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(c) - Conference with Legal Counsel - Anticipated Litigation: Three Cases.
   2- Government Code Section 54956.9(a) - Conference with Legal Counsel - Existing Litigation: Porterville Citizens for Responsible Hillside Development v. City of Porterville.

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

Pledge of Allegiance Led by Council Member Eddie Hernandez
Invocation

PROCLAMATIONS
“Shave the Brave Recognition”
“Domestic Violence Awareness Month” - October 2006
“A Day of Cease Fire” - October 7, 2006

PRESENTATION
Employee of the Month - Dave Cornwall

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 and August 29, 2006
2. **Budget Adjustment**  
Re: Authorizing the acceptance of a $24,000 donation to the Fire Department in memory of Tashia Cox, for use toward public education of the proper use of candles.

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

4. **Acceptance of Project - Traffic Signal No. 8 (Plano Street and Mulberry Avenue - Safe Routes to School Grant)**  
Re: Accepting the project as complete, and authorizing staff to file the Notice of Completion for work consisting of the construction of a traffic signal and substantial street reconstruction.

5. **Acceptance of Improvements - Sunrise Villa, Phase One Subdivision (Tom O’Sullivan - OZ Services)**  
Re: Accepting the public improvements, and authorizing the filing of a Notice of Completion for improvements generally located south of Mulberry Avenue, east of Cottage Street, north of Theta Avenue, and west of Howland Street.

6. **Acceptance of Improvements - Westwood Village Mobile Home Community, Unit three (Dan Daniel - Daniel Properties)**  
Re: Accepting the sewer and water main improvements, and authorizing the filing of the Notice of Completion for work generally located south of Olive Avenue, east of Westwood, along Corkwood Court, Tanglewood Court, Oakwood Court and Orangewood Court.

7. **Acceptance of Final Subdivision Map - Williams Ranch, Phase Four (Brian Ennis)**  
Re: Approving the Final Subdivision Map for the Subdivision located generally north of Henderson Avenue, east of Westwood Street, south of Westfield Avenue, and west of Lombardi Street.

8. **Acceptance of Final Subdivision Map - Beverly Glenn Subdivision (Mohammad Davarifar)**  
Re: Approving the Final Subdivision Map for the Subdivision located generally south of Heritage Avenue, North of River Avenue, east of Lotas Street and west of Beverly Street.

9. **Modification of Resolution Approving Annexation of Lands for Effluent Irrigation and Biosolids Disposal**  
Re: Considering modification to Resolution 09-2006, approved on January 17, 2006, to allow staff to proceed with the annexation of approximately 704 acres located north, south and west of the Porterville Municipal Airport.

10. **Request for Authorization to Use City Property**  
Re: Consideration to approve Burton School District’s use as a cross-training facility of Drainage Reservoir No. 23– located north of the Porter Slough and west of the Burton School grounds.

11. **Authorization to Develop and Enter into an Offsite Improvements Design Agreement**  
Re: Authorizing the development of a Design Service Agreement between the City and Ennis Corporation to assure coordination of improvements associated with the Riverwalk development proposed at intersection of Highway 190 and Jaye Street.

12. **Approval for Community Civic Event - City of Porterville - Porterville Community Festival**  
Re: Approving annual event to take place on Saturday, October 14, 2006 from 10:00 a.m. to 3:00 p.m. at Centennial Park and along Main Street from Putnam Avenue to Harrison Avenue.

Re: Approving annual Veteran’s Day Parade to take place on Saturday, November 11, 2006 from 5:00 a.m. to 12:00 p.m. along Main Street from Danner Avenue to Orange Avenue.

14. Skatepark Rules and Skateboard Regulations

Re: Report on the status of rules and regulations for the new Skatepark to be considered by the Parks & Leisure Services Commission on October 5, 2006 and by the City Council on either October 17, 2006 or November 7, 2006.

15. Youth Group Field Rental Fees

Re: Considering adjustment to youth group rental fees at various City sports fields.

16. Installation of a Central Valley Spatial Reference Network by Caltrans

Re: Approving Caltran’s Revocable Permit and Land Use Agreement for the installation of upgraded transmission equipment at the existing GPS station at the Porterville Municipal Airport.

17. State Homeland Security Grant

Re: Authorizing the negotiated purchase of fire equipment for emergency operations, and the associated budget adjustment in the amount of $11,690, pursuant to the guidelines of the grant.

18. South County Justice Center Resolution

Re: Approving a resolution in support of the development of a new Porterville Courthouse facility to meet the needs of South Tulare County.

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

PUBLIC HEARINGS

19. Ennis Estates Tentative Subdivision Map (Ennis Homes)

Re: Considering the approval of a Tentative Subdivision Map to divide a 34.1± acre parcel east of Lombardi Street and south of the prolongation of Castle Avenue into 70 estate-size single-family residential lots. The item was continued at the September 5, 2006 Council Meeting, and again on September 19, 2006 pursuant to the applicant’s request.

20. Construction of Concrete Improvements on Indiana Street Project

Re: Authorizing the commencement of improvements including curbs, gutters, sidewalks and drive approaches on Indiana Street, from Putnam Avenue to Olive Avenue.

SECOND READINGS

21. Ordinance 1703, Audit Committee Ordinance

Re: Giving second reading to Ordinance 1703, amending Chapter II, Internal City Audits, of the Porterville Municipal Code, waiving further reading, and adopting said Ordinance.

22. Ordinance 1704, Procedure to Accommodate Larger Expenditures When Required by Public Peace, Health or Safety

Re: Giving second reading to Ordinance 1704, adding Section 2-38 to Chapter II, Article VII of the Porterville Municipal Code, concerning the appropriations/expenditures in cases of immediate need, waiving further reading, and adopting said Ordinance.

23. Ordinance 1705, Debarment Procedures – City Contractors

Re: Giving second reading to Ordinance 1705, adding Article XIII, Sections 2-114 through 2-138 to Chapter II of the Porterville Municipal Code concerning debarment, waiving further reading, and adopting said Ordinance.
24. Ordinance 1706, Aggressive Solicitation Ordinance
Re: Giving second reading to Ordinance 1706, repealing Section 18-1 of Chapter 18, Article I of the Porterville Municipal Code, and adding Article IV, Sections 18-50 through 18-54, waiving further reading, and adopting said Ordinance.

SCHEDULED MATTERS
25. Stripping of City Streets
Re: Report on the status of street striping of approximately 75 lineal miles of road within the City at a budgeted cost of $60,000, to be completed by the end of October 2006.

26. Bicycle Lane Project Update
Re: Authorizing staff to request a second extension of time from the San Joaquin Valley Air Pollution Control District for work associated with grant, and reinitiating the bid process if extension is possible.

27. Proposed Combination of “Paint the Town” and City’s “Fall Clean Up Day” Events
Re: Considering moving the City’s “Fall Clean Up Day” from October 21, 2006 to October 28, 2006 to coincide with “Paint the Town,” “Household Hazardous Waste Disposal,” and “Make a Difference” events, and authorizing staff to receive the debris collected from “Paint the Town” at no cost.

28. City Council Goal Setting
Re: Follow-up to the Goal Setting Session held on September 23, 2006 at Sierra View District Hospital, and setting November 14, 2006 to review current and proposed projects to formulate a work program for identifying and achieving City goals.

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 October 17, 2006

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.

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

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.

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.

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.

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 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 Stadtherr, 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, Stadtherr, 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 Stadtherr 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.

M.O. 20-081506

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:

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 Stadtherr 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:**

M.O. 21-081506

MOVED by Council Member McCracken, SECONDED by Council Member Stadtherr that Council Member Stadtherr'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. 22-081506

MOVED by Council Member Stadtherr, 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 Stadtherr 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.

**M.O. 23-081506**

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<th>AYES</th>
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<tr>
<td>NOES</td>
<td>McCracken, Stadther, Hamilton</td>
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<tr>
<td>ABSTAIN</td>
<td>None</td>
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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 infrastructurial 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

M.O. 24-081506

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
Call to Order at 6:30 p.m.
Roll Call: Council Member McCracken, Council Member Pedro Martinez, Mayor Pro Tem Felipe Martinez, Mayor Hamilton
Absent: Council Member Stadtherr

Pledge of Allegiance led by Council Member Pete McCracken
Invocation - a moment of silence was observed.

ORAL COMMUNICATIONS
None

SCHEDULED MATTER
1. STUDY SESSION: 10-YEAR CAPITAL IMPROVEMENT PROGRAM

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

Mayor Pro Tem Felipe Martinez inquired whether staff had information pertaining to whether the number of vehicles on Olive Avenue would increase or decrease once Indiana Street was extended through. Mr. Longley indicated that the Public Works Department, under the direction of Mr. Rodriguez, could run a report that detailed that information. Mr. Rodriguez then agreed with Mayor Hamilton’s assessment that the prolongation of Indiana through to Olive Avenue would likely increase vehicle travel on Indiana Street, decrease vehicle travel on Porter Street, and likely have no effect on Olive Avenue.

Mr. Rodriguez confirmed that the proposed developments on Jaye Street and Highway 190 would increase vehicle traffic on Olive Avenue. Mr. Rodriguez elaborated that approximately $6 Million of improvements were proposed, which included a traffic signal and a northbound dual-left turn lane on Jaye Street at Olive Avenue. He stated that staff anticipated six lanes of traffic along the corridor, from Springville Avenue to Highway 190. Mr. Rodriguez indicated that staff was currently working out the details as to what the appropriate shares of the costs would be for the various parties. A discussion ensued as to how extra lanes would be added at the Olive Avenue and Jaye Street intersection. It was stated that the sidewalks were extremely wide, and that some of the curbing and sidewalk would be removed to accommodate the extra width required. Mayor Pro Tem Felipe Martinez confirmed with Mr. Rodriguez that the proposed work was scheduled to take place in FY 2007/2008, and voiced concern with the likely increase in traffic flow along Olive Avenue due to the improvements. Mr. Rodriguez indicated that staff believed that the proposed improvements would smoothly dovetail with the proposed Jaye Street improvements and the proposed commercial development.

A discussion as to the proposed repair work on the Olive Avenue thoroughfare ensued. Mr. Rodriguez stated that the thoroughfare would remain as is, and that the problem areas would be addressed by a “dig and repair” process, with the hope that in subsequent years the entire street could be overlaid. Mayor Pro Tem Felipe Martinez commented that Olive Avenue was currently in poor condition and
voiced concern with the effects of increased traffic and weather on an already deteriorated surface. He questioned whether it would be better to move forward with the work projected for Olive Avenue in FY 2007/2008 earlier, prior to commencing the Jaye Street work. Mr. Rodriguez responded that he did not believe that proceeding with the two projects concurrently would affect either one. He stated that he was uncertain whether the projects would occur at exactly the same time, noting that many variables could affect the timing.

Council Member Pedro Martinez inquired as to the projected time for the extension of Indiana Street to Highway 190. Mr. Longley indicated that it was projected for FY 2008/2009, yet the project remained unfunded, which basically meant that staff acknowledged the need existed for the project, yet there was no funding to accomplish the task. He stated that the issue could be addressed by seeking grants, and if the issue became critical at some point, the Council could determine whether it wished to pursue a COP issuance for streets projects. He pointed out, however, that pursuing the COP issuance would create a scenario similar to what the City was currently enduring, in that monies that would generally go towards annual work would no longer be allowed. Mr. Longley spoke of the constant need for street work and ongoing challenges many agencies face due to aging infrastructure. He stated that he believed a COP issuance was an “arrow in the arsenal” and recommended that a funding source be available prior to selling any bonds. He then noted that there would be an increase in the sales tax revenue due to the commercial development, and that the Council might wish to allocate a portion of that revenue towards COPs for street purposes. He then elaborated on a hypothetical issuance and the budgetary commitment moving forward.

Access from the East side of the Community to Highway 190 was discussed next. Mr. Longley indicated that the subject had been discussed for some time and that he believed a request for legislation had been made, adding that he had talked with the current County Supervisor about the matter. He stated that it had been determined that the project would involve a bridge, and the cost of the project was estimated to be approximately $20 to $25 Million. He indicated that at the time the matter was discussed, it was believed that the only way to proceed with the project would be through State assistance. It was after those discussions, Mr. Longley stated, that the State budgetary crisis hit. Mr. Longley added that the project would also involve right-of-way purchases and some land issues. Council Member Pedro Martinez commented that he believed access from the East side to Highway 190 was important.

In response to Council Member Pedro Martinez, a status report on streets within the recently annexed areas was provided next. Mr. Longley stated that at the time the annexations were undertaken, the City promised only that there was hope for the residents, and without the City, there was no hope. He spoke of the poor condition of County roads and indicated that the streets now within the City limits would be evaluated and placed on a priority listing for improvements. He stated that as money was available, those streets would be improved. He noted that rapid action would be unlikely, yet spoke of opportunities, such as forming assessment districts for improvements. He stated that in the event residents chose to pursue that course, the City would be willing to form said districts and accomplish the work. He stated that generally, the desire was to fund such work from the general tax base, or from an allocated tax base such as street monies.

Council Member Pedro Martinez inquired whether the costs for the Success Dam Remediation Project would affect any of costs for the projects identified, such as for materials and/or labor. Mr. Rodriguez indicated that he did not believe the Dam Remediation would have any effect, at least not anything significant. A brief discussion ensued as to the availability of resources locally and on a more global basis, due to external influences.
A discussion next ensued as to streets projects necessary due to the development of new schools. Mr. Longley spoke of the $6 Million spent to construct new streets and roads to serve Granite Hills High School, and noted other benefits for opening up that portion of the Community. He then briefly spoke of the work at both Mathew Street and North Grand Avenue, indicating that he believed there to be greater cooperation in both cases with the School District. He stated that while the Mathew situation might have been controversial, a resolution was reached with the School District bearing a significant portion of the cost. He commented that the City was making progress on such issues with the Districts.

Council Member Pedro Martinez questioned whether there was anything that could be done to assist the City to more aggressively pursue funds to repair the streets more expeditiously, or to assure that funding was secured. Mr. Longley commented that he believed the issue to be more of a matter of style and that the Council might wish to discuss it at the upcoming Projects Meeting scheduled for September 23, 2006. He then spoke briefly of a recent meeting regarding improvements to Highway 190 and State Route 65. He stated that large projects such as the widening of State Route 65 generally required many years of commitment and pursuit to accomplish the task. He stated that the whole organization was generally oriented toward that goal, and in time the effort was typically successful. He spoke of Mayor Hamilton’s efforts over the past few years through his involvement with TCAG, and noted that such a large task required an entire organizational direction. He commented that a successful effort would likely require a change in the style of the whole organization. Another variation of more aggressively pursuing more funds would be to hire a consultant to assist in obtaining grant funds. He stated that staff would need to investigate that option and whether or not it would be beneficial. Council Member Pedro Martinez spoke of the efforts of Mr. Victor Lopez in Orange Cove and taking a more proactive approach, citing the City’s recent trip to Arkansas to pursue economic development.

Council Member Pedro Martinez next raised the issue of improving access to the Sports Complex, and questioned what would be involved. It was stated that the County performed some improvements to Westwood several years prior. Mr. Rodriguez clarified that the Scranton project would have little impact on improving access to the Sports Complex. Council Member Martinez voiced some concern with having a facility in an area that had poor access. He then questioned whether lighting was included in the project estimates provided in the staff report. Mr. Rodriguez elaborated that the detail provided was an abridged version that only included streets, and that the complete document also included streets, lighting, sewer, etc. so as to track each pertaining to a specific project. He stated that the complete 10-Year Plan document could be made available to the Council.

Council Member McCracken confirmed with staff that according to the Plan, there was approximately $5.2 Million in unfunded projects in FY 2007/2008, and approximately $787,000 in FY 2008/2009. Mr. Rodriguez indicated that the Plan included projects deemed necessary, along with projected timing and Engineer’s Estimates, however lack of funding caused the projects, from time to time, to be postponed. Mr. Longley added that the Plan before the Council was only really a budget for FY 2006/2007, and for subsequent years, it was merely a planning tool. He stated that the document was more like a one-year budget and a nine-year needs assessment. He indicated that if the Council so chose, the Plan could be modified. Mr. Longley then shared a conversation that he had with the previous City Manager regarding street repair and noted that the matter of street repairs was not a new issue, but rather something that was continual.

Council Member Pedro Martinez questioned whether a lack of foresight could be attributed to the current disrepair of City streets. Mr. Longley indicated that perhaps a general lack of foresight was involved in that streets were continually built with no funding mechanism for their ongoing maintenance.
He stated that this situation caused needed street repairs to then be in constant competition with other City needs. He noted that street repairs were more a long term issue, and that more immediate needs, such as with public safety staffing issues or recreation, were often prioritized. A discussion ensued as to the issue of funding street repairs.

Mayor Pro Tem Felipe Martinez spoke of the street repair machine recently purchased by Tulare County and questioned whether the purchase of such a machine by the City could positively impact the situation. A discussion ensued as to whether the purchase had already been authorized by the Council. It was determined that a discussion had taken place, but that authorization had not been given to proceed with the purchase of the equipment. It was stated that staff had looked into the costs for the machine, and according to the County, it was estimated to be approximately $180,000 to $185,000, not including the freight from North Carolina. Mr. Longley clarified that if the Council so directed, staff could return with a Lease/Purchase Agreement for the Council’s consideration.

Deputy City Manager Frank Guyton spoke of efforts to possibly enter into a sharing agreement with other local agencies for the purchase and use of the equipment. He stated that as of that date, Visalia and Porterville were able to participate, and that while Exeter and Woodlake would like to participate, those agencies did not have the budget available in the current fiscal year. He added that Exeter and Woodlake had requested consideration for the following year. Mr. Guyton then indicated that staff was also seeking funding through TCAG in the event the City could purchase equipment that operated on alternative fuels. Mayor Pro Tem Felipe Martinez stated that he had talked with representatives from the City of Tulare and they evinced an interest in also participating. He added that Visalia Mayor Jesus Gamboa had also responded positively. Mr. Longley indicated that staff could bring back the best proposal at the first meeting in November, to which the Council agreed.

Mayor Hamilton inquired as to the pay-off on the COPs, to which it was estimated that the pay-off was $1.9 Million, and the amount of street fund money was approximately $400,000.

The Council then discussed the low water crossing project on Indiana. Mayor Hamilton questioned whether discussions had been initiated with the Fish and Game Department. Staff responded that no contact had yet been made due to a current lack of funding. Mayor Hamilton voiced interest in immediately opening the dialog with Fish and Game, and the Council concurred.

Mayor Hamilton then spoke of the rippling effects on North Grand Avenue near Newcomb Street, inquired as to the concrete aprons installed by the County, and requested information on the aprons. Staff confirmed that information would be provided.

Mayor Hamilton then confirmed with staff that the moratorium on street cuttings was currently five years, and voiced interest in looking into increasing the time. He commented that he believed the corings were responsible for the damage to Olive Avenue. Mr. Rodriguez stated that every time a street was cut, years were taken away. City Manager John Longley clarified with the Council that staff would look into what other agencies were doing, research the legalities of increasing the length of the moratorium, and suggested that seven or seven and a half years might be appropriate. Mr. Rodriguez stated that the utility companies were generally the ones that took issue with the moratorium. City Attorney Julia Lew added that the City of Santa Ana just recently went through lengthy litigation wherein the City sued due to excessive trench cutting. She stated that Santa Ana ultimately lost their case.
In response to a question posed by Mayor Hamilton as to Franchise Fees, Mr. Longley indicated that all of the franchise fee revenue went towards the debt service on the COPs. It was estimated that the amount of revenue generated was approximately $1 Million. A discussion ensued as to franchise fees and the various sources of revenue.

The Council next discussed the status of the frontage road running parallel to State Route 65 near the Adult School. Mayor Hamilton commented that he believed that the School District would like to see that expanded. Staff indicated that the street was proposed to be expanded to two lanes. A discussion ensued as to the current status of the road and which portions would qualify for CMAQ funds. In response to Mayor Hamilton’s inquiry as to the status of an overpass at North Grand and State Route 65, staff indicated that Caltrans had conducted a study and that a report was therefore available.

As to the Capital Improvement Strategies included in the staff report, staff clarified that the asterisks on the report referred to funds that were re-appropriated from the prior year. A discussion then ensued as to whether the Council wished to re-prioritize any of the projects listed on the Plan. Mr. Longley indicated that if the Council so chose, staff could provide a different presentation in which five funded years would be presented, with a coding system for projects to occur in subsequent years. Mayor Hamilton expressed an interest in focusing on fixing the streets currently in place, rather than on constructing new streets. Council Member McCracken concurred. Mr. Rodriguez noted for the Council’s edification that the work associated with the Riverwalk project actually included new street construction, specifically the extension of Jaye Street. The Council acknowledged that the work on Jaye Street was necessary.

City Manager John Longley noted that there were additional resources that would be available, such as $315,000 in Prop 42 funds, and stated that staff would bring back a specific repair project that could be funded with those monies within the Fiscal Year, or soon thereafter. He added that as other funds became available through Prop 1B or through the ½ cent sales tax, staff would provide a report with recommendations for repair and reconstruction projects for the Council’s consideration. Mayor Hamilton suggested that the funds from Prop 1B could almost fund the low water crossing project, and noted the importance of initiating discussions with the Fish and Game Department. Mr. Longley stated that the Council could allocate the Prop 1B funds to the water crossing project that evening, noting that it would be a step forward. The Council requested that the matter be brought back for Council’s consideration.

Mayor Hamilton suggested that if the City abandoned the alleyways, it could save $30,000 for use elsewhere. Staff indicated that some of the alleys had utility and/or sewer easements, and that mapping and identifying those that did and did not have easements was possible. A discussion ensued as to possibly abandoning the alleyways that did not have utility easements. Staff confirmed that a map could be provided to the Council, and spoke of the Ten Year Alley Reconstruction Program towards which $25,000 had been budgeted. Mr. Rodriguez noted that the most current alley reconstruction project pertained to the alleyway behind the Chevron station on Putnam Avenue. He indicated that staff was actively working on getting other alley projects identified in the Reconstruction Program completed.

Mayor Hamilton next inquired as to the status of repairs to G Street, from Henderson Avenue to approximately 600 feet south of Henderson Avenue. Mike Reed, City Engineer, indicated that the project was scheduled for FY 2007/2008 at an estimated $73,000, and had been inadvertently omitted from the report. He stated that the project had a few design challenges that staff was currently working through.
In response to a question posed by Council Member Pedro Martinez, staff confirmed that the situation regarding the gate at South Beverly had been resolved only in the sense that the gate had been opened, and that the issue of safety had been addressed by prohibiting parking on the west side of the road. It was clarified that the street had not been expanded, but the other measures identified had been taken to mitigate the problems. Mr. Reed stated that the expansion of the street was in the next allocation of CMAQ funding.

City Manager John Longley proposed that the $1.4 Million could be put toward the low water crossing; and that the $315,000 from Prop 42, and the $635,000 from the ½ cent sales tax, which projected over the next three years would be another $1.5 Million, that could be utilized for reconstruction and pothole repairs. Mr. Longley suggested that a list could be prepared and provided to the Council detailing what could be accomplished with the approximate $1.5 Million over the next three years. Mr. Longley added that with regard to the purchase of the pothole machine, two options existed: 1) to pursue funding through CMAQ if a machine that operated on alternative fuels could be secured; and 2) possibly get partial funding through Tribal Gaming funds. He stated that the equipment could be purchased with a loan over a number of years, and could be pursued as an enterprise, possibly leasing the equipment out to other agencies. Mr. Longley stated that proposals could be brought to the Council in November.

Mayor Hamilton spoke of the need for addressing the low water crossing at Indiana Street, and voiced support for pursuing the work at Nicholson Road, noting that it would aid in economic development in that vicinity. Council Member Pedro Martinez agreed with the Mayor’s comments.

Mayor Pro Tem Felipe Martinez inquired as to the disposition of the intersection of Date Avenue and Jaye Street. Mr. Rodriguez indicated that he could not locate the project on the Plan provided, and suggested that it too might have been inadvertently omitted. Mr. Rodriguez stated that he would provide a status report on that projected work to the Council.

City Manager John Longley provided a review of the direction given by Council that evening:

1. Staff will bring back to the Council in November the best proposal on the purchase of a pothole machine;
2. Staff will develop a memorandum on street cuttings and the possible extension of the moratorium from five years to seven or seven and one-half years, including the pros and cons of extension. If any member of the Council wished for the matter to be placed on the Agenda, staff would do so;
3. Staff will prepare a preliminary work program on the low water crossing project, including the identification of funding sources to accomplish the work, and report back to the Council;
4. Staff will prepare a memorandum to the Council providing a summary of projects to be funded by Prop 42 monies, the potential sales tax and Prop 1B monies, at the total amount of $1.5 Million over the period of three years, for street reconstruction and repairs;
5. Staff will prepare a memorandum on the status of Date Street and Jaye Street; and
6. Staff will prepare a memorandum for the Council on the pros and cons of installing concrete aprons at intersections.
Mayor Pro Tem Felipe Martinez suggested that staff should also research the cost of repairs on Newcomb Street from Olive Avenue, south to the actual low water bridge.

A discussion ensued as to streets that had the potential for flooding. Mr. Rodriguez indicated that several streets on the East side of Porterville had endured severe flooding earlier that year, but that many of the problems were in the County’s jurisdiction. Mr. Rodriguez noted that one of the issues on the G Street project was the potential for flooding, although he stated that the majority of the flood areas were located on the East side. Council Member Pedro Martinez noted the importance of assisting residents who were affected by floods.

Disposition:  Direction provided to staff.

ORAL COMMUNICATIONS
None

OTHER MATTERS
• Mayor Hamilton commended Field Services Superintendent Fred Beltran and his crew for the work they accomplished on Newcomb Street and Main Street.

ADJOURNMENT
The Council adjourned at 7:36 p.m. to the Meeting of September 5, 2006 at 6:00 p.m.

______________________________
Patrice Hildreth, Deputy City Clerk

ATTEST:

______________________________
Cameron Hamilton, Mayor
SUBJECT: BUDGET ADJUSTMENT

SOURCE: FIRE DEPARTMENT

COMMENT: As a result of the two fatalities that occurred in the Mobile Home fire on August 24, 2006, the Porterville Fire Department has received a donation from the Cox family in memory of Tashia Cox.

The family has donated $966.35 to the Fire Department with instructions the funds are to be used for public education, specifically geared to the proper use of candles.

RECOMMENDATION: That the City Council:

1) Authorize staff to accept the donation.

2) Authorize a budget adjustment to the Fire Department in the amount of $966.35.

ATTACHMENT: Letter received from Myers Funeral Service & Crematory
September 15, 2006

To Whom It May Concern:

Enclosed is a donation from the Cox Family in Memory of Tashia Cox. Please contact the family before distributing the funds, as they have specific instructions as to how they would like the monies divided.

Sincerely,

Brandi Holmes
Myers Funeral Service

Contact Information:

Carole Mott
(559) 553-2013
(559)553-2050
SUBJECT: AWARD CONTRACT – SPRAYED POLYURETHANE ROOFING SYSTEMS

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

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>
</tr>
</thead>
<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>
</tr>
<tr>
<td>Menifee, CA</td>
<td></td>
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</tbody>
</table>

Staff has reviewed the low bid and found it acceptable. The Engineer’s estimate of probable cost is $155,000. The low bid is 18% under the estimate.

The specifications require a ten (10) year leakage warranty. Funds for this project are available from Capital Project Nos. 89-9086.88 and 89-9478.88. The City Hall portion of the project low bid is $57,710. The Community Center portion of the low bid is $70,122. With project management and contingencies added the Community Center roofing work will be accomplished at less than $85,000, a savings of $20,000 from the funding allocated for this portion of the Community Center improvement.

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.
SUBJECT: ACCEPTANCE OF PROJECT – TRAFFIC SIGNAL NO. 8 (PLANO STREET AND MULBERRY AVENUE – SAFE ROUTES TO SCHOOL GRANT)

SOURCE: Public Works Department - Engineering Division

COMMENT: Halopoff & Sons, Inc. has completed the Traffic Signal No. 8 (Plano Street and Mulberry Avenue) Project per plans and specifications. The project consisted of the construction of a traffic signal, substantial street reconstruction to remove a cross gutter and correct a drainage problem plus various appurtenances at the intersection of Plano Street and Mulberry Avenue.

City Council authorized expenditure of $354,969.89. Final construction cost is $354,790.53. Funding was available from a Safe Routes to School Grant in the amount of $241,400 coupled with the City’s 10% local match in the amount of $26,800 funded by Special Gas Tax plus $92,000 from a Work Force Housing Incentive Grant to cover construction, inspection and administrative costs.

Halopoff & Sons, Inc. requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That the City Council:

1. Accept the project as complete;

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

3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

ATTACHMENT: Locator Map
COUNCIL AGENDA: OCTOBER 3, 2006

SUBJECT: ACCEPTANCE OF IMPROVEMENTS – SUNRISE VILLA, PHASE ONE SUBDIVISION (Tom O’Sullivan – OZ Services)

SOURCE: Public Works Department – Engineering Division

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

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

RECOMMENDATION: That the City Council:

1. Accept the public improvements of Sunrise Villa, Phase One Subdivision for maintenance;

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

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

ATTACHMENT: Locator Map

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Appropriated/Funded _____ CM _____ Item No. 5
COUNCIL AGENDA: OCTOBER 3, 2006

SUBJECT: ACCEPTANCE OF IMPROVEMENTS – WESTWOOD VILLAGE MOBILE HOME COMMUNITY, UNIT THREE (Dan Daniel – Daniel Properties)

SOURCE: Public Works Department – Engineering Division

COMMENT: The subdivider, Daniel Properties, has requested that the sewer and water main improvements constructed for his development, be accepted by the City for maintenance. All required improvements for the sewer and water mains have been completed, inspected by City staff and found to be acceptable.

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

RECOMMENDATION: That the City Council:

1. Accept the sewer and water main improvements at Westwood Village Mobile Home Community, Unit Three for maintenance;

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

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

ATTACHMENT: Locator Map

P:\pubwork\Engineering\Council items\2006-10-03 Acceptance of Improvements - Westwood Village MHC Unit 3.doc

Appropriated/Funded _____ CM _____ Item No. 6
SUBJECT: ACCEPTANCE OF FINAL SUBDIVISION MAP - WILLIAMS RANCH, PHASE FOUR (Brian Ennis)

SOURCE: Public Works Department – Engineering Division

COMMENT: The subdivider, Ennis Land Development, LLC, has submitted the final map of the subject subdivision for Council approval. The subdivider is requesting approval prior to the acceptance of the required improvements.

The subdivider has submitted the required guarantee to the City to complete and/or accept all necessary public improvements on the project. The subdivider has signed a subdivision agreement between the subdivider and the City, and all fees have been paid.

The final map is in conformance with the approved tentative map and City Council Resolution No. 36-2001. The improvement plans, specifications, and the final map have been approved by the City Engineer and all other requirements have been met.

RECOMMENDATION: That City Council:

1. Approve the final map of Williams Ranch, Phase Four Subdivision;

2. Accept all offers of dedication shown on the final map; and

3. Authorize the City Clerk to file said map with the County Recorder.

ATTACHMENT: Final Map - Williams Ranch, Phase Four

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Appropriated/Funded _____ CM _____ Item No. 7
COUNCIL AGENDA: OCTOBER 3, 2006

SUBJECT: ACCEPTANCE OF FINAL SUBDIVISION MAP – BEVERLY GLENN SUBDIVISION (Mohammad Davarifar)

SOURCE: Public Works Department – Engineering Division

COMMENT: The subdivider, Nader Development, has submitted the final map of the subject subdivision for Council approval. The subdivider is requesting approval prior to the acceptance of the required improvements.

The subdivider has submitted the required guarantee to the City to complete and/or accept all necessary public improvements on the project. The subdivider has signed a subdivision agreement between the subdivider and the City, and all fees have been paid.

The final map is in conformance with the approved tentative map and City Council Resolution No. 134-2004. The improvement plans, specifications and the final map have been approved by the City Engineer and all other requirements have been met.

RECOMMENDATION: That the City Council:

1. Approve the final map of Beverly Glenn Subdivision;

2. Accept all offers of dedication shown on the final map; and

3. Authorize the City Clerk to file said map with the County Recorder.

ATTACHMENT: Final Map – Beverly Glenn

P:\PUBWORKS\ENGINEERING\COUNCIL ITEMS\2005-10-03 ACCEPTANCE OF FINAL SUBDIVISION MAP - BEVERLY GLENN DOC

Dir Appropiated/Funded _____ CM _____ Item No. 8
CITY COUNCIL AGENDA: OCTOBER 3, 2006

STAFF REPORT

SUBJECT: MODIFICATION OF RESOLUTION APPROVING ANNEXATION OF LANDS FOR EFFLUENT IRRIGATION AND BIOSOLIDS DISPOSAL

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: On January 17, 2005, the City Council approved Resolution 09-06, which initiated the process to annex and pre-zone nine parcels totaling approximately 704 acres located north, south and west of the Porterville Municipal Airport. The parcels are agricultural land currently in production of fiber and fodder crops. The parcels are currently within the County AE-20 (Exclusive Agriculture- 20-Acre Minimum) Zone, and will be used for wastewater effluent reuse (including biosolids spreading) and the increase of the airport clear zone. The parcels to be annexed will be pre-zoned to the City’s OA (Open Area) Zone.

Approximately 330 acres of the subject annexation are located in Agricultural Preserves 2112, 2580, and 3332. The Department of Conservation has been notified of the proposed project and has drafted a comment letter. Since the Council’s approval, City Staff have been working to resolve the Department of Conservation’s concerns regarding the removal of lands from Williamson Act Contracts. Although the City certainly intends to find resolution to the apparent conflict of this situation, the City also must annex the properties as soon as possible in order to comply with WDR 05-01-104; lands must be owned by the City and within the city limits in order to dispose of biosolids. The impacts of this decision were presented to Council during a closed session discussion on August 15, 2006. Approval of the proposed modification, by adding findings M., N., and O. to the resolution, will permit staff to work with LAFCo to move forward with the annexation, and will enable staff to work with the Department of Conservation on the documentation and acceptance of the cancellations.

RECOMMENDATION: That the City Council:
1. Adopt the resolution with the proposed modification.
RESOLUTION NO.______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA MAKING APPLICATION FOR CHANGE OF ORGANIZATION OF TERRITORY KNOWN AS ANNEXATION NO. 454 AND RESCINDING RESOLUTION 09-06

WHEREAS, the California State Legislature finds and declares that it is the policy of the State to encourage orderly growth and development which is essential to the social, fiscal, and economic well-being of the State, and recognizes that the logical formation and determination of City boundaries is an important factor in promoting the orderly development of urban areas; and

WHEREAS, the legislature recognizes that population density and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities must be established regarding the type and levels of such services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against total financial resources available for securing community services; and that such community service priorities must reflect local circumstances, conditions, and limited financial resources. The legislature finds and declares that a single government agency, rather than several limited purpose agencies, is better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities; and

WHEREAS, the location of the proposed annexation is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve; and

WHEREAS, there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement; and

WHEREAS, the proposed non-contiguous annexation meets those requirements stated in Government Code Section 56742, notably subsection b), which states territory which is used by a city for the reclamation, disposal, and storage of treated wastewater may be annexed to the city pursuant to this section without limitation as to the size of the territory; and

WHEREAS, the City acquired these lands through a lease-purchase agreement in lieu of eminent domain; and

WHEREAS, upon purchase of these lands, the Williamson Act contracts became null and void pursuant to Section 51295 of the Government Code; and
WHEREAS, the City Council of the City of Porterville desires to initiate proceedings for a change of organization of the hereinafter described territory.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

1. Application is hereby made to the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California, as follows:

   A. This proposal is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 of the State of California.

   B. The nature of the proposal is a change of organization as follows:

       A description of the exterior boundaries of the territory to be annexed is attached hereto and marked Exhibit “A” and made a part hereof by reference as though set forth herein.

   C. The reasons for this proposal are as follows:

       To operate the City’s Wastewater Treatment Facility under wastewater discharge requirements (WDR) issued by the California Central Valley Regional Water Quality Control Board. The current permit, WDR 05-01-103, was issued in April 2001, and contains several provisions specifying projects and studies which the City must complete to remain in compliance. One requirement listed in Order Number 05-01-103 is that the City must provide effluent disposal capacity sufficient to accommodate the permitted monthly average discharge rate of 5.3 million gallons per day. Calculations completed by the City estimate acreage requirements for a flow of 5.3 mgd or under with use of percolation basins to require almost 539 acres. The City will also be relocating its existing percolation basins at the request of the Regional Water Quality Control Board.

   D. The City proposes to annex nine parcels of land, totaling approximately 704 acres, for use as wastewater effluent reuse (including biosolids spreading) and to increase the airport clear zone. The City has available a total of 1,220 acres in its reclamation area with 30 acres as a flow easement and the remainder owned by the City.
E. That the environmental analysis prepared for Annexation No. 454 and Zone Change No. 11-2005 (pre-zoning) supporting the Negative Declaration reflects the independent judgment of the City of Porterville.

F. That a Negative Declaration was approved for this project in accordance with the California Environmental Quality Act based on findings of the environmental studies indicating that the project will not have a negative impact on the environment.

G. That the Negative Declaration prepared for this project was made available for public review and comment.

H. Approximately 330 acres of the subject annexation are located in Agricultural Preserves 2112, 2580, and 3332.

I. The City of Porterville hereby exercises its option to not succeed to the Agricultural Preserve No. 3665 Contract pursuant to Government Code Section 51243.5 upon annexation of said site into the City of Porterville.

J. That the subject site consists of 704± acres.

K. In conjunction with the proposed annexation, Zone Change No. 11-2005 (pre-zoning) proposes to change the existing zoning from County AE-20 (Exclusive Agriculture 20 Acre Minimum) Zone to the City OA (Open Area) Zone.

L. It is hereby requested that proceedings be taken for the change of organization proposed herein.

M. Pursuant to Government Code Section 51291(b), the City of Porterville will notify the Department of Conservation and County of Tulare of its intention to consider the location of a public improvement within a preserve prior to the recording of the Certificate of Completion.

N. Pursuant to Government Code Section 51292, the City of Porterville finds that the location of the subject project is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve, and that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

O. This Resolution shall rescind and replace in its entirety Resolution 09-06.
2. The City Clerk (or other official) of the City of Porterville is hereby authorized and directed to file a certified copy of this resolution with the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California.

________________________________________
Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By_____________________________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: REQUEST FOR AUTHORIZATION TO USE CITY PROPERTY

SOURCE: Public Works Department - Engineering Division

COMMENT: On September 18, 2006, Staff received a request from Burton Elementary School for permission to use Drainage Reservoir #23 as part of their cross country training facility. Drainage Reservoir #23 is located north of the Porter Slough and west of the Burton School Grounds.

Staff believes that the intended use is compatible with the existing facility provided that a school staff member is present whenever youths use the facility and that the use is restricted to between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, and on weekends by special permission.

Burton School District has provided a Certificate of Coverage of Liability Insurance naming the City of Porterville as an additional insured. In addition, the Burton School District will install, at their expense, an entry gate outfitted with a double lock for access by the City and Burton School.

RECOMENDATION: That the City Council:

1. Approve use of Drainage Reservoir #23 by Burton School District as a cross country training facility;

2. That use is limited to the 2006/2007 school year, any future requests must be submitted in writing;

3. That Burton School District must install entry gate and double lock as stated in letter of request

4. That a school staff member must be present when in use; and

5. That use is restricted to between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, and on weekends by special permission.

ATTACHMENT: Burton School District Letter Dated 9-18-06
Certificate of Coverage

P:\pubworks\Engineering\Council Items\2006-10-03 Request for Authorization to Use City Property.doc

Dir Appropriated/Funded CM

Item No. 10
September 18, 2006

Mr. Baldomero S. Rodriguez
Public Works Director
City of Porterville
291 N. Main Street
Porterville, CA 93257

Dear Mr. Rodriguez:

The Burton School District intends to use the property known as “Drainage Reservoir #23, as a running practice facility and that the Burton School District intends to install, at its expense, an entry gate outfitted with a double lock for access by the City and the Burton School District.

Towards the end of August, I initiated with the districts insurance brokers, action for them to issue a certificate of insurance naming the City of Porterville as an additional insured. I faxed a copy of this to the City of Porterville and it is my understanding that the districts’ insurance brokers mailed directly to the city the original copy.

I would appreciate hearing back from the city once the City Council approves this request.

Thank you in advance.

Sincerely,

Ralph D. Hatland
Chief Business Officer
Burton School District
(559) 788-6410

Cc Armando Silva
File Copy
Nor Cal ReLiEF  CERTIFICATE OF COVERAGE  ISSUE DATE 08/31/06

ADMINISTRATOR:
KEENAN & ASSOCIATES
1740 Technology Drive
Suite 300
San Jose, CA 95110

LICENSE # 0451271
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGES AFFORDED BY THE COVERAGE DOCUMENTS BELOW.

COVERED PARTY:
TULARE COUNTY SIA
Burton Elementary School District
264 North Westwood Street
Porterville, CA 93257

ENTITIES AFFORDING COVERAGE
ENTITY A Northern California ReLiEF

RECEIVED
SEP 7 2006
City of Porterville
Public Works Dept.

ATTN: Ralph Hatland

THIS IS TO CERTIFY THAT THE COVERAGES LISTED BELOW HAVE BEEN ISSUED TO THE COVERED PARTY NAMED ABOVE FOR THE PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM, OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE OF COVERAGE IS ISSUED OR CANCELLED, THE COVERAGE AFFORDED HEREIN IS SUBJECT TO ALL THE TERMS, AND CONDITIONS OF SUCH COVERAGE DOCUMENTS.

<table>
<thead>
<tr>
<th>ENT LTR</th>
<th>TYPE OF COVERAGE</th>
<th>COVERAGE DOCUMENTS</th>
<th>EFFECTIVE / EXPIRATION DATE</th>
<th>MEMBER RETAINED LIMIT / DEDUCTIBLE</th>
<th>LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>GENERAL LIABILITY</td>
<td>NCR0060415</td>
<td>07/01/06 07/01/07</td>
<td>$50,000</td>
<td>COMBINED SINGLE LIMIT EACH OCCURRENCE $1,000,000</td>
</tr>
<tr>
<td>A</td>
<td>AUTOMOBILE LIABILITY</td>
<td>NCR0060415</td>
<td>07/01/06 07/01/07</td>
<td>$50,000</td>
<td>COMBINED SINGLE LIMIT EACH OCCURRENCE $1,000,000</td>
</tr>
<tr>
<td>A</td>
<td>PROPERTY</td>
<td>NCR0060415</td>
<td>07/01/06 07/01/07</td>
<td>$50,000</td>
<td>$250,000,000 EACH OCCURRENCE</td>
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<tr>
<td>A</td>
<td>STUDENT PROFESSIONAL LIABILITY</td>
<td>NCR0060415</td>
<td>07/01/06 07/01/07</td>
<td>$50,000</td>
<td>$ Included EACH OCCURRENCE</td>
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</tbody>
</table>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / RESTRICTIONS / SPECIAL PROVISIONS:
As respects to cross country training at the Drainage Resevoir #23 located north of the Porter Slough and west of the Burton School Grounds throughout the 2006/2007 coverage period.

CERTIFICATE HOLDER:
City of Porterville
291 N. Main Street
Porterville, CA 93257

ATTN: Baldonero S. Rodriguez

K&A P/L 06/20001 of 1 #S71659/M64220

CANCELLATION...... SHOULD ANY OF THE ABOVE DESCRIBED COVERAGES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING ENTITY JPA WILL Endeavor TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE ENTITY/JPA, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

J11
NORTHERN CALIFORNIA ReLiEF

ENDORSEMENT

ADDITIONAL COVERED PARTY

<table>
<thead>
<tr>
<th>COVERED PARTY</th>
<th>COVERAGE DOCUMENT</th>
<th>ADMINISTRATOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burton Elementary School District</td>
<td>NCR0060415</td>
<td>KEENAN &amp; ASSOCIATES</td>
</tr>
</tbody>
</table>

Subject to all its terms, conditions, exclusions and endorsements, such additional covered party as is afforded by the coverage document shall also apply to the following entity but only as respects to liability arising directly from the actions and activities of the covered party described under "as respects" below.

Additional Covered Party:
City of Porterville
291 N. Main Street
Porterville, CA  93257

As Respects:
As respects to cross country training at the Drainage Resevoir #23 located north of the Porter Slough and west of the Burton School Grounds throughout the 2006/2007 coverage period.
SUBJECT: AUTHORIZATION TO DEVELOP AND ENTER INTO AN OFFSITE IMPROVEMENTS DESIGN AGREEMENT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Ennis Development Corporation has proposed construction of a large commercial center known as the Riverwalk Commercial Center located on Jaye Street north of Highway 190. The anticipated increase in traffic dictated the need to perform a traffic analysis to determine what, if any, improvements would be needed along the Jaye Street corridor.

Omni-Means prepared and submitted the traffic study for staff's review and comment and on August 1, 2006, City Council certified the traffic study. The findings clearly indicate that all of the intersections along Jaye Street from Highway 190 to Olive Avenue will be impacted by the proposed commercial development. Further, staff is aware of existing concerns along Jaye Street south of Highway 190.

Staff understands that the recommended offsite design improvements along Jaye Street will have to be properly coordinated with the Riverwalk design improvements. Absent this coordination, construction will not move forward in a timely and coordinated manner, which means that the commercial center opening may be delayed.

One of the important tools contained within the traffic study are the tables that define the work required along the Jaye Street corridor and at each intersection. The tables also assign recommended levels of responsibilities to the City and to the developer in the form of percentages for each increment of design work.

Ben Ennis, representing Ennis Development, reviewed the recommendations and agreed on the percentages. Mr. Ennis' Civil Engineering firm, CEI, has been involved at every level of discussion and is fully aware of the offsite requirements as set forth in the traffic study. Because of CEI's demonstrated level of understanding, staff is convinced that CEI is uniquely qualified to design the offsite improvements associated with the Riverwalk Commercial Center and as described in the traffic study.
A design cost analysis prepared by CEI under the direction of the City Engineer and Ennis Development is presented in Council’s packet and the overhead presentation shows the final street configuration along Jaye Street from Highway 190 to Springville Avenue.

The “one engineer” concept will insure that all traffic related issues are addressed and will insure that the project is properly coordinated. To move the project forward, staff believes that a service agreement between the City of Porterville and Ennis Corporation should be developed based on the items of work and cost sharing identified in the attached CEI worksheet.

RECOMMENDATION: That City Council:

1. Direct staff to develop a Design Service Agreement between the City and Ennis Corporation compliant with the Riverwalk Traffic Study recommendations;

2. Direct the City Attorney to review, modify and/or change the agreement to satisfy all legal requirements;

3. Direct staff to submit said agreement to Ennis Corporation for their review and concurrence; and

4. Direct the Mayor to execute the Design Service Agreement.

ATTACHMENT: Off-Site Improvements Conceptual Report

P:\pub\work\Engineering\Council Item\2006-10-03 Authorization to Develop and Enter Into an Offsite Improvements Design Agreement.doc
<table>
<thead>
<tr>
<th>Project Costs</th>
<th>Description</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>$57,456.00</td>
<td>Initial Design</td>
<td>$57,456.00</td>
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<tr>
<td>$0.00</td>
<td>Construction</td>
<td>$0.00</td>
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<tr>
<td>$0.00</td>
<td>Engineering</td>
<td>$0.00</td>
</tr>
<tr>
<td>$0.00</td>
<td>Management</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

**Total:** $57,456.00
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT - CITY OF PORTERVILLE - PORTERVILLE COMMUNITY FESTIVAL

SOURCE: Administrative Services - Finance Division

COMMENT: City of Porterville’s Parks and the Chamber of Commerce is requesting approval to hold the Porterville Community Festival event on Saturday October 14, 2006, from 10:00 p.m. to 3:00 p.m. This event will have booths set up for local organizations to sell and share the history of the organizations in the community, kids area, car exhibit and entertainment.

The following street/sidewalk closures/usages are requested:

STREETS (CLOSED):
Main Street from Putnam Avenue to Harrison Avenue.
Cleveland Avenue from Division Street to Main (alley).
Thurman Avenue from Division Street to Main (alley).

This request is being made under Community Civic Event Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. All requirements are listed on the attached application, agreement and exhibit "A." The application, agreement, exhibit "A," request for street closures, and a map showing the desired street closures are attached.

RECOMMENDATION: That the Council approve the Community Civic Event Application and Agreement from the City of Porterville, subject to the Restrictions and Requirements contained in application, agreement and exhibit "A" of the Community Civic Event forms.

ATTACHMENT: Community civic event application and agreement, request for street, sidewalk and parking lot closure/usage, vendor list, Exhibit A, map, outside amplifier permit.

D.D. ______ Appropriated/Funded ______ C.M. ______ Item No. 12
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 9/11/06  Event date: 10/14/06
Recl'd 9/13/06
Name of Event: 2nd Annual Porterville Community Festival
Sponsoring organization: City of Porterville
Address: 98 N. Main St
Authorized representative: Dianne Silva Carter
Address: Same

Event chairperson: 

Location of event (location map must be attached): Main Street - Putnam to Harrison and Centennial Park.

Type of event/method of operation: Festival - booths, entertainment, kids oregano exhibit, history tours

Nonprofit status determination: City public interest Chamber 501 6c

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

<table>
<thead>
<tr>
<th>Barricades (quantity):</th>
<th>30</th>
<th>Street sweeping</th>
<th>Yes</th>
<th>x</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police protection</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>x</td>
<td>No</td>
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<tr>
<td>Other</td>
<td></td>
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Parks facility application required: Yes | x | No |
Assembly permit required: Yes |   | No |

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

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<tr>
<th>Approve</th>
<th>Deny</th>
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Bus Lic Spvr
Pub Works Dir
Comm Dev Dir
Field Svc Mgr
Fire Chief
Parks Dir
Police Chief
Risk Manager
CITY OF PORTERVILLE

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

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

City Code requirements:

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

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

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

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

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

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

(Name of organization)  

(Signature)  

(Date)
CITY OF PORTERVILLE

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

Name of event: 2nd Annual Porterville Community Festival

Sponsoring organization: City of Porterville & Porterville Chamber

Location: Main St - Putnam to Harrison

Centennial Park

Event date: 10/14/2023

10 am to 3 pm

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

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>To be provided at a later date upon receipt of registrations</td>
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CITY OF PORTERVILLE

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

Name of event: **2nd Annual Porterville Community Festival**

Sponsoring organization: **City of Porterville & Porterville Chamber**

Event date: **10/14/06**

Street closure: 7a-5p

Hours: Event time: 10a-3p

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main</td>
<td>Putnam</td>
<td>Harrison</td>
<td>Boating, Kids</td>
</tr>
<tr>
<td>Cleveland</td>
<td>Divisioin</td>
<td>Alley East of Main</td>
<td>Area Car</td>
</tr>
<tr>
<td>Thurman</td>
<td>Divisioin</td>
<td>Alley East of Main</td>
<td>Exhibit</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
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<tbody>
<tr>
<td>Parking lots and spaces</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sidewalks</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Activity</th>
</tr>
</thead>
</table>

4 of 4
# REQUIREMENTS FOR COMMUNITY CIVIC EVENT

**CITY OF PORTERVILLE**  
**PORTERVILLE COMMUNITY FESTIVAL**  
**OCTOBER 14, 2006**

<table>
<thead>
<tr>
<th>Role</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business License Supervisor: S. Perkins</td>
<td>Vendor list required prior to event.</td>
</tr>
<tr>
<td>Public Works Director: B. Rodriguez</td>
<td>Provide general clean up after event, maintain traffic control devises during event.</td>
</tr>
<tr>
<td>Community Development Director: B. Dunlap</td>
<td>No comments.</td>
</tr>
<tr>
<td>Field Services Manager: B. Styles</td>
<td>No comments.</td>
</tr>
<tr>
<td>Chief of Fire Operations: M.G. Garcia</td>
<td>No comments.</td>
</tr>
<tr>
<td>Parks and Leisure Services Director J. Perrine</td>
<td>No comments.</td>
</tr>
<tr>
<td>Police Chief: C. McMillian</td>
<td>Council approval needed on street closures.</td>
</tr>
<tr>
<td>Risk Manager: F. Guyton</td>
<td>No comments.</td>
</tr>
</tbody>
</table>

EXHIBIT "A"
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Porterville Chamber of Commerce
Event: Porterville Community Festival
Event Chairman: Donnette Silva Carter
Location: Main Street
Date of Event: October 14, 2006
Time of Event: 10:00 a.m. to 3:00 p.m.

RISK MANAGEMENT: Conditions of Approval

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

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

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

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

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

1. Name and home address of the applicant:
   Porterville Chamber Office
   Phone # 784-7502
   92 N Main

2. Address where amplification equipment is to be used:
   Main Street/Centennial Plaza
   Phone # 784-7502

3. Names and addresses of all persons who will use or operate the amplification equipment:
   Julie Roam is Coordinating local entertainment groups

4. Type of event for which amplification equipment will be used:
   Dance groups, youth groups, community bands

5. Dates and hours of operation of amplification equipment:
   October 14, 2006 between 10 am - 3 pm

6. A general description of the sound amplifying equipment to be used:
   Speaker & musical instruments' equipment
I hereby certify that all statements and answers on this registration form are true and correct.

[Signature]
Applicant

9/13/05
Date

Chief of Police
Date

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

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

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

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

[Signature]

3/27/01
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
VETERANS' HOMECOMING COMMITTEE
VETERANS' DAY PARADE - NOVEMBER 11, 2006

SOURCE: Administrative Services, Finance Division

COMMENT: The Veterans' Homecoming Committee is requesting approval to hold its annual Veterans' Day Parade on Saturday, November 11, 2006, from 5:00 a.m. to 12:00 p.m. They are requesting the closure of Main Street from Danner Avenue to Orange Avenue.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. The requirements are listed on the attached copy of the application, agreement and Exhibit "A" and a map showing the desired street closures is included.

RECOMMENDATION: That the Council approve the attached Community Civic Event Application and Agreement submitted by the Veterans' Homecoming Committee, subject to the stated requirements contained in Exhibit "A."

ATTACHMENTS: Community Civic Event application, Agreement, Exhibit "A", map and outside amplifier permit.

DD Appropriated/Funded CM Item No. 13
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 8/25/06  Event date:  NOV 10 2006

Name of Event: VETERAN’S DAY PARADE

Sponsoring organization: VETERANS HOME COMING COMMITTEE
Address: 1900 W. OLIVE
Authorized representative: DON R. DOWLING
Address: 1238 LINDA VISTA
Event chairperson: DON R. DOWLING

Location of event (location map must be attached): MAIN STREET PORTERVILLE

Type of event/method of operation: VETERAN’S DAY PARADE

Nonprofit status determination: WE ARE NON PROFIT

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

<table>
<thead>
<tr>
<th>Barricades (quantity)</th>
<th>Street sweeping</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police protection</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>Approve</th>
<th>Deny</th>
</tr>
</thead>
<tbody>
<tr>
<td>________</td>
<td>______</td>
</tr>
<tr>
<td>Bus Lic Spvr</td>
<td>________</td>
</tr>
<tr>
<td>Pub Works Dir</td>
<td>________</td>
</tr>
<tr>
<td>Comm Dev Dir</td>
<td>________</td>
</tr>
<tr>
<td>Field Svcs Mgr</td>
<td>________</td>
</tr>
<tr>
<td>Fire Chief</td>
<td>________</td>
</tr>
<tr>
<td>Parks Dir</td>
<td>________</td>
</tr>
<tr>
<td>Police Chief</td>
<td>________</td>
</tr>
<tr>
<td>Risk Manager</td>
<td>________</td>
</tr>
</tbody>
</table>
CITY OF PORTERVILLE

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

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

City Code requirements:

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

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

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

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

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

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

[Signature]
(Name of organization)
(Date)
CITY OF PORTERVILLE

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

Name of event: Veterans Homecoming Committee

Sponsoring organization: Veterans Day Parade

Location: MAIN STREET PORTERVILLE Event date: 11/10/06

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

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Vendor permits are sold up to Vets. Day. Ed. Floy Parade Chairman will be in charge of all permits and collection of funds.

Signature: [Signature]

3 of 4
CITY OF PORTERVILLE

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

Name of event: Veterans Day Parade

Sponsoring organization: Veterans Homecoming Committee

Event date: 11/10/06 Hours: 0500 - 1200

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAIN ST</td>
<td>DANNER</td>
<td>ORANGE</td>
<td>PARADE</td>
</tr>
</tbody>
</table>

Sidewalks

Parking lots and spaces
## REQUIREMENTS FOR COMMUNITY CIVIC EVENT

**VETERANS’ HOMECOMING COMMITTEE**

**VETERANS’ DAY PARADE**

**NOVEMBER 11, 2006**

<table>
<thead>
<tr>
<th>Role</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business License Supervisor:</td>
<td>Vendor list required prior to event.</td>
</tr>
<tr>
<td>S. Perkins</td>
<td></td>
</tr>
<tr>
<td>Public Works Director:</td>
<td>Provide general cleanup after event and return all barricades.</td>
</tr>
<tr>
<td>B. Rodriguez</td>
<td></td>
</tr>
<tr>
<td>Community Development Director:</td>
<td>No comments.</td>
</tr>
<tr>
<td>B. Dunlap</td>
<td></td>
</tr>
<tr>
<td>Field Services Manager:</td>
<td>City sponsored parade, we will do street closures.</td>
</tr>
<tr>
<td>B. Styles</td>
<td></td>
</tr>
<tr>
<td>Chief of Fire Operations:</td>
<td>No comments.</td>
</tr>
<tr>
<td>M. G. Garcia</td>
<td></td>
</tr>
<tr>
<td>Parks and Leisure Services Director:</td>
<td>Applicant to provide trash receptacles and restrooms.</td>
</tr>
<tr>
<td>J. Perrine</td>
<td></td>
</tr>
<tr>
<td>Police Chief:</td>
<td>Requires Council approval for street closures.</td>
</tr>
<tr>
<td>C. McMillan</td>
<td></td>
</tr>
<tr>
<td>Risk Manager:</td>
<td>See attached.</td>
</tr>
<tr>
<td>F. Guyton</td>
<td></td>
</tr>
</tbody>
</table>
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Veterans' Homecoming Committee
Event: Veterans' Day Parade
Event Chairman: Don R. Dowling
Location: Main Street from Danner Ave to Orange Ave
Date of Event: November 11, 2006

RISK MANAGEMENT: Conditions of Approval

1. The following street sections are not authorized for closure and shall remain open to vehicular traffic.
   a. Division St. and Hockett St. between Oak Ave. and Olive Ave.
   b. Oak Ave. from Division St. to "D" St.
   c. Streets adjacent to the Police Station and Fire Station No.1
   d. Orange Avenue, east and west traffic flow.

2. That the Veterans' Homecoming Committee provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than $1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as "Additional Insured" against all claims arising from, or in connection with, the Permittee's operation and sponsorship of the aforementioned Community Civic Event.
   a. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than $1,000.
   b. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less that A:VII, and the insurance company must be an "admitted" insurer in the State of California.

3. The use of sidewalks within the Business Improvement District, for any purpose other than normal pedestrian traffic, e.g., food booths, sales booths, displays, bleachers, etc., is prohibited within a ten-foot radius of all walk-up Versa-Teller operations.
This application must be submitted 10 days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1. Name and home address of the applicant:
   
   Don R. Dowling
   1238 W. Linda Vista
   Phone # 781-7759 920-2659

2. Address where amplification equipment is to be used:
   
   Main Street Porterville
   Phone # 920-2659

3. Names and addresses of all persons who will use or operate the amplification equipment:
   
   Don R. Dowling and Ed Flores
   1900 W. Olive Porterville

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

5. Dates and hours of operation of amplification equipment:
   
   11/10/06 1000 - 1200

6. A general description of the sound amplifying equipment to be used:
   
   Announcer Stands (5 ea)
I hereby certify that all statements and answers on this registration form are true and correct.

Darrin Daeuling  
Applicant  
8/25/06  
Date  

Chief of Police  
9/7/06  
Date  

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

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

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

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

cc:  


3/27/01
SUBJECT:  SKATEPARK RULES AND SKATEBOARD REGULATIONS

SOURCE:  PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The Skatepark construction will be completed within the next week or so, with the acceptance of the project by the City Council anticipated at the October 17, 2006 meeting. Prior to opening the facility for public use, rules must be adopted and posted.

The Parks and Leisure Services Commission will consider rules at their October 5, 2006 meeting. Rules adopted by the Commission will be put into effect immediately. The Commission's rule recommendations will subsequently be considered by the City Council for codification. This may occur at either the October 17, 2006 or November 7, 2006 regular meeting. City staff is working closely with the City Attorney and Risk Managers to ensure that the rules are properly established and posted to adequately limit the City's liability.

EXISTING SKATEBOARD PROHIBITIONS:
Ordinance No. 1661 provides for the prohibition of skateboards on public and private properties once the Skatepark is open. The downtown area between Morton and Olive, from Second to 'D' Street, as well as any private property, which is properly posted, will become restricted for the riding of skateboards. This Ordinance is worded to include all wheeled devises, "with riding surface of any design, upon which a person may place one or more feet, and which is designed to be, or can be propelled by human power..." This definition clearly includes roller-blades, in-line skates, and 'wheely' shoes.

The potential exists that the public may not be fully aware of these provisions set to go into effect with the opening of the Skatepark. Staff will endeavor to provide one week of public notification prior to the opening of the Skatepark, and will include notice that Ordinance 1661 will become effective on the same date.

RECOMMENDATION: No Council action is requested at this time. The matter of skatepark rules will be scheduled for a subsequent City Council meeting, upon completion of Parks and Leisure Services Commission consideration.

ATTACHMENT: Ordinance No. 1661
ORDINANCE NO. 1661

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE DELETING SECTION 20-1.1 OF CHAPTER 20, OF ARTICLE 1, OF THE PORTERVILLE MUNICIPAL CODE, AND ADDING CHAPTER 18, ARTICLE IV, CONCERNING THE USE OF SKATEBOARDS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORTERVILLE, AS FOLLOWS, TO WIT:

SECTION 1. Section 20-1.1 of Chapter 20, Article 1 is hereby deleted in its entirety.

SECTION 2. Article 4 (Sections 18-60 through 18-70) is hereby added to Chapter 18 of the City Code and shall read as follows:

18-60. Purpose and Intent.

The City Council finds and declares that the purpose of this chapter is to promote the public peace, morals, safety, and general welfare of persons in the City by regulating the activity of skateboarding on certain public property and on certain private property which is accessible to the general public.

18-61. “Skateboard” Defined.

“Skateboard” means any vehicle, device, or contrivance with any number of wheels, with a riding surface of any design, upon which a person may place one or more feet, and which is designed to be, or can be propelled by human power, and which is not defined as a bicycle by the California Vehicle Code. The term skateboard also includes motorized skateboards.

18-63. Skateboarding Prohibited -- Public Property.

(A) The use of skateboards is prohibited on any sidewalk, walkway, crosswalk or other area designed primarily for pedestrian travel in the area bounded by Morton and Olive and Second and “D” Streets.

(B) The City Council may, by resolution, prohibit the riding of skateboards, as defined in Section 18-61, on public streets, sidewalks, parking lots, and other public property over which it has jurisdiction when it is determined to be necessary to protect the health, safety, and welfare of pedestrians, motorists, or persons operating said skateboards on said streets and sidewalks. The riding of skateboards shall be prohibited upon any public property when such property is posted pursuant to this Article.
18-64. Skateboarding Prohibited -- Private Property.

No person shall skateboard on any privately owned property which is posted with "No Skateboarding" signs as required by this Article, without the express consent of the property owner or property manager/agent. Private property owners and/or their managers or agents are authorized to post or erect signs, at their own expense, prohibiting the riding of skateboards in or on those premises for which such a request has been made to, and approved by, the Chief of Police or his or her designee.

18-65. Posting of No Skateboarding Signs.

(A) The City Manager, or his or her designee, is hereby authorized to post or erect, or cause to be posted or erected, signs prohibiting skateboarding or the use of skateboards on public streets, sidewalks, or facilities so designated by resolution of the City Council.

(B) A property owner shall post or erect, or cause to be posted or erected, at the property owner's sole cost and expense, signs that are readily visible to the general public. Authorized signs shall be a minimum of seventeen (17) inches by twenty-two (22) inches, with one inch letters, posted adjacent to the entrances to the subject property. These signs may be erected in such a position to prevent vandalism or theft. The property owner, or manager, shall have on file with the police department a signed consent form authorizing the police to enforce said ordinance.

Example Sign: "Skateboards Prohibited on Posted Property by CPMC Section 18-64, Porterville Police Department 782-7400"


No person shall use a skateboard in a manner that creates a danger to others or in a manner that creates a nuisance.


The provisions of this Article shall not be deemed to make punishable an act or acts which are prohibited by any statute of the State of California.

18-68. Enforcement and Penalties.

(A) A person over the age of 18 who violates Section 18-63(A) shall be guilty of a misdemeanor.

(B) Any violation of the provisions of this chapter shall be deemed to be an infraction, and punishable as such, notwithstanding the fact that at the discretion of the City or District Attorney, the violation of any section of this Article may be filed as a misdemeanor. The complaint charging such violation shall specify whether the violation is a misdemeanor or an infraction. Each day a violation of any provision of this Article shall continue, it shall constitute a new and separate violation.
(C) A violation of any of the provisions of this Article shall constitute a nuisance and may be abated by the City through a civil process by means of restraining order, preliminary or permanent injunction, or in any manner provided by law for the abatement of such nuisances. With regard to violations committed by minors, the parent or legal guardian having control or custody of the minor whose conduct violates this section shall be jointly and severally liable with the minor for all penalties and/or costs and fees.


Notwithstanding the police department's ability to confiscate a skateboard as an instrumentality or evidence of a violation of this Article, and in addition to the enforcement provisions of the preceding section, the City may seize and hold the skateboard at the time an individual is cited for any violation of any provisions of this Article for the second time within a one year period. Any time a violator's property is confiscated pursuant to this section, the City shall provide the violator with a receipt and notice of a time and location for an automatic hearing in front of the City's designated administrative hearing officer no later than ten (10) days from confiscation of the skateboard. The violator shall be entitled to the return of the skateboard either 180 days from the date of the confiscation, or at the time as determined at the conclusion of the hearing.

18-70. Severability.

It is declared to be the intention of the City Council that the subsections, paragraphs, sentences, clauses, and phrases of this Article are distinct and severable and, in the event that any subsections, paragraphs, clauses and/or phrases are declared to be unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining subsections, paragraphs, clauses, or phrases of this Article.

SECTION 3. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval, or on the date of the opening of the City's skateboard park, whichever date occurs later.

ADOPTED, SIGNED AND APPROVED this ___ day of ___ , 2005.

President of the Council and Ex-Officio Mayor of the City of Porterville

ATTEST:

Chief Deputy City Clerk and Clerk of the Council of the City of Porterville
I, JOHN LONGLEY, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Ordinance No. 1661, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 1st day of March, 2005, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance to become effective on the 14th day of April, 2005, or on the date of the opening of the City’s Skateboard Park, whichever date occurs later, at which time said ordinance is deemed to be in full force and effect.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

<table>
<thead>
<tr>
<th>COUNCIL:</th>
<th>WEST</th>
<th>IRISH</th>
<th>HAMILTON</th>
<th>STADTHERR</th>
<th>MARTINEZ</th>
</tr>
</thead>
<tbody>
<tr>
<td>AYES:</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>NOES:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABSTAIN:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABSENT:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

JOHN LONGLEY, City Clerk

[Signature]

By: Patrice Hildreth, Deputy City Clerk
SUBJECT: YOUTH GROUP FIELD RENTAL FEES

SOURCE: PARKS AND LEISURE SERVICES COMMISSION

COMMENT: Recently, several sports leagues have contacted the Parks & Leisure Services Department to reserve fields at various sports fields for practice and/or league games. League representatives have indicated that their leagues had not been charged field-use fees and had only been charged fees for lights in the past.

Staff has researched the records over the past two years for youth event organizations that utilize various fields. Fees have not been collected for field use, with only one exception, at fields other than the Sports Complex. The fees for the Sports Complex were established separately from the fees for other fields, and organizations have regularly paid fees for use of the Sports Complex for practice days. Attachment ‘A’ is a recent staff memorandum providing records on the past two years. Attachment ‘B’ is a copy of a portion of Resolution No. 56-88 establishing the ‘Youth Group Field Rental Fees’ as fee number S-106.

RECOMMENDATION: That the City Council adopt the Resolution approving an adjustment to Youth Group Field Rental Fees.

ATTACHMENTS: Resolution approving an adjustment to Youth Group Field Rental Fees
Staff memorandum of August 30, 2006
Excerpted portions of Resolution No. 56-88

[Signatures]

ITEM NO. 15
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING AN ADJUSTMENT TO YOUTH GROUP
FIELD RENTAL FEES

BE IT HEREBY RESOLVED, by the City Council of the City of Porterville, that the Youth Group Field Rental Fees by adjusted as follows:

- Effective October 4, 2006  no fee
- Effective June 1, 2007  $ 5.00 per day per facility
- Effective June 1, 2008  $10.00 per day per facility
- Effective June 1, 2009  $15.00 per day per facility

Dated this 3rd day of October, 2006

______________________________
Cameron J. Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By: _____________________________
Georgia Hawley, Chief Deputy City Clerk
MEMORANDUM

TO:      JOHN LONGLEY, CITY MANAGER
FROM:    JIM PERRINE, PARKS & LEISURE SERVICES DIRECTOR
DATE:    AUGUST 30, 2006
SUBJECT: MUNICIPAL BALLPARK YOUTH EVENT FIELD USE CHARGES

Resolution No. 56-88, adopted in June 1988 established a fee (S-106) entitled ‘Youth Group Field Rental Fees’. These fees included a charge for lights per field per night, and a separate charge for maintenance per day per facility. The purpose of the fees was stated as, “Fee to defray cost of field maintenance and operation”. Resolution No. 66-94 in July 1994 updated the charge for lights. No other changes have occurred to the originally established S-106 fee. Separate fees were established for the Sports Complex use in 2002, which were modified in several actions during 2006.

Apart from the Sports Complex, the Council adopted fees for youth event field uses currently are $15 per day per facility, plus $15 per field per night for lights. A supervision fee of $15 per hour has also been established for personnel needing to respond to unlock or lock gates, turn lights on & off, or otherwise monitor the facility. The Municipal Ballpark consists of one field, and thus charges should amount to about $37.50 per evening of regular event use.

Staff has researched the fees assessed and collected for youth events during the years of 2005 and 2006 for the four fields operated by the Parks & Leisure Services Department. The Burton ballfields is the single facility not owned by the City, with the use of the field controlled by the Burton School District. The lights at this location are City property and City fees are assessed for their use. Field use fees have been charged for scheduled practice use at the Sports Complex. For the other two facilities, with one exception, charges have been collected only for the use of lights, as well as the supervision to operate the lights, during this two-year period.

Errors seem to have resulted from the 2002 shorthand summary of all facility fees compressed onto the back of the facility reservation form. This summary of fees seems to imply that one fee applies if lights are utilized and a different fee is applicable when lights are not required. Examining the original fee resolution is required to understand that the facility use (maintenance fee) is required for all uses, with the lighting charge being in addition for the use of the lights. An attempt to list the fees in a less confusing manner was made earlier this year when adjustments to the facility use fees were proposed. When no fee adjustments were authorized we stopped work on redesign and reprinting of the facility reservation forms.

Attached is a summary of the youth event fees assessed and collected during 2005 and thus far during 2006.

From the Desk of
Jim Perrine, Director
Parks & Leisure Services
Phone: 559.782.7536

Attachment ‘A’
## 2005 & 2006 Youth Event City Fields Usage

### Sports Complex

<table>
<thead>
<tr>
<th>Date</th>
<th>Name/League</th>
<th>Event</th>
<th>Use</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1/05</td>
<td>CYSA</td>
<td>Games</td>
<td>Field</td>
<td>$70</td>
</tr>
<tr>
<td>2/20/05</td>
<td>Wal-Mart</td>
<td>Flag Football</td>
<td>Field</td>
<td>$380</td>
</tr>
<tr>
<td>2/23/05</td>
<td>Devin Wilson</td>
<td>Practice</td>
<td>Diamond</td>
<td>$27</td>
</tr>
<tr>
<td>2/24/05</td>
<td>Mike Dohrman</td>
<td>Practice</td>
<td>Diamond</td>
<td>$58</td>
</tr>
<tr>
<td>3/28/05</td>
<td>Devin Wilson</td>
<td>Practice</td>
<td>Diamond</td>
<td>$45</td>
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<tr>
<td>4/5-6/15/05</td>
<td>Nazarene Church</td>
<td>Practices/Games</td>
<td>Diamonds</td>
<td>$640</td>
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<tr>
<td>4/11/05</td>
<td>Mike Dohrman</td>
<td>Practice</td>
<td>Diamond</td>
<td>$33</td>
</tr>
<tr>
<td>4/25-12/31/05</td>
<td>Juventus</td>
<td>Practices/Games</td>
<td>Field</td>
<td>$375</td>
</tr>
<tr>
<td>4/20/05</td>
<td>Mike Dohrman</td>
<td>Practice</td>
<td>Diamond</td>
<td>$33</td>
</tr>
<tr>
<td>5/16/05</td>
<td>AYSO</td>
<td>Season</td>
<td>Parking</td>
<td>$2,400</td>
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<tr>
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<td>1/21/06</td>
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<td>2/23/06</td>
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<td>4/30/06</td>
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<tr>
<td>8/5/06-1/27/07</td>
<td>Steve Silver</td>
<td>Practice</td>
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<td>8/5/06-1/28/07</td>
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### Hayes Field

<table>
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<td>Lights</td>
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<tr>
<td>11/3/05</td>
<td>Mejia DDS</td>
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<tr>
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### Municipal Ballpark

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<td>6/29/05</td>
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<td>1/24/06</td>
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## Burton Ballfields

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<td>Little League</td>
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<td>11/14/05</td>
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(NP) = Have not paid
RESOLUTION NO. 56-88


WHEREAS, the City Council of the City of Porterville adopted Ordinance #1402 on June 7, 1988, adding Article XII Entitled Fees and Service Charges/Cost Control System to Chapter 2 of the Municipal Code; and

WHEREAS, Section 2-112. Fees and Service Charges, of said Ordinance calls for the adoption of annual fees and service changes by the City Council; and

WHEREAS, the City Council held a public hearing on June 14, 1988, to discuss the proposed fees and service charges;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the fees and service charges set forth in Exhibit "A" shall be adopted for fiscal year 1988/89.

John T. Rankin, Jr., Mayor

ATTEST:

C. G. Huffaker, City Clerk

STATE OF CALIFORNIA
COUNTY OF TULARE

I, C. G. HUFFAKER, 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 at an adjourned meeting of the Porterville City Council called and held on the 14th day of June, 1988.

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

AYES: COUNCILMEN: Pruitt, Bonds, Leavitt, Ennslin, Rankin
NOES: COUNCILMEN: None
ABSENT: COUNCILMEN: None

C. G. HUFFAKER, City Clerk

Georgia Hawley, Deputy City Clerk

Attachment 'B'
<table>
<thead>
<tr>
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<th>Title &amp; Description</th>
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<td>CITY YOUTH SPORTS FEES</td>
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<td>Varies</td>
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<td>Fee to defray cost of administering City youth sports leagues.</td>
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<td>S-104</td>
<td>ADULT GROUP FIELD RENTAL FEES</td>
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<tr>
<td></td>
<td>Lights per field per night</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Hayes Field</td>
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<td></td>
<td>Municipal Ball Park</td>
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<td>Porterville College</td>
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<td></td>
<td>Pioneer Jr. High</td>
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<tr>
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<td>Tournament &amp; Other Uses without lights/per hour</td>
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<td>Commercial Uses of Fields per hour...Effective 7-1-88</td>
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<td>S-105</td>
<td>BALLPARK USE RENTALS</td>
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<td>See S-104/106</td>
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<td>Lights per field per night</td>
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<td></td>
<td>Supervision, per hour</td>
<td>15.00</td>
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</tr>
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<td></td>
<td>Maintenance per day per facility</td>
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<td>Commercial Uses of Field, per hour (Effective 7-1-88)</td>
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<td>S-107</td>
<td>TRIPS AND EXCURSIONS FEES</td>
<td>100% of cost</td>
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<td>Fee to defray cost of trip or excursion administration, transportation, and support staff...7-1-88</td>
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<td>S-108</td>
<td>GOLF COURSE FEES</td>
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<td>Weekdays</td>
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<tr>
<td></td>
<td>9 Holes</td>
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<td></td>
<td>18 Holes</td>
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<td>Weekends &amp; Holidays</td>
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<tr>
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<td>9 Holes</td>
<td>5.50</td>
<td></td>
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<td>18 Holes</td>
<td>8.50</td>
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SUBJECT: INSTALLATION OF A CENTRAL VALLEY SPATIAL REFERENCE NETWORK BY CALTRANS

SOURCE: ADMINISTRATION

COMMENT: The California Department of Transportation, District 6, is requesting permission to upgrade a GPS monitoring station at the Porterville Airport with a CVSRN system. The GPS system is owned by UNACVO and they have indicated their approval upon the City’s approval of a CAL-TRANS Revocable Permit.

Staff has reviewed their request and finds the installation is an appropriate addition to the Airport.

RECOMMENDATION: That the City Council:

1. Approve the Revocable Permit and Land Use Agreement for the installation of transmission equipment at the existing GPS station.

2. Authorize the Mayor to sign the agreement.

ATTACHMENTS: 1- Letter of request.
                2- Agreement

Item No. 16
Date: August 8, 2006

Jim McDonald
Airport Services Coordinator
1893 S. Newcomb, Porterville, CA

Dear Jim:

California Department of Transportation, District 6 Surveys is currently in the process of expanding the Central Valley Spatial Reference Network (CVSRN) by upgrading the existing UNAVCO/PBO GPS station located at your facility.

As discussed, it is a requirement by UNAVCO/PBO that we (CALTRANS) enter into an agreement with you (City of Porterville) before we are allowed to upgrade their (UNAVCO/PBO) GPS site.

Please find herein the agreement for your review or Approval Process. If you have any questions or concerns, please don't hesitate to contact me.

Thank you for your assistance in this matter.

Sincerely,

Pavel Popov
Transportation Surveyor
ppopov@dot.ca.gov

ENCLOSED

1. Revocable permit and land use agreement for installation of transmission equipment at the existing GPS station.
2. Attachment “A-1”
3. Attachment “A-2”
4. Attachment “A-3”
5. APN Map of Airport City of Porterville
6. Equipment specification sheets
   - SIO telemetry buffer
   - Spread Spectrum Ethernet Radios
   - Yagi Antenna

cc. Darrell Bain
File:

“Caltrans improves mobility across California”
REVOCABLE PERMIT AND LAND USE AGREEMENT FOR INSTALLATION OF TRANSMISSION EQUIPMENT AT THE EXISTING GPS STATION

The California Department of Transportation (Caltrans), the “Permittee”, requests permission from the City of Porterville, the “Permitter”, to install equipment (described below) at Porterville Municipal Airport located at 1893 S. Newcomb Street, Porterville CA (see attachment “A-2”).

The proposed equipment installation is described as follows (see attachment “A-1”, “A-2”, “A-3”):

A. Installation of a metal storage cabinet (approximate dimensions: 3 ft. wide X 4 ft. high X 1.5 ft. deep).
B. Installation of a SIO Telemetry Buffer (to be installed in the metal cabinet).
C. Installation of a Spread Spectrum Ethernet Radio (FreeWave FGTH 900 MHz) and an Yagi Antenna (Kathrein-Scala TY-900 to be mounted on a 1-1/2 in. diameter steel mast)

Purpose: The purpose of this installation is to enable the existing (Plate Boundary Observatory) GPS station to be included in the Central Valley Spatial Reference Network (CVSRN), a real-time GPS network that will provide free positioning data to users within the network area.
(Installation dependent on Approval from Plate Boundary Observatory and FAA approval).

The Permit is given without charge in consideration of the above and the following:

1. This Permit is for the period beginning 09/01/2006. The Permitter may terminate this Permit at any time with or without cause upon 30-day notice in writing to the Permittee.
2. As consideration for the use of space, the Permittee shall assist City of Porterville to utilize the real-time data gathered by this and other CVSRN stations.
3. The Permittee will notify the Permitter or Permitter’s agent prior to the day of installation of the equipment. The Permittee will notify the Permitter or Permitter’s agent prior to entry for any maintenance visits if required.
4. Permittee accepts the premises in an “as is” condition and upon completion of the permit, agrees to restore the premises as nearly as possible to the condition at the start of the permit.

“Caltrans improves mobility across California”
5. The Permittee agrees to maintain the premises in a safe manner.

6. The Permitter will not be held responsible for loss of, or damage to, equipment on the property.

7. The Permittee agrees that the installation and maintenance of the equipment on the lands of the Permitter on which they are installed shall be effected with all reasonable diligence and precaution to avoid damage to land, property, and personnel.

8. Permittee hereby agrees to indemnify and hold harmless the City of Porterville, its agents and employees, from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of the Permittee’s activities under this Permit.

9. City of Porterville and Caltrans will exchange no money in this Agreement.

10. The equipment designated in items A, B, and C above will remain the property of Caltrans and on termination of the Permit, Caltrans will remove the equipment from the premises.

CITY OF PORTERVILLE, PERMITTER

Name: ________________________________

Title: ________________________________

Signature: ____________________________ Date: ____________________________

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION, PERMITTEE

Name: Rob Isakson

Title: Office Chief, Central Region Surveys, Southeast

Signature: ____________________________ Date: ____________________________

"Caltrans improves mobility across California"
SUBJECT:      STATE HOMELAND SECURITY GRANT

SOURCE:      FIRE DEPARTMENT

COMMENT: The County of Tulare is charged with coordinating the Fiscal Year 2006 State Homeland Security Grant. Under the grant guidelines, the program has additional funds, which can be used by the City of Porterville. The City of Porterville has been allocated $11,690 for the purchase of items for our emergency operations.

Under the terms of the grant program, the Fire Department will purchase the items and submit the receipts for reimbursement. The State funds have been allocated and reimbursement does not appear to be an issue.

To expedite the process and achieve the grant deadlines, staff is requesting permission to purchase the equipment under the negotiated bid process. This methodology will achieve the best and most timely results.

RECOMMENDATION: That the City Council:

1) Authorize staff to purchase the equipment under the negotiated bid process.

2) Authorize staff to do a budget adjustment in the amount of $11,690 to the Fire Department’s operating budget.

ATTACHMENT: List of proposed purchase items.
September 5, 2006

Chief Frank Guyton  
Porterville Fire Department  
40 W. Cleveland Ave.  
Porterville, CA 93257

RE: FY06 State Homeland Security Grant Program (SHSGP)

Dear Chief Guyton,

Please accept this letter as verification that Porterville Fire Department has been approved to purchase $11,690.00 in equipment through the FY06 State Homeland Security Grant Program. An itemization of your approved equipment purchases is attached.

Please submit your request for reimbursement by May 31, 2007 to:

Tulare County HHSA/OES  
Attn: Amy Raymond  
5957 S. Mooney Blvd.  
Visalia, CA 93277

To avoid confusion and ensure that you are properly reimbursed, please identify your invoices as “FY06 SHSGP.”

If you have any questions, please contact Amy Raymond at (559) 737-4660, Ext. 2309, or by e-mail to Araymond@tularehhsa.org.

Sincerely,

Ray Bullick  
Assistant Director

Enclosure
<table>
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<tr>
<th>Jurisdiction</th>
<th>Project</th>
<th>Equipment Description</th>
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<td>C</td>
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<td></td>
<td></td>
<td></td>
<td>$11,690.00</td>
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</table>
SUBJECT: South County Justice Center Resolution

SOURCE: City Manager

The City of Porterville has learned that the next few weeks is a critical decision making time to fund the proposed Courthouse explanation project. This project would result in the development of a new court facility costing more than $80,000,000. The current formulation would provide for a North County center in Visalia and a South County center in Porterville.

The recommendations on funding are provided by the California Department of Finance and potentially the Governor’s office. With a positive recommendation, the initial costs for the project should be provided for in the Governor’s Budget. It is critical that the Council is supportive of the project, if the facility is to be funded.

A matter, which has been discussed, is the sitting of the facility. No decision has been made at this time. In fact, if the process is funded the consideration will begin mid-year 2007.

RECOMMENDATION: Approve the resolution support the development of the South County Justice Center.
RESOLUTION NO. _____-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
SUPPORTING THE DEVELOPMENT OF A NEW TULARE COUNTY
COURT FACILITY WITHIN THE CITY OF PORTERVILLE

WHEREAS, the Porterville Government Center was constructed by the County of Tulare in 1959, and thereafter expanded in 1974; and

WHEREAS, this forty-seven (47) year old facility is inadequate to address the court needs of a population which is projected to expand between 1980 and 2022 from 64,906 to 142,035 residents, which is an increase of 119% beyond the 1980 base; and

WHEREAS, the present County Government Center is inadequate due to aging and lacks adequate facilities because of the significant increase in population and case load, which is representative of a prospective increase in five new judgeships; and

WHEREAS, an objective analysis of need utilizing the Methodology for Prioritization of Trial Court Capital-Outlay Projects determines the Porterville Court is in the Immediate Need priority group, making it a high priority trial court capital-outlay for the judicial branch; and

WHEREAS, the State of California Administrative Office of the Courts has recommended in a Project Feasibility Report for the Superior Court of California, County of Tulare that the construction of nine courtrooms in a new facility be completed to accommodate the existing court and new judgeships; and

WHEREAS, the project time line calls for site selection and the purchase of property in the 2007 and 2008 time frames, with the completion of construction by May 2012.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville as follows:

(1) That strong support for the new Court facility is hereby expressed as a crucial near-term component of community development within Southeastern Tulare County;

(2) That the new facility is deemed essential to meet the needs of the area’s diverse and growing population; and

(3) That the current facility, if continued to be utilized, will be inadequate in the near future to meet the needs of the area and will insufficiently serve the community’s basic public safety needs.

ADOPTED this 3rd day of October 2006.

__________________________________________
Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

__________________________________________
Georgia Hawley, Chief Deputy
CITY COUNCIL AGENDA: OCTOBER 3, 2006

PUBLIC HEARING- CONTINUED

SUBJECT:  ENNIS ESTATES TENTATIVE SUBDIVISION MAP (ENNIS HOMES)

SOURCE:  COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT:  On September 5, 2006, 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. The project was scheduled for a continued public hearing and closed session on September 19, 2006. The applicant requested that the matter be continued to the October 3, Council meeting to allow time for further discussion between the interested parties.

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

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

ATTACHMENT:

1. Complete Staff Report from September 19, 2006, including resolutions.

[Signatures]

Item No. 19
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

Signed:  

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

643 N. Westwood
Porterville, CA 93257

James Winton

150 W. Morton Avenue
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 staffs response to those comments are attached in Attachment 6 and 7.

GENERAL PLAN DESIGNATION: Low Density Residential.

SURROUNDING ZONING LAND USE:

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

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

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

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

SUBDIVISION REVIEW: Pursuant to Article 4 of the Subdivision Ordinance, the Initial Study and proposed Mitigation Measures were transmitted to public/private agencies for a 20-day review period from August 4, 2006 to August 25, 2006. Comments were received from representatives of Burton School District and Mr. Lombardi, a neighboring property owner. Comments have been addressed where appropriate; the comment letters and Staff responses are attached to the staff report.
The Subdivision Review Committee, on August 23, 2006, discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent staff review were discussed with the applicant’s agent and incorporated into the draft resolution of approval.

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

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

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

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

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

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No project. The site would remain undeveloped until an amended development plan is approved.

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

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

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

DATE ACCEPTED AS COMPLETE: August 23, 2006

RECOMMENDATION: That the City Council:

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

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

ATTACHMENTS:

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

Initial Study For
The Ennis Estates Subdivision Project

1. Project title: Ennis Estates Subdivision

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

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

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

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

6. General plan designation: Low Density Residential

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

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

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

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

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

9. Surrounding land uses and setting:

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

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

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

None
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

☐ Aesthetics  ☐ Agriculture Resources  ☒ 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 MITIGATED NEGATIVE DECLARATION will be prepared.

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

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

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

[Signatures]

Bradley D. Dunlap, AICP
Printed name

City of Porterville
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)
4 Conservation Element of the Porterville General Plan (1998)
5 Open Space Element of the Porterville General Plan (1998)
6 Noise Element of the Porterville General Plan (1988)
7 Safety Element of the Tulare County General Plan (1998)
8 Parks and Recreation Element of the Porterville General Plan (2000)
9 Airport Master Plan (1990)
10 Porterville Strategic Plan (1992)
11 City of Porterville Subdivision Ordinance (1988)
12 City of Porterville Zoning Ordinance (1998)
13 City of Porterville Local Guidelines for Administering CEQA (1992)
14 Chapter 7, Article XIII of the Porterville City Code (1998)
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)
18 California Building Code (2001)
19 Tulare County Congestion Management Program (1998)
20 City of Porterville Sewer Master Plan (2001)
21 City of Porterville Water Master Plan (2001)
22 City of Porterville Standard Plans and Specifications (1996)
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
26 FEMA Flood Insurance Panels No. 060407 0010 D, October 15, 1985
27 1990 Census Data/Tract and Block Group Maps
28 Existing Infrastructure and Facilities Capacity
29 Soils Conservation Service Maps - Tulare County (1982)
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:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less than Significant Impact (Incorporation)</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</table>

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

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

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

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

Responses:

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

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

Would the project:

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

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

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

Responses:

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

Would the project:

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

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

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

d) Expose sensitive receptors to substantial pollutant concentrations?

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

Response:

a), b), c), d): Less Than Significant Impact with Mitigation Incorporation. The project is smaller than the 152-unit threshold for small project analysis level defined by the San Joaquin Valley Air Pollution Control District (District), and as such, an URBEMIS model run was not performed. To comply with the District's restriction of 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.

e): No Impact. The project would not create any scents or odors. Sources: 4 & 24.
### Table 1
**Regulation VIII Control Measures for Construction Emissions of PM10**

<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>
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<tr>
<td>All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)</td>
</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/tractionout 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>
</tbody>
</table>

<table>
<thead>
<tr>
<th>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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.</td>
</tr>
<tr>
<td>Install wind breaks at windward side(s) of construction areas</td>
</tr>
<tr>
<td>Suspend excavation and grading activity when winds exceed 20 mph*; and</td>
</tr>
<tr>
<td>Limit area subject to excavation, grading, and other construction activity at any one time</td>
</tr>
</tbody>
</table>

*Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limitation. Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002
IV. BIOLOGICAL RESOURCES -- Would the project:

<table>
<thead>
<tr>
<th>Category</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant but Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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<td>a)</td>
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</tbody>
</table>

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:

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<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>

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
   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.
   ii) Strong seismic ground shaking?
   iii) Seismic-related ground failure, including liquefaction?
   iv) Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

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?

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?

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?

Response:

a) i, ii, iii, iv, 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:

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<tr>
<th>Potential Impact</th>
<th>Less than Significant Impact</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</table>

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:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less than Significant Impact</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</table>

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:

<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>
</tr>
</thead>
</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.
<table>
<thead>
<tr>
<th>XXI. NOISE — Would the project result in:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) 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>
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<tr>
<td>b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?</td>
<td>☐</td>
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<tr>
<td>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
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<tr>
<td>d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
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<tr>
<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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</tr>
<tr>
<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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</table>

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:

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<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporation</th>
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</table>

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:

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- Fire protection?  [ ] [ ] ☒ [ ]
- Police protection?  [ ] [ ] ☒ [ ]
- Schools?  [ ] [ ] ☒ [ ]
- Parks?  [ ] [ ] ☒ [ ]
- Other public facilities?  [ ] [ ] ☒ [ ]

Response:

a): Less than Significant Impact. Fire, Police, Schools, Parks, and other Public Facilities will experience increased demand resulting from the development of the 34.1± acre site as proposed. The anticipated increased demand will be marginal, incremental initial impacts on the above referenced services. Sources: 1, 2, 3, 5, 7 & 8.
XIV. RECREATION — Would the project:

<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>

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Response:

a), b): Less Than Significant Impact. The proposed site is not currently used for recreational activities and the proposed project will not reduce the quality or quantity of such opportunities. The project proposes two pocket parks within the subdivision for the use of the residents within the community.

City parks and recreation facilities will be sufficient to accommodate the additional recreational needs stemming from development of the site. Sources: 5 & 8.
XV. TRANSPORTATION/TRAFFIC — Would the project:

<table>
<thead>
<tr>
<th>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>
<tr>
<td>a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?</td>
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<tr>
<td>b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
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<tr>
<td>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?</td>
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<tr>
<td>d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?</td>
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<tr>
<td>e) Result in inadequate emergency access?</td>
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<tr>
<td>f) Result in inadequate parking capacity?</td>
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<tr>
<td>g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
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Response:

a), b): **Less Than Significant Impact with Mitigation Incorporation.** Development of the 34.1± acre site with 70 single-family residential units is anticipated to result in about 670 additional daily vehicle trips. This estimate is derived from the ITE Trip Generation manual – calculations for single family detached housing. The traffic generated within the subdivision can exit from two locations: One location is from the north end of Jared Street, east on Castle Avenue to Newcomb Street. Newcomb Street is a four-lane divided arterial with the capacity of 30,000 average daily trips (ADT); The second entrance/exit location is from Lombardi Street south to Westfield Avenue. Westfield Avenue is a two (2) lane collector street with the capacity of 12,500 ADT. Both Lombardi Street (located on the west side of the proposed subdivision) and Castle Avenue (located at the northeast of the proposed subdivision) are designated local streets. The increase of trips generated by the proposed project may reduce the Level of Service in the project area. The project proponent will dedicate right of way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element, and will dedicate and improve the Lombardi Street right of way adequate for a minimum of two lanes of traffic and on street parking on one side. Traffic impact fees are assessed for projects of this type to contribute to funding improvements to the overall circulation system as adopted in the Circulation Element of the General Plan. Source: 34.
c), g): **No Impact.** The proposed development was anticipated in the Land Use Element and Circulation Elements of the General Plan and will not conflict with that plan. The project is not within the vicinity of a public airport or private airstrip. Sources: 1,2, 34, & 35.

d), e), f): **Less Than Significant Impact.** Compliance with the City Code will ensure provision of adequate off-street parking. The project will not result in hazards related to design features. Adequate emergency access and parking will be provided in compliance with the City of Porterville’s ordinance and Building Code Regulations that govern development of single-family residential lots. As it is a gated community, Knox Locks will be required on both gates, ensuring emergency access. Sources: 1,2, 34, & 35.
**XVI. UTILITIES AND SERVICE SYSTEMS —**

Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?  

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?  

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?  

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?  

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?  

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?  

g) Comply with federal, state, and local statutes and regulations related to solid waste?  

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<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
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**Response:**

a), b), c), d), e): **Less Than Significant Impact**: The City's wastewater treatment plant has a permitted capacity of 5.3 million gallons per day (mgd) and is currently operating at 5.1 mgd. The plant has a rated capacity of 8 mgd, but is limited to the permitted capacity of 5.3 mgd because of a lack of land on which to use the treated effluent as irrigation water. The City has secured land and is in the process of annexing that land for effluent irrigation and biosolids spreading. Use of these lands will increase the permitted capacity of the treatment plan. Occupation of the project will not be permitted prior to completion of the annexation of land for biosolids spreading. New stormwater drainage facilities will installed as needed to serve the project. Sources: 30 & 35.

f): **No Impact**. The City of Porterville disposes of its solid waste at the Tea Pot Dome Disposal Site, southwest of the City. The landfill has sufficient permitted capacity to accommodate the projects solid waste disposal needs. Sources: 28 & 35.

g): **No Impact**. Refuse removed from the project area will conform to County regulations.
XVII. MANDATORY FINDINGS OF SIGNIFICANCE —

Would the project:

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? ☒ ☐ ☑ ☐

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>
</tr>
</thead>
<tbody>
<tr>
<td>Air Quality a., b., c., d.)</td>
<td>The project is smaller than the 152-unit threshold for small project analysis level defined by the San Joaquin Valley Air Pollution Control District (District), and as such, an URBEMIS model run was not performed. To comply with the District's restriction of PM10 generating activities, the project proponent will follow all Regulation VIII requirements (Tables 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>
</tr>
<tr>
<td>Potential Impact</td>
<td>Mitigation Measure</td>
<td>Monitoring</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>
</tr>
</tbody>
</table>
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A MITIGATED NEGATIVE
DECLARATION OF ENVIRONMENTAL IMPACT FOR THE ENNIS ESTATES
TENTATIVE SUBDIVISION MAP FOR THAT 34.1± ACRE SITE
LOCATED GENERALLY EAST OF LOMBARDI STREET AND SOUTH OF THE
PROLONGATION OF CASTLE AVENUE IN NORTHWEST PORTERVILLE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of September 5, 2006 conducted a public hearing to consider approval of Ennis Estates
Tentative Subdivision Map, being a division of a 34.1± acre site zoned Single Family Residential
(One-Family Zone) into a 70 lot single family residential subdivision to be developed in one (1)
phase for that site generally located east of Lombardi Street and south of the prolongation of
Castle Avenue in northwest Porterville; and

WHEREAS: 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).
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 (NBU's) 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 may be filed with the District prior to applying for a final discretionary permit from the local agency, at the discretion of the applicant. This timing was included in the rule so that applications filed with the District would not interfere with the local agency development approval process and so that local agencies could consider the benefits of the ISR program emission reductions in their environmental documents. The District recognizes the land use authority of local land use agencies and will not impose any design requirements upon ISR projects. The District
will provide a letter of rule compliance status to the local agency upon request. The ISR Program does not place any requirements upon the agency.

ISR applicants can take credit for those measures that are required by the local agency or included in the design of the project that have a quantifiable air quality benefit. ISR applicants can also take emission reduction credit for those measures that are not required by the local agency, but have been voluntarily identified by the applicant.

The District will be responsible for enforcing compliance for those measures identified by the applicant that are not required by the local agency and do not affect the design or construction standards. Examples of District enforced measures are operational measures such as businesses offering transit subsidies to employees and transportation demand management programs. The District will enforce those measures through a Monitoring and Reporting Schedule (MRS).

The District will notify the local agency when a project’s application is deemed complete, and when it is approved. The District will send copies of the preliminary and finalized MRS to the local agency for voluntary review for consistency with local regulations and programs. If the local agency, or applicant or district determines that a measure on the MRS is not consistent with local agency regulations and programs, that measure will be removed from the MRS and the project will be re-assessed.

For more information regarding the Indirect Source Rule, please contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000. The Central Region office in Fresno is leading the ISR enforcement.

20. The developer/applicant shall construct or provide surety for construction of curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), pavement lane transitions (offsite), traffic safety marking and signs, etc. along the full frontage of all proposed subdivision lots except where they exist to City standards and are in good condition in the opinion of the City Engineer. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property.

21. Building or foundation permits shall not be issued until all of the following items are accepted as complete:

   a. The storm drain system is functional so that it will accept water from fire hydrant and/or water main flushing;
   b. The water system is functional from the source of water past the lots on which permits are being requested (i.e. all services and the sampling station, if required, are installed, valves are functional and accessible, bacteria testing is completed, etc.);
   c. Street base rock for accessibility by the public safety officials and building inspectors;
   d. Lots are graded in accordance with the approved grading plan. Prior to receipt
of the Final Grading, Drainage and Soils Report a letter from the "Supervising Civil Engineer" is required validating that the grading has been done in accordance with the approved grading plan and in accordance with the recommends contained in the Preliminary Soils Report;

e. Lot corners are marked;

f. The Fire Department and the Engineering Division accept fire hydrants.

22. The developer/applicant shall construct all drainage facilities that the City Engineer determines are necessary to comply with the intent of the Storm Drain Master Plan. Dedicate a drainage easement across each lot requiring an easement, unless all lots are graded to drain to the street (C.C. Sec. 21-50). The developer/applicant shall construct concrete drainage swales, approved by the City Engineer, if necessary, to transport storm water across adjacent subdivision lots to reach a City drainage system. On site drainage facilities will not be maintained by the City of Porterville, should the project proceed as a gated community.

23. The developer/applicant is advised that he is obligated to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for discharge of Storm Water Associated with construction activity will be required (except operations that result in disturbance of less than five acres of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain at a minimum all items listed in Section A of the permit, including descriptions of measures to be taken to prevent or eliminate unauthorized non-storm water discharges and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, detention basins, etc.) best management practices that will be implemented to prevent pollutants from discharging with storm water into water of the United States. If portions of the project area are to be sold off before the entire project is completed, the proponent must submit to the California Regional Water Quality Control Board a change of information form identifying the new owners along with a revised site map clearly depicting those portions that were sold and those that are remaining. The proponent is also responsible for informing each new owner of their responsibility to submit their own NOI, site map, and appropriate fee to the SWRCB and to prepare their own SWPPP.

24. The developer/applicant shall be aware that pursuant to Section 21-3 of the Municipal Code, private streets are subject to City Council approval and not encouraged per the City’s current Subdivision Ordinance.

25. The developer/applicant will not be required to dedicate street rights of way, as presently proposed, for internal streets within the gated community. The City will provide inspection services for the private roads, subsequent to payment of applicable fees. A homeowners association or other acceptable associations, complying with state and local regulations, shall be formed for the purpose of maintaining internal streets.
26. To accommodate refuse and emergency vehicles, the developer/applicant shall dedicate and improve, to City standards, temporary turn-arounds at the ends of dead-end streets. The developer/applicant shall also construct temporary turn-arounds at the ends of dead-end internal private streets that may be created as part of a phased development.

27. The developer/applicant shall hold the City harmless for any and all damages to the private streets that may be created by refuse trucks and/or emergency vehicles that traverse through the private community.

28. The developer/applicant shall cause all regulatory and street name signs to be installed prior to occupancy of any house located where its occupants will utilize a street that does not have them.

29. The developer/applicant shall construct City standard barricades at the end of all dead end streets, where applicable.

30. The developer/applicant shall provide street striping and flexible delineators as necessary to provide safe vehicular movements, where directed by the City Engineer. A 50’ long Lombardi Street pavement transition will be required north of Lot 57.

31. The developer/applicant shall design the circular street approach to the private entrance at the west end of Castle Avenue to appropriately accommodate vehicular traffic. This may require the realignment of the existing curb and gutter along the south side of Castle Avenue (off-site improvements) and/or the acquisition of off-site right of way to accommodate proper turning movements.

32. The developer/applicant shall grant maintenance easements to the City of Porterville for the sewer mains within the gated community.

33. The developer/applicant shall cause the sewer system to be completed, tested, and accepted by the City prior to residential occupancy of any house in the subdivision.

34. The developer/applicant shall be aware that there are two potential points of sewer connection. One being the west end of Castle Avenue, near the northeast corner of the proposed development. The other potential point of connection is Lombardi Street, about 400 feet north of Westfield Avenue. A sewer lift station may or may not be required to access these points of connection.

35. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 DSA) or provide surety in lieu of (Section 2616.1 of the Zoning Ordinance).

36. Prior to acceptance of improvements, the developer/applicant shall provide streetlights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer. Street light spacing shall be at 320-foot intervals along the Lombardi Street frontage. Internal street lights are not subject to City of Porterville approval as presently proposed.
37. The developer/applicant shall grant maintenance easements to the City of Porterville for the water mains within the gated community.

38. The developer/applicant shall construct the water system in a maximum of two sections for each phase of the subdivision. One section for the model homes and one section for the remainder of the phase. The number of model homes shall not exceed one for each 10 lots in the subdivision or four, whichever is greater. The model homes shall be clustered.

39. The developer/applicant shall have a Civil Engineer design a water system that will provide a fire flow at each fire hydrant of 1,000 g.p.m. with 20 p.s.i. residual pressure for a dwelling less than 3,600 square feet and 1,500 g.p.m. with 20 p.s.i. residual pressure for a dwelling unit greater than 3,600 square feet.

40. The developer/applicant is hereby notified that reimbursement for Master Plan facilities is made when funds are available and is contingent upon the work being done by the approved low bidder of at least two bona fide bidders. The bids must be approved by the City prior to construction.

41. One tree of minimum #15 specimen size and approved as a City Street Tree is required in the front yard of each lot. One additional tree is required on corner lots. Root barriers are required for all trees planted within ten feet of public sidewalks.

42. A PCC or masonry fence with an articulated alignment shall be constructed by the applicant/developer along the Lombardi Street frontage of all lots. A minimum 6-foot wide landscape area shall be provided between the masonry wall and the public sidewalk. The masonry wall shall be located to ensure adequate sight distance at street intersections. A 5-foot wide wall and landscape maintenance easement shall be conveyed to the City of Porterville along the rear and side yards of lots abutting Lombardi Street.

50. Prior to the approval of improvement plans, the developer/applicant shall have completed and approved, landscaping and/or lighting improvement plans. Unless otherwise included for maintenance within the homeowner’s association responsibilities, the developer/applicant shall petition, on a form provided by the City, to have the development included within a Lighting and Landscape Maintenance District. Submit with the petition the $375.00 fee. The following shall be included and maintained in said district: (1) Street Lighting for Lombardi; (2) Public landscaping along the Lombardi frontage; (3) Public walls/fences, if any, (4) pocket parks; and (5) any other public improvement. The developer/applicant shall prepare an Engineer’s Report for the establishment of assessments in order to provide for ongoing maintenance of subdivision improvements to be included within the Lighting and Landscape Maintenance District. The Lighting and Landscape Maintenance District shall be established, or the annexation into an existing District shall be concluded, and landscape and lighting improvements shall be completed and accepted concurrently with the other improvements in the project. Exclusive of assessments for a Lighting and Landscape Maintenance District, the developer/applicant shall pay all service fees and maintain all new lighting and landscape improvements in a safe and healthy manner for the greater of a minimum ninety-day
plant establishment period following acceptance of the subdivision improvements, or until assessment begins for the Lighting and Landscape Maintenance District.

51. The applicant/developer shall provide park and common area open spaces of adequate size and acceptable location(s) within the development boundaries. The park and common area open spaces shall be fully landscaped by the applicant/developer. It is recommended that the amount of area devoted to park and common area open spaces be at least 140% of the average lot size, with no greater than 35% turf coverage, pedestrian pathways, interspersed tables and benches, and sufficient trees to provide a minimum of 70% shading within seven years.

52. The utilities cannot cross property lines. Any utilities that may cross property lines shall be identified by easements shown and appropriately dedicated on the final map.

53. All addresses will be determined by the narrowest lot dimension to the street.

54. The project must comply with the latest applicable codes.

55. When any portion of the building to be protected is in excess of 150 feet from a water supply on a public or private street, there shall be installed on-site fire hydrants capable of supplying the required fire flow.

56. Additional fire hydrants will be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

57. The City will test and maintain all fire hydrants in the City whether on private property or not. An "easement" is required from the owner.

58. Fire hydrant spacing shall be as follows:

In **Residential development**, one hydrant shall be installed at 500-foot intervals.

59. Access roads shall be provided for every facility, building or portion of a building, when any portion of the facility or portion of an exterior wall is located more than 150 feet from a fire apparatus access as measured by an approved route around the exterior of the building.

60. All dead-end access roads in excess of 150 feet must be provided with an approved 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.
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 visa 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 Burton School District requires that potential school sites have proximity to the student population being served; support the programmatic requirements of the proposed school; and that they provide multiple means (ease) of access for the student population, general public, and
emergency services. These requirements constitute the "performance objectives" utilized by the School District in making school site selections.

The proposed Project will substantially impact the District's ability to satisfy this "performance objective" and therefore will result in "Potentially Significant" or "Less than Significant Impact with Mitigation Incorporation" in this environmental impact area.

Without the Castle Avenue extension, students from these existing and proposed residential developments east of the Ennis Project will be required to travel southbound on Matthew Street to westbound Westfield Avenue and northbound on Lombardi Street to reach the elementary school. The proposed Project, as currently designed, does not result in a logical, appropriate, or safe routing of pedestrian and vehicular traffic to the new elementary school from residential projects north and east of the proposed Project.

The City of Porterville has designated Castle Avenue a "public local street." However, this street is not improved beyond the proposed entry/access point to the subdivision. The extension of Castle Avenue to Lombardi Street is a goal/policy of the "General Plan Update 2030" Land Use and Circulation Element and has been presented to the update committee. The extension/improvement of this street is not considered in the Initial Study; therefore, the proposed Project is inconsistent with the General Plan update.

3. Transportation and Traffic:

The District cannot agree with the Initial Study's determination that the Project, as proposed, will have a "Less than Significant Impact" on Transportation and Traffic considerations. CEQA states a project may be considered to have a "significant environmental effect" if it will result in inadequate emergency access. (CEQA Guidelines, Appendix G, section XV e).)

If Castle Avenue is not extended, direct access between Matthew Street and Lombardi Street is prevented and all pedestrian, vehicular, and emergency access to the new elementary school will be limited to northbound access on Lombardi Street. This limited site access to the new elementary school site (i.e., a dead end street configuration) will impede adequate emergency access and the District's ability to implement an effective emergency evacuation plan.

4. Mandatory Findings of Significance:

Based upon the comments presented above, the District cannot agree with the Initial Study's determination that the Project, as proposed, has no "cumulatively considerable" effects. As CEQA requirements state...

"Cumulatively Considerable means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects and the effects of probable future projects." (CEQA Guidelines, section 15065 (a)(3); emphasis added.)

As currently designed, the Project will have a "cumulatively considerable" effect on other current projects:
The Orchard Ridge (Phase 8) and Meadow Breeze subdivisions, which have been recently constructed or are currently under construction.

These projects will be negatively impacted by the proposed Project, as designed, because the plans do not include the extension of Castle Avenue between Matthew Street and Lombardi Street. The students generated by these residential developments will be denied the utilization of Castle Avenue, which provides a direct, reasonable, and safe access to the new elementary school.

As currently designed, the Project will have a "cumulatively considerable" effect on probable future projects:

- The current Initial Study does not consider the impacts the proposed Project will have on the planning for the new elementary school or how it will affect the use of and access to the school by the community it serves.
- If Castle Avenue is not extended, then the direct, reasonable and safe access to the new elementary school will be prevented. Additionally, the proposed Project will have an adverse impact on adequate emergency access and the District’s emergency evacuation planning.
- The Project is not consistent with the current draft of the "General Plan Update 2030" that has indicated the extension of Castle Avenue as project for future implementation.

5. **Source References:**

The General Plan Update 2030 should be included in the reference list. (See comments above)

**Conclusions/Recommendations**

On behalf of the Burton School District, we recommend the Council direct staff to revise the Initial Study and proposed Negative Declaration to reflect the potentially significant impacts we’ve identified above, but add the following mitigation measure to reduce the potential impacts to a level of less than significant:

_The Applicant shall redesign the proposed tentative subdivision map by moving its northern boundary to a point not less than thirty (30) feet south of the centerline of the Castle Avenue alignment, in order to allow for the future development of Castle Avenue as a public street between 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
August 11, 2006

City of Porterville
Mr. John Longley, City Manager
291 N. Main Street
Porterville, CA 93257

Dear Mr. Longley:

Despite the fact that the Burton Board of Trustees has a meeting on the same night as the upcoming hearing (September 5), District representatives will be present to share information with the Council regarding the impact the Ennis project would have on the proposed elementary school in that area.

As presented in the site map that was approved by the PRC, the project conflicts with the District's interest in constructing a school on the northern part of the adjacent Lombardi property and in acquiring required Castle Avenue access. In particular, the City Council passed the following motion on March 28, 2006:

"Moved by Mayor Pro Tem Hamilton, Seconded by Council Member West, that the Council determine that the proposes elementary school — to be located generally on the southwest corner of Lombardi Street and the prolongation of Castle Avenue — is consistent with the General Plan of the City of Porterville, conditioned upon the Burton School District obtaining an easement for the prolongation of Castle Avenue." To approve the Ennis project in its current form would add greatly to the burden of "obtaining an easement for the prolongation of Castle Avenue."

The Burton School District is heavily invested in the property and is well along in getting full site approval. Already, the site passed the Geo Hazard review and has received contingent site approval. Currently, the Purchase Agreement is in
City of Porterville
August 10, 2006

Escrow and the CEQA process has begun. The CEQA process includes a traffic study that will soon begin. The Council may want to delay approval of the proposed project until the traffic study in progress is completed.

Thank you for working with the District to find the best solution.

Sincerely,

[Signature]

Donald R. Brown, PhD
Superintendent
Burton School District

cc: Brad Dunlap
City Council Members

Attachment: Letter from Brad Dunlap, dated March 29, 2006
Official minutes from Council meeting of March 28, 2006
March 29, 2006

Dr. Don Brown
Superintendent of Schools
Burton School District
264 North Westwood Street
Porterville, CA 93257

Subject: City Council Reconsideration of General Plan Consistency Determination

Dear Dr. Brown:

On March 28, 2006, at an adjourned meeting of the City Council, the Council reconsidered its determination of your request for determination of General Plan Consistency for a proposed school site located at the north end of Lombardi Street and the westerly prolongation of Castle Avenue. The item was previously considered by the City Council on February 21, 2006, at which time the Council made the determination that the school site was not consistent with the General Plan. However, after discussions with School District representatives that were unable to attend the first meeting, the Council agreed to reconsider its decision. Upon receiving a presentation by Burton School District representatives, the Council made the determination that the proposed school is consistent with the General Plan provided certain conditions are complied with.

Primarily, the conditions require the School District to acquire, improve and dedicate a minimum of a 26-foot wide road (Castle Avenue) between Lombardi Street on the west, and the current westerly termination of Castle Avenue on the east. The distance is approximately 1,300 feet in length. This second means of ingress and egress to the site is a mandatory requirement for public safety vehicles and must be provided prior to opening of the school. General comments on project requirements are summarized in a letter from the City to you dated February 16, 2006 and continue to be relevant. Detailed comments on construction requirements will be made based upon submittal of plans to the Project Review Committee.

If you have any questions regarding this information, please contact me at (559) 782-7460.

Sincerely,

Bradley D. Dunlap, AICP
Community Development Director

Cc: City Council
    John Longley, City Manager
    Mike Reed, City Engineer
    Julia Lew, City Attorney
    Julie Boyle, Senior Planner
Southern California Gas Company
404 N. Tipton Street
Visalia, CA 93292-6407

August 22, 2006

City of Porterville
291 N. Main Street
Porterville CA 93257

Attention: Bradley D. Dunlap, AICP

Subject: Ennis Estates Subdivision Project: E. Lombardi St and South of the Castle Avenue alignment, Porterville, CA.

We are pleased to inform you that Southern California Gas Company has facilities in the area where the aforementioned project is proposed. Gas service to the project can be provided from existing gas mains located in and around the area. The service would be in accordance with the Company’s policies and extension rules on file with the California Public Utilities Commission when the contractual arrangements are made.

This letter is not a contractual commitment to serve the proposed project, but is only provided as an informational service. The availability of natural gas service is based upon conditions of gas supply and regulatory agencies. As a public utility, Southern California Gas Company is under the jurisdiction of the California Public Utilities Commission. Our ability to serve can also be affected by actions of federal regulatory agencies. Should these agencies take any action, which affects gas supply or the conditions under which service is available, gas service will be provided in accordance with the revised conditions.

This letter is also provided without considering any conditions or non-utility laws and regulations (such as environmental regulations), which could affect construction of a main and/or service line extension (i.e., if hazardous wastes were encountered in the process of installing the line). The regulations can only be determined around the time contractual arrangements are made and construction has begun.

Contact the New Business Project Manager for your area, Alan Suhovy, @ (559) 739-2238, or visit our web site SCGMapping@SempraUtilities.com for information on current energy efficiency programs, gas equipment, or to find out how to get your line extension project started.

Thank you again for choosing clean, reliable natural gas, your best energy value.

Sincerely,

Louise Lankford/RV
Pipeline Planning Assistant

xc: Larry Jacquez
   Alan Suhovy
RESPONSES TO COMMENTS RECEIVED ON ENVIRONMENTAL DOCUMENT:

Letter from Russell F. Hurley, representing Guido Lombardi, a neighboring property owner.

Comment 1: The Initial Study finds that the subdivision would have a “less than significant impact” on Public Services (Schools)... Without a provision in the Ennis Estates Subdivision for the prolongation of Castle Avenue as required by the City Council, substantial adverse physical impacts for public services occurs with regard to the new school site... This isolation with limited access creates a substantial potential hazard and real safety concern for the schoolchildren with no secondary or alternate means of access [and] should have been marked as “Potentially Significant Impact” if not mitigated by the prolongation of Castle Avenue.

Response 1: The proposed project does not preclude a secondary means of access for the school district. Although the City Council conditioned its finding of general plan consistency on the extension of Castle Avenue through to Lombardi Street, the school district has the ability to find and create an alternate access, for example, extending Lombardi Street north to connect to North Grand Avenue. Alternately, the school district could still extend Castle Avenue along the northern property boundary of the proposed project. Multiple alternatives could be designed to achieve the same result, and the school district has the ability to work with the City in resolving the matter.

Comment 2: Without making the provision for the prolongation of Castle Avenue, the isolation of the new school, with only one way in and one way out, creates unreasonable and substantial safety risks to the children in the event of [any] emergencies as it does not allow for alternate emergency access if Lombardi Street is impaired.

Response 2: Again, the proposed project does not preclude a secondary means of access for the school district. The traffic study and environmental analysis to be prepared by the school district for its proposed site should evaluate these concerns, as they are directly related to the construction of the school, and pedestrian access solutions cannot be determined until the environmental analysis is complete. The fire department has indicated that with proper emergency override systems in place, emergency access through the proposed development would be satisfactory.

Comment 3: (Regarding Mandatory Findings of Significance) While the 60-foot road, aligned diagonally through the project subdivision, provides access to both Lombardi Street and Castle Avenue for residents of the subdivision, without the prolongation of Castle Avenue the subdivision isolated the new school site creating substantial safety concerns... Item (b) should have been marked “Potentially Significant Impact”.

Response 3: Pedestrian access to the school from areas east of the proposed subdivision need not be provided through the project. Though it may be inconvenient and a longer walk, there are alternate routes. Further, as stated above, Castle Avenue could still be extended to Lombardi Avenue. As there is no formally adopted alignment for that segment of Castle Avenue (the County abandoned the alignment in 1986), the road could be connected by simply following the northern project boundary.
Letter from Jeffrey L. Kuhn and Maureen Hill, representing Burton School District

Comment 1: The Land Use and Planning impact analysis contained in the Initial Study is limited to the proposed Project's consistency with the City's "current" General Plan... Because the current Initial Study does not consider the "General Plan Update 2030," it is not adequate under the provisions of CEQA. The Initial Study correctly states, according to CEQA, that the analysis of environmental impacts must address the consistency of a proposed project with "current" plans and policies. However, CEQA requirements do not state that the consistency analysis should be limited only to adopted plans and policies. The "General Plan Update 2030" contains policies and future projects that are probable and foreseeable and that must be considered in the environmental analysis of the Ennis project. Therefore, an analysis of the proposed Project's consistency with both the "current" General Plan and the "updated" General Plan is warranted.

Response 1: At this early stage, the City is still working with the General Plan consultant and Update Advisory Committee and public to develop the G.P. Update including defining the circulation element and proposed land uses. City staff and the Consultant are only beginning to draft new policies at this time. Further, because the General Plan Update is still in the analysis stages, to assume a specific alternative would bind the Council's decision-making authority to make modifications to the General Plan Update. It would be inappropriate to assume the current draft land use diagram will be the same when approved by Council, and therefore it is not reasonable to require consistency with an ever-changing draft.

Comment 2: The Ennis Subdivision, as currently designed, effectively prevents the extension and public use of Castle Avenue for direct access to nearby residential projects east of the Project that will be served by the new elementary school. The Burton School District requires that potential school sites have the proximity to the student population being served; support the programmatic requirements of the proposed school; and that they provide multiple means (ease) of access for the student population, general public, and emergency services. These requirements constitute the "performance objectives" utilized by the School District in making school site selections... Without the Castle Avenue extension, students from these existing and proposed residential developments east of the Ennis Project will be required to travel southbound on [Mathew] Street to westbound Westfield Avenue and northbound on Lombardi Street to reach the elementary school...[lacking] logical routing of pedestrian and vehicular traffic to the new school from residential projects north and east of the proposed Project.

Response 2: The proposed project does not preclude a secondary means of access for the school district. Further, the traffic study and environmental analysis to be prepared by the school district for its proposed site should evaluate these concerns, as they are directly related to the construction of the school, and pedestrian access solutions cannot be determined until the environmental analysis is complete. Pedestrian access to the school from areas east of the proposed subdivision need not be provided through the project. Though it may be less convenient and a longer walk, there are alternate routes. Further, Castle Avenue could still be extended to Lombardi Avenue.

Comment 3: The City of Porterville has designated Castle Avenue a "public local street"
Response 3: Neither the City nor the County have designated Castle Avenue a local street, a collector, or any other roadway designation. In fact, there is no formally designated street nor adopted alignment for that segment of Castle Avenue, as the County abandoned the alignment in 1986.

Comment 4: CEQA states a project may be considered to have a “significant environmental effect” if it will result in inadequate emergency access. (CEQA Guidelines, Appendix G, Section XV e). Limited site access will impede adequate emergency access and the District’s ability to implement an effective emergency evacuation plan.

Response 4: Emergency access is provided through the subdivision along the Jared Diagonal. While the project proposes a gated community, all gates include Knox boxes and emergency personnel will have full access through the subdivision to relay emergency services, as well as to assist in evacuation plans.

Comment 5: The Project will have a cumulatively considerable effect on other current projects (Orchard Ridge and Meadow Breeze subdivisions) because the plans do not include the extension of Castle Avenue to Lombardi Street.

Response 5: The approval of the project does not preclude extension of Castle Avenue through to Lombardi Street, nor other street extensions that could connect to North Grand Avenue or Westwood Street, both of which are designated as arterials in the City’s current General Plan.
PUBLICATION

SUBJECT: CONSTRUCTION OF CONCRETE IMPROVEMENTS ON INDIANA STREET PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: This is the time and place for a Public Hearing to discuss the proposed construction of concrete improvements for the subject project.

The Indiana Street Project, Putnam Avenue to Olive Avenue includes the construction of curbs, gutters, sidewalks and drive approaches in front of undeveloped properties and/or developed properties that lack these public improvements. Curb, gutter and sidewalk will be installed along the commercial properties at Olive Avenue due to elevation differences of adjacent properties and for the purpose of controlling access near the Olive Avenue/Indiana Street intersection. Section 20-40.1 of the Municipal Code stipulates that these improvements, once constructed, shall be reimbursed to the City of Porterville upon the issuance of a new building permit. Section 20-40.2 of the Municipal Code allows the City to recover the cost of the concrete improvements when the owner pulls a building permit(s) from the City and said permit(s) has a valuation of $15,000 or more within a two (2) year period. Curb returns will be installed at the Tomah Avenue and Putnam Avenue intersections for controlling asphalt elevations. The remainder of the concrete improvements will be installed in fiscal year 2007/2008 through a CMAQ grant.

The Indiana Street Project also includes the removal and replacement of concrete improvements. The removal and replacement of concrete improvements will not cause an assessment to the fronting property owners.

Section 20-40.8 of the Municipal Code requires that each property owner affected by the project be notified of this Public Hearing. The notification clearly describes the City's intent to seek reimbursement for the concrete improvements constructed by the City. This section also requires that City Council hold at least one additional Public Hearing prior to the establishment of a fee. Once the fee is established, the City shall record a general notice of "reimbursement fee" with the office of the Tulare County Recorder. The recorded document will officially notify the current owner and potential buyers that the property is subject to a concrete reimbursement fee.
RECOMMENDATION: That the City Council:

1. Take public comments, concerns and questions;

2. Authorize staff to start the construction of the stated concrete improvements for the stated project; and

3. Authorize staff to schedule a Public Hearing prior to the establishment of a fee for the concrete improvements, in accordance with the Mitigation Fee Act, upon completion of each project.

ATTACHMENTS: Locator Map
Reimbursement Spreadsheet
INDIANA STREET PROJECT
REIMBURSEMENT MAP
FOR CITY INSTALLED
CONCRETE IMPROVEMENTS
Exhibit "B"
Indiana Street Project - Putnam Avenue to Olive Avenue
Reimbursement for City Installed Improvements

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SUBJECT: SECOND READING - ORDINANCE NO. 1703, AUDIT COMMITTEE ORDINANCE

SOURCE: Administration/City Clerk Division

COMMENT: Ordinance No. 1703, amending Chapter II, Article IX, Internal City Audits, of the Code of the City of Porterville, was given First Reading on September 19, 2006, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1703 and waiving further reading, and adopt said ordinance.

Attachment: Ordinance No. 1703
ORDINANCE NO. 1703

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 audit, 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 one (1) member of the city council and one (1) member of the public, both to be appointed by 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
SUBJECT: SECOND READING - ORDINANCE NO. 1704, PROCEDURE TO ACCOMMODATE LARGER EXPENDITURES WHEN REQUIRED BY PUBLIC PEACE, HEALTH OR SAFETY

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Ordinance No. 1704, 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, was given First Reading on September 19, 2006, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1704 and waiving further reading, and adopt said ordinance.

Attachment: Ordinance No. 1704
ORDINANCE NO. 1704

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADDITION 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
publication and passage.

ADOPTED, SIGNED AND APPROVED this ______ day of October, 2006.

President of the Council and
Mayor of the City of Porterville

ATTEST:

______________________________
Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
SUBJECT: SECOND READING - ORDINANCE NO. 1705, DEBARMENT PROCEDURES – CITY CONTRACTORS

SOURCE: Administration/City Clerk Division

COMMENT: Ordinance No. 1705, adding Article XIII, Sections 2-114 through 2-138 to Chapter II of the Porterville Municipal Code concerning debarment, was given First Reading on September 19, 2006, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1705 and waiving further reading, and adopt said ordinance.

Attachment: Ordinance No. 1705
ORDINANCE NO. 1705

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 need not be bound by the common law or statutory rules of evidence and procedure, but may make inquiries in the matter through all means and in a manner best calculated to make a just factual determination.
Section 2-123  Debarment Hearing Board's Authority to Debar; Debarment Hearing Board's Decision Final

(a) After notice and hearing held in accordance with the procedures set forth in this Article and as may be further developed in accordance with any additional polices adopted by the City Council, the Debarment Hearing Board shall determine whether a person is to be debarred and for what length of time. To debar a person, the Debarment Hearing Board must find by a preponderance of the evidence that one or more grounds for debarment stated in Section 2-121 exist.

(b) Except as provided in Section 2-123(c), a Debarment Hearing Board’s decision shall be final.

(c) A decision by a Debarment Hearing Board to permanently debar a person may be appealed to the City Council in accordance with Section 2-125. The filing of a request for appeal of the debarment decision shall not stay the Debarment Hearing Board’s decision pending a final decision of the City Council.

(d) The Debarment Hearing Board shall deliver notice of the decision to the person subject to the debarment hearing and to the City Manager.

Section 2-124  Modification of Decision

(a) The Debarment Hearing Board may, but is not required to, modify a debarment decision for any reason which obviates the need for the debarment or which indicates that a shorter debarment period will adequately protect the public interest. Such reasons include, but are not limited to, the following: 1) newly discovered evidence; 2) reversal of the conviction or civil judgment upon which the debarment was based; 3) bona fide change in ownership or management; or 4) elimination or other grounds for which the debarment was imposed.

(b) Such modification of the debarment decision may be initiated by the debarred person upon request by the debarred person submitted to the Debarment Hearing Board. Such request by the debarred person shall be in writing and accompanied by supporting documentation.

(c) The Debarment Hearing Board shall act upon any such written request submitted by a debarred person within a reasonable time after receipt of the request and shall promptly notify the debarred person of the decision made on such request.

(d) The debarred person may appeal the Debarment Hearing Board’s decision to the City Council, following the procedures specified in Section 2-125.
Section 2-125   Appeals to City Council from Certain Decisions of Debarment Hearing Board

(a) If a Debarment Hearing Board has made a determination to debar a person permanently, that person may appeal that decision to the City Council in accordance with procedures set forth in this Division and procedures adopted by the City Council.

(b) A person who has been debarred may request an appeal to the City Council no later than five working days from the date of the notice of the Debarment Hearing Board's debarment decision. The debarred person's request for appeal shall set forth in detail the reasons why the person disagrees with the decision. The person shall file the notice of appeal with the City Clerk, who shall calendar the appeal hearing in front of the City Council after consultation with the City Manager and Mayor.

(c) The filing of a request for an appeal shall not stay the Debarment decision.

Section 2-126   Submission of Argument on Appeal

(a) At the City Council hearing on the appeal, no new evidence may be presented by the City or any person. However, if the person who filed the appeal under Section 2-125 wishes to submit argument supporting the appeal, that person shall submit argument in writing with the City Clerk no later than 5:00 p.m. ten calendar days prior to the date on which the hearing is scheduled to be held. Filing shall also be made on all persons subject to the debarment and on the Debarment Hearing Board.

(b) Where argument is submitted in accordance with Section 2-126(a), the City may submit rebuttal arguments, which shall be filed with the City Clerk no later than 5:00 p.m. five calendar days prior to the date on which the hearing is scheduled to be heard. Filing shall also be made on all persons subject to the debarment.

Section 2-127   Standard of Proof

The standard of proof for the Debarment Hearing shall be a preponderance of the evidence.

Section 2-128   Imputation of Knowledge and Conduct

(a) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individuals associated with a person may be imputed to the person when the conduct occurred in connection with the individual's performance of duties for, or on behalf of, the person, or with the person's knowledge, approval, or acquiescence. The person's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.
(b) The fraudulent, criminal, or other seriously improper conduct of a person may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the person who participated in, knew of, or had reason to know of the person’s conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one person participating in a joint venture or similar arrangement may be imputed to other participating persons if the conduct occurred for, on approval of, or acquiescence of these persons. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

Section 2-129 Judicial Review

Once a Debarment Hearing Board or the City Council has issued a final decision as provided in this Division, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure section 1094.6.

Section 2-130 Creation of List of Debarred and Suspended Persons

(a) The City Manager shall create and maintain a list of persons who have been debarred or suspended in accordance with polices and procedures of this Division.

   (1) This list shall include the names and addresses of all persons who have been debarred or suspended.

   (2) For each debarred or suspended person, the list shall state the date of commencement and expiration of the debarment or suspension.

(b) The City Manager shall establish procedures to provide for the effective use of the list to ensure that the City does not do business with persons who have been debarred or suspended.

Section 2-131 Effect of Debarment or Suspension

(a) Persons who have been debarred or suspended are excluded from conducting business with the City on behalf of themselves or as agents or representatives of other persons for the duration of the debarment or suspension.

(b) Persons who have been debarred or suspended are excluded from submitting bids, directly or indirectly (e.g., through an affiliate), submitting responses to requests for proposal or qualifications, receiving contract awards, executing contracts, participating as a subcontractor, employee, agent or representative of another person contracting with the City, or receiving contracts for the period of debarment or suspension.

(c) Persons who have been debarred or suspended are excluded from acting in a capacity where the person reasonably may be expected to submit offers for or be awarded, a contract, or a subcontract under a contract; or
(d) Persons who have been debarred or suspended are excluded from conducting business, or from acting in a capacity where the person reasonably may be expected to conduct business, with the City as an agent or representative of another person.

(e) The management of a corporate or other legal entity that has been debarred or suspended shall not conduct business or act in a capacity where they reasonably may be expected to conduct business with the City under a different corporate name.

(f) The City shall not accept, receive, open a bid, evaluate for award, or include any proposals, quotations, bids, or offers from any debarred or suspended person for the duration of the debarment or suspension.

(g) The City shall not award or approve the award of a contract or execute a contract under which a debarred or suspended person is intended to participate as a subcontractor or material supplier.

(h) A prime contractor who is awarded a contract shall not employ, subcontract with, nor purchase materials or services from a debarred or suspended person.

(i) When a debarred person sells or otherwise transfers to a relative or to any other person over whose actions the debarred person exercises substantial influence or control, then that relative or other person is automatically suspended or debarred or proposed for debarment to the same extent as the seller or transferor is debarred, suspended, or proposed for debarment.

Section 2-132 Effect of Debarment or Suspension on an Affiliate

(a) If the City determines that a person is an affiliate of a person that is debarred, suspended or proposed for debarment, the affiliate is debarred or suspended to the same extent as the person that is debarred, suspended or proposed for debarment.

(b) The affiliate debarred under Section 2-132(a) may request an appeal of the decision to the Debarment Hearing Board by submitting a written request to the City Clerk. An appeal under Section 22.0822(b) shall be governed by the same rules and regulations in accordance with this Division as are applicable to a Debarment Hearing Board’s procedure to debar a person.

(c) The filing of a request for review under Section 2-132(b) shall not stay the decision to debar the affiliate.

Section 2-133 Effect of Debarment or Suspension by Another Governmental Agency

If a person has been debarred by another governmental agency, that person may be automatically debarred by the City Manager permanently, or for three years, or until the
other governmental agency’s term of debarment expires, in the sole discretion of the City Manager.

Section 2-134 Liability for Increased Costs

Any person who enters a contract with the City, either directly as a prime contractor or indirectly as a subcontractor, during a period of suspension or debarment imposed upon that person by the City under its rules and regulations shall be liable to the City for increased costs incurred as a result of replacing the debarred or suspended person.

Section 2-135 Effect of Debarment or Suspension on Existing Contracts

(a) Except as otherwise provided in this section and notwithstanding the debarment, suspension, or proposed debarment, of a person, the City may continue contracts or subcontracts it has with that person that are in existence at the time the person was debarred, suspended, or proposed for debarment.

(b) If the basis of a person’s debarment or suspension is so serious that the City Manager believes that termination of contracts or subcontracts the City has with that person that are in existence at the time the person is debarred or suspended is in the best interests of the City, the City Manager may take actions necessary to terminate those contracts or subcontracts only after consultation with the City Attorney to ensure the propriety and legality of the proposed action.

(c) The City may continue to place orders against existing contracts, including delivery contracts, held by a debarred or suspended person, unless the contract has been terminated.

(d) The City shall not renew or otherwise extend the duration of current contracts, or consent to subcontracts, with debarred or suspended persons, unless the City Manager states in writing the compelling reasons for renewal or extension.

Section 2-136 Agreement Not to Bid in Lieu of One Year Debarment

The City may, but is not required to, offer a person the opportunity to execute a written agreement not to bid for one year, in lieu of the City’s pursuing a one year debarment under this Division. By executing this agreement, the person shall consent to waive a debarment hearing as described in Section 2-118, and this agreement will not constitute a debarment.

Section 2-137 Amendments and Compromises Allowed

Nothing in this chapter is intended to prevent the City, in its sole discretion, from amending, modifying or waiving the provisions of any City contract, or from entering into
compromise agreements with persons about the future performance of contracts by a City contractor.

Section 2-138 Severability

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Article or any part thereof. The City Council hereby declares that it would have passed each section, subdivision, paragraph, sentence, clause, or phrase in this Article or any part thereof irrespective of the fact that any one of more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 2. This ordinance shall be in full force and effect thirty days from after its publication and passage.

ADOPTED, SIGNED AND APPROVED this _______ day of October, 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
COUNCIL AGENDA - OCTOBER 3, 2006

SUBJECT: SECOND READING - ORDINANCE NO. 1706, AGGRESSIVE SOLICITATION ORDINANCE

SOURCE: Administration/City Clerk Division

COMMENT: Ordinance No. 1706, 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, was given First Reading on September 19, 2006, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1706 and waiving further reading, and adopt said ordinance.

Attachment: Ordinance No. 1706
ORDINANCE NO. 1706

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE REPEALING SECTION 18-1 OF CHAPTER 18, ARTICLE I OF THE PORTERVILLE MUNICIPAL CODE, AND ADDING ARTICLE IV, SECTIONS 18-50 THROUGH 18-54 CONCERNING AGGRESSIVE SOLICITATION

WHEREAS, the City Council of the City of Porterville finds that it is in the best interests of the City to establish regulations prohibiting aggressive solicitation;

THE COUNCIL OF THE CITY OF PORTERVILLE DO ORDAIN AS FOLLOWS:

SECTION 1. That Porterville Municipal Code, Chapter 18, Article I, Section 18-1 is hereby repealed.

SECTION 2. That Porterville Municipal Code, Chapter 18, Article IV, Section 18-50 through 18-54 is hereby added as follows:

18-50 Legislative Findings

(a) The city council finds that the increase in aggressive solicitation throughout the city has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder.

(b) The city council also finds that solicitation at major intersections in the city and near freeway on and off-ramps poses a dangerous condition for the solicitor and motorists in the area.

(c) Aggressive solicitation usually includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic. The city council further finds that the presence of individuals who solicit money from persons at or near banks, automated teller machines, or in public transportation vehicles is especially troublesome because of the enhanced fear of crime in those confined environments. Motorists also find themselves confronted by persons seeking money who, without permission, wash their automobile windows at traffic intersections, despite explicit instructions by drivers not to do so. People driving or parking on city streets frequently find themselves faced with persons seeking money by offering to open car doors or locate parking spaces. Such activities carry with them an implicit threat to both persons and property.

(d) The city council is enacting this chapter pursuant to its police power, as stated in Article XI, Section 7 of the California Constitution, in addition to the power set forth in Section 647(c) of the state of California Penal Code. This law is timely and appropriate because current laws and city regulations are insufficient to address the aforementioned problems.

(e) The law is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Rather, its goal is to protect
citizens from the fear and intimidation accompanying certain kinds of solicitation that have become an unwelcome and overwhelming presence in the city.

18-51 Definitions

As used in this chapter:

(a) “Solicit”, for the purposes of this chapter only, means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor’s purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

(b) “Aggressive manner” means and includes:

(1) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person’s consent;

(2) Following the person being solicited, if that conduct is: (I) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(3) Continuing to solicit within the immediate area of the person being solicited after the person has made a negative response, if continuing the solicitation is: (I) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one’s constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to City regulations, shall not constitute obstruction of pedestrian or vehicular traffic;

(5) Intentionally or recklessly using obscene or abusive language or gestures: (I) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession; or (ii) words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or

(6) Approaching the person being solicited in a manner that: (I) is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(c) “Automated teller machine” means a device, linked to a financial institution’s account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.
(d) “Automated teller machine facility” means the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers during and after regular banking hours.

(e) “Bank” means any banking corporation, savings and loan association, or credit union chartered under the laws of this state or the United States.

(f) “Check cashing business” means any person duly permitted by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.

(g) “Public area” means an area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

18-52 Prohibited Acts

It is unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

(a) In an aggressive manner in a public area;

(b) In any public transportation vehicle, or bus station or stop;

(c) Within fifteen feet to any entrance or exit of any bank or check cashing businesses or within fifteen feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. When an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit to the automated teller machine facility.

(d) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or

(e) From any operator of a motor vehicle that is in traffic on a public street, including, but not limited to, major intersections in the city and near freeway on and off-ramps, whether in exchange for cleaning the vehicle’s windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.

18-53 Penalties

Any person who violates Section 18-52 shall be guilty of a misdemeanor and subject to punishment in accordance with California Penal Code Section 19. Upon recommendation of the prosecuting attorney, the Court may reduce the charged offense from a misdemeanor to an infraction, as set forth under Section 1-9 of this Code. Nothing in this Article shall prevent the City from pursuing criminal, civil, administrative, or any other legal remedy to address violations of this Article.
18-54 Severability

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Article or any part thereof. The City Council hereby declares that it would have passed each section, subdivision, paragraph, sentence, clause, or phrase in this Article or any part thereof irrespective of the fact that any one of more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 3. This ordinance shall be in full force and effect thirty days from and after its passage.

ADOPTED, SIGNED AND APPROVED this _______ day of October, 2006.

__________________________
President of the Council and
Mayor of the City of Porterville

ATTEST:

__________________________
Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
SUBJECT: STRIPING OF CITY STREETS

SOURCE: Public Works Department

COMMENT: The City of Porterville has “piggy backed” on a contract from the City of Tulare to have Safety Striping provide striping services this year. Centerline, lane line, edge line and left turn pockets total more than 75 miles of striping in the City of Porterville and the estimated cost to stripe is around $50,000. Payment for services will be paid on a per lineal foot basis. Additional striping is being considered where pavement markers (buttons) that form lane lines are missing. The additional cost to stripe those areas is anticipated not to exceed $10,000.

The City has used oil based paint for its striping due to the durability of the paint. The striping industry has moved toward water-based paint, as it is easier to clean up the equipment and more environmentally friendly. The representatives from Safety Striping state that the current generation of water based paint is better than when it first came onto the market and is just as durable as oil based paint, if not better.

The striping of the City should be completed by the end of October. The signs and marking operating budget will be able to handle the expense of the striping contract at an estimated cost of $60,000.

RECOMMENDATION: Informational only.

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Dir B Appropriated/Funded _____ CM _____ Item No. 25
SUBJECT: BICYCLE LANE PROJECT UPDATE

SOURCE: Public Works Department – Engineering Division

COMMENT: Sealed bids were due for the Bicycle Lane Project, more appropriately titled "Porterville Class II and Class III Bikeway Project", on September 12, 2006. Unfortunately, the City did not receive a bid.

The funding source for this project involves two (2) grants. The grants are as follows:

State's Bicycle Transportation Account (BTA): $45,595
REMOVE II program: $50,000

The REMOVE II program is sponsored by the San Joaquin Valley Air Pollution Control District (SJVAPCD). A local share of $4,145 is a requirement of the REMOVE II program. This grant also has an associated deadline of April 1, 2007. The deadline is reflective of a recent time extension granted by the agency.

Reinitiating the bidding process at this time is of concern to the Engineering Division. Fog and rain is extremely problematic to pavement marking projects. There are construction methods that would allow the City to resolve this concern. However, these methods are expensive and the budget is unable to absorb the additional costs.

A second time extension will resolve engineering concerns. Staff initiated a conversation with the air district regarding the deadline and because of the circumstances, they may grant another time extension.

RECOMMENDATION: That City Council:

1. Authorize staff to seek a second time extension from San Joaquin Valley Air Pollution control District; and

2. Reinitiate the bidding process, if successful in augmenting the time aspect of Agreement No. R-024 between the City of Porterville and SJVAPCD.

ATTACHMENT: Map

P:\pubworks\Engineering\Council Items\2006-09-05 Bicycle Lane Project Update.doc

Appropriated/Funded ___ CM ____ Item No. 26
COUNCIL AGENDA: OCTOBER 3, 2006

SUBJECT: PROPOSED COMBINATION OF "PAINT THE TOWN" AND CITY'S "FALL CLEAN UP DAY" EVENTS

SOURCE: Public Works Department - Field Services Division

COMMENT: At the City Council's February 21, 2006 meeting, the Council approved October 21, 2006 as the City's "Fall Clean Up Day" where City resident's are encouraged to cleanup their properties and dispose of household trash and bulky items at the City's Corporation Yard at no cost.

This year's Paint the Town effort coincides with Make a Difference Day on October 28. The County has moved their Household Hazardous Waste disposal day planned for October 7 to October 28 to also coincide with these events. In order to re-enforce the Paint the Town and Make a Difference Day Community Campaign efforts, staff is recommending moving the City's "Fall Clean Up Day" to October 28.

At the last City Council meeting, a member of the Paint the Town Committee requested that the City receive the debris collected from the Paint the Town event. Staff estimates the cost of this disposal not to exceed $500.

RECOMMENDATION: That City Council:

1. Authorize moving the "Fall Clean Up Day" from October 21, 2006, to October 28, 2006 to coincide with Paint the Town, Household Hazardous Waste Disposal, and Make a Difference Day Events; and

2. Authorize the City to receive the debris collected from the Paint the Town event.

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Dir Appropriated/Funded ___ CM ___ Item No. 27
CITY COUNCIL AGENDA _____

October 3, 2006

SUBJECT:        City Council Goal Setting

SOURCE:        City Manager

On Saturday, September 23, the Council met at the Hospital Board Room with facilitator Lucie Garcia. At the session, the first set of steps for City Council goal setting were covered. The desired goals for the community were considered and community based values were defined. There was much beneficial dialogue between the Council, staff, and community.

The purpose of this staff report is to formulate the next step. This is being done in the context of other efforts including the completion of the General Plan and potentially a program through the Chamber of Commerce Economic Development Committee.

Work-Plan Development: The City Manager recommends the focus at this time should be on a work-plan for the coming year. The City has undertaken more than 140 projects. They are at various stages and levels of completion. For the staff to be effective, it is suggested that a limited number of projects be placed on the “watch” (a.k.a. priority) list. This would be a subcategory of the monthly project report that specifies ten or fewer projects that are viewed by the Council as the most urgent and important. The purpose of this is to keep a focus on these projects that the City Council views as priorities.

A proposed approach would be for the Council to hold a meeting on Tuesday, November 14, 2006. At this meeting, the project status sheets will be enlarged and placed on the wall. Directors can address the projects for Council consideration and answer any question from the Council or public. The City Manager and Directors would outline the projects they feel are most urgent and important.

The Council Members can then vote on the project they feel is most important by one color of dot and the project within each department they feel is most important by another. This would indicate by a “straw” poll, which projects are most important overall and which are most important within each department. The information can be compiled by the City Manager and the Council could review and act on this at a subsequent meeting.

Long Term Planning: It is suggested that the General Plan efforts define the most significant long-term planning effort currently before the City.

Key Questions: The City Manager suggests that there are a number of questions, which have to be answered for the City to be successful. They are, as an organization, city, or community:

Item No. 28

City Manager Longley /s/
What do we want to accomplish with our policies?
How do we want to present ourselves?
What is working or not working?

**Defining An “End Game” through Vision & Values:** The suggestion is that we should focus on the three questions. The City Manager’s monthly listing of projects provides current definition about accomplishment. The project listing is not complete, however, because it is not referenced to any specific vision. What is working or not working can only be defined in terms of an “end game” where there is some consensus on vision and values. The foundation for this must come out of the General Plan process. From this, specific visions can be articulated, goals can be set outlining what we want to accomplish, we can present a marketing plan and operational expectations can be set. Periodically, when we evaluate these expectations against accomplishments, we can learn what is working or not working.

**Criteria for Success:** The organization either works or does not work in relationship to its ability to accomplish the vision and its responsiveness to City Council direction. Policies are accomplished or not accomplished based upon how reflective they are of a clear vision.

**Defining Community by Profit and Pride:** At a basic level, any organization is defined in the end by the profit (accomplishments) it makes and the pride it engenders. The fundamental criteria then become if wealth is growing in the community, and are we proud of the community in which we live. For the former question, we can track the conclusion statistically, if we agree on the measures. For the latter, it is a matter of opinion, but working through the perceptions to the answer is fundamental for any successful community.

**How We Want to Appear:** Increasingly, the question of how we want to appear is important. This question is central to marketing the community and in many minds to community pride.

**Prongs of Comprehensive Organizational Planning:** Therefore, the prongs of Comprehensive Organizational Planning involve operational elements defined in a work plan, appearance elements involved in a marketing plan, and policy elements involved in a general and strategic plan. Planning involves multiple elements and one does not necessarily “trump” another. The key is keeping the question straight. Planning enterprises address differently the questions outlined above.
Understanding this prevents misdirection or unreasonable expectations. Seldom is there a panacea or “silver bullet” to achieve profit or pride.

As an interim measure, the City Manager suggests that the work plan be formulated. As we work through the General Plan and other planning efforts now under consideration, the other questions outlined above may be more fully addressed.

**RECOMMENDATION:** At this time, proceed with work program goals by scheduling a City Council study session on Tuesday, November 14, 2006, to review current and proposed projects.