Call to Order at 6:00 p.m.
Roll Call: Council Member McCracken, Council Member Pete Martinez (arrived at 7:15 p.m.), Mayor Pro Tem Felipe Martinez, Council Member Stadtherr, Mayor Hamilton

ORAL COMMUNICATIONS
None

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

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that no action had been taken.

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

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

PRESENTATION
   Employee of the Month - Colette Parnell

ORAL COMMUNICATIONS
   • James O’Bannon, 1761 W. Belleview Court, voiced concern with the poor condition of the slough, particularly where it ran through Veterans’ Park. He spoke of the lack of proper maintenance and lighting, and cited problems with litter and criminal activity. He requested that it be cleaned, maintained and incorporated into the Park.
   • Nicki Edwards, 13096 Road 208, voiced concern with the limited library hours, and noted the importance to many families to have access to the facility on Saturday.
   • Jean Vafeades, agreed with the previous speakers’ comments, and spoke of the need for code enforcement.
• Alec Garfield, P.O. Box 93258, presented the Council with the publication *Indian Gaming Business* which depicted members of the Tule River Yokut Tribe on Capital Hill in Washington D.C.

• Cathy Capone, 806 W. Westfield Avenue, thanked Council Member Stadtherr for his service and vision, particularly with regard to environmental awareness and planning.

**CONSENT CALENDAR**

Items 7, 9, 13, and 16 were removed.

1. CITY COUNCIL MINUTES OF JULY 18, 2006; AUGUST 8, 2006; AND AUGUST 17, 2006

Recommendation: That the City Council approve the City Council Minutes of July 18, 2006; August 8, 2006 and August 17, 2006

Documentation: M.O. 01-090506

Disposition: Approved.

2. AUTHORIZATION TO ADVERTISE FOR BIDS - MORTON AVENUE CHIP SEAL PROJECT

Recommendation: That the City Council:

1. Approve the Plans and Project Manual; and
2. Authorize staff to advertise for bids.

Documentation: M.O. 02-090506

Disposition: Approved.

3. AWARD CONTRACT - BUS SHELTERS AND BENCHES

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

Documentation: M.O. 03-090506

Disposition: Approved.

4. ACCEPTANCE OF IMPROVEMENTS - WILLIAMS RANCH SUBDIVISION, PHASES TWO AND THREE (BRIAN ENNIS - ENNIS HOMES)

Recommendation: That the City Council:

1. Accept the public improvements of Williams Ranch Subdivision, Phases Two and Three for maintenance;
2. Authorize the filing of the Notice of Completion; and
3. Release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

Documentation: M.O. 04-090506
Disposition: Approved.

5. PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT - NEWCOMB SHOULDER STABILIZATION PROJECT

Recommendation: That the City Council:
1. Approve the subject program supplement by passing a resolution authorizing the Mayor to sign the subject program supplement; and
2. Direct staff to return the signed program supplement to Caltrans.

Documentation: Resolution 114-2006
Disposition: Approved.

6. CONSOLIDATED WASTE MANAGEMENT AUTHORITY MEMBERSHIP AGREEMENT PAYMENT

Recommendation: That the City Council authorize issuance of checks to the CWMA for the following:
1. Payment of $34,772 for the City’s membership contribution; and
2. Forward $11,941 for the City’s portion of CWMA’s awarded funds received from California Department of Conservation.

Documentation: M.O. 05-090506
Disposition: Approved.

8. EXTENSION OF LICENSE AGREEMENT TERM FOR SENIOR NUTRITION PROGRAM USE OF THE SANTA FE DEPOT

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

Documentation: M.O. 06-090506
Disposition: Approved.

10. TITLE VI COMPLIANCE TASK FORCE COMMITTEE

Recommendation: That the City Council appoint the following individuals to the Title VI Compliance Task Force Committee to assist the City in the preparation of its update to the Title VI Report:
• Cheri Taylor  Porterville Adult Day Services
• Joe Moreno  Former Committee Member and Social Services Technical Advisory Committee (SSTAC) Member
• Anthony Hannah  City Transit ADA Passenger
• Mary M. Valdez  City Transit Senior and ADA Passenger
• Rhondi Farmer  Porterville Sheltered Workshop-Independent Living Program

Documentation: M.O. 07-090506
Disposition: Approved.

11. APPROVAL OF ANNUAL TRANSPORTATION AGREEMENT WITH TULARE COUNTY

Recommendation: That the City Council:
1. Enter into an Agreement with the County of Tulare for FY 2006-2007 to provide service to County residents within the Service Area Boundary Map; and
2. Authorize the Mayor to execute the Agreement on behalf of the City.

Documentation: M.O. 08-090506
Disposition: Approved.

12. RENEWAL OF PERSONNEL EXAMINING SERVICES AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND COOPERATIVE PERSONNEL SERVICES

Recommendation: That the City Council:
1. Approve the draft resolution authorizing the renewal of the Test Security Agreement with Cooperative Personnel Services, and
2. Authorize the City Manager or his designee to sign on behalf of the City.

Documentation: Resolution 115-2006
Disposition: Approved.

14. AIRPORT LEASE - LOT 32C

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

Documentation: M.O. 09-090506
Disposition: Approved.

15. AIRPORT LIABILITY INSURANCE

Recommendation: That the City Council approve the renewal of the City’s current insurance policy under the same terms, conditions and exclusions.
17. RESOLUTION OF SUPPORT FOR TULE RIVER TRIBE WATER PROJECT

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

Documentation: Resolution 116-2006
Disposition: Approved.

17A. BUDGET ADJUSTMENT - AIRPORT

Recommendation: That the City Council:
1. Authorize a budget adjustment of $5,000 from Fund 90 to Fund 32-5070-001-230; and
2. Authorize the City Manager to expend up to $5,000 on the work-study program.

Documentation: M.O. 11-090506
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez; SECONDED by Council Member Stadtherr that the Council approve Item Nos. 1-6, 8, 10 through 12, 14, 15, 17 and 17a. The motion carried unanimously.

9. APPROVAL FOR COMMUNITY CIVIC EVENT - BARN THEATER FIRST ANNUAL PORTERVILLE BUZZARD FESTIVAL - OCTOBER 14, 2006

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

COUNCIL ACTION: MOVED by Mayor Hamilton, SECONDED by Council Member Stadtherr that the Council approve the Community Civic Event Application and Agreement from the Barn Theater, subject to the Restrictions and Requirements contained in the Application, Agreement, and Exhibit A of the Community Civic Event Application.

AYES: Pedro Martinez, Felipe Martinez, Stadtherr, Hamilton
NOES: None
ABSTAIN: McCracken
ABSENT: None

Disposition: Approved.
7. IMPROVEMENT PROGRAM FOR PORTERVILLE COMMUNITY CENTER

Recommendation: That the City Council consider the improvement program as presented by staff and provide direction as appropriate.

City Manager John Longley presented the item.

In response to questions posed by Council Member McCracken, staff estimated the cost of the air conditioning unit to be below $15,000, which would leave approximately $72,000 towards flooring, plus any realized savings. It was stated that flooring costs had not yet been determined.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Mayor Pro Tem Felipe Martinez that the Council approve the improvement program as presented by staff. The motion carried unanimously.

Disposition: Approved.

13. CREATION AND ESTABLISHMENT OF CODE ENFORCEMENT OFFICER POSITION

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

City Manager John Longley presented the item.

Council Member McCracken inquired whether the various responsibilities of the proposed Code Enforcement Officer would be charged back to each applicable department, or whether the Fire Department would assume all costs. Mr. Longley indicated that the position would be funded out of the Fire Department, with a General Fund allocation. He indicated that the concept was that the position would entail general code enforcement, and that it was a full-time position.

Council Member McCracken moved that the Council approve staff’s recommendation.

Council Member Stadtherr questioned whether online reporting of violations and/or complaints was being pursued. It was stated that many complaints were currently received via e-mail, and that once the system was developed, it could be refined.

In response to a question posed by Council Member Pedro Martinez as to when the Council could expect another Code Enforcement Officer to be added, Mr. Longley indicated that adding another position would be at the Council’s discretion in future budgets. A discussion ensued as to how many Code Enforcement Officers were typical in other agencies, during which it was stated that it generally varied from city to city. Mr. Longley then stated that any revenue generated from code enforcement fines would be allocated between various agencies.

Council Member McCracken questioned whether any other City employees had authority to report and/or enforce code violations. Mr. Longley stated that in many instances, police personnel had
the authority, as did a planning technician position with the Community Development Department that currently handled code violations. Mr. Longley clarified that any employee could report a violation.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Pedro Martinez that the Council adopt the draft resolution authorizing the addition of one (1) Code Enforcement Officer within the Fire Department, and adopt the proposed job description.

Disposition: Approved.

16. REVISION OF THE CITY COUNCIL PROCEDURAL HANDBOOK

City Manager John Longley presented the item.

Council Member McCracken noted that some items in the Handbook were pending, and requested that the item be continued to the first meeting in December, 2006, until such time as all the elements could be presented at one time. The Council concurred.

Disposition: Continued to December 5, 2006.

The Council recessed for five minutes.

PUBLIC HEARINGS

18. POLICE FEES, OTHER FEES AND ADJUSTMENTS

Recommendation: That the City Council hold a public hearing on the proposed fee changes, after which the Council adopt the fees as outlined in the draft resolution.

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

The public hearing opened at 7:39 p.m.

- Cathy Capone, 806 W. Westfield Avenue, voiced concern with the proposed costs for copies, suggesting that the cost for a copy of the Council Agenda would be exorbitant. She then commented that only about 10% of the time, the public copy of the Agenda was available at the Library. Ms. Capone requested that copies for the Agenda be reduced.
- Ron Irish, 768 North Prospect Street, spoke against the proposed false alarm fees, and commented that fees should not be increased simply because they could or other cities were doing so. He requested that other alternatives be investigated and offered his expertise in the field should the Council desire assistance.
- Vickie Edwards, 13096 Road 208, agreed with Mr. Irish’s comments and spoke against the proposed fee for false alarms. She then voiced agreement with Ms. Capone’s comments, stating that she believed the City should not charge for the Council Agenda.
- Ben Ennis, 643 N. Westwood Street, spoke against the proposed false alarm fee, voicing concern that the cost could be over burdensome, particularly in situations that were out
of the control of the home and/or business owner. He cited a situation in which a spider had activated 23 false alarms calls in one evening.

Deputy City Manager Frank Guyton clarified for everyone’s edification that the proposed false alarm fee would not take effect until the third false alarm, and subsequent ones thereafter, in a six month period of time. He stated that the first two false alarms were free.

- Avtar Singh Basra, Subway Sandwiches, 130 North Main Street, spoke against increasing the false alarm fee as proposed, citing various circumstances that were beyond a business owner’s control.

The public hearing closed at 7:46 p.m.

Council Member Stadtherr clarified that only when S.T.O.P. Alarm contacted the Police Department did the alarm trigger police response. Mr. Irish indicated that in the event an alarm was tripped and was immediately verified by S.T.O.P. Alarm to be an accident, the Police were not notified. Council Member Stadtherr commented that he could see a place for the fee, but voiced caution with penalizing infrequent and inadvertent offenders.

Council Member McCracken noted that S.T.O.P. Alarm was not the only alarm company serving Porterville and that other companies might automatically contact the Police Department for every call.

Council Member Pedro Martinez commented that he believed other avenues could be explored rather than increasing the fee. He noted that Mr. Irish had volunteered his expertise and suggested that the Council pursue other methods. He voiced support for postponing the false alarm fee increase so as to provide time for staff to research other alternatives.

In response to a question posed by Mayor Pro Tem Felipe Martinez, the costs to the Police Department for responding to false alarm calls was discussed. Mr. Longley spoke of the effects on resources when false alarm calls competed with other calls. Mayor Pro Tem Felipe Martinez suggested that most alarm companies’ first call was to the home/business owner, then if necessary, to the Police Department. A discussion ensued as to the various types of alarms.

Council Member McCracken questioned why the City would charge for promotional materials, suggesting that the City should bear that cost. He suggested that said proposed fee should be looked at.

A discussion next ensued as to whether a study session was needed. Council Member Pedro Martinez suggested that the Council adopt some of the fees presented, noting that the only concerns raised thus far had been on the false alarm fees and the promotional copy fees. Council Member Martinez then confirmed with Mr. Longley that the Agenda on the Internet was currently free and that CDs were also available. Mr. Longley stated that he had not been aware an issue existed at the Library in terms of accessing the public copy of the Agenda and indicated that the would make sure no issue existed in the future. A discussion ensued as to the various means by which the Agenda could be accessed by the public.

The Council then concurred that the proposed False Alarm Fee and the City Promotional Materials Fee should be pulled and continued. The Council also noted a typographical error on the
forfeiture rate for deposits for notice of cancellation within two business days or less. He stated that “10%” should actually be “90%.”

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Pedro Martinez that the Council approve staff’s recommendation, as amended to remove and continue the False Alarm Fee and the City Promotional Materials Fee, and correct the typographical error on the forfeiture rate for deposits for notice of cancellation within two business days or less from “10%” to “90%.” The motion carried unanimously.

Disposition: Approved.

19. ENNIS ESTATES TENTATIVE SUBDIVISION MAP (ENNIS HOMES)

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.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report. During staff’s presentation, the Council recessed for five minutes due to notice of an emergency with Mayor Hamilton’s family. The Mayor then excused himself from the meeting and left the Chambers. Mayor Pro Tem Felipe Martinez presided over the remainder of the Council Meeting.

The public hearing opened at 8:19 p.m.

- Jason Callison, 2115 West Castle Avenue, voiced approval for the proposed project and spoke against the prolongation of Castle Avenue, noting that it would negatively impact his residence. He suggested that in the event Castle Avenue was extended through, he would be unable to sell his home and would likely lose $700,000. He questioned who would pay him and stated that he would pursue the matter if need be. Mr. Callison then voiced frustration that the School District had not contacted him regarding the matter.

- Jim Winton, business address at 150 W. Morton Avenue, noted a typographical error in the Map notes. He stated that the maximum parcel size was 26,000 sq. ft. and the minimum parcel size was 12,600 sq. ft., making the average 17,000 sq. ft. He then stated that the applicant was in agreement with the conditions of approval and that he was available to answer any questions the Council might have.

- Ben Ennis, Ennis Homes, Inc., applicant, 643 North Westwood Street, spoke of the history of the project, the abandonment of Castle Avenue by the County, the need in the Community for executive-type housing, and of the past amicable relationship with the School District. He voiced concern with the Council confusing the approval of a subdivision with the need for a secondary access in another proposed development, noting there were other options for access, such as through Mr. Lombardi’s property. He contended that he was not selling the land and therefore he should not have to solve the secondary access issue. He then requested that his CEQA attorney, Mr. Timothy
Jones of Sagaser, Jones & Hahesy, be allowed to speak last to address any issues that might be raised during the public hearing.

Mayor Pro Tem Felipe Martinez indicated that the meeting was not a court of law, and that the public hearing was not the place to dispute the matter. He stated that if Mr. Jones had something to offer that the Council had not yet heard, his comments were welcome. City Attorney Julia Lew clarified that the Council could simply listen to the comments, and if it felt it wished to hear more from Mr. Ennis’s counsel, it could then ask. She indicated that the Council had the discretion.

• Mr. Ennis stated that if the School District’s comments only pertained to the proposed Subdivision, he did not have a problem, however, he did not believe that would be the case. In response to a comment by the Council that the Council would only be considering the merits of the project, Mr. Ennis suggested that half of staff’s report pertained to Burton School District. Mr. Ennis then commented that the project had passed all review committees with flying colors and stated that he did not believe there was anything to keep the Council from approving the item.

• Timothy Jones of Sagaser, Jones & Hahesy, 2445 Capital Street, Fresno, came forward on behalf of the applicant and spoke in favor of approval of the item, indicating that Ennis Development had met all the criteria to have the Council approve the Tentative Subdivision Map. Mr. Jones stated that there were two problems in the CEQA analysis prepared by staff – 1) staff had not taken into account the road that the applicant would like the City to have and that other alternative locations for secondary access were available; and 2) staff failed to take into account the current General Plan. He contended that neither of the arguments rose to the level of a CEQA analysis that would impact the determination and the appropriateness of the Mitigated Negative Declaration. Mr. Jones then elaborated on his concerns with the CEQA analysis and stated that there was no justification under CEQA to deny the application. Mr. Jones then stated that he was available to answer any questions and requested the opportunity to respond to any additional issues that might be raised.

• Dr. Don Brown, Superintendent of Burton School District, stated that the District was in support of the project and believed that a mutually agreeable solution could be found. Dr. Brown then indicated that he had a 16 minute PowerPoint presentation that he would like to present.

Mayor Pro Tem Felipe Martinez stated that generally only three minutes was provided during public commentary. City Attorney Julia Lew clarified that the District should be given at least the amount of time given to those in favor of the proposed Subdivision. She recommended that it would be best to err on the side of due process, but requested that the presentation be made as expeditiously as possible. Ms. Lew then noted that there appeared to be justification for Mr. Jones’ desire to address the Council on any additional issues raised that evening.

• Dr. Don Brown, proceeded with his presentation. He spoke of the Council’s previous determination that the proposed school site was consistent with the City’s General Plan, and of the City’s direction to improve and dedicate a portion of Castle Avenue for secondary access to the school. Dr. Brown voiced support for the proposed Subdivision, but voiced concern that the current design would impede the School District’s ability to adhere to the City’s directive. He then spoke of the City’s growth and the efforts made
by the District to meet the demands of that growth, and of the history of the District’s efforts towards securing a site for the proposed school. Dr. Brown stated that the District proposed a minor relocation of the northern border of the proposed Subdivision. He then called on Jeff Bottoms to continue the presentation.

• Jeff Bottoms, 264 North Westwood, came forward and continued the School District’s presentation. He spoke of the importance of easy and safe access to the school by children in adjacent subdivisions, suggested that alternative locations for secondary access to the school would restrict that access, and asserted that it would be premature to approve the proposed Subdivision prior to fully analyzing pedestrian access issues. He stated that the ability to adhere to the Council’s previous directive would be compromised by the placement of the Subdivision. He commented that by requiring the northern boundary of the Subdivision to be moved 30 feet south, the City Council would ensure compliance with the Subdivision Ordinance by reducing the maximum lot depth, and that such relocation would support the General Plan Update; allow Burton School District to satisfy the conditions of the Council’s previous directive; would provide a safe and efficient route to school for children living east of the Subdivision; and would help to alleviate an already impacted traffic flow on Westwood.

• Jeff Kuhn, Esq., Law Firm of Lozano Smith, 7404 North Spalding Avenue, Fresno, continued the presentation on behalf of Burton School District and voiced concern with the Subdivision as proposed. He stated that there was a deficient CEQA analysis in the current study that failed to adequately address the issues raised during the review, and suggested new deficiencies and concerns existed resulting from staff’s response. He voiced concern with the fact that the alternative accesses suggested by staff had not been analyzed; that the impact analysis was consistent only with the City’s current General Plan and not the General Plan Update; the project was not conducive to the pedestrian and vehicular traffic traveling from subdivisions located to the north and east of the project. Mr. Kuhn suggested that an analysis of the project should be made against both the Update and the current General Plan and strongly disagreed with the Negative Declaration determination that there would be less than significant impacts on transportation and traffic. He stated that the gated project would impede access by emergency vehicles.

• Ralph Hatland, Chief Business Officer for Burton Elementary School District, 1025 South Tracy Court, Visalia, came forward next to continue the PowerPoint presentation. He stated that the City Council had the authority under Section 21.3 to deny private streets; and that cities and counties had general police powers to approve or disapprove any development. He continued that the Government Code provided cities and governments the authority to institute mitigation remedies for developers; and that Section 66478 of Subdivision Maps stated that a city or county could adopt an ordinance requiring the dedication of land to an applicable school district.

• Jeff Bottoms, address on record, returned to the podium to continue the School District’s presentation, and proceeded to review various options for secondary access, all of which he contended were not viable. Mr. Bottoms asserted that only the prolongation of Castle Avenue met all of the criteria.

• Don Brown, Superintendent of Burton School District, came forward to conclude the District’s presentation. He thanked the Council for allowing the presentation and requested that the Ennis Subdivision’s northern border be moved south by 30 feet and that the 30 feet be dedicated as a future street right of way, and/or for the Council to
delay its approval until such time as traffic studies were completed and mitigation issues were resolved.

• Maureen Hill, 18813 Aspecy Drive, Saratoga, came forward and identified herself as a Land Use and Environmental Planning Consultant for Burton School District. She clarified with staff that the reference to a “Vesting” Tentative Map in the draft resolution was a typographical error, and that the Council was considering a Tentative Subdivision Map.

• Greg Shelton, 888 North Williford Drive, stated that he while he was indifferent to the proposed project, he questioned why the District had selected their proposed site if there were such environmental and traffic concerns in the area. He then voiced concern with the District autocratically selecting school sites, and then leaving it to the City to deal with traffic issues created by the District’s actions. Mr. Shelton then commented that if the project met all of the City’s criteria, it should be approved.

• Allen Lombardi, 3333 South West Street, Visalia, identified himself as the son of Guido Lombardi, the seller of the property to Burton School District. He voiced concern with what he perceived to be a “rushed nature” of the study, citing inaccuracies with farming references. He spoke against the Ennis Subdivision as proposed, citing vehicular and pedestrian traffic as concerns. He spoke in favor of relocating the northern border of the project 30 feet south to allow for the prolongation of Castle Avenue.

• Jim Lombardi, 2312 West Westfield Street, spoke of farming the land on which the Subdivision was proposed many years ago and commented that Castle Avenue had been used when it was there.

• Ben Ennis, address on record, stated that Ennis Development was not anti-school, but was merely attempting to protect its property. He spoke against the prolongation of Castle Avenue, citing concerns with increased vandalism and theft that he suggested would likely occur at his company’s shop building; the negative impact on Mr. Callison’s property due to needed right of way; and dangers to children walking along a 26 foot wide road, which he alleged would not allow enough room for passing cars. Mr. Ennis then stated that according to the recollection of previous Council Members, the Council’s direction to the District had been that the District would not use eminent domain and that it would negotiate with him for his property. He indicated that the Council Members’ recollection was that it had never been demanded that Castle Avenue be extended through. Mr. Ennis then opined that a viable access could be provided through the Lombardi property to Westwood Street, by lining up the new road to meet the entry of North Creek of Estates. Mr. Ennis then commented that if Castle Avenue went in, it would be the most expensive street Porterville had ever seen.

• Timothy Jones, Esq., address on record, came forward on behalf of Ennis Development. He questioned whether there was another document other than the attachment to Hurley and Laird’s letter that more strongly required the prolongation of Castle. Mr. Jones then stated that the Council was dealing with a land developer that was stating that their access road ought to go on another person’s property, and that other person should be required to give them the property for free. He stated it was an inappropriate use of CEQA to force someone to pay for someone else’s development. He then contended that a 20-foot wide road and a 30-foot wide dedication would not provide sufficient pedestrian access.

In response a request by the Council, Community Development Director Brad Dunlap stated that he had reviewed the Minutes of the Council Meeting when the prolongation of Castle had been
discussed, and it was a requirement of the Council to extend Castle through. Mr. Dunlap recalled that the Council had voted that the proposed school site was consistent with the General Plan if the access was extended through on Castle Avenue.

City Attorney Julia Lew clarified that additional public commentary by individuals not associated with any of the involved parties should be allowed prior to closing the public hearing.

- Catherine Capone, 806 West Westfield Avenue, suggested that a parkway might be a solution to providing pedestrian traffic to the school, instead of a vehicular road. She then spoke of the existing drainage basin south of the proposed Subdivision and suggested that it might be utilized as a public access area green space.

The public hearing closed at 9:18 p.m.

Council Member McCracken questioned how the School District would have proceeded in the event the previous Council had not determined the site to be consistent with the General Plan. He then stated that the District failed to mention that the portion of Castle Avenue that would need to be constructed was also not an existing street. Council Member McCracken then stated that he believed the drainage basin to which Ms. Capone referred was not located on either party’s property. He stated that Mr. Ennis seemed to have complied with or exceeded the requirements.

Council Member Stadtherr referred to a GIS image of the subject location which staff had brought up on the overhead screen at his request. Mr. Dunlap pointed out that at the time of the GIS imaging, which he estimated was approximately 1999, the area north of the subject site was County and therefore was reflected on the image as a blacked-out area. Council Member Stadtherr then spoke of County thoroughfares and noted that they generally were placed in one mile increments. He stated that Castle Avenue was Avenue 168, which extended westward to Woodville. He spoke of looking beyond just the proposed development and considering what would be best moving into the future. Council Member Stadtherr then noted that the County was also in the midst of updating their General Plan and suggested that its consideration should also be factored into the determination. He then opined that the proposed Subdivision would not promote the concept of a walkable community, and suggested that if the Subdivision was approved as proposed, the City would be giving up its options for the future. He proposed that the Council not make a decision until such time as the City and County General Plans were updated.

Council Member Pedro Martinez noted the high probability for litigation, and suggested that the Council discuss the item in Closed Session.

City Attorney Julia Lew agreed that there was definitely anticipated litigation, and recommended that the item be set for Closed Session on the next Council Agenda.

Council Member McCracken confirmed with staff that the westerly terminus of Castle Avenue was the only pedestrian access to the subject property from the subdivisions to the east, and that no current direct pedestrian access existed to the property from the south.

Mayor Pro Tem Felipe Martinez commented that every problem had a solution and encouraged the parties to work out an amiable resolution to the matter. It was decided to continue the item to Closed Session at the next Council Meeting and to also continue the public hearing.
Council Member McCracken moved that the Council continue the item to Closed Session at the next regular meeting, and continue the public hearing to the next City Council Meeting set for September 19, 2006.

Council Member Stadtherr seconded the motion.

In response to concerns raised by Council Member McCracken, City Attorney Julia Lew clarified that Mayor Hamilton would be able to review the testimony and participate in the discussion of the item. It was pointed out that Council Member Stadtherr would no longer be seated at the next meeting, however it would not present a problem, as a quorum would be possible. Ms. Lew stated that the Council could consider Council Member Stadtherr’s comments made that evening as a part of their decision making at the next meeting. She then indicated she believed that a new member would also be able to participate, if he or she had the opportunity to review the testimony.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Stadtherr that the Council continue the item to Closed Session at the next regular City Council Meeting, and continue the public hearing to the next regular City Council Meeting.

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

Disposition: Item continued to Closed Session at next regular meeting; public hearing continued to next regular meeting.

The Council recessed for ten minutes.

Council Member McCracken noted the lateness of the evening and the full agenda remaining for the evening and requested that the Council consider continuing some of the items that lacked urgency. He then moved that the Council continue Items 22 through 34 to an Adjourned Meeting on the following Tuesday. When a conflict was noted, Council Member McCracken amended his motion to continue the items to the next regular meeting.

Council Member Martinez requested that Item Nos. 27, 29 and 33 be heard that evening, and the remainder be continued, as was moved by Council Member McCracken.

Council Member McCracken withdrew his motion.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member McCracken that the Council continue Item Nos. 22 through 26, 30 through 32, and 34 to the next regular meeting.

AYES: McCracken, P. Martinez, Stadtherr, F. Martinez
NOES: None
ABSTAIN: None
ABSENT: Hamilton
Disposition: Item Nos. 22 through 26, 28, 30 through 32, and 34 were continued to the City Council Meeting of September 19, 2006.

Council Member Pedro Martinez noted a conflict of interest with Item No. 20, recused himself from the discussion, and left the Council Chambers.

Community Development Director Brad Dunlap clarified for the record that he had misspoken during the discussion of Item No. 19 - Ennis Estates Tentative Subdivision Map. He stated that he had made the comment that the neighborhoods from the east had to travel all the way down to Westfield and out Lombardi, which was not accurate. He stated that there was actually a connection between Mathew and Lombardi, going through the neighborhood.

20. EAGLE RANCH TENTATIVE SUBDIVISION MAP

Recommendation: That the City Council adopt the draft resolution approving Eagle Ranch Tentative Subdivision Map subject to the conditions of approval.

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

The public hearing opened at 9:54 p.m.

- Brad Gilton, a Visalia resident and partner in the proposed development, thanked the Council for their commitment and time. He then spoke in favor of the item and requested the Council’s approval.
- Cathy Capone, 806 West Westfield Avenue, voiced concern with safety and/or possible drainage issues with the open canal located south of the project. She then noted the need for safe ingress and egress from Plano Street.
- Joel Velasquez, 1141 North Plano Street, spoke against the proposed project, primarily due to the proposed density of the project. He also cited concerns with traffic congestion and safety issues.

The public hearing closed at 10:01 p.m.

Council Member McCracken confirmed with staff the other subdivisions in the vicinity were generally similar in density to the proposed project.

Council Member Stadtherr first acknowledged Council Member Irish for pursuing the pocket park concept, yet noted the trend of late was for developers to relegate the park to the most undesirable lot in their projects. He then proposed a relocation of the pocket park making the park the center point of the development, rather than something set off to one side. He commented that he liked the Subdivision, but that he would prefer the park more in the center.

At the Council’s request, staff responded to issues raised by Mr. Velasquez with regard to traffic and density and by Ms. Capone regarding the drainage canal.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member McCracken that the Council adopt the draft resolution approving Eagle
Resolution 119-2006  Ranch Tentative Subdivision Map subject to conditions of approval.

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

Disposition: Approved.

21. ZONE VARIANCE 1-2006 AND CONDITIONAL USE PERMIT 1-2004, MODIFICATION NO. 1 (HOLY CROSS CHURCH)

Recommendation: That the City Council:
1. Adopt the draft resolution approving Zone Variance 1-2006 as recommended by staff in Alternative A; and
2. Adopt the draft resolution approving the modification to Conditional Use Permit 1-2004.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report, which included the following options for Council’s consideration:

Alternative A: An alternative to strict compliance with the Code is to allow the fence to be constructed on the front property line, further from the street than it currently is, but not within the parking lot. The height of the fence could be maintained at 62 inches, and the fence moved out of the right-of-way back to the property line along North Grand Avenue. The 6 foot high chain link fence located on the west side of the property extending into the public right-of-way along North Grand Avenue and into the City right-of-way must be shortened to conform with the front property line and have the slats removed. A diagonal fence would connect the fence on North Grand Avenue to the fence on Newcomb Street.

Alternative B: Approve a variance to allow the existing fence to remain as it currently is, located partially within the right of way, and with reduced sight distance visibility for vehicular traffic at the intersections and the site driveways.

Alternative C: Deny the zone variance request and require the 5-foot 2-inch fence extending the full length along North Grand Avenue to be reduced to 4 feet in height from finished grade. Additionally, require the first 20 feet extending along Newcomb Street south of North Grand Avenue to be reduced to 4 feet in height from finished grade and obtain an encroachment permit.

Mayor Pro Tem Felipe Martinez noted a potential conflict of interest, recused himself from the discussion, and left the Council Chambers. Council Member Stadtherr presided over the remainder of the item in the Mayor and Mayor Pro Tem’s absence.
The public hearing opened at 10:20 p.m.

- Gary Day, 585 Crestview Circle, came forward and identified himself as the contractor of the Holy Cross Church. He spoke of the need for constructing the fence during the last portion of construction due to trespassers, and the significant amount of traffic at that intersection. He suggested that the fence, as constructed, would likely not visually interfere with traffic, particularly if the City intended to install a traffic signal. Mr. Day then requested that the current position of the fence be allowed, as stated in Alternative B, noting maintenance challenges if it was relocated per standard requirements.

- Mike Taylor, 633 North Westwood, came forward on behalf of Townsend Architectural Group and spoke in favor of the Council approval of Alternative B. He commented that some of the photos presented in the staff report somewhat distorted the actual view, pointing out that the fence was not solid. Mr. Taylor then suggested that the fence as constructed fit in well with the property’s surroundings.

The public hearing closed at 10:29 p.m.

Council Member Stadtherr questioned how the fence was ever allowed to built in the first place, and voiced concern with the placement of the fence, particularly where it enclosed a utility pole. He then voiced concern with setting a precedent if the Council were to allow the fence to remain as was.

Council Member McCracken noted that if the fence were moved back to the standard setback, it would leave a large portion of the landscaping outside of the fence.

A discussion ensued as to the maintenance of the landscaping in place, during which staff indicated that the owner was currently responsible for the maintenance. City Attorney Julia Lew noted that there might be liability issues for the City in the event the Council allowed the fence to remain in its current location. Ms. Lew then confirmed that any action taken that evening would require a unanimous vote, since only three Council Member were present and the item would require a resolution.

Council Member McCracken clarified with the City Attorney that in the event the Council continued the item, the issue of still requiring a unanimous vote would remain, as Council Member Stadtherr would be gone and Mayor Pro Tem Felipe Martinez would again have to recuse himself. He then voiced concern with requiring the relocation of the fence, noting that utility companies would still easily access the utility pole at its current location. He additionally voiced concern with landscape maintenance outside of the fenced area.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member P. Martinez that the Council adopt the draft resolution approving Zone Resolution 120-2006 Variance 1-2006 as recommended by staff in Alternative A.

AYES: McCracken, P. Martinez, Stadtherr
NOES: None
ABSTAIN: F. Martinez
ABSENT: Hamilton
Resolution 121-2006  MOVED by Council Member Stadtherr, SECONDED by Council Member P. Martinez that the Council adopt the draft resolution approving the modification to Conditional Use Permit 1-2004.

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

Disposition: Approved.

SCHEDULED MATTERS

22. COMPARISON OF ARTIFICIAL TURF TO REAL TURF MAINTENANCE

Recommendation: That the City Council consider and accept the cost comparison between artificial turf and real turf maintenance.

Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.

23. GENERAL PLAN UPDATE PRESENTATION

Recommendation: No action recommended.

Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.

24. CHIEF OF POLICE RECRUITMENT

Recommendation: That the City Council:
   1. Authorize the City Manager to retain Peckham and McKenny for a fee of $24,000 to recruit a Chief of Police; and
   2. Authorize the City Manager to execute any and all necessary documents related to the recruitment process.

Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.

25. CONSIDERATION OF A STANDARD FORMAT FOR A PLAQUES COMMEMORATING PROJECTS

Recommendation: That the City Council approve the format for project commemoration plaques as recommended, and direct staff to implement their uniform use.

Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.
26. PROCEDURE TO ACCOMMODATE LARGER EXPENDITURES WHEN REQUIRED BY PUBLIC PEACE, HEALTH OR SAFETY

Recommendation: That the City Council adopt the draft ordinance, waive further reading, and order the ordinance to print.

Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.

27. FIRE APPARATUS AVAILABLE FOR SURPLUS

Recommendation: None - Informational Item Only.

City Manager John Longley presented the item, and Fire Chief Frank Guyton presented the staff report.

A brief discussion ensued with regard to the condition of the 1969 Van Pelt Type I Fire Engineer, as identified in the staff report.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member P. Martinez that the Council declare the equipment identified in the staff report as surplus, authorize the donation of said equipment to the Tule River Indian Tribe, and direct staff to notify the Tribe of the action.

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

Disposition: Direction given to staff.

28. USE OF PROPOSITION 42, PROPOSITION 1B AND ½ CENT SALES TAX FUNDS – STREET PROJECTS


Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.

29. CONSIDER ADOPTION OF AUDIT COMMITTEE ORDINANCE

Recommendation: That the City Council set a public hearing for the adoption of the draft Audit Committee Ordinance on September 19, 2006.

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

Council Member McCracken questioned the need for the Audit Committee, suggesting it appeared to be yet another bureaucratic hurdle. A discussion ensued, during which Council Member
Stadtherr elaborated on the impetus of the item and the potential benefits to the City. Council Member McCracken commented that he did not see any particular advantage to appointing an Audit Committee.

Mr. Longley stated that the primary advantage of establishing the Committee was that it would facilitate the management of the external auditor. Mr. Longley then spoke further of the impetus of the item and the perceived benefits.

Council Member Pedro Martinez commented that he believed that the Council should consider the establishment of the Audit Committee.

Mayor Pro Tem Felipe Martinez stated that he believed that the Committee would be a useful tool.

Council Member McCracken voiced concern with limiting the structure of the proposed Committee to only the Mayor and one other Council Member, noting that the expertise of the Members of Council varied.

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Council Member P. Martinez that the Council set September 19, 2006 as the date for a public hearing for first reading of the draft Audit Committee Ordinance.

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<tr>
<th>AYES:</th>
<th>McCracken, P. Martinez, F. Martinez, Stadtherr</th>
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<tr>
<td>NOES:</td>
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<td>ABSENT:</td>
<td>Hamilton</td>
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Disposition: Approved.

City Manager John Longley excused himself from the Council Chambers to take a telephone call from the Mayor.

30. DEBARMENT PROCEDURES – CITY CONTRACTORS

Recommendation: That the City Council consider the proposed regulations and give first reading to the draft Ordinance of the City council of the City of Porterville Adding Article XIII, Sections 2-114 through 2-138 to Chapter 2.

Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.

31. AGGRESSIVE SOLICITATION ORDINANCE

Recommendation: That the City Council consider the proposed regulations and give first reading to the draft Ordinance of the City Council of the City of Porterville Repealing Section 18-1 of Chapter 18, Article I of the Porterville Municipal Code, and Adding Article IV, Sections 18-50 through 18-54.
Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.

32. UPDATE – DEVELOPMENT OF LOCAL REGULATIONS CONCERNING SEX OFFENDERS

Recommendation: That the City Council review the sample regulations provided in the staff report, and provide any additional input and direction.

Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.

33. REQUEST BY COUNCIL MEMBER–DISCUSSION OF PROCESS TO BE UTILIZED FOR THE APPOINTMENT OF A NEW COUNCIL MEMBER

Recommendation: None.

Deputy City Manager Frank Guyton presented the item in the City Manager’s absence.

Upon Mr. Longley’s return, he reported that the Mayor’s wife would remain in the hospital overnight and that the mayor would not be returning to the Meeting.

Council Member Pedro Martinez noted that he had requested that the item be brought forward and wished to clarify the process that would be utilized to fill the vacancy left by Council Member Stadtherr.

Council Member McCracken commented that he would like to see each of the candidates provide a Statement of Qualifications so as to provide some background information. He suggested that the Candidates should also be provided information regarding the requirements of filing the Fair Political Practices Commission (“FPPC”) Form 700 - Statement of Economic Interests. Council Member McCracken then suggested that a mechanism for speaking with the candidates be considered, such as a forum or interviews by two Council Members.

City Attorney Julia Lew clarified that other jurisdictions had required candidates to submit letters of interest.

Council Member Pedro Martinez voiced support for requiring a letter of interest and appointing an ad hoc committee to review the applicants. It was suggested that a forum could be scheduled as an adjourned meeting. Ms. Lew clarified that in the event the Council wished to proceed with a forum type situation to interview the candidates, that a standardized set of questions should be established and utilized.

Council Member McCracken voiced concern with having to actually vote “no” for a candidate and indicated he would rather vote in the affirmative. He suggested that another method for voting be utilized to avoid that scenario, such as with paper ballots. A lengthy discussion ensued as to the various options available to the Council for the appointment of the position.
COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Stadtherr that the Council direct staff to publish public notice and issue a press release of vacancy with a request for the submission of a letter of interest and resume, not to exceed two pages, from interested individuals to City Clerk’s Office by 5:00 p.m. on September 18, 2006; that the City Clerk be directed to make the FPPC Form 700 available for the review and acknowledgment by all applicants; that the resumes are to be reviewed by an Ad Hoc Committee comprised of the Mayor and Mayor Pro Tem and that said Committee will present a status report and/or recommendations to the Council on September 19, 2006, after which an adjourned meeting would be scheduled for a panel interview of the finalists.

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

Disposition: Direction given to staff.

34. REQUEST BY COUNCIL MEMBER–CONSIDERATION OF POP WARNER FIELD USE WITHOUT FEE CHARGES

Recommendation: None

Disposition: Pursuant to Minute Order 15-090506, this item was continued to the Meeting of September 19, 2006.

The Council adjourned at 11:25 p.m. to a Meeting of the Porterville Redevelopment Agency

PORTERVILLE REDEVELOPMENT AGENCY AGENDA
September 5, 2006

Roll Call: Member McCracken; Member Pete Martinez; Vice-Chairman Felipe Martinez, Member Stadtherr
Absent: Chairman Hamilton

WRITTEN COMMUNICATIONS
ORAL COMMUNICATIONS
None

SCHEDULED MATTER
PRA-1. AUTHORIZATION TO ADVERTISE FOR BIDS - CASA BUENA VISTA SLURRY SEAL PROJECT

Recommendation: That the Redevelopment Agency:
1. Approve the Plans and Project Manual; and
2. Authorize staff to advertise for bids.
City Manager/Agency Secretary John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

**AGENCY ACTION:** MOVED by Agency Member Stadtherr, SECONDED by Agency Member P. Martinez that the Porterville Redevelopment Agency approve the Plans and Project Manual; and authorize staff to advertise for bids.

MO. PRA01-090606

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

Disposition: Approved.

The Porterville Redevelopment Agency adjourned at 11:26 p.m. to a meeting of the City Council.

**ORAL COMMUNICATIONS**
None

**OTHER MATTERS**
Plaque for Council Member Stadtherr

- Mayor Pro Tem Felipe Martinez read Council Member Stadtherr’s resignation letter into the record, then presented him with a Plaque for his service.

Other Matters, Council Meeting of September 5, 2006

City Clerk
City of Porterville
291 North Main Street
Porterville, CA 93257

Dear Ms. Hawley:

I quit. It’s been fun.

Sincerely,

Richard Stadtherr
Councilman
City of Porterville

- City Manager John Longley passed on Mayor Hamilton’s apologies for not being there and his appreciation for Council Member Stadtherr’s service.
- Council Member Pete Martinez commented that he was pleased he was able to serve with Council Member Stadtherr, and thanked him for his service.
**ADJOURNMENT**

The Council adjourned at 11:30 p.m. to the meeting of September 19, 2006.

______________________________
Patrice Hildreth, Deputy City Clerk

ATTEST:

______________________________
Cameron Hamilton, Mayor