of this chapter.

I. Noise sources associated with the collection of waste or garbage from property devoted to commercial or industrial uses.

J. Noise sources associated with seasonal agricultural packing operations provided that noise levels produced by such operations do not exceed the exterior noise level standards set forth in Section 0.00.040 when measured as provided in Section 0.00.030 for a cumulative period of more than 90 days out of the year.

K. Any activity to the extent regulation thereof has been preempted by state or federal law.

18-86 Residential Air Conditioning and Refrigeration Systems.

Notwithstanding the provisions of Section 0.00.040 where the intruding noise source when measured as provided in Section 0.00.030 is an existing residential air conditioning or refrigeration system or associated equipment, the exterior noise level shall not exceed fifty-five (55) dBA. For residential air conditioning or refrigeration systems or associated equipment installed after the effective date of this chapter, the exterior noise level when measured as provided in Section 0.00.030 shall not exceed fifty (50) dBA.

18-87 Waste and Garbage Collection Equipment.

Notwithstanding the provisions of Section 0.00.040, the collection of waste or garbage from residential property by persons authorized to engage in such activity, and who are operating truck-mounted loading or compacting equipment, shall not take place before 6:00 a.m. or after 7:00 p.m. The noise level created by such activities when measured at a distance of fifty (50) feet in an open area shall not exceed the following standards:

A. Eighty-five (85) dBA for equipment in use, purchased or leased prior to the effective date of this chapter;

B. Eighty (80) dBA for new equipment purchased or leased after the effective date of this chapter.

18-88 Electrical Substations.

Notwithstanding the provisions of Section 0.00.040, noise sources associated with the operation of electrical substations shall not exceed fifty (50) dBA when measured as provided in Section 0.00.030.

18-89 Warning signs in places of public entertainment.
It is unlawful for any person to operate or permit the operation or playing of any loudspeaker, musical instrument, motorized racing vehicle, or other source of sound for public entertainment within a building or structure wherein the noise level exceeds ninety-five (95) dBA as determined by using the slow response of a sound level meter at any point normally occupied by a customer, without a conspicuous and legible sign stating: "WARNING! SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT."

18-90 Permit for relief

Applications for a permit relief from the noise level designated in this chapter on the basis of undue hardship and special events may be made to the City Manager or his duly authorized representative for recommendation to the City Council. Any permit granted by the City Council under this section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The City Council may grant the relief as applied for if the Council finds:

A. That additional time is necessary for the applicant to alter or modify his/her activity or operation to comply with this chapter; or
B. The activity, operation, or noise source will be of temporary duration. The noise source cannot be done in a manner that would comply with this chapter; and
C. That no other reasonable alternative is available to the applicant; and
D. The City Council may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or surrounding neighborhood.

18-90 Variance

Staff recommends omitting this section as it appears to be more specifically a function of the use rather than the development. A variance from an aspect of use is not legal.

A. The owner or operator of a noise source for which it has been determined violates any of the provisions of this chapter may file an application for variance from strict compliance with any particular hazardous condition or a nuisance and strict compliance would be unreasonable in view of all the circumstances. The owner or operator shall set forth all actions taken to comply with such provisions, and the reasons why immediate compliance cannot be achieved. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership or fixed sources under common ownership on a single property may be combined into one application.

B. Upon receipt of the application and within thirty (30) days, the City Clerk shall refer the request to the City Council for action thereon in accordance with the provisions of this chapter. In the event the variance is approved, reasonable conditions may be imposed which may include restrictions on noise level, noise
duration and operating hours, an approved method of achieving compliance and a
time schedule for its implementation.

C. Factors which the City Council must consider shall include but not be limited to
the following:

1. Uses of property within the area affected by the noise;
2. Factors related to initiating and completing all remedial work;
3. Age and useful life of the existing noise source;
4. The general public interest, welfare, and safety.

D. The City Council may grant variances from provisions of this chapter subject to
such terms, conditions and requirements as may be deemed reasonable to achieve
compliance with the provisions and intent of this chapter.

18-91 Violations.

Penalty.
Each violation of the provisions of this chapter shall be deemed a misdemeanor
punishable by imprisonment in the county jail not exceeding six months, or by fine not
exceeding one thousand dollars ($1000), or both. Upon recommendation of the
prosecuting attorney, the Court may reduce the charged offense from misdemeanor to
an infraction, punishable under Chapter 1-9 of this Code.

Prosecution.
Violations of this chapter shall be prosecuted in the same manner as other misdemeanor
violations of the City’s Code; provided, however, that in the event of violation, a written
notice of intention to prosecute will be given to the alleged violator not less than five
calendar days prior to the issuance of a misdemeanor complaint. No complaint shall be
issued in the event the cause of violation is removed, the condition abated or fully
corrected within the five-day period. In the event the alleged violator cannot be located
in order to serve the notice of intention to prosecute, the notice as required in this section
shall be deemed to be given upon mailing the notice by registered or certified mail to the
alleged violator at his/her last known address or at the place where the violation occurred,
in which event the five-day period shall commence at the date of the day following the
mailing of the notice.
Attachment 3
Existing Code Provisions for Noise

Zoning Ordinance

Article 26, Section 2618. Performance Standards

[Noise]

No use may generate noise that is in violation of the City's Noise Standards contained in the Noise Element of the General Plan or other standards as may be adopted by the City Council. (Ord. No. 1589, § 2, 1-16-01)

Municipal Code

Chapter 3, Article III, Section 3-12. Sound Trucks and Sound Amplifying Equipment
Noncommercial use –

(a) No person shall use, or cause to be used, any vendor vehicle with its sound amplifying equipment in operation for any purpose in the city before filing a registration statement with the city police department in writing. Political sound trucks and special events approved by the city council as community events shall be exempt from this requirement but shall otherwise comply with the California Vehicle Code.

(b) This registration statement shall be filed in duplicate and shall state the following:

(1) Name and home address of the applicant.

(2) Address of place of business of applicant.

(3) License number and motor number of the sound truck to be used by applicant.

(4) Name and address of person who owns the vehicle or sound truck.

(5) Name and address of person having direct charge of vehicle or sound truck.

(6) Names and addresses of all persons who will use or operate the vehicle or sound truck.

(7) The purpose for which the vehicle or sound truck will be used.

(8) A general statement as to the section or sections of the city in which the vehicle or sound truck will be used.

(9) The proposed hours of operation of the sound amplifying equipment or sound truck.
(10) The number of days of proposed operation of the sound amplifying equipment or sound truck.

(11) A general description of the sound amplifying equipment which is to be used.

(12) The maximum sound producing power of the sound amplifying equipment to be used in or on the sound truck. State the following:

a. The wattage to be used.

b. The volume in decibels of the sound which will be produced.

c. The approximate maximum distance for which sound will be thrown from the sound truck. (Ord. Code, § 7431.2; Ord. No. 1531, § B1, 6-18-96)

Chapter 4, Section 4-13. Noise

No person shall operate any aircraft in flight or on the ground in such a manner as to cause unnecessary noise as determined by applicable federal, state or local laws and regulations. (Ord. No. 1194)

Chapter 5, Section 5-4.4. Noisy dogs

It shall be unlawful for any person to keep upon any property within the City of Porterville under his ownership, occupation or control, other than in a lawful animal hospital, kennel or pet store any dog or other animal, which by continuous barking, whining, or other noise, unreasonably disturbs the peace, comfort or quiet of any other person within the City of Porterville. (Ord. No. 1015, § A, 3-7-72)

Chapter 18, Article I, Section 18-9. Radios, record players, etc. – used in such manner so as to disturb peace in neighborhood

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.

The operation of any such instrument, phonograph, juke box, machine or device in such manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code, § 6311)
Chapter 18, Article I, Section 18-14. 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, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loud-speaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code, § 6312)

Chapter 20, Article I, Section 20-6. Unnecessary Noise

It shall be unlawful for any person to sound or cause or permit to be used or sounded, in or upon any public street any bell, siren, chime, gong, horn, whistle or other alarm, except when necessary to give warning, or when authorized by permit from the chief of police to do so. (Ord. Code, § 9181)

Chapter 20, Article II, Section 20-35. Control of Noise, Dust and Debris

Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and during the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the administrative authority, or in case of an emergency as otherwise provided in this article, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property. (Ord. No. 684, § 27)
PUBLIC HEARING

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:

1. Open the Public Hearing, take public comments, concerns and questions;

2. Approve the Draft Ordinance approving the formation of a City audit committee, waive further reading, and order the Ordinance to print.

ATTACHMENT: Draft Ordinance
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 auditors, 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
PUBLIC HEARING

SUBJECT: WATER CONSERVATION PHASE II, WATER SYSTEM STATUS

SOURCE: Public Works Department - Field Services Division

COMMENT: Phase II water conservation efforts for 2006 began in May. The City promoted May as water awareness month and provided water conservation information and water saving kits to the public during the Porterville Fair. A media campaign began in late May with newspaper and radio messages and web site information provided. Letters were mailed to restaurants requesting that water only be served upon request, and local landscapers requesting reduced landscape watering and avoid watering between the hours of 5 a.m. to 10 a.m. and 5 p.m. to 10 p.m.

The water system status is marginally improved from last year. Mild weather in May and June reduced water demands as compared to prior years. Although the extended 100+ degree days in July affected the water system, particularly in the early evening hours, with the system showing increased water demands as compared to recent years, production capabilities remained stable. The system showed reduced water demands through the month of August as compared to recent years and September is showing a continued reduction in demand as well.

It appears that water conservation awareness has again been successful. The residents of Porterville should be commended on their water conservation efforts and are encouraged to continue to use water wisely.

With normal water supplies available for this time of year, staff recommends returning to Phase I of the Water Conservation Plan.

RECOMMENDATION: That the City Council:

1. Return to Phase I of the Water Conservation Plan; and

2. Continue Phase I water conservation efforts.

ATTACHMENT: Production Graph

Item No. 18
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
SUBJECT: REQUEST FOR ONE (1) TEMPORARY MODULAR STRUCTURE TO BE UTILIZED AS A SALES OFFICE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: K. Hovnanian Homes is requesting the temporary use of a 12'x60' modular structure for a period of approximately six (6) months to be utilized as a sales office on Lot 53 of Sierra Estates, formerly North Gate Estates, a single family residential subdivision. The subject site is in the R-1 (One Family Residential) Zone generally located on the southeast corner of Grand Avenue and Leggett Street.

The request indicates the use of the temporary modular structure as a sales office until model homes are completed. In conjunction with the modular unit, concrete walk ways and an ADA compliant accessibility ramp is proposed in front of the modular unit on Lot 53.

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

RECOMMENDATION: That the City Council:

1. Adopt the attached resolution and conditions of approval for the temporary modular structure for a period of time expiring on March 19, 2007.

ATTACHMENTS:

1. Locator Map
2. Construction plan
3. Elevation plan
4. Floor plan
5. Letter of request
6. Draft Resolution

DD: APPROPRIATED/FUNDED CM

ITEM NO. 20
August 23, 2006

City of Porterville
Planning Department
291 N. Main Street
Porterville, CA 93257

Attn: Julie Boyle

Dear Ms. Boyle:

This is a written statement for consideration of approval of a temporary sales trailer on Lot 53 in the Sierra Estates Subdivision.

This project will consist of a 12 foot wide by 60 foot long trailer. The trailer will house our sales team for the purpose of selling new single family homes in this subdivision. The sales trailer will be open from 10:00am to 7:00pm, seven days per week.

Sewer, water and electrical service for the sales trailer will be provided by those improvements installed to service the proposed single family homes.

We anticipate that the temporary trailer will be placed on the site on September 25th. The sales trailer will be needed for a period of 5 months until the model home complex is complete. The date of completion of the models and removal of the temporary sales trailer is currently set for February 28, 2007.

Thank you.

Sincerely,

[Signature]

Michael Horrell
Planner
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ONE (1) TEMPORARY MODULAR STRUCTURE FOR K. HOVNAANIAN HOMES TO BE LOCATED ON LOT 53 OF SIERRA ESTATES SUBDIVISION GENERALLY LOCATED ON THE SOUTHEAST CORNER OF GRAND AVENUE AND LEGGETT STREET

WHEREAS: The Porterville City Council, on September 19, 2006, considered a request to place one (1) temporary modular structure on Lot 53 of Sierra Estates Subdivision formerly known as North Gate Estates, generally located on the southeast corner of Grand Avenue and Leggett Street; and

WHEREAS: The proposed temporary 12' x 60' modular structure is intended to be utilized for a sales office until model homes can be built; and

WHEREAS: That the temporary modular structure shall be allowed for a period of time expiring on March 19, 2007. Any additional time after this date would require an extension of time to be granted by the City Council; and

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

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

NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the temporary modular structure to be utilized for a sales office, located on Lot 53 of Sierra Estates Subdivision, is approved subject to the following conditions:

1. That the temporary modular structure shall be allowed for a period of time expiring on March 19, 2007. Any additional time after this date would require an extension of time to be granted by the City Council.

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

3. Compliance with all applicable codes is required.

4. School Development fees and all other City fees are due at the time of building permit issuance.
5. Modular unit must have approval listing with the State of California.

6. Signs require a separate permit.

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

8. If installed, landscaped areas shall be on an automatic watering system.

____________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By __________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: ONLINE PAYMENTS FOR UTILITY BILLS

SOURCE: Administrative Services – Finance Division

COMMENT: Several inquiries have been made regarding the feasibility of automatic or online payment of utility bills. The current version of the Incode utility billing system supports both bank and credit card payment. The City currently has the capability to automatically charge a customer’s bank or credit card account on a monthly basis for the utility amount due. Because these payment options are already part of the City’s enhanced version of Incode, the only additional expenses would be the bank charges and the merchant service fees. Union Bank of California estimates a monthly cost of $315.00 for banking charges based upon a volume of 1,000 debits. The City is currently paying an average of 2.38% of total sales for credit card processing, which based upon a volume of 1,000 participating customers, the City estimates the monthly expense would be $1,500. The City could charge all or some of the cost to the customer for the expense of these payment options, or the bank charges could be charged against interest revenue and credit card processing fees could be charged to the Water, Sewer, and Refuse Operating funds.

Incode has a further enhanced product available for online payments. The Utility Billing Online would allow citizens to view their account information via the City’s website, and would also be able to pay their utility bill online using a credit card. The City received a proposal from Incode on May 24, 2006, when the City initially investigated this matter, and the proposal is valid through the end of September (120 days). The cost during the initial year is $8,360, which includes the set-up, training and annual maintenance fee of $7,560. There is an additional fee of $1.00 per transaction for each payment made online, as well as an additional fee for credit card processing. Based upon a volume of 1,000 participating customers, the cost is estimated to be about $3,200 per month (or $38,400 annually). The City could charge all or some of the cost to the customer for the expense of this payment option, or again, the Water, Sewer, and Refuse Operating funds could be responsible for funding.

D.D. [Signature] Appropriated/Funded  C.M. [Signature]  Item No. 21
A payment option that some of our customers are currently using is the online payment through their personal banks’ online banking feature. There is no additional cost to the City for processing these payments, however, it has a disadvantage to customers in that these payments are not posted to their accounts until the City actually receives the check from the bank, which may take up to fifteen (15) days.

Staff has prepared several options for consideration by the Council, as follows:

**Automatic Account Charge**

Utilize the Incode service feature that allows customers to identify a bank or credit card account for automatic charge of utility payments, and:

1. Charge an additional $1.50 per month to recover the estimated cost of the service.

2. Do not charge the customer any additional fee for the service, thereby funding the service through the Water, Sewer, and Refuse funds. The FY 2006-2007 operating budgets for these funds should be able to each absorb an increase in annual expenditures of $4,500.

3. Charge a nominal fee of $0.50 to $1.00 per month so that the customer shares in the expense of the service, and fund the difference through the Water, Sewer, and Refuse funds.

In the event that Council would select either Options 1 or 3, it will be necessary to hold a public hearing to consider the adoption of any necessary fees and/or charges.

**Utility Billing Online**

Accept the proposal from Incode to enhance the City’s utility billing program to include online billing capability, and:

1. Charge an additional $3.00 per transaction to recover the estimated cost of the service.

2. Do not charge the customer any additional fee for the service, thereby funding the service through the Water, Sewer, and Refuse funds. The FY 2006-2007 operating
budgets for the Refuse and Water Operating Funds provide adequate funds to account for the additional expenditure, however, there are no available funds in the Sewer Operating Fund.

3. Charge a nominal fee of $1.00 to $1.50 per transaction so that the customer shares in the expense of the service, and fund the difference through the Water, Sewer, and Refuse funds.

4. Maintain the status quo, whereby customers can pay their bill online through their personal banking institutions.

In the event that Council would select either Options 1 or 3, it will be necessary to hold a public hearing to consider the adoption of any necessary fees and/or charges.

RECOMMENDATION: That the City Council:

1. Authorize the utilization of the Incode service feature that allows customers to identify a bank or credit card account for automatic charge of utility payments; and

2. Authorize staff to pursue the charge of a nominal fee of $1.00 per transaction, and schedule the matter for a public hearing; and

3. Direct staff to again review the online payment option during budget development for FY 2007-2008.

ATTACHMENT: Utility billing online proposal from Tyler Technologies (Incode)
SUBJECT: COMPARISON 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 rescue 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. A summary of some of the pros and cons to artificial turf is attached.

RECOMMENDATION: City Council consideration and acceptance of the cost comparison between artificial turf and real turf maintenance.

ATTACHMENT:
1. Artificial to Real Turf Comparison Chart
2. Artificial Turf Pros & Cons Summary

Director Appropriated/Funded City Manager

ITEM NO.: 22
## ARTIFICIAL TO REAL TURF COMPARISON
General Estimate of Annual Maintenance Cost

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<th>Real Turf</th>
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</tr>
<tr>
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ARTIFICIAL TURF PROS & CONS SUMMARY

Some points in favor of artificial turf use

Uses less water in comparison to real turf
Less maintenance and ongoing care required than with real turf
Maintains green appearance year-around without concern for turf disease
Avoids need for power cutting equipment – reduces hazard of maintenance thrown debris
Can take heavy use without damage or need for rest/regrowth days
Can be placed on soil or terrain not suitable for real turf or other live plant materials

Some points not in favor of artificial turf use

Water use is similar for drought resistant and xeroscape landscaping
Initial installation cost
No cooling benefits of real turf & other live plant materials – more reflective heat & burn hazards
Vandalism, accident damage, or theft more costly, and a specialty work for repairs
Warranty period – need for replacement is about ten years
Water infiltration rate reduces with time – increased precipitation runoff
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

Item No. 23
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 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
TITLE: DEBARMENT PROCEDURES – CITY CONTRACTORS

SOURCE: CITY ATTORNEY

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

\juliawink/Porterville\general\agendebar2.doc
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.

“Performance Evaluation” means a City-issued evaluation of a person describing the person’s performance on a specific contract. It includes evaluations issued during performance of a contract and partial 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 lists 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 shall 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.
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.

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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
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, Concerning Debarment.

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.

(c) 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
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
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. 2275 § 1 (part), 2005)

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. 2275 § 1 (part), 2005)
Title 10 PUBLIC PEACE, MORALS AND SAFETY

Chapter 10.63 SEX OFFENDERS' PROXIMITY TO CHILDREN'S FACILITIES

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)

Title 10 PUBLIC PEACE, MORALS AND SAFETY

Chapter 10.63 SEX OFFENDERS' PROXIMITY TO CHILDREN'S FACILITIES

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)
SUBJECT: COUNCIL AD HOC COMMITTEE REPORT ON STATUS OF CITY COUNCIL MEMBER APPOINTMENT

SOURCE: Administration/City Clerk Division

COMMENT: At the City Council Meeting of September 5, 2006 Council agreed upon a process for selecting an individual for appointment to the Council vacancy left by the leaving of Council Member Richard Stadther. A Declaration of Vacancy was published, and a press release issued stating that a letter of interest and short resume would be accepted from any interested City resident and voter through September 18, 2006 at 5:00 p.m.

An Ad Hoc Committee consisting of the Mayor and Mayor Pro Tem was established to review and select candidates for consideration by the entire Council. The Ad Hoc Committee will receive copies of all submittals after the 5:00 p.m. deadline on Monday, and will present a status report at the September 19 meeting. At this time the Ad Hoc Committee will also request a date be set for an adjourned meeting for the City Council to consider the Ad Hoc Committee’s recommendations.

RECOMMENDATION: That the City Council set an adjourned meeting for the review of candidates and the selection of a City Council appointee.
CITY COUNCIL AGENDA: September 19, 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. 28
CITY COUNCIL AGENDA: September 19, 2006

SUBJECT: REQUEST BY COUNCIL MEMBER-
DISCUSSION OF CITY COUNCIL MEMBER PICNIC
FOR CITY EMPLOYEES

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. 29
AGENDA: SEPTEMBER 19, 2006

PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

SUBJECT: ANNUAL MEETING OF THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: In 1988, the Porterville Public Improvement Corporation was formed, designating the City Council members as Directors. An annual meeting is required to be held each year.

Action by the Board of Directors is required to approve the election of new officers in accordance with Article III, Section 2 of the Bylaws of the Corporation. Article III, Section 1 of the Bylaws provides that the Mayor shall act ex officio as President, the Mayor Pro Tem shall act ex officio as Vice President, the City Clerk shall act ex officio as Secretary, the Deputy City Manager shall act ex officio as the Treasurer, and the City Attorney shall act ex officio as Legal Counsel to the corporation.

In addition to the election of officers, a report on the progress of the Certificates of Participation (COP) projects is to be submitted to the Board of Directors at the time of the annual meeting. In accordance with Corporation Bylaws and Resolution No. 89-2, a public meeting (not a public hearing) is required prior to approving the annual report. A status report for COP projects is provided as an attachment to this agenda item.

RECOMMENDATION: That the City Council, sitting as the Porterville Public Improvement Corporation;

1. Approve the election of officers as indicated in the attached draft resolution;
2. Accept public comment; and
3. Approve the 2006 Status Report for Certificates of Participation Projects.

ATTACHMENTS: 1. Draft Resolution for Election of Officers
2. 2006 Status Report for Certificates of Participation Projects
RESOLUTION NO. PIC 

A RESOLUTION OF THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION ELECTING OFFICERS FOR THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

BE IT HEREBY RESOLVED by the Directors of the Porterville Public Improvement Corporation, that the following persons are elected to the offices set forth opposite their names below, as officers of the Corporation, to serve until succession, or election and qualification of the successors, as provided in Article III, Section 2 of the Bylaws of the Corporation.

<table>
<thead>
<tr>
<th>Name</th>
<th>Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cameron J. Hamilton</td>
<td>President</td>
</tr>
<tr>
<td>Felipe A. Martinez</td>
<td>Vice President</td>
</tr>
<tr>
<td>John Longley</td>
<td>Secretary</td>
</tr>
<tr>
<td>Frank Guyton</td>
<td>Treasurer</td>
</tr>
<tr>
<td>Julia Lew</td>
<td>Legal Counsel</td>
</tr>
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</table>

________________________
Cameron J. Hamilton, President

ATTEST:

________________________
John Longley, Secretary

ATTACHMENT NO. 1
CITY OF PORTERVILLE  
Certificates of Participation  
Status Report  

As of September 1, 2006

1998 ISSUE:

On May 5, 1998, City Council authorized the issuance of Certificates of Participation to finance major components of the City Circulation Element. The Certificates were issued on July 16, 1998, for $20,000,000 with an average interest rate of 4.94%.

Total Certificates of Participation Issue: $20,000,000

<table>
<thead>
<tr>
<th>Project</th>
<th>Percentage of Design</th>
<th>Percentage of Const. Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Complete</td>
<td>Const. Complete</td>
</tr>
<tr>
<td>BRIDGES:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plano - Tule River Widening</td>
<td>100%</td>
<td>10%</td>
</tr>
<tr>
<td>Jaye - Tule River Widening</td>
<td>10%</td>
<td>0%</td>
</tr>
<tr>
<td>SLOUGH CROSSINGS:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Henderson &amp; Porter Slough</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>STREETS:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indiana - Olive to Morton</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morton to Putnam</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Putnam to Olive</td>
<td>100%</td>
<td>10%</td>
</tr>
<tr>
<td>Henderson - Newcomb to Westwood</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Jaye - Springville to 190</td>
<td>75%</td>
<td>0%</td>
</tr>
<tr>
<td>Main - Henderson to Linda Vista</td>
<td>10%(Shelved after design - lack of funding)</td>
<td></td>
</tr>
<tr>
<td>Jaye - 190 to Gibbons</td>
<td>100%(Shelved after design - lack of funding)</td>
<td></td>
</tr>
<tr>
<td>Gibbons - Main to Indiana</td>
<td>100%(Shelved after design - lack of funding)</td>
<td></td>
</tr>
<tr>
<td>Main - Yates to Gibbons</td>
<td>75%(Shelved after design - lack of funding)</td>
<td></td>
</tr>
</tbody>
</table>

ATTACHMENT NO. 2
1988 ISSUE:

The three Participation Certificate issues of 1988 were sold at 7.625%. In 1992, Council authorized the refunding of the 1988 Participation Certificates, which resulted in reduced interest rates and included an additional $3,000,000 to be used for the expansion of the Wastewater Treatment Facility. Savings from the Public Buildings Project Issue and the Water System Improvement Issue were used to reduce the annual debt service payment. Savings on the Sewer System Project Issue were taken up-front to be used for the Wastewater Treatment Facility Expansion Project.

In March of 1999, the Council authorized a Forward Bond Purchase Agreement for these three issues. This agreement generated $615,000 in savings that was utilized to partially fund the construction of the City’s Sports Complex. The size of the issues and the terms and rates remain unchanged.

Total Certificates of Participation Issue: $25,420,000

| General Government: | $6,995,000 | 100% | Completed |
| Water Improvement:   | $8,895,000 | 100% | Completed |
| Sewer Improvement:   | $9,530,000 | 100% | Completed |