CITY COUNCIL AGENDA
PORTERVILLE, CALIFORNIA
DECEMBER 5, 2006, 6:00 P.M.

Call to Order
Roll Call

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

CLOSED SESSION:
A.  Closed Session Pursuant to:
   1- Government Code Section 54956.9(a) - Conference with Legal Counsel - Existing Litigation: Porterville Citizens for Responsible Hillside Development v. City of Porterville.
   2- Government Code Section 54956.9(a) - Conference with Legal Counsel - Existing Litigation: John Hale et al. v. City of Porterville et al.
   3- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   9- Closed Session Pursuant to Government Code § 54957 - Public Employee Performance Evaluation - Title: City Manager

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

PRESENTATION
Employee of the Month - Janie Rodriguez
Commemoration - Hovel Salinas
Art Association Presentation of Projects - Vedra McElfesh

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 November 7, 2006 and November 21, 2006

2. Claim - Lizeth Fernandez
Re: Consideration of rejecting a claim for damages to doors at 335 W. Kanai, allegedly caused by Porterville Police Officers, in the amount of $2,220.00.

3. Ratify Expansion of Library Carpeting Project
Re: Ratifying expansion of Library’s carpeting project with $1,644 from the Library operating budget.

4. Award of Contract - Airport Water Inter-Tie Project
Re: Awarding contract to Halopoff & Sons, Inc. in the amount of $2,859,872.70 for project to extend water mains and sewer mains to interconnect the City’s Central Pressure Zone to the isolated Airport Water System.

5. Acceptance of Project - Singer Building Demolition
Re: Accepting project at 35 W. Oak Street as complete, authorizing the filing of the Notice of Completion and authorizing final payment to Wise Engineering.

6. Partial Reconveyance - Robert C. Nuckols Property
Re: Authorizing execution of Deed of Partial Reconveyance and Partial Release Agreement for 1.76 acre portion of the City’s Reclamation Area, to correct unintended encumbrance, for compensation by Mr. Nuckols in the amount of $500, plus transaction costs.

7. City-County Agreements Related to Annexation 464
Re: Approving agreements, as required by the Local Agency Formation Commission (“LAFCo”), to address public maintenance issues in the annexation area, generally located between Mulberry Avenue on the south, Plano Street on the east, Reid Avenue on the north, and Lime Street on the west.

8. Time Extension Request - Tule River Parkway Wetlands Acquisition Project - Phase III
Re: Consideration to approve the filing of a two-year Cooperative Work Agreement time extension request for the Project.

Re: Approving public Christmas concert of local church choirs at Centennial Plaza on Saturday, December 16, 2006 from 1:00 p.m. to 4:00 p.m., subject to stated restrictions and requirements.

10. Tulare County Regional Emergency Management Mutual Aid Agreement
Re: Approving agreement between Tulare County and county municipalities for cooperative resources and manpower for public works, management, law enforcement, and public health workers in the event of a disaster.

11. Tulare County Regional Pass
Re: Authorizing the City’s participation in a county-wide regional bus pass program, at a cost of $45 per month per rider, to be administered by the County.

A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible
PUBLIC HEARINGS
12. Vacation of a Portion of Garden Avenue Between Fourth Street and the Atchison, Topeka and Santa Fe Railroad Company Property (Jorge Ramos)
   Re: Considering street vacation with City retention of access easements through Garden Avenue between Fourth Street and the railroad for pedestrian access to Rails to Trails and for water line maintenance.

13. Ennis Estates Tentative Subdivision Map (Ennis Homes)
   Re: Considering request to continue the item and public hearing to the Meeting of December 19, 2006.

SCHEDULED MATTERS
14. Update - Code Enforcement Program
   Re: Accepting informational report on status of program, and considering approval of concept for program’s implementation.

15. Recruitment of a Deputy City Manager
   Re: Considering approval for the recruitment, recruitment approach and job description of a Deputy City Manager, and authorizing the City Manager to appoint an existing director, with a 10% pay differential, to serve until said position is hired.

   Re: Reviewing list of priorities as previously defined by Council and staff, approving top ten priority projects and statement defining how said projects will be managed and reviewed.

17. Consideration of a Proposed Letter to Assemblyman Maze Defining Porterville’s Legislative Proposals
   Re: Considering legislative proposals to address needs in Porterville for annual letter to State Legislator.

18. Council Member Request for an Agenda Item - “Budget Request for Toys for Tots”
   Re: Considering authorization to appropriate $1,000 for a “Toys for Tots” Drive.

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 December 19, 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
NOVEMBER 7, 2006, 6:00 P.M.

Call to Order at 6:00 p.m.
Roll Call: Council Member McCracken, Council Member Pedro Martinez, Mayor Pro Tem Felipe Martinez, Council Member Hernandez, 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: John Hale; Michael Tolladay; and CZEM, LLC vs. City of Porterville, City Council of the City of Porterville, and Does 1-10 w/Viejo Robles Corporation and Ennis Commercial Properties, LLC as Real Parties in Interest.
   7 - Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   9 - Closed Session Pursuant to Government Code § 54957 - Public Employee Performance Evaluation - Title: City Manager.

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 Pete McCracken
Invocation - one individual participated.

PROCLAMATION
“America Recycles Week” - November 13th - November 19th

PRESENTATIONS
• Employee of the Month - Nathan Delk
• CALAFCO - Government Leadership Award
  LAFCO Executive Officer George Finney presented the CALAFCO Award to the City of Porterville in recognition of the City’s annexation program.
• Friends of the Library Donation
  Friends of the Library Members Meg Hanson, President; Carol Atkinson; Marsha Cruz; Nancy Baird; Myron Wilcox; Jim Tauge; and Al Atkinson presented the City with a check for $25,000 towards the purchase of a new self check-out/security system for the Library.
• Police Volunteer Program
  Porterville Police Lieutenant Dempsey presented an overview of the Department’s Volunteer Program.

ORAL COMMUNICATIONS
• Myron Wilcox, voiced concern with the safety of pedestrians on Villa Street north of Putnam Avenue.
• Charles Webber, 346 North Ohio Street, voiced his continued interest in serving on the Transaction and Use Tax Oversight Committee.
• Dick Eckhoff, 197 North Main Street, thanked the Friends of the Library for their efforts; requested the Council’s approval of Item No. 13, noting he was available to answer any questions the Council might have; and spoke in favor of a Steering Committee to drive the efforts for a new Courthouse as proposed in Item No. 29.

CONSENT CALENDAR
Item No. 1 was removed for Council Member Hernandez’s abstention on the approval of the Minutes of September 19, 2006.

2. BUDGET ADJUSTMENT - FIRE DEPARTMENT

Recommendation: That the City Council:
1. Authorize staff to accept the grant funds; and
2. Authorize a budget adjustment to the Fire Department in the amount of $1,500.

Documentation: M.O. 01-110706
Disposition: Approved.

3. BUDGET ADJUSTMENTS FOR THE 2005-06 FISCAL YEAR END
Recommendation: That the City Council approve the budget modifications, and authorize staff to modify revenue and expenditure estimates for each department as described in the staff report.

Documentation: M.O. 02-110706
Disposition: Approved.

4. AWARD CONTRACT - 3M LIBRARY SYSTEM

Recommendation: That the City Council authorize staff to enter into a contract with 3M Library Systems to upgrade the Library’s book security system at a cost not to exceed $140,000. Further, that the Council authorize payment upon satisfactory completion of the project.

Documentation: M.O. 03-110706
Disposition: Approved.

5. AWARD CONTRACT - CARPET CITY FACILITIES

Recommendation: That the City Council:
1. Award an annual contract for carpeting various City facilities to Rainbow House of Carpets of Porterville;
2. Authorize payment upon satisfactory completion; and
3. Authorize annual contract renewals at the City’s option and upon mutually agreeable terms.

Documentation: M.O. 04-110706
Disposition: Approved.

6. AWARD CONTRACT - DIGITAL LOGGERS, INC.

Recommendation: That the City Council:
1. Authorize staff to enter into a contract with Digital Loggers, Inc. to replace the Police Department’s communications recording system at a cost not to exceed $25,000; and
2. Authorize payment upon satisfactory completion of the project and authorize annual maintenance of the system.

Documentation: M.O. 05-110706
Disposition: Approved.

7. AWARD CONTRACT - AIRPORT IMPROVEMENT PROJECT

Recommendation: That the City Council:
1. Award the contract for the Airfield Improvement Project to Valley Slurry Seal of Sacramento in the amount of $345,783.56;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen costs.

Documentation: M.O. 06-110706
Disposition: Approved.

8. ACCEPTANCE OF IMPROVEMENTS - RIVERVIEW ESTATES, PHASE FOUR SUBDIVISION (GREG WOODARD - WOODARD HOMES)

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

Documentation: M.O. 07-110706
Disposition: Approved.

9. APPROVE GRANT OF EASEMENT - CONVEYANCE OF LAND USE RIGHTS TO ENNIS COMMERCIAL PROPERTIES, LLC (BEN ENNIS, PRESIDENT)

Recommendation: That the City Council:
1. Accept the conveyance of easement rights to Ennis Commercial Properties, LLC for the construction, repair, maintenance, and use of a secondary access along a small sliver of land along the north side of Centennial Park;
2. Authorize the Mayor and City Clerk to sign the Grant of Easement; and
3. Authorize the City Clerk to record the Grant of Easement with the County Recorder’s Office.

Documentation: Resolution 137-2006
Disposition: Approved.

10. INTENT TO ABANDON A PORTION OF GARDEN (RAMOS FAMILY)

Recommendation: That the City Council:
1. Pass a resolution of intent to abandon Garden Avenue between the east right of way of Fourth Street and the west right of way of A.T.& S.F. Railroad; and
2. Set the Council Meeting of December 5, 2006 as the time and place for a public hearing.

Documentation: Resolution 138-2006
Disposition: Approved.
11. REQUEST FOR COUNCIL CONSIDERATION OF A SIDEWALK WAIVER FOR 192 WEST SCHOOL AVENUE (LARRY LONG)

Recommendation: That the City Council approve the placement of Mr. Long’s request for sidewalk waiver on the City Council Agenda of November 21, 2006.

Documentation: M.O. 08-110706
Disposition: Approved.

12. CURBSIDE RECYCLING PROGRAM UPDATE

Recommendation: Informational item only.

13. APPROVAL FOR COMMUNITY CIVIC EVENT - DOWNTOWN PORTERVILLE ASSOCIATION - TREE LIGHTING CEREMONY, NOVEMBER 24, 2006

Recommendation: That the City Council approve the subject Community Civic Event Application and Agreement submitted by the Downtown Porterville Association, subject to the stated requirements contained in the documents.

Documentation: M.O. 09-110706
Disposition: Approved.

14. THIS ITEM HAS BEEN REMOVED.

15. PARKS & LEISURE SERVICES DEPARTMENT LOGO

Recommendation: That the City Council acknowledge the Parks & Leisure Services Department logo as established by the Parks & Leisure Services Commission.

Documentation: M.O. 10-110706
Disposition: Approved.

16. ACCEPTANCE OF DONATED VEHICLE

Recommendation: That the City Council:
1. Allow the Police Department to accept the donation of the van; and
2. Authorize the addition of the van to the Police Department’s fleet of vehicles.

Documentation: M.O. 11-110706
Disposition: Approved.

17. AIRPORT PROPERTY RENTAL TO THE POLICE DEPARTMENT

Recommendation: That the City Council:
1. Approve the month-to-month rental of a hangar and office building at the Porterville Municipal Airport to the Police Department;
2. Authorize six months of funding from the unallocated interest earned on the General Fund; and
3. Authorize a budget adjustment from the General Fund to the Airport Fund in the amount of $6,000 for the remainder of 2006/2007 Fiscal Year.

Documentation: M.O. 12-110706
Disposition: Approved.

18. REQUEST FOR STREET CLOSURE - MYERS’ TWELFTH ANNUAL CHRISTMAS TREE MEMORIAL SERVICE

Recommendation: That the City Council approve the closure of “E” Street, between Putnam Avenue and Cleveland Avenue, on December 7, 2006, from 5:00 p.m. to 9:00 p.m. subject to the conditions specified.

Documentation: M.O. 13-110706
Disposition: Approved.

19. AIRPORT LEASE - LOT 31A (CREAGER)

Recommendation: That the City Council approve the assigning of the Lease Agreement between the City of Porterville and Dr. Westel L. Creager to James Costa.

Documentation: M.O. 14-110706
Disposition: Approved.

20. AIRPORT LEASE - LOT 46E (MATTHEWS)

Recommendation: That the City Council:
1. Approve the assigning of the Lease Agreement between the City of Porterville and Donald M. and Marjorie E. Matthews to Lloyd B. Janzen and Bruce D. Janzen; and
2. Approve the modification to the Lease revising the term and allowing for future extensions of the Lease.

Documentation: M.O. 15-110706
Disposition: Approved.

21. AIRPORT LAND DRY FARMING LEASE AGREEMENT

Recommendation: That the City Council:
1. Approve the draft Lease Agreement between the City of Porterville Airport Fund and Mr. Jeff Sheets for a three-year period, pursuant to FAA requirements; and

2. Authorize the Mayor to sign the Agreement.

Documentation: Resolution 139-2006
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member McCracken that the Council approve Item Nos. 2 through 21. The motion carried unanimously.

1. CITY COUNCIL MINUTES OF SEPTEMBER 19, 2006; OCTOBER 3, 2006; AND OCTOBER 30, 2006

Recommendation: That the City Council approve the City Council Minutes of September 19, 2006; October 3, 2006 and October 30, 2006.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member McCracken that the Council approve the City Council Minutes of M.O. 16-110706 September 19, 2006, October 3, 2006 and October 30, 2006.

AYES: McCracken, P. Martinez, F. Martinez, Hamilton, Hernandez (as to the Minutes of October 3 and 30, 2006 only)
NOES: None
ABSTAIN: Hernandez (as to the September 19, 2006 Minutes only)
ABSENT: None

Disposition: Approved.

Mayor Hamilton stated that a request had been made to move Item No. 29 up on the Agenda, and requested that said item be presented next.

29. CONSIDERATION OF ESTABLISHING A PORTERVILLE COURTHOUSE STEERING COMMITTEE AND APPOINTING MEMBERS TO THE COMMITTEE

Recommendation: That the City Council:
1. Define the purpose of the Courthouse Steering Committee; and
2. Define the membership of the Courthouse Steering Committee.

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

At the Council’s request, Mr. Greg Woodard, came forward.

- Greg Woodard, 1055 W. Morton, Chamber of Commerce Board Chair and Economic Development Committee (“EDC”) member, came forward to address the Council. Mr.
Woodard indicated that the EDC had 18 total members, and that approximately four to six of those members would likely serve as a sub-committee for the proposed Courthouse Steering Committee. He then spoke in favor of including representatives from the Hispanic Chamber and Downtown Porterville Association.

A discussion ensued as to what the Steering Committee would be tasked with, during which it was stated that site selection was the primary function sought, and that the Committee would serve as an advisory Committee.

Mayor Pro Tem Felipe Martinez spoke of the importance of including representatives from diverse groups within the community so as to represent the entire community. A discussion ensued as to how the members of the Steering Committee should be selected. It was stated that the project was a State project and that the Council’s involvement was only to act as an intermediary to facilitate site selection and move the project forward.

Council Member Hernandez spoke in favor of the Steering Committee representing a cross section of the community.

Council Member Pedro Martinez voiced concern with the Committee limiting its site search to only the Downtown area, noting that any location in the community would be beneficial. He then noted that his choice for a Committee, regardless of ethnicity or culture, would be community members best suited for and committed to securing the Courthouse project.

- Greg Woodard, address on record, came forward and indicated that the EDC would be committed to the task. He stated that the effort would be a team effort and that the EDC would solicit the Council and City’s staff’s involvement. Mr. Woodard then spoke of the make up of the EDC and of the Committee’s plans to achieve obtaining the new Courthouse somewhere in Porterville. In response to a question posed by Council, Mr. Woodard indicated that he was not yet ready to disclose members’ names for the proposed Steering Committee, but that prospective names could be provided.

Council Member Pedro Martinez noted that another alternative for selecting the Steering Committee was for each Council Member to choose an individual or two.

Mayor Hamilton suggested that the Council was perhaps getting off track in its discussion of the item, and questioned what role diversity of Committee Members played in a Committee solely assembled for site selection of the proposed State project. He stated that while the EDC, serving as the Steering Committee, would work towards selecting appropriate options for the possible location of the new Courthouse, others would also be working toward that end, thereby providing a wide range of perspectives. A discussion ensued as to how the Steering Committee would function, during which Mr. Longley spoke of the importance of City staff working through the Steering Committee.

Council Member McCracken commented that it was important that the Council inform the Committee exactly what was expected from them. A discussion ensued, during which Mayor Hamilton stated that he understood the Committee’s charge to be to locate properties for the Courthouse project,
considering two factors: 1) whether the property was suitable for the Courthouse; and 2) whether said property fit into the economic well-being of the City.

The Council then discussed the potential make-up of the Steering Committee. Ms. Lew clarified that the Council’s involvement in terms of creating or serving on the Committee would trigger the Brown Act. She stated that if a majority of the Steering Committee’s members were appointed by the Council, the Brown Act provisions would apply. Ms. Lew added that in the event it appeared that the City needed to be more involved at some point in the future, the Council could appoint a Sub-Committee comprised of less than a quorum of the Council to work with the Steering Committee.

Mayor Hamilton commented that while Mr. Woodard came before the Council seeking permission for EDC members to serve as the Courthouse Steering Committee, the EDC did not need the Council’s permission. He stated that the project was not under the jurisdiction of the City, and that while it was important for the economic development of the City, the City really had no authority over the matter. Mayor Pro Tem Felipe Martinez suggested that the Committee be comprised of an odd number so as to avoid tie votes. A discussion ensued, during which Council Member McCracken suggested that the public should be informed of the existence of the Steering Committee so that other groups would be able to take their suggestions to the Committee.

The Council concurred that the EDC, on its own charge, should move forward with reviewing potential sites for the Courthouse and submit its recommendations to the Council for its consideration.

Disposition: The Council indicated an interest in the Economic Development Committee forming a Porterville Courthouse Steering Committee to review potential sites and to return its recommendations to the Council.

PUBLIC HEARINGS

22. BUDGET ADJUSTMENT/CITIZENS’ OPTION FOR PUBLIC SAFETY (COPS) PROGRAM FUNDING

Recommendation: That the City Council:
1. Conduct the public hearing to receive public comment;
2. Authorize use of these funds to offset costs for the full-time sworn officer, the community services officer, and all necessary training, equipment, and overtime costs; and
3. Approve an increase to the Police Department’s 2006/2007 Budget in the amount of $100,000.

City Manager John Longley presented the item, and Interim Police Chief Chuck McMillan presented the staff report.

The public hearing opened at 7:58 p.m. and closed at 7:59 p.m. when nobody came forward.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council authorize use of the grant funds to
Resolution 140-2006 offset costs for the full-time sworn officer, the community services officer, and all necessary training, equipment, and overtime costs; and approve an increase to the Police Department’s 2006/2007 Budget in the amount of $100,000. The motion carried unanimously.

Disposition: Approved.

23. TITLE VI REPORT

Recommendation: That the City Council:
1. Hold the required public hearing, and direct staff to consider any comments received related to the Title VI Report; and
2. Adopt the Title VI Report, authorizing the Mayor to sign any documents that may be required to complete the filing of the Report with the Federal Transit Administration.

City Manager John Longley presented the item, and Administrative Analyst I Linda Clark came forward and presented the staff report.

The public hearing opened at 8:00 p.m. and closed at 8:01 p.m. when nobody came forward.

Council Member Pedro Martinez moved that the Council approve staff’s recommendation. Council Member Hernandez seconded the motion.

Mayor Hamilton clarified with staff the procedure for administering any transit claims.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the Council adopt the Title VI Report, authorizing the Mayor to sign any documents that may be required to complete the filing of the Report with the Federal Transit Administration. The motion carried unanimously.

Disposition: Approved.

24. ZONING ORDINANCE AMENDMENT 2006-7 (FORMERLY 3-2004) - AN ORDINANCE AMENDING VARIOUS SIGNAGE REGULATIONS

Recommendation: That the City Council:
1. Approve the proposed ordinance amendment and give first reading to the draft Ordinance; and
2. Waive further reading of the draft Ordinance, approve Ordinance Amendment 2006-2007, and order the Ordinance to print.

Mayor Hamilton indicated that Item No. 24 had been pulled from the Agenda and would be brought back at a later date.
Disposition: Continued.

25. ZONING ORDINANCE AMENDMENT 2006-9 AN ORDINANCE AMENDING VARIOUS SUBDIVISION REGULATIONS

Recommendation: That the City Council:
1. Approve the proposed draft Ordinance Amendment; and give first reading to the draft Ordinance;
2. Waive further reading of the draft Ordinance, and order said Ordinance to print.

Mayor Hamilton indicated that Item No. 25 had been pulled from the Agenda and would be brought back at a later date.

Disposition: Continued.

26. ENNIS ESTATES TENTATIVE SUBDIVISION MAP (ENNIS HOMES)

Recommendation: That the City Council continue the public hearing to the November 21, 2006 City Council Meeting.

Mayor Hamilton stated that the item and the public hearing was continued until the Meeting of November 21, 2006.

Disposition: Continued to November 21, 2006.

SECOND READINGS

27. ORDINANCE NO. 1707, PROXIMITY OF REGISTERED SEX OFFENDERS TO CHILDREN'S FACILITIES

Recommendation: That the Council give Second Reading to Ordinance 1707, waive further reading, and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council give Second Reading to Ordinance 1707, waive further reading, and adopt said Ordinance, being AN
Ordinance 1707 ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING ARTICLE V, SECTIONS 18-55 THROUGH 18-60 TO CHAPTER 18 OF THE PORTERVILLE MUNICIPAL CODE CONCERNING PROXIMITY OF REGISTERED SEX OFFENDERS TO CHILDREN’S FACILITIES. The motion carried unanimously.

The City Manager read the Ordinance by title only.

Disposition: Approved.
28. ORDINANCE NO. 1708, SKATEPARK REGULATIONS

Recommendation: That the Council give Second Reading to Ordinance 1708, waive further reading, and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the Council give Second Reading to Ordinance 1708, waive further reading, and adopt said Ordinance, being AN Ordinance 1708 ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING ARTICLE IV, SECTIONS 19-45 THROUGH 19-49 TO CHAPTER 19 OF THE PORTERVILLE MUNICIPAL CODE CONCERNING SKATEBOARD FACILITIES. The motion carried unanimously.

City Manager John Longley read the Ordinance by title only.

Disposition: Approved.

SCHEDULED MATTERS

30. TRANSACTION AND USE TAX OVERSIGHT COMMITTEE APPOINTMENT

Recommendation: That the City Council appoint a member to the Transaction and Use Tax Oversight Committee to fill the unexpired term of Carman Martinez-Eoff.

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

Council Member Hernandez nominated Barbra Black.

Council Member Pedro Martinez nominated Charles Webber.

COUNCIL ACTION: MOVED by Council Member Hernandez that the Council appoint Barbra Black to fill the unexpired term of Carman Martinez-Eoff on the Transaction and Use Tax Oversight Committee.

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

The Council thanked Mr. Webber for coming and for his interest in serving.

Disposition: Barbra Black appointed.

31. APPOINTMENT TO AUDIT COMMITTEE

Recommendation: That the City Council:
1. Appoint a member of the City Council to the Audit Committee;
2. Notice and accept Requests for Appointment from the public until November 27, 2006; and
3. Provide a list of applicants to the City Council for selection on December 5, 2006.

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

Council Member Pedro Martinez nominated Cameron Hamilton.

Mayor Pro Tem Felipe Martinez nominated Pete McCracken.

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez that the Council appoint Cameron Hamilton to serve on the Audit Committee.

M.O. 19-110706

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

Council Member Pedro Martinez nominated Charles Webber to serve as the public member on the Audit Committee.

The Council confirmed Mr. Webber’s willingness to serve.

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez that the Council appoint Charles Webber to serve as the public member on the Audit Committee.

M.O. 20-110706

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

Disposition: Mayor Hamilton and Charles Webber appointed to the Audit Committee.

32. CONSIDER REJECTION OF BID - POOL WATER SLIDE PROJECT

Recommendation: That the City Council consider the bid for the Pool Water Slide Project; and
1. Award the construction contract to Webb & Son in the amount of $183,288.29; and
2. Authorize a 10% construction contingency and the payment of up to 90% of the contract amount.

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

Mayor Pro Tem Felipe Martinez moved that the Council accept staff’s recommendation.
Council Member Hernandez seconded the motion.

In response to questions posed by Mayor Hamilton, Mr. Perrine elaborated on the timing of the estimate. Mayor Hamilton spoke of the policy to reject all bids when the low bid exceeded the construction estimate by 10%.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council award the construction contract to Webb & Son in the amount of $183,288.29; and authorize a 10% construction contingency and the payment of up to 90% of the contract amount.

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

Disposition: Motion denied.

A discussion ensued as to the proper procedure for re-bidding the project. Mr. Longley suggested that the Council reject the bid, authorize staff to revise the project cost estimate and to re-bid the project.

It was discussed that the estimate would likely increase if it was revised, which, it was stated, was why staff had recommended that the bid be accepted. Mr. Longley elaborated on the City’s policy to reject, and stated that the amount by which the bid exceeded the estimated cost was relatively small.

Council Member McCracken suggested that the $180,000 would go a long way towards repairing potholes. He then commented that he would have likely voted in favor of accepting the bid had there been language stating that the situation was unique. He voiced concern with setting precedent.

In response to questions posed by the Council, staff elaborated on the funding for the project. Mr. Dunlap added that the funds were CDBG funds allocated specifically to Murry Park improvements and were therefore not eligible to be used for streets projects, such as purchasing pothole repair equipment.

The estimated timeline for rebidding the project was discussed next, during which Mr. Perrine estimated that new bids would likely be presented to the Council after the first of the year. Staff indicated that even considering weather delays, the project should be completed prior to the commencement of the swimming season.

COUNCIL ACTION: MOVED by Mayor Hamilton, SECONDED by Council Member Pedro Martinez that the Council reject the bid, recalculate the cost estimate, and direct staff to re-bid the project pursuant to City policy. The motion carried unanimously.

Disposition: Staff directed to rebid the project.
33. REQUEST FOR A ONE (1) YEAR EXTENSION OF TIME FOR A TEMPORARY USE PERMIT FOR REMOTE CONTROL CAR TRACK

Recommendation: That the City Council adopt the draft Ordinance approving a one (1) year extension of time commencing thirty (30) days after the Second Reading of the Ordinance.

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 Hernandez that the Council approve the draft Ordinance approving a one (1) year extension of time commencing thirty (30) days after the Second Ordinance 1709 Reading of the Ordinance, give first reading, waive further reading and order the Ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ISSUING A PERMIT FOR TEMPORARY USE TO PERMIT THE CONTINUED OPERATION OF A REMOVE CONTROL RACE TRACK AS A HOBBY/RECREATION USE.

The motion carried unanimously.

City Manager John Longley read the Ordinance by title only.

Disposition: Approved.

34. ALTERNATIVES FOR POTHOLE PATCHING

Recommendation: That the City Council:
1. Allow staff to pursue Option No. 1, “Use of Field Services staff to repair potholes using conventional methods,” and
2. Direct staff to monitor progress and cost for the remainder of the Fiscal Year and report back to the Council with staff’s finding at the end of the monitoring period;

OR, if the Council decides that the City is best served with a mechanical pothole-repairing machine, staff recommends that the Council:
1. Direct staff to secure a $50,000 loan from a lending institution that provides the best terms and rates; and
2. Direct staff to negotiate and purchase the SP-10 Spray Patch Trailer or equivalent equipment at a costs of approximately $50,000.

City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report, which included the following options:

Option No. 1: Allow Field Services the opportunity to pursue an aggressive maintenance and repair program without the benefit of a “pothole patching” machine.
Option No. 2: Purchase a Model SP-10 Spray Patch Trailer or equivalent.

Option No. 3: Purchase the Road-Patcher similar to the unit purchased by Tulare County.

Council Member McCracken distributed information on the equipment, and stated that according to his research, the trailer and the vehicle were identical in terms of operation, with the exception that the trailer required one additional staff member to operate it. Council Member McCracken then added that should anyone have any questions that evening, a representative was available via telephone while the Council was in session. He then opined that either machine would be beneficial to the City.

A discussion ensued with regard to the information provided by Council Member McCracken, particularly as to the amount of needed staffing. City Manager John Longley inquired whether the savings projected in Council Member McCracken’s analysis represented lay-offs of staff. Council Member McCracken stated that the only reason to purchase the equipment would be to save on labor costs.

In response to a question posed by Mayor Hamilton as to efficiency, a discussion ensued as to whether or not the equipment would be suitable for alligator crack repairs. Public Works Director Baldo Rodriguez stated that while the equipment might superficially repair alligator cracks it would not properly correct the problem. He then commented that while the equipment manufacturer might suggest that only one operator was necessary to run the equipment, in reality operating equipment with only one operator was not safe. He cited Tulare County’s policy of requiring at least two individuals to operate their Road Patcher due to safety issues. Mr. Rodriguez then voiced concern with the accuracy of the figures provided in the analysis, particularly as to the labor costs, provided by Council Member McCracken.

Mayor Hamilton suggested that staff should take the information provided by Council Member McCracken and analyze the data. A discussion ensued as to the merits of the various options. Mr. Rodriguez stated that staff was confident that with good material and full staffing, the Public Works Department could address the potholes and stay on top of the problem.

Mayor Pro Tem Felipe Martinez spoke of the impact of the hiring freeze and how staffing levels were just beginning to get back to normal levels, which he stated would allow staff to address the problem.

Mayor Hamilton voiced support for directing staff to review the data provided by Council Member McCracken and provide a cost analysis to the Council.

Council Member McCracken agreed that staff should review the data, noting that Mr. Rodriguez’s observation as to labor costs included in the information was legitimate in that the figures should match the City’s actual costs. He then stated that it appeared that the Road Patcher option would likely be the most cost-effective, suggesting that the approximate $100,000 one-time cost would be better than paying a $40,000 to $50,000 salary for an employee for the next ten years. He then spoke in favor of purchasing either the trailer or the vehicle, noting that in the event staffing ever again became an issue, potholes repairs would not be impacted.
Mayor Pro Tem Felipe Martinez spoke in favor of supporting staff and moved that the Council approve Option No. 1.

Council Member McCracken seconded the motion.

Mayor Hamilton confirmed that the motion also included directing staff to review the data provided by Council Member McCracken and report back to the Council.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member McCracken that the Council approve Option No. 1, with direction that staff provide a cost analysis to the Council on each of the Options. The motion carried unanimously.

Disposition: Option No. 1 approved, with direction given to staff.

Mayor Hamilton stated that Item No. 35 had been removed from the Agenda.

35. CONSIDERATION OF INTERIM REORGANIZATION WITHIN THE COMMUNITY DEVELOPMENT DEPARTMENT

Recommendation: That the City Council implement the interim Community Development reorganization, as proposed, for the period of June 30, 2007.

This item was removed from the Agenda.

36. ASSEMBLYMAN MAZE REQUEST FOR LEGISLATIVE REMEDIES NECESSARY FOR THE CITY OF PORTERVILLE

Recommendation: Informational report only.

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

Council Member Pedro Martinez requested that one item should be to pursue an Enterprise Zone.

Mayor Hamilton suggested that another item that should be included is pursuit of a Brown Act Amendment to not require public notice on informal Council Meetings or discussions on non-action items.

Disposition: Continued to Meeting of December 5, 2006.

The Council adjourned at 8:38 p.m. to a Meeting of the Porterville Redevelopment Agency.

PORTERVILLE REDEVELOPMENT AGENCY AGENDA
November 7, 2006

Roll Call: Agency Member McCracken, Agency Member Pedro Martinez, Vice-Chairman Felipe Martinez, Agency Member Hernandez, Chairman Hamilton
WRITTEN COMMUNICATIONS
ORAL COMMUNICATIONS
None

SCHEDULED MATTER
PRA-1. AUTHORIZATION TO REFUND LOAN PAYMENT TO OWNER OF HOME IN CASAS BUENA VISTA SUBDIVISION

Recommendation: That the Porterville Redevelopment Agency authorize the refund of $10,000 to Jose and Evangelina Ramirez contingent upon the execution of a new Loan Agreement with affordability covenants with the Agency for value received in the Casas Buena Vista Subdivision. The term of the loan will be the same as the original Loan Agreement.

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

COUNCIL ACTION: MOVED by Agency Member Pedro Martinez, SECONDED by Vice-Chairman Felipe Martinez that the Porterville Redevelopment Agency PRA 01-110706 authorize the refund of $10,000 to Jose and Evangelina Ramirez contingent upon the execution of a new Loan Agreement with affordability covenants with the Agency for value received in the Casas Buena Vista Subdivision. The motion carried unanimously.

Disposition: Approved.

The Porterville Redevelopment Agency adjourned at 8:47 p.m. to a Meeting of the Porterville City Council.

ORAL COMMUNICATIONS
• Greg Shelton, 888 North Williford Drive, thanked the Council for approving Item 33.
• Dick Eckhoff, address on record, spoke of the good appearance of the remote control track in Item 33; inquired as to the procedures utilized by staff for street repairs and requested an analysis of staffing needs for all of the options provided in Item 34. Mayor Hamilton clarified that the Council’s direction to staff had included a cost analysis of each option.

OTHER MATTERS
• Mayor Hamilton acknowledged Barbra Black in the audience and congratulated her on being appointed to the Transaction and Use Tax Oversight Committee. Ms. Black apologized for arriving late.
• Council Member Hernandez spoke of the recent passing of Ms. Martinez-Eoff and of her contributions to the Porterville Community. He requested that the Council consider honoring her at the Heritage Center. After it was noted that a procedure had been established by the previous Council, it was decided that an item would be on the next agenda.
• Mayor Pro Tem Felipe Martinez thanked the Tule River Indian Tribe for their donation of a van to the Porterville Police Department.
• Council Member Pedro Martinez:
  1. Requested that staff provide a memorandum on Enterprise Zone legislation;
  2. Suggested that a Spanish language Citizens’ Forum be held, such as through a co-sponsorship with local Hispanic organizations; and
  3. Requested that the Council reconsider its action on Item 31.

31. APPOINTMENT TO AUDIT COMMITTEE

Recommendation: That the City Council:
1. Appoint a member of the City Council to the Audit Committee;
2. Notice and accept Requests for Appointment from the public until November 27, 2006; and
3. Provide a list of applicants to the City Council for selection on December 5, 2006.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Hamilton that the Council rescind its prior action as to the appointment of Mayor Hamilton, and appoint Council Member McCracken to the Audit Committee.

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

Disposition: Council Member McCracken appointed to the Audit Committee.

ADJOURNMENT
The City Council adjourned at 9:00 p.m. to the meeting of November 21, 2006.

Patrice Hildreth, Deputy City Clerk

ATTEST:

Cameron Hamilton, Mayor
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
NOVEMBER 21, 2006, 6:00 P.M.

Call to Order at 6:00 p.m.
Roll Call: Council Member McCracken, Council Member Pedro Martinez, Mayor Pro Tem Felipe Martinez, Council Member Hernandez, Mayor Hamilton

ORAL COMMUNICATIONS
None

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

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
Deputy City Manager Frank Guyton reported that no action had been taken.

Pledge of Allegiance Led by Council Member Pedro Martinez
Invocation - a moment of silence was observed.

PRESENTATIONS
Outstanding Business Presentation - Porterville Tire and Recapping
City Manager’s Featured Projects
   • Skatepark Opening
   • Fire Chief
   • Reroofing of City Hall Annex and Putnam Community Center

ORAL COMMUNICATIONS
• Rick Patterson, 12228 Road 296, voiced concern with a yet unresolved abatement issue at 228 South G Street of which he had previously informed the Council. He spoke of difficulty in reaching the City Manager and requested an update on the status of the matter.
• Larry Long, 192 West School Avenue, requested that he be afforded the opportunity to address the Council during its consideration of Item No. 16.
• Martha Alcantar Florez, 461 North Main Street, Frugal Fashions, came forward on behalf of the Tulare Kings Hispanic Chamber of Commerce and presented the Council with the names of its Board Members. Ms. Florez then spoke of the Chamber’s desire to work with the City for the economic betterment of the Community.
CONSENT CALENDAR

Item No. 5 was removed for Mayor Hamilton’s abstention.

1. CITY COUNCIL MINUTES OF OCTOBER 17, 2006

Recommendation: That the City Council approve the City Council Minutes of October 17, 2006.

Documentation: M.O. 01-112106
Disposition: Approved.

2. BUDGET ADJUSTMENT - POLICE DEPARTMENT

Recommendation: That the City Council:
1. Authorize staff to accept the grant funds; and
2. Authorize a budget adjustment to the Police Department in the amount of $1,000.

Documentation: M.O. 02-112106
Disposition: Approved.

3. EDISON BILL - INDIANA STREET PROJECT

Recommendation: That the City Council:
1. Authorize the payment of the estimated SCE bill of $26,000;
2. Authorize a 10% contingency; and
3. Authorize the expenditures detailed in the staff report from the Capital Projects Account No. 89-9106.

Documentation: M.O. 03-112106
Disposition: Approved.

4. ACCEPTANCE OF PROJECT - SPRAYED POLYURETHANE ROOFING SYSTEMS (CITY HALL ANNEX AND PORTERVILLE COMMUNITY CENTER)

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.

Documentation: M.O. 04-112106
Disposition: Approved.

6. LETTER OF PUBLIC CONVENIENCE OR NECESSITY - ADEL JOUDE- EXPRESS MART AND GAS - 1060 W. OLIVE AVE.
Recommendation: That the City Council approve a letter of public convenience or necessity supporting the issuance of a Type 21 Off-Sale of Beer, Wine, and Distilled Spirits License within the Census Tract No. 36.01 for the Express Mart and Gas, located at 1060 West Olive Avenue.

Documentation: M.O. 05-112106
Disposition: Approved.

7. REQUEST FOR ONE (1) TEMPORARY TRAILER TO BE UTILIZED AS A SALES OFFICE

Recommendation: That the City Council adopt the draft resolution and conditions of approval for a temporary trailer for a six (6) month period of time expiring on May 21, 2007.

Documentation: Resolution 141-2006
Disposition: Approved.

8. PROPOSED REORGANIZATION INCLUDING A CHANGE IN THE TABLE OF ORGANIZATION WITHIN PUBLIC WORKS DEPARTMENT

Recommendation: That the City Council adopt the draft resolution authorizing the Reorganization in the Engineering Division and a change in the Table of Organization in the Streets Section of the Field Services Division.

Documentation: Resolution 142-2006
Disposition: Approved.

9. STATE HOMELAND SECURITY GRANT - FIRE DEPARTMENT

Recommendation: That the City Council:
1. Authorize staff to purchase the equipment under the negotiated bid process; and
2. Authorize staff to do a budget adjustment in the amount of $22,600 to the Fire Department’s operating budget.

Documentation: M.O. 06-112106
Disposition: Approved.

10. ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM 2006

Recommendation: That the City Council:
1. Authorize staff to purchase equipment under the negotiated bid process; and
2. Authorize staff to do a budget adjustment in the amount of $46,854 to the Fire Department’s operating budget.
11. TRANSACTION AND USE TAX OVERSIGHT COMMITTEE

Recommendation: None.

12. VOLUNTARY DONATION OF PAID LEAVE PROGRAM FOR FIRE SERIES EMPLOYEES

Recommendation: That the City Council ratify the Memorandum of Understanding to create a Voluntary Donation of Paid Leave Program.

Documentation: M.O. 08-112106
Disposition: Approved.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member McCracken that the Council approve Item Nos. 1 through 4, and 6 through 12. The motion carried unanimously.

5. EL DORADO ESTATES TENTATIVE SUBDIVISION MAP - EXTENSION OF TIME (DEL VALLE HOMES)

Recommendation: That the City Council adopt the draft resolution approving a one-year extension of time for El Dorado Estates Tentative Subdivision Map.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Eddie Hernandez that the Council approve the draft resolution Resolution 143-2006 approving a one-year extension of time for El Dorado Estates Tentative Subdivision Map.

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

Disposition: Approved.

PUBLIC HEARINGS
13. CONDITIONAL USE PERMIT 7-99 MODIFICATION NO. 1 (LANDMARK CHRISTIAN CENTER)

Recommendation: That the City Council:
1. Revise the plans to omit the layout of residential units on the east end of the site; and
2. Adopt the draft resolution approving the modification to Conditional Use Permit 7-99 subject to conditions of approval.
Deputy City Manager Frank Guyton presented the item, and Community Development Director Brad Dunlap presented the staff report.

The public hearing opened at 7:24 p.m.

- Bob Bell, CITA Development of Bakersfield, project developer/contractor, came forward on behalf of the applicant and requested the Council’s approval of the requested modification to the Conditional Use Permit. He commented that the main focus that evening was to obtain approval of the two accessory buildings. He indicated that returning to the Council at a later time for the residential units was not a problem.
- Paula Blaylock, Pastor of Landmark Christian Center, thanked the Council for their past approvals and requested that the Council consider the comments of Mr. Bell.
- Donna Keen, 2217 West Della, voiced opposition to the proposed residential units included in the requested modification, citing concerns with noise, privacy issues and the potential for deceased property values.
- Paula Blaylock, Pastor of Landmark Christian Center, informed everyone that the proposed residential units would be one-story units. She stated that the intent was to rent the units to young retirees who frequently traveled, which would thereby eliminate the concern raised over increased noise levels.
- Beverly Dazzo, 2204 West Della, spoke against the proposed residential portion of the project, citing concerns with increased activity.

The public hearing closed at 7:29 p.m.

Council Member Pedro Martinez confirmed that the residential units were not going to be considered that evening.

The Council Members voiced no opposition to staff’s recommendation.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council direct that the plans be revised to omit the layout of residential units on the east end of the site; and adopt the draft resolution approving the modification to Conditional Use Permit 7-99 subject to conditions of approval. The motion carried unanimously.

Disposition: Approved.

Mayor Hamilton commended Pastor Blaylock on the Halloween festivities at the Landmark Christian Center.

14. **ENNIS ESTATES TENTATIVE SUBDIVISION MAP (ENNIS HOMES)**

**Recommendation:** That the City Council continue the item to the December 5, 2006 City Council Meeting.

Mayor Hamilton noted that the Item would be carried over to the Meeting of December 5, 2006.
Council Member McCracken noted that the item had been continued several times, and suggested that the item be again continued to December 5, 2006, with the provision that if no action is taken, the item should then be taken off calendar until such time as the applicant requests that it be brought back. He suggested that removing the item would likely save staff time, and inquired as to whether a policy existed that limited how many times an item could be continued. City Attorney Nancy Jenner stated that at some point, the Map itself would expire.

Mayor Pro Tem Felipe Martinez voiced support for keeping the item on the Agenda, suggesting that it would keep attention focused on the item.

Community Development Director Brad Dunlap indicated that time constraints would come into play if the City had initiated the delays, however in the matter at hand, the applicant had initiated the continuances, and therefore by default the timelines were stayed. Mr. Dunlap indicated that the applicant had, on the record, requested that the timeline be extended. He then pointed out that the City Council had the ability to continue the matter until the next meeting, or to another meeting.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Pedro Martinez that the Council continue the item and public hearing to the Meeting of December 5, 2006, with direction to staff that in the event no action is taken on the item, that the item be removed from the Agenda until such time as the applicant requested that it be presented for Council’s consideration.

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

Disposition: Continued to December 5, 2006, with direction given to staff.

SECOND READING

15. ORDINANCE NO. 1709, EXTENSION OF A TEMPORARY USE PERMIT FOR THE CONTINUED OPERATION OF A REMOTE CONTROL CAR TRACK

Recommendation: That the City Council give Second Reading to Ordinance No. 1709, waive further reading, and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the City Council give Second Reading to Ordinance 1709, waive further reading, and adopt said Ordinance, being AN

Ordinance 1709 ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ISSUING AN EXTENSION OF A TEMPORARY USE PERMIT FOR THE CONTINUED OPERATION OF A REMOVE CONTROL RACE TRACK AS A HOBBY/RECREATION USE. The motion carried unanimously.
The Deputy City Manager read the Ordinance by title only.

Disposition: Approved.

**SCHEDULED MATTERS**

16. REQUEST FOR WAIVER OF SIDEWALK AT 192 WEST SCHOOL AVENUE

Recommendation: That the City Council:

1. Approve the sidewalk waiver specific to Building Permit RER-07-05-0165 and inform Mr. Long that any subsequent building permit requests for 192 W. School Avenue may trigger the concrete improvement provision;

2. Direct staff to methodically review, as time permits, the various locations throughout the City where similar physical obstruction may prevent the implementation of Section 20-40.1;

3. Direct staff to prepare a detailed report with accompanying photos identifying locations where the installation of curb, gutter and sidewalks may be problematic; and

4. Direct staff to schedule a study session to give the City Council the opportunity to discuss and act on staff’s report.

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

- Larry Long, 192 West School Avenue, applicant, requested the Council’s approval of the requested waiver, and noted that, in fact, there were six trees that obstructed the required improvements, rather than the three trees referenced in the staff report. Mr. Long then provided the Council with a letter from his neighbor, Ms. Ellen Nichols, which the Mayor read into the record, as follows:

  November 20, 2006

  To: City Council and Staff Planners
  From: Ellen Nichols

  My good neighbor, Larry Long, who resides at 192 W. School, tells me that the City of Porterville may need to add sidewalks where he lives. The beautiful trees on that property might be removed in order to facilitate the building of those sidewalks.

  I live at 456 North Hawaii Street, corner of School, directly across the street from Larry, and I would hate to see any of those trees removed, especially the oaks. In summer, the shade they provide helps to keep my house and yard cool, and all year they enhance the ambience of
the neighborhood. People unfamiliar with the area often remark, upon being here for the first time, on how pleasant it is with the mature trees. Please don’t take them away!

Ellen Nichols
784-5539

At the request of Mayor Hamilton, Mr. Rodriguez clarified the provisions of Municipal Code Section 20-40.1, which he indicated triggered concrete improvements upon the issuance of a permit for improvements of $15,000 or more, over a two year period.

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

Council Member Pedro Martinez seconded the motion. He then suggested that a particular shrub located on the corner of Mr. Long’s property might obstruct the vision of motorists at that intersection.

COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Council Member Pedro Martinez that the Council approve the sidewalk waiver specific to Building Permit RER-07-05-0165 and inform Mr. Long that any subsequent building permit requests for 192 W. School Avenue may trigger the concrete improvement provision; direct staff to methodically review, as time permits, the various locations throughout the City where similar physical obstruction may prevent the implementation of Section 20-40.1; direct staff to prepare a detailed report with accompanying photos identifying locations where the installation of curb, gutter and sidewalks may be problematic; and direct staff to schedule a study session to give the City Council the opportunity to discuss and act on staff’s report. The motion carried unanimously.

Disposition: Approved.

17. HILLSIDE DEVELOPMENT ORDINANCE UPDATE - PURPOSE AND INTENT (ZONING ORDINANCE AMENDMENT 2006-8)

Recommendation: That the City Council provide direction to staff and the consultant.

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

Mayor Hamilton noted the importance of the decision before the Council and suggested that the Study Session currently scheduled to discuss the Noise Ordinance on December 1, 2006 at 3:00 p.m. be rescheduled for a later date, and that the December 1, 2006 date be reserved for a Study Session on the Hillside Development Ordinance.
Mr. Dunlap requested that in the event the Council chose to schedule a Study Session for December 1, 2006, that rather than simply providing direction as to purpose and intent, that the Council more specifically provide direction on the general character of the ordinance.

A discussion ensued as to the scheduling of the Adjourned Meeting, during which the Council concurred that the matter should be continued to December 1, 2006 at 12:00 p.m., so as to allow more time for discussion. It was decided to reschedule the Noise Ordinance Study Session to a date yet to be determined.

In response to a question posed by Mayor Pro Tem Felipe Martinez, Council Members Hernandez and McCracken each confirmed that the Hillside Development Ordinance Committee had not yet met.

Disposition: Continued to an Adjourned Meeting scheduled for December 1, 2006 at 12:00 p.m.

The Council adjourned at 8:05 p.m. to a Meeting of the Porterville Redevelopment Agency.

PORTERVILLE REDEVELOPMENT AGENCY AGENDA

November 21, 2006

Roll Call: Agency Member McCracken, Agency Member P. Martinez, Vice-Chairman Felipe Martinez, Agency Member Hernandez, Chairman Hamilton

WRITTEN COMMUNICATIONS

ORAL COMMUNICATIONS

None

SCHEDULED MATTER

PRA-1. ACCEPTANCE OF PROJECT - CASAS BUENA VISTA SLURRY SEAL

Recommendation: That the Redevelopment Agency:

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 to stop notices have been filed.

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

AGENCY ACTION: MOVED by Member McCracken, SECONDED by Member Hernandez that the Redevelopment Agency accept the project as complete; authorize the filing of the Notice of Completion; and authorize the release of the 10% retention thirty-five (35) days after recordation, provided to stop notices have been filed. The motion carried unanimously.

Disposition: Approved.
The Redevelopment Agency adjourned at 8:06 p.m. to a Meeting of the Porterville Public Financing Authority.

PORTERVILLE PUBLIC FINANCING AUTHORITY AGENDA
November 21, 2006

Roll Call: Director McCracken, Director P. Martinez, Vice President F. Martinez, Director Hernandez, President Hamilton

WRITTEN COMMUNICATION

ORAL COMMUNICATIONS
None

SCHEDULED MATTERS

PFA-1. ANNUAL MEETING OF THE PORTERVILLE PUBLIC FINANCING AUTHORITY

Recommendation: That the City Council, sitting as the Porterville Public Financing Authority, hold a public meeting in accordance with the Authority’s By-laws, accept public comment, and approve the 2006 Status Report for the Redevelopment Bond Issue No. 1 Projects.

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

Director McCracken pointed out that the staff report recommended that the Council accept public comment.

President Hamilton invited public commentary, to which there was no response.

AGENCY ACTION: MOVED by Vice President F. Martinez, SECONDED by Director P. Martinez that the Public Financing Authority approve the 2006 Status Report PFA 01-112106 for the Redevelopment Bond Issue No. 1 Projects. The motion carried unanimously.

Disposition: Approved.

The Public Financing Authority adjourned at 8:09 p.m. to a Meeting of the Porterville City Council.

ORAL COMMUNICATIONS

• Greg Shelton, 888 North Williford Drive, thanked the Council for the Second Reading of Ordinance 1709; and suggested that a lack of urgency now existed with regard to adopting a Hillside Development Ordinance due to the apparent downturn in the real estate market. He then voiced caution over pursuing overly tight restrictions which he asserted would likely deter any hillside development.
OTHER MATTERS

• Mayor Pro Tem Felipe Martinez spoke of his recent trip to Sacramento for legislative days and of the valuable information with regard to new legislation gleaned from the visit.

• Council Member Pedro Martinez: 1) informed everyone of his recent trip to Anaheim; 2) requested that congratulatory letters from the Council be sent to the Porterville High School girls’ water polo team; Monache High School boys’ water polo team; and Monache High School’s band for their recent achievements; and 3) spoke of Thanksgiving and requested that everyone remember those who were less fortunate.

• Council Member McCracken spoke of his recent trip to Sacramento for legislative days and noted new legislation affecting the reporting requirements of homeowners associations.

• Mayor Hamilton: 1) advised everyone of his recent trip to Washington D.C. to secure funding for the Success Dam Remediation Project. He stated that whether the project would be fully funded was still unknown at that time; 2) requested a budget adjustment in the amount of $1,000 for a City-sponsored Toys for Tots drive; and 3) congratulated Lori Mercado, the new Parks & Leisure Services Administrative Analyst, on her new position.

ADJOURNMENT

The Council adjourned at 8:18 p.m. to the meeting of December 1, 2006 at 12:00 p.m.

____________________________
Patrice Hildreth, Deputy City Clerk

ATTEST:

____________________________
Cameron Hamilton, Mayor
SUBJECT: CLAIM - LIZETH FERNANDEZ

SOURCE: Administration/City Clerk Division

COMMENT: Lizeth Fernandez has filed a claim against the City for property damage. She is claiming that on August 31, 2006, her front door, and two other doors in her home at 335 W. Kanai, were damaged, and her son bruised, when police entered the residence.

The amount being claimed as of the date of this claim is $2,220.00 based on repair and replacement costs for the doors.

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

Attachment: Claim Form

Item No. 2
CLAIM AGAINST: LIZETH FERNANDEZ

CITY OF PORTERVILLE

Claimant's name: LIZETH FERNANDEZ SS#: [Redacted]

Claimant's Telephone No.: [Redacted] DOB: [Redacted]

Address: 395 W. Kapai Ave

Address where notices about claim are to be sent, if different from above: [SAME]

Date of incident/accident: 8-31-06

Date injuries, damages, or losses were discovered: Broken front door, 2 bedroom doors.

Location of incident/accident: 395 W. Kapai

What did entity or employee do to cause this loss, damage, or injury? Steamed into house.

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? Police Officers

What specific injuries, damages, or losses did claimant receive? Shoulder was shed and has arm bruises, damaged doors.

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)] $2,220.00

How was this amount calculated (please itemize)? See Attached

Date Signed: 10-6-06 Signature: [Redacted]

If signed by representative:
Representative's Name
Address

Telephone #
Relationship to Claimant
Proposal

Scope of Project:
Work to be preformed at 335 west Kanai Porterville Ca.

1) Replace entry door approx. 36 inches width as well as security door and lastly one interior door.

2) Demolition of three doors and disposal.

3) To replace with trim molding total

Total cost labor and materials $1,570.00

New Look Ca. State License 829217
JOY HOME MAINTENANCE & REPAIR
Jim Marable
559-788-9794

PROPOSAL SUBMITTED TO:
NAME: Lisceth Fernandez
ADDRESS: 335 W. Kania
CITY, STATE: Stockton

WORK TO BE PERFORMED AT:
PHONE NO.: 559-

DATE OF PLANS: 10-5-06
ARCHITECT:

We hereby propose to furnish the materials and perform the labor necessary for the completion of:

- Replace Security Door 3rd class 2 install $250.00
- Replace 2 interior Doors $100.00 ea
- Labor to patch & Repair 3 Door Jams $200.00

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of:

Dollars ($650.00)

with payments to be as follows:

Respectfully submitted, Jim Marable
Per Joy Home Maint. & Repair

Note - This proposal may be withdrawn by us if not accepted within days.

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

DATE: 10-5-06
SIGNATURE: Lisceth Fernandez
SUBJECT: RATIFY EXPANSION OF LIBRARY CARPETING PROJECT

SOURCE: Parks and Leisure Services Department

COMMENT: The City Council has authorized the capital project of a much needed carpet replacement in a portion of the Public Library. When the project went out for bid, an estimate of the initial project was used to determine the lowest cost per square yard for this and future carpeting projects.

The amount reserved for the carpeting project was $19,657.00. Utilizing the approved contract unit bid price it is advisable to replace 994 and 2/3rds yards of carpeting at a total cost of $21,301.00. The difference of the two amounts is less than 10% of the original project estimate, and is available in the Library's operating budget.

The contract award provides for periodic purchase of carpeting at the same unit price. Staff has scheduled the work, but the intent of this item is to keep the City Council informed that the scope of the project will be expanded.

RECOMMENDATION: That the City Council consider and ratify expansion of the Library's carpeting project with $1,644.00 from the Library operating budget.
COUNCIL AGENDA: DECEMBER 5, 2006

SUBJECT: AWARD OF CONTRACT – AIRPORT WATER INTER-TIE PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On November 28, 2006, staff received (8) bids for the Airport Water Inter-tie Project. This project consists of the extension of water mains that will interconnect the City’s Central Pressure Zone to the City’s isolated Airport Water System. In addition, the extension of sewer mains, in order to incorporate the Sewer Master Plan for this area, shall also be included in the project. This project is necessary in order for future developmental growth.

The estimated probable cost for the base bid was $3,065,381 and an estimated probable cost of $3,601,977.50 for the base bid and both the alternate bids. Funding for this project will be provided through the Water Developer Fund and the Sewer Revolving Fund as approved during the 06/07 fiscal year budget process.

The bids, including Add Alternates A and B are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Halopoff &amp; Sons, Inc. Porterville, CA</td>
<td>$2,859,872.70</td>
</tr>
<tr>
<td>2. SJ &amp; B Group, Inc. Riverside, CA</td>
<td>$2,911,095.00</td>
</tr>
<tr>
<td>3. Bill Nelson General Engineering Fresno, CA</td>
<td>$3,117,955.00</td>
</tr>
<tr>
<td>4. Sutter Constructors Yuba City, CA</td>
<td>$3,551,059.00</td>
</tr>
<tr>
<td>5. Nicholas Construction Bakersfield, CA</td>
<td>$3,949,237.00</td>
</tr>
<tr>
<td>6. Papich Construction Pismo Beach, CA</td>
<td>$3,955,740.00</td>
</tr>
</tbody>
</table>

Dir [Signature]
Appropriated/Funded [Signature]
Item No. 4
7. Vulcan Construction  $3,988,550.00  Fresno, CA
8. Teichert Construction  $3,995,450.00  Kingsburg, CA

Staff has found the low bid acceptable.

RECOMMENDATION: That City Council:

1. Award the Airport Water Inter-tie Project to Halopoff and Sons in the amount of $2,859,872.70,

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

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

ATTACHMENT: Locator Map

P:\pub\work\Engineering\Council Items\2006-12-05 Award of Contract - Airport Water Inter-Tie Project.doc
COUNCIL AGENDA: DECEMBER 5, 2006

SUBJECT: ACCEPTANCE OF PROJECT – SINGER BUILDING DEMOLITION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Wise Engineering has completed the Singer Building Demolition Project per plans and specifications. The City purchased the building, located at 35 W. Oak Avenue, and surrounding property for the development of the Transit Center Complex. The building was in conflict with the second phase (remaining parking area) of the parking lot constructed during the summer of 2004.

City Council authorized expenditure of $27,390. Final construction cost is $24,900. Federal Grants are being used to fund this project.

Wise Engineering requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

1. Accept the project as complete;

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

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

ATTACHMENT: Locator Map
COUNCIL AGENDA: DECEMBER 5, 2006

SUBJECT: PARTIAL RECONVEYANCE – ROBERT C. NUCKOLS PROPERTY

SOURCE: Public Works Department - Engineering Division

COMMENT: On September 5, 2006 in closed session, the City Council considered Robert Nuckols request for a partial reconveyance of approximately 1.76 acres from the City’s Reclamation Area Deed of Trust.

The 1.76 acres is a small portion of the total property held in trust under the existing Reclamation Area Lease/Purchase agreement between the City of Porterville and Robert C. Nuckols. In closed session, it was determined that the Deed of Trust encumbered land that the original parties did not intend to encumber. As consideration for the City’s execution of the partial release of the 1.76 acres, the City Council ordered, and Mr. Nuckols agreed, to pay the City the sum of $500 plus all recordation costs associated with partial reconveyance transaction.

RECOMENDATION: That the City Council:

1. Authorize the Mayor to execute the Deed of Partial Reconveyance;

2. Authorize the Mayor to execute the Partial Release Agreement;

3. Direct the City Clerk to record the partial reconveyance document with the Tulare County Recorder’s Office upon payment of $500 by Mr. Nuckols to the City of Porterville; and

4. That Robert C. Nuckols pay all recordation fees associated with the partial reconveyance transaction.

ATTACHMENTS: Deed of Partial Reconveyance
Partial Release Agreement
Locator Map

P:\pubwork\Engineering\Council Items\2006-12-05 Partial Reconveyance - Robert C Nuckols Property.doc

Dir Appropriated/Funded CM

Item No. 6
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING A PARTIAL RECONVEYANCE FOR REAL PROPERTY FROM A DEED OF TRUST EXECUTED BY ROBERT C. NUCKOLS, GAIL L. NUCKOLS AND/OR GAIL NUCKOLS, LEWIS W. GOINS AND BETTY JEAN GOINS AS TRUSTORS

BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby approves a partial reconveyance to a Deed of Trust executed by Robert C. Nuckols, Gail L. Nuckols and/or Gail Nuckols, Lewis W. Goins and Betty Jean Goins as Trustors, for real property, in the City of Porterville, County of Tulare, State of California, to-wit:

See Exhibit “A” attached hereto and made a part thereof.

BE IT FURTHER RESOLVED that the authorization has been given to the Mayor to sign all necessary documents and the Deed of Partial Reconveyance upon receipt of $500 and recordation fees from the Trustors, and said deed to be recorded in the office of the Tulare County Recorder. The foregoing has been accepted by the City Council for the City of Porterville.

________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

____________________________
By: Georgia Hawley, Chief Deputy City Clerk
EXHIBIT A


FOR THE PURPOSE OF THIS LEGAL DESCRIPTION, THE EASTERNLY PORTIONS OF SAID LOT 33 AND LOT 48 ARE MEASURED FROM THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST.
DEED OF PARTIAL RECONVEYANCE

Pursuant to a written request made by the beneficiary below, and for valuable consideration, receipt of which is hereby acknowledged, the CITY OF PORTERVILLE ("Grantor"), as Trustee under that Deed of Trust recorded April 29, 1997 as Document No. 97-028040, modified as recorded on February 13, 1998 as Document No. 97-028040, and assigned to Trustee via Document No. 2003-0001349, which was recorded January 7, 2003, said Deed of Trust executed by Robert C. Nuckols, Gail L. Nuckols and/or Gail Nuckols, Lewis W. Goins and Betty Goins as Trustors, hereby grants and conveys to the person or persons legally entitled thereto, without warranty, the estate held by the undersigned under the above-referenced documents in the following property described in those documents:


FOR THE PURPOSE OF THIS LEGAL DESCRIPTION, THE EASTERN PORTIONS OF SAID LOT 33 AND LOT 48 ARE MEASURED FROM THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST.

Executed on ________________________, 2006, at Porterville, California.

CITY OF PORTERVILLE

________________________________________
Cameron Hamilton, Mayor

ATTEST:

________________________________________
John Longley, City Clerk
PARTIAL RELEASE AGREEMENT
CITY OF PORTERVILLE AND THE NUCKOLS

This agreement is entered into on _________________, 2006, by and between the City of Porterville ("City") and Bob Nuckols ("Buyer").

WHEREAS the City holds the assigned Deed of Trust, from Bank of the Sierra, which was recorded as Document No, 2003-0001349 on January 7, 2003; and

WHEREAS that Deed of Trust encumbers land that includes parcels that were not contemplated by the original parties to the original agreement; and

WHEREAS the Buyer has requested that City execute a partial release of those certain parcels that were not contemplated by the original parties; and

WHEREAS the City agrees that the partial release of those certain parcels will leave sufficient real property encumbered so as not to diminish its security interest, nor its ability to call the debt, which is secured by said Deed of Trust.

NOW THEREFORE, the City agrees to execute a partial release of the parcels of real property situated in the City of Porterville, Tulare County, California, and more particularly described in EXHIBIT “A”, which is attached hereto and hereby incorporated by reference, upon the following terms and conditions:

CONSIDERATION
As consideration for the City’s execution of the partial release of the above-described property, Buyer agrees to pay City the sum of five-hundred dollars ($500), which shall be paid up on execution of this agreement.

EXECUTION OF DEED OF PARTIAL RECONVEYANCE
Upon its receipt of $500, the City shall execute the deed of partial reconveyance, releasing the property from the assigned Deed of Trust.

ENTIRE AGREEMENT
This agreement and the attached exhibits constitute the entire agreement between the parties relating to the partial release of the property. Any prior agreements, promises, negotiations, or representations not expressly set forth in this agreement are of no force and effect unless it is in writing and signed by Buyer and City.
GOVERNING LAW
This agreement and the legal relations between the parties shall be governed by and
construed in accordance with the laws of the State of California, and the proper venue for any
action brought concerning the terms and conditions of this Agreement shall be Tulare County,
California.

HEADINGS
The headings in this agreement are inserted for convenience only. They do not constitute
part of this agreement and shall not be used in its construction.

DATE: ________________________________

________________________________
CAMERON HAMILTON
MAYOR, CITY OF PORTERVILLE

DATE: ________________________________

________________________________
BOB NUCKOLS, BUYER
EXHIBIT A


FOR THE PURPOSE OF THIS LEGAL DESCRIPTION, THE EASTERLY PORTIONS OF SAID LOT 33 AND LOT 48 ARE MEASURED FROM THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST.
COUNCIL AGENDA: DECEMBER 5, 2006

SUBJECT: CITY-COUNTY AGREEMENTS RELATED TO ANNEXATION 464

SOURCE: Public Works Department - Engineering Division

COMMENT: The City has obtained Local Agency Formation Commission’s (LAFCo) conditional approval to annex approximately 215 acres of land generally located between Mulberry Avenue on the south, Plano Street on the east, Reid Avenue on the north and Lime Street on the west, known as City of Porterville Annexation No. 464. The proposed annexation left behind small segments of Plano Street and Lime Street within the County’s jurisdiction that will be bordered by the City on the north and south. The proposed annexation also encompassed a large drainage reservoir north of Mulberry Street between Lime Street and Plano Street, known as Drainage Reservoir No. 12 (Muller Field). The reservoir collects water from the Lewis Hill Watershed and is key in protecting downstream City residents from flooding.

During the review of the proposed annexation, Tulare County and LAFCo felt it was necessary that the City of Porterville maintain those segments of Plano Street and Lime Street lying within the County, which is consistent with Section 1810 of the Streets and Highways Code. They also felt it was necessary that the City of Porterville maintain Drainage Reservoir No. 12. In doing so, the City has control of future expansions of the drainage reservoir as the surrounding properties within the City develop. LAFCo Resolution No. 06-044 specifically states that prior to the recordation of Annexation No. 464, these public maintenance responsibility issues be resolved by formal agreements between the two agencies.

Staff has reviewed the documents and found them to be acceptable. Our legal counsel is unable to review the documents due to a conflict of interest. However, these agreements are standard and have been reviewed by our legal counsel when other Cities they represent within Tulare County have had to comply with these types of LAFCo conditions.

RECOMMENDATION: That City Council:

1) Approve the agreement as written;

2) Authorize the Mayor and City Clerk to execute five (5) agreements with Tulare County; and

3) Authorize the City Clerk to forward the agreement to Tulare County for Board of Supervisor action.

ATTACHMENTS: Drainage Basin Agreement w/ Exhibits
Street Maintenance Agreement w/ Exhibit
AGREEMENT REGARDING DISPOSITION OF
FLOOD CONTROL BASIN

THIS AGREEMENT is entered into this _____ day of ________________________, 2006, between the COUNTY OF TULARE, referred to as COUNTY, and the CITY OF PORTERVILLE, referred to as CITY, with reference to the following:

A. WHEREAS, CITY obtained Local Agency Formation Commission (LAFCO) approval to annex approximately 215 acres of land generally between Mulberry Avenue on the south, Plano Street on the east, Reid Avenue on the north and Lime Street on the west known as City of Porterville Annexation No. 464, LAFCO Case Number 1367-P-307; and

B. WHEREAS, COUNTY owns a 40 – acre flood control basin, operated and maintained by the Tulare County Flood Control District, referred to as BASIN, located northwest of the intersection of Plano Street and Mulberry Avenue as shown on Exhibit “A” in the area annexed by City, referenced by said LAFCO Case Number 1367-P-307; and

C. WHEREAS, LAFCO Resolution No. 06-044 included the following condition to be adhered to: “8(c) The Certificate of Completion shall not be recorded until the City enters into an agreement with the Tulare County Flood Control District for the disposition of the flood control basin occupying APN’s [currently identified as] 248-010-01, -02, -03 and 248-060-21,” legally described on Page 2 herein, Paragraph 1, as Parcels 1 thru 4; and

D. WHEREAS, BASIN provides flood protection to City from a 3.6 square mile drainage area known as the upper Lewis Hill watershed as shown on Exhibit “A”; and

E. WHEREAS, City desires to expand use of BASIN to accept stormwater runoff from future development in area annexed by said City of Porterville Annexation No. 464; and

F. WHEREAS, County desires to transfer BASIN property rights and operation and maintenance responsibilities to City while reserving the right to drain COUNTY areas in the Lewis Hill watershed to BASIN.
ACCORDINGLY, IT IS AGREED:

1. County agrees to transfer BASIN property rights to CITY upon the following terms and conditions contained in this agreement, all that certain real property situated in the County of Tulare, State of California, as shown on Exhibit “B” and legally described as follows:

   Parcel No. 1:
   The South 50 feet of the East 1,000 feet of the Southeast Quarter of the Northwest Quarter of Section 24, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the official plat thereof.

   Excepting therefrom that portion conveyed to the County of Tulare by deed recorded June 24, 1965 in Book 2594 Page 663 of Official Records.

   Also excepting and reserving therefrom onto the Grantor, full, complete and uninterrupted use of the irrigation pumping plant and well together with all appurtenances thereto which is situated within the above described parcel of land.

   Parcel No. 2:
   Lot 50 of Pioneer Land Co’s first subdivision, in the County of Tulare, State of California, as per map recorded in Book 3, Page 34 of maps in the office of the County Recorder of said County.

   Parcel No. 3:
   The East half of the East half of Lot 41 of the Pioneer Land Company’s first subdivision; in the County of Tulare, State of California, as per map recorded in Book 3, Page 34 of maps in the office of the County Recorder of said County.

   Parcel No. 4:
   That portion of the West half of the East half of Lot 41 of Pioneer Land Co’s first subdivision, in the County of Tulare, State of California, as per map recorded in Book 3, page 34 of maps in the office of the County Recorder of said County, lying Northeasterly of the Right of Way of the A.T.& S.F. Railroad.

2. CITY agrees to operate and maintain BASIN in accordance with all applicable Federal, State, and local laws, regulations and directives; City agrees to continually accept drainage runoff into BASIN from County roads and lands located in said upper Lewis Hill watershed.
3. CITY agrees that no authorization, oversight, input or requirement other than the authority conferred by this Agreement shall be necessary from the COUNTY.

4. This Agreement is effective at such time as the BASIN is annexed to CITY.

5. CITY hereby agrees to pay all expenses arising out of the design, operation, maintenance, construction and/or upkeep of said BASIN and hereby waives any claim against the COUNTY for any cost of design, operation, maintenance, construction and/or upkeep of said BASIN.

6. From and after the effective date of this Agreement as noted in paragraph 4 above, CITY shall have all responsibility and liability for all activities and omissions related to the design, construction, upkeep, operation and maintenance of said BASIN, and CITY shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including, but not limited to court cost and attorney fees, death or injury to any person and/or damage to any property (including COUNTY property), arising out of or related to said design, construction, upkeep, operation and maintenance by CITY, its agents, officers, independent contractors, developers and employees. CITY shall maintain adequate insurance coverage, either through policies issued by insurance companies or through self insurance reserves, to provide said indemnity to the COUNTY.

7. This Agreement represents the entire agreement between CITY and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

8. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

   COUNTY: Tulare County Resource Management Agency
            County Engineer
            Government Plaza
            5981 S. Mooney Blvd.
            Visalia, CA 93277

   (Fax No.: (559) 730-2653 / Phone No. (559) 733-6291)
CITY: City of Porterville
City Engineer
291 N. Main Street
Porterville, CA 93257

(Fax No.: (559) 781-6437/ Phone No. (559) 791-7804)

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

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

10. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

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

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

13. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

14. This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at
the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

15. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.

16. CITY expressly agrees that it will not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

BY __________________________
Chairman, Board of Supervisors

ATTEST: C. Brian Haddix,
County Administrative Officer/Clerk of the Board of Supervisors of the County of Tulare

By __________________________
Deputy Clerk

Approved as to Form
County Counsel

By __________________________
Deputy

CITY OF PORTERVILLE

BY __________________________
Cameron Hamilton, Mayor

ATTEST: John Longley
City Manager/City Clerk of the City of Porterville

BY __________________________
Georgia Hawley
Chief Deputy Clerk
AGREEMENT REGARDING A PORTION OF
PLANO AND LIME STREETS

THIS AGREEMENT is entered into this ______ day of __________________________, 2006, between
the COUNTY OF TULARE, referred to as COUNTY, and the CITY OF PORTERVILLE, referred to as
CITY, with reference to the following:

A. WHEREAS, approximately 340 feet of Lime Street from approximately 965 feet north of
the abandoned railroad right of way and approximately 840 feet of Plano Street from the
existing city limits to Westfield Avenue are COUNTY-maintained roadways as defined on
Exhibit “A” attached hereto; and

B. WHEREAS, CITY obtained Local Agency Formation Commission (LAFCo) approval to
annex approximately 215 acres of land generally between Mulberry Avenue on the south,
Plano Street on the east, Reid Avenue on the north and Lime Street on the west known
as City of Porterville Annexation No. 464, LAFCo Case Number 1367-P-307; and

C. WHEREAS, LAFCo Resolution No. 06-044 included the following condition to be adhered
to: "8(b) The Certificate of Completion shall not be recorded until the City enters into an
operation and maintenance agreement with Tulare County for the 840 ft segment of Plano
Street between Westfield Avenue and the existing City limits and the 340 ft segment of
Lime Street beginning about 965 ft north of the abandoned railroad right of way."

D. WHEREAS, Government Code section 54981 authorizes COUNTY and CITY to contract
for the improvement, maintenance, repair and operation by City of streets and highways
within COUNTY’S jurisdiction; and

E. WHEREAS Streets and Highways Code section 1810 allows a city to acquire property
outside its boundaries in the unincorporated area of a county if it is necessary to connect
or widen existing streets if the county consents to the acquisition.

ACCORDINGLY, IT IS AGREED:

1. COUNTY authorizes CITY to undertake, at no risk or expense to COUNTY, any construction
reconstruction and/or maintenance of approximately 340 feet of Lime Street from

Tulare County Agreement No. _________________

11/27/2006
approximately 965 feet north of the abandoned railroad right of way and approximately 840 feet of Plano Street from the existing city limits to Westfield Avenue. The specific portions are more particularity identified in Exhibit “A” which is attached hereto and incorporated herein by this reference.

2. CITY agrees to construct said improvements in accordance with all applicable Federal, State, and local laws, regulations and directives, with the exception of COUNTY’S road standards. CITY shall provide and administer all encroachment permits and other controls required by state and local laws, regulations and ordinances, provided that, in doing so, CITY need not require that said improvements be constructed to COUNTY’S road standards.

3. CITY agrees that no authorization, oversight, input or requirement other than the authority conferred by this Agreement shall be necessary from the COUNTY.

4. The term of this Agreement is indefinite and shall continue until such time as the referenced segments of Lime Street and Plano Street are annexed to CITY. The indemnity provisions contained in paragraph 7 of this Agreement shall continue in full force and effect beyond expiration by annexation or termination of this Agreement by any other means.

5. CITY hereby agrees to pay all expenses arising out of the design, operation, maintenance, construction and/or upkeep of said portions of Lime Street and Plano Street and hereby waives any claim against the COUNTY for any cost of design, operation, maintenance, construction and/or upkeep of said portion of Lime Street and Plano Street.

6. This agreement shall become effective upon the effective date of the annexation.

7. From and after the effective date of this Agreement as noted in paragraph 6 above, CITY shall have all responsibility and liability for all activities and omissions related to the design, construction, upkeep, operation and maintenance of said portion of Lime Street and Plano Street, including its integration with any connecting roads and streets, and CITY shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including, but not limited to court cost and attorney fees, death or injury to any person and/or damage to any property (including COUNTY property), arising out of or related to said design, construction,
upkeep, operation, maintenance or integration by CITY, its agents, officers, independent contractors, developers and employees. CITY specifically agrees to hold harmless, defend and indemnify COUNTY for any and all claims arising out of COUNTY’S waiver of COUNTY’S road standards and any actions or omissions by CITY in connection with any encroachment permit or other discretionary permit issued by CITY to facilitate this Agreement. This indemnification obligation shall continue beyond the term of this Agreement or any extension of this Agreement. CITY shall maintain adequate insurance coverage, either through policies issued by insurance companies or through self insurance reserves, to provide said indemnity to the COUNTY.

8. From and after the effective date of this Agreement, CITY shall enforce all traffic and pedestrian safety laws and ordinances on said portions of Lime Street and Plano Street and COUNTY shall have no responsibility or liability therefore.

9. CITY shall maintain complete and accurate records with respect to all works of improvement authorized by this Agreement.

10. This Agreement represents the entire agreement between CITY and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force of effect. No part of this Agreement may be modified without the written consent of both parties.

11. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY: RMA Director
Government Plaza
5951 S. Mooney Blvd.
Visalia, CA 93277

(Fax No.: (559) 730-2653 / Phone No. (559) 733-6291)

CITY: City Manager
291 N. Main Street
Porterville, CA 93257

(Fax No.: (559) 781-6437/ Phone No. (559) 782-7466)
Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

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

13. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

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

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

16. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

17. This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court of other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

18. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.
19. CITY expressly agrees that it will not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

BY __________________________
Chairman, Board of Supervisors

ATTEST: C. Brian Haddix,
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By __________________________
Deputy Clerk

Approved as to Form
County Counsel

By __________________________
Deputy

CITY OF PORTERVILLE

BY __________________________
Cameron Hamilton, Mayor

ATTEST: John Longley
City Clerk of the City of Porterville

BY __________________________
Georgia Hawley
SUBJECT:  TIME EXTENSION REQUEST – TULE RIVER PARKWAY WETLANDS ACQUISITION PROJECT – PHASE III

SOURCE:  PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: At its October 17, 2006 meeting, City Council was made aware that, due to staff constraints and various higher priority projects, the Tule River Parkway Wetlands Acquisition Project was significantly behind schedule and it was unlikely the project could be completed and submitted for reimbursement by the State before the April 30, 2007 deadline. Failure to meet this deadline would result in loss of $223,000 in grant funding. At the October 17 meeting, Council directed staff to reduce the scope of this project and reallocate general funds for other projects. In addition to this direction, it was suggested that staff explore the feasibility of requesting a time extension for the grant funding.

While grant funding for this project was allocated by the California Department of Transportation (Caltrans), the California Department of Finance is responsible for administration of Cooperative Work Agreements and has provided direction regarding filing a request for time extension. A two year time extension is proposed. Budgetary consideration in FY07/08 and/or FY08/09 will be required for $28,800 in matching funds. Attached is the City's completed time extension request, as well as a draft resolution of authorization.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the filing of a Cooperative Work Agreement time extension request for the Tule River Parkway – Wetlands Acquisition Project – Phase III, and;

2. Authorize the Director of Parks and Leisure Services to sign the time extension request.

ATTACHMENTS: Time Extension Request Draft Resolution

ITEM NO.: 8
RESOLUTION NO.

RESOLUTION OF THE CITY OF PORTERVILLE APPROVING
THE REQUEST FOR A COOPERATIVE WORK AGREEMENT (CWA)
TIME EXTENSION FOR THE
TULE RIVER - WETLANDS ACQUISITION PROJECT – PHASE III

WHEREAS, on October 28, 2004, the City of Porterville entered into an agreement with the State of California, acting by and through the California Department of Transportation (Caltrans) to carry out Environmental Enhancement and Mitigation (EEM) Program project number EEM-2005(012) – Tule River - Wetlands Acquisition Project – Phase III; and

WHEREAS, the City has experienced extended delays in the implementation of the Tule River – Wetlands Acquisition Project – Phase III; and

WHEREAS, the City hereby requests to the California Department of Finance for a Cooperative Work Agreement time extension to provide additional time for the City to complete this project; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville by adopting this resolution does hereby accept and approves the City’s request to the California Department of Finance for a Cooperative Work Agreement time extension; and

BE IT FURTHER RESOLVED by the City Council of the City of Porterville that the Director of Parks and Leisure Services is authorized to sign, in the name of the City of Porterville, the Cooperative Work Agreement time extension request.

APPROVED AND ADOPTED THE 5th day of December, 2006.

________________________________________
Cameron Hamilton, Mayor

ATTEST:

By: ________________________________
Georgia Hawley, Deputy Clerk
## Local Assistance Projects

CWA Cycle 4

Budget Authority Expending June 30, 2007

(As of November 13, 2006)

### DISTRICT 6

| FY  | RA | State | Agency Name | Project Name | Project Number | Project Number | Budget Name | Project Description | Total Project Cost | Expenditure Date (For FY) | Unpaid Amount | Expiration Date | Contract Amount | Similar Applications | Reason for Delay | Identified Impediments/Concerns | Will Project be Completed Within Estimated? | Local Agency Contact Name/Phone Number/Mailing Address | Additional Comments |
|-----|----|-------|-------------|--------------|---------------|---------------|-------------|-------------------|---------------------|--------------------------|---------------|----------------|----------------|-----------------|----------------|----------------|-----------------------|-----------------------------------------------|-------------------------------------------------|-------------------|
| 2006 | S | 977793 | City of Porterville | EFM 2006(012) | 05 | 06 | 06 | City of Porterville | To purchase 26 acres of wetlands and plant 25 native trees and 25 native plants | $280,000 | $2,100 | $347,805 | Yes | Yes | There are currently multiple possible trail alignments for this project. Property acquisition cannot begin until the final alignment is determined and approved by City Council. The delay is due to staff shortages and turnover in key personnel. The recent recession and the City's multi-year hiring freeze have allowed staff additions and have enabled completion of this project. The City anticipates completion of the project by June 2008. | | | |

### Signature of Approving Agency's Board or Council

[Signature]

### Print Name

**Jim Perrine**

### Date

11-27-06
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
PORTERVILLE AREA MINISTERIAL ASSOCIATION – CHRISTMAS
CHOIR CONCERT - DECEMBER 16, 2006

SOURCE: Administrative Services - Finance Division

COMMENT: The Porterville Area Ministerial Association is requesting approval to
hold a public Christmas concert of the choirs from the local churches at
Centennial Plaza on Saturday, December 16, 2006, from 1:00 p.m. to
4:00 p.m. This application is submitted in accordance with the
Community Civic Events Ordinance No. 1326, as amended.

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

RECOMMENDATION: That the Council approve the Community Civic Event
Application and Agreement from the Porterville Area
Ministerial Association, subject to the Restrictions and
Requirements contained in the Application, Agreement
and Exhibit “A” of the Community Civic Event Application.

ATTACHMENT: Community Civic Event Application and Agreement,
Exhibit “A”, map, outside amplifier permit
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 11-29-06 Event date: 12-16-06

Name of Event: Christmas Choir Concert

Sponsoring organization: DAMA PHONE # 7841844
Address: 605 E Olive
Authorized representative: Peter Schlemien PHONE # 7841844
Address: 605 E Olive
Event chairperson: Peter Schlemien PHONE # 7841844

Location of event (location map must be attached): Centennial Plaza

Type of event/method of operation: Concerts of different choirs
Christmas Concert

Nonprofit status determination: 77-0377493

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

Barricades (quantity): No
Police protection Yes No Refuse pickup Yes No
Other: electricity for power

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

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

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

Facility reservation required & obtained
No Comment 12-29-06
CITY OF PORTERVILLE

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

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

City Code requirements:

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

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

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

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

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

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

[Signatures and dates]
REQUIREMENTS FOR COMMUNITY CIVIC EVENT
PORTERVILLE AREA MINISTERIAL ASSOCIATION
CHRISTMAS CHOIR CONCERT
DECEMBER 16, 2006

Business License Supervisor: 
S. Perkins
No requirements.

Public Works Director: 
B. Rodriguez
No comments.

Community Development Director: 
B. Dunlap
No comments.

Field Services Manager:
B. Styles
No comments.

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

Parks and Leisure Services Director:
J. Perrine
Facility reservation required and obtained

Police Chief:
C. McMilian
No comments.

Deputy City Manager: 
F. Guyton
No comments.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Porterville Area Ministerial Agency
Event: Christmas Choir Concert
Event Chairman: Peter Schalembier
Location: Centennial Plaza
Date of Event: December 16, 2006
Time of Event: 1:00 pm to 4:00 pm

RISK MANAGEMENT: Conditions of Approval

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

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

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

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

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

1. Name and home address of the applicant:
   PAMA / First Assembly of God  Phone #  784-1844
   105 E Olive

2. Address where amplification equipment is to be used:
   Main street

3. Names and addresses of all persons who will use or operate the amplification equipment:
   Richard Hartenberg  /  Peter Schlembeck

4. Type of event for which amplification equipment will be used:
   Christmas concert in the park

5. Dates and hours of operation of amplification equipment:
   Dec 16 1 - 4 pm

6. A general description of the sound amplifying equipment to be used:
   2 Speakers ± 100 W THM
I hereby certify that all statements and answers on this registration form are true and correct.

[Signature]
Applicant

[Signature]
Chief of Police

11-29-06
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 REVOCAION OF THE PERMIT.

cc:

_________________________________

_________________________________

_________________________________

3/27/01
SUBJECT: Tulare County Regional Emergency Management Mutual Aid Agreement

SOURCE: Fire Department

COMMENT: It is mutually understood that a disaster of unprecedented magnitude and/or destructiveness could impact Tulare County, its municipalities, and/or communities, thus exceeding their individual responses and recovery capabilities. A cooperative effort by the Cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia, Woodlake, as well as Tulare County, recognizes that it is vital to coordinate an emergency management program to form a mutual aid agreement between units of local government. Additionally, it will address consequence management issues arising from an emergency or disaster, whether natural or man-made.

This Emergency Management Mutual Aid Agreement will provide to any city listed above additional resource and manpower in the form of public works employees, building inspectors, City Managers, law enforcement, and public health workers beyond that which they are able to furnish from its own resources. This agreement is for resources outside of public safety. (There is currently in place, a 7-city Mutual Aid Agreement with the Public Safety Departments.)

In the event of a disaster, it is mutually understood that each party’s foremost responsibility is to its own citizens. This agreement may be terminated any time, provided that proper written notice is given to all agencies participating in this agreement.

The City Attorney has reviewed and approved the attached Agreement.

RECOMMENDATIONS: That the City Council:

1. Approve the attached Tulare County Regional Emergency Management Mutual Aid Agreement.

2. Authorize the Mayor to sign documents related to the Agreement.

ATTACHMENT: Tulare County Regional Emergency Management Mutual Aid Agreement

Item 10
TULARE COUNTY REGIONAL EMERGENCY MANAGEMENT

MUTUAL AID AGREEMENT

This agreement made and entered into on the date set forth next to the authorized signature of the respective parties, by and between the units of municipal Government subscribed hereto (hereafter “Unit(s)”) that have approved the Agreement and adopted same in manner as provided by law and are hereafter listed at the end of this Agreement.

It is mutually understood that a disaster of unprecedented magnitude and/or destructiveness could impact Tulare County, its municipalities, and/or communities exceeding the unit’s individual response and recovery capabilities. As a result of this fact, it is deemed desirable to insure that the entire County be prepared to adequately address these events to preserve and protect the health, safety, and welfare of the public.

It is important that all cities, villages, communities, and townships within Tulare County embrace a cooperative and coordinated emergency management program forming a mutual aid agreement between units of local government, to address consequence management issues arising from an emergency or disaster whether natural or man-made.

In consideration of the foregoing premises, the Units hereto recognize that such an emergency or disaster is likely to occur and desire to agree in advance to provide assistance, one to each other, to address the consequence management issues of an emergency or disaster forming the system of mutual aid and assistance as follows:

SECTION I

Purpose

It is recognized and acknowledged that in the case of an emergency or disaster, whether natural or man-made, arising within the jurisdictional boundaries of a Unit, it is often desirable
and necessary to require additional equipment and manpower in the form of, but not limited to, building inspectors, City Managers, law enforcement personnel, public works employees, and public health care workers beyond that which each individual Unit is able to furnish from its own resources. The agreement and the authority of the personnel listed above are intended to provide complimentary support to the Tulare County Emergency Services Manager during a local emergency. The Emergency Services Manager is the first responder for the County in the event of an emergency and will set up the Emergency Operations Center “EOC.” It is mutually understood that each party’s foremost responsibility is to its own citizens. The provisions of this Agreement shall not be construed to impose an unconditional obligation on any party to provide aid and assistance pursuant to a request from another party.

SECTION II
Definitions

For the purpose of this agreement, the following terms as used herein shall be defined as follows:

Aid and Assistance: Includes, but is not limited to personnel, equipment, facilities, services, supplies, and any other resources needed to respond to a disaster.

Stricken Unit: A unit of local government requesting aid in the event of an emergency or disaster.

Aiding Unit: A unit of local government furnishing equipment, personnel, and/or services to a stricken unit.

Emergency: An occurrence or condition within the Unit’s territorial jurisdiction which results in a situation of such magnitude and/or consequence that it cannot be adequately handled by the stricken unit and such that a Unit determines the necessity and advisability of requesting aid and declares an emergency.
Emergency Services Manager: Supervisor of the day-to-day administration of the County’s emergency management programs including civil defense, emergency preparedness, and Homeland Security grant programs.

Chief Executive Officer: The County’s Chief Administrative Officer, Health Director, or his/her designee, including the Emergency Manager.

Provider: Entity that creates or provides services to the community.

SECTION III

Mutual Aid System Activation

In the event of an emergency or disaster within the jurisdiction of the stricken unit, assistance may be requested under this plan by notifying the emergency manager serving the aiding unit of the nature and location of the incident and the type and quantity of equipment and/or personnel needed. All communications shall be conducted directly between stricken unit and aiding unit’s emergency manager. Stricken unit shall be responsible for the costs and expenses incurred by all Providers providing aid and assistance pursuant to the provisions of this Agreement to the best of the unit’s ability.

Required Information

Each request for aid and assistance shall be accompanied by the following information, in writing or by any other available means, to the extent known:

**Stricken Area and Status:** A general description summarizing the condition of the community (i.e., whether the disaster is imminent, in progress, or has already occurred) and of the damage sustained to date;

**Services:** Identification of the service function(s) for which assistance is needed and the particular type of aid and assistance needed;
**Infrastructure Systems:** Identification of the type(s) of public infrastructure system for which aid and assistance is needed (water/sewer, storm water systems, streets, etc.) and the type of aid and assistance needed;

**Aid and Assistance:** The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needing;

**Facilities:** The need for sites, structures, or buildings outside Recipient’s geographical limits to serve as staging areas for incoming emergency goods and services; and

**Meeting Time and Place:** An estimated time and a specific place for a representative of stricken unit to meet the personnel and resources of any aiding unit.

The emergency manager will then coordinate the acquisition and response of the said resources noting not to completely deplete the emergency resources of the aiding region. All functions and activities performed under this Agreement are hereby declared to be governmental functions. Functions and activities performed under this Agreement are carried out for the benefit of the general public and not for the benefit of any specific individual or individuals. Accordingly, this Agreement shall not be construed or deemed to be an agreement for the benefit of any third parties or persons and no third parties or persons shall have any right of action under this Agreement for any cause whatsoever. All immunities provided by law shall be fully applicable.

**SECTION IV**

**Incident Management System**

The National Incident Management System (NIMS), as adopted by the United States Department of Homeland Security, March 01, 2004, provides structure and coordination to the management of emergency incident operations in order to provide for the safety and health of first response personnel and other persons involved in the disaster response and recovery effort.
Therefore, it is agreed that participants in this agreement shall operate under the tenants of NIMS.

SECTION V

Jurisdiction Over Personnel and Equipment

Personnel sent to aid a Unit pursuant to this Agreement shall remain employees of the aiding unit. The aiding unit shall at all times have the right to withdraw any and all aid upon the order of its Chief Executive Officer, Emergency Manager, or his/her designee provided; however, the Unit withdrawing such aid shall notify the Incident Commander in Charge of the Unit requesting aid of the withdrawal of such aid and the extent of such withdrawal.

SECTION VI

Compensation for Aid

Costs for equipment, personnel, and/or services provided pursuant to this Agreement shall be documented by the stricken unit to the best of its ability. Personnel: Aiding unit shall continue to pay its employees according to its then prevailing ordinances, rules, regulations, and collective bargaining agreements. At the conclusion of the period of aid and assistance, the aiding unit shall document all direct and indirect payroll costs plus any taxes and employee benefits which are measured as a function of payroll (i.e., FICA, unemployment, retirement, etc.).

Equipment: Aiding unit shall document the use of its equipment during the period of aid and assistance including without limitation all repairs to its equipment as determined necessary by its on-site supervisor(s) to maintain such equipment in safe and operational condition, fuels, miscellaneous supplies, and repairs directly caused by provision of the aid and assistance.

Materials and Supplies: Aiding unit shall document all materials and supplies furnished by it and used or damaged during the period of aid and assistance.
Reimbursement of Costs: Aiding unit’s costs as documented in this Section will be invoiced to stricken unit and claimed by stricken unit for any disaster fund recovery. If any funds are received as part of the disaster recovery, aiding unit shall be reimbursed. The stricken unit and/or aiding unit together or alone shall apply for disaster or emergency relief through the Response Information Management System “RIMS” or as extraordinary charges against the state according to Government Code Section 8633 or for federal relief.

SECTION VII

Insurance

Each unit hereto shall procure and maintain, at its sole and exclusive expense, insurance coverage including: comprehensive liability, personal injury, property damage, workers’ compensation, and, if applicable, emergency medical service professional liability. No unit hereto shall have any obligation to provide or extend insurance coverage for any use of the terms enumerated herein to any other Unit hereto or its personnel.

SECTION VIII

Indemnification

Each Unit hereto agrees to waive all claims against all other units hereto for any loss, damage, personal injury, or death occurring in consequence of the performance of this Mutual Aid Agreement provided, however, that such claim is not a result of gross negligence or willful misconduct by a party hereto or its personnel.

Each Unit requesting or providing aid pursuant to this Agreement hereby expressly agrees to hold harmless, indemnify, and defend the Unit rendering aid and its personnel from any and all claims, demands, liability, losses, damages, costs, suits in law, or in equity which are made by a third party. This indemnity shall include attorney fees and costs that may arise from
providing aid pursuant to this Agreement. All employee benefits, wages and disability
payments, pensions, workers’ compensation claims, damage to or destruction of equipment and
clothing, and medial expenses of the Unit rendering aid shall be the sole and exclusive
responsibility of the respective Unit of its employees. This will operate from a presumption that
such claims made by a third party are not the result of gross negligence or willful misconduct on
the part of the party rendering aid.

SECTION IX

Non-Liability for Failure to Render Aid

The rendering of assistance under the terms of this Agreement shall not be mandatory if
local conditions of the aiding unit prohibit response. It is the responsibility of the aiding unit to
immediately notify the stricken unit of the aiding units inability to respond. However, failure to
immediately notify the stricken unit of such inability shall not constitute evidence of
noncompliance with the terms of this section and no liability may be assigned. No liability of
any kind or nature shall be attributed to or be assumed, whether expressly or implied, by a Unit
hereto, its duly authorized agents and personnel, for failure to render aid. Nor shall there be any
liability of a party for withdrawal of aid once provided pursuant to the terms on this Agreement.

SECTION X

Terms

This Agreement shall be in effect for a term of one year from the date of signature hereof
and shall be renewed via amendment unless terminated in accordance with this section. Any
Unit hereto may terminate its participation in this Agreement at any time, provided that the Unit
wishing to terminate its participation in this Agreement shall give a written notice to the Units
participating in the Agreement, specifying the date of termination. Such notice shall be given at
least 30 calendar days prior to the specified date of termination of participation. The written notice provided herein shall be given by personal delivery, registered mail, or certified mail.

**SECTION XI**

**Effectiveness**

This Agreement shall be in full force and effective upon approval by the Units hereto in the manner provided by law and upon proper execution hereof. This agreement does not supercede the public safety agreement currently in force.

**SECTION XII**

**Validity**

The invalidity of any provision of this Agreement shall not render invalid any other provision. If for any reason, any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision shall be deemed severable and this Agreement may be enforced with that provision severed or modified by court order.

**SECTION XIII**

**Governing Law**

This Agreement shall be governed, interpreted, and constructed in accordance with the laws of the State of California.

**SECTION XIV**

**Amendments**

This Agreement may only be amended by written consent of all the parties hereto. The undersigned unit of local government hereby has adopted and subscribes to and approves this
Tulare County Regional Mutual Aid Agreement to which this signature page will be attached, and agrees to party thereto and be bound by the terms thereof.

SECTION XV

Date of Adoption

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<tr>
<th>Municipality</th>
<th>Date Adopted</th>
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<tr>
<td>TULARE COUNTY</td>
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<td>CITY OF DINUBA</td>
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<td>CITY OF WOODLAKE</td>
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THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

By__________________________ Date________________________

Chairman

Approved as to Form

County Counsel

By__________________________ Date________________________

Deputy County Counsel

CITY OF PORTERVILLE

By__________________________

Cameron Hamilton, Mayor

By__________________________

John Longley, City Clerk

By__________________________ Date________________________

Julia Lew, City Attorney; approved as to Form
COUNCIL AGENDA: December 5, 2006

SUBJECT: TULARE COUNTY REGIONAL PASS

SOURCE: Administration (Transit)

COMMENT: On Tuesday, November 28, 2006, staff attended the Tulare County Transit Forum meeting and received an update on the progress for the implementation of a Tulare County Regional Pass system for public transportation. This has been a project contemplated for at least six years, and because of varying fare structures throughout the county, and other barriers, it has been difficult to formulate a plan that would be appropriate for all agencies. However, this issue has now been designated as “an unmet transit need,” and it becomes imperative that a plan be implemented as soon as possible. The urgency comes into play because as long as unmet transit needs exist, Local Transportation Funds will not be released by the County to any agency for streets and roads projects.

Tulare County Area Transit has offered to use their existing regional pass, which they now offer for all areas of Tulare County for use on their system, and modify it for use as an area-wide transit pass. The County will administer the program, print the passes, and supply all of the transit agencies with a supply of passes for sale at a designated site. They will not charge any administrative fee for their coordination efforts. The price of the pass will be $45 per month, and would be honored by all transit agencies (no additional fare will be charged for the boarding passenger). Each transit system will be responsible for tracking the number of County passes sold each month, the number of boarding passengers using the regional pass, and a monthly report will be compiled and forwarded to the County. The County will then supply each agency with a quarterly report analyzing the sale of passes and number of passengers during that particular quarter.

When the Local Transportation Funds (LTF) Agreements are executed for each agency (usually in August of each year), there will be a separate line item showing the amount of money due each agency for their portion of the farebox revenue received as a result of the regional passes sold. The amount of compensation will be based simply on the number of riders utilizing the pass. For

Appropriated/Funded

Item No. 11
instance, if 100 passes are sold, and the City of Porterville had 25% of the total number of passengers using the regional pass, then Porterville would receive 25% of the revenue received for the sale of the passes.

At the present time, it is anticipated that Porterville may very well be the agency with the greatest number of riders under this new system. Currently, the cities of Visalia and Tulare offer free transfers for passengers using both systems, so it is unlikely that many of their passengers will spend the additional $45 per month for a county pass. It would seem unlikely that the majority of our passengers would want to purchase the county pass ($45 vs. $36 for our City pass), unless they are passengers needing county services not available in Porterville. But it is expected there will be some of our passengers who may benefit greatly from this county-wide transfer program. Since this is a new prospect for us, it is not known how this may impact our system. The one main concern of staff is the unknown factor of how this will affect ticket sales to county agencies such as Tulare County Department of Education and Central Valley Regional Center. These agencies now purchase large quantities of our transit tickets for use by their clients. If their clients are strictly Porterville area residents, it may not affect our revenue projections at all. However, if they are clients who travel in Porterville and also need county services, they may feel it more economical to purchase the county-wide pass.

Overall, the implementation of a county-wide pass is a very positive step for transportation improvements and access for transit-dependent passengers. The estimated date of implementation is March of 2007. Staff will monitor this program very closely, and if it appears it is having a negative impact on the City of Porterville, we will address it with the County of Tulare and all participating agencies. During our discussion, it was agreed that if any negative impacts are occurring, we will collectively address them and find solutions to make it a program that is beneficial for all agencies and their riding public.

RECOMMENDATION: That the City Council:

1. Authorize staff to prepare and sign a letter of support addressed to the County of Tulare for implementation of the Tulare County Regional Pass system.
PUBLIC HEARING

SUBJECT: VACATION OF A PORTION OF GARDEN AVENUE BETWEEN FOURTH STREET AND THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY PROPERTY (JORGE RAMOS)

SOURCE: Public Works Department – Engineering Division

COMMENT: This is the time and place set for the hearing on the proposed vacation of a portion of Garden Avenue between Fourth Street and the Atchison, Topeka and Santa Fe Railroad Company property. Mr. Jorge Ramos represents the proprietary interest to all the property fronting the proposed street vacation and is hereby the requesting party.

As a part of the street vacation, the City will retain, for public use, access easements through Garden Avenue between Fourth Street and the railroad property. These easements are necessary for pedestrian access to the ‘Rails to Trails’ and for maintaining a water line connected to a Municipal water well.

RECOMMENDATION: That City Council:

1. Adopt the Resolution of Vacation, including reservations, for a portion of Garden Avenue between Fourth Street and the Atchison, Topeka and Santa Fe Railroad Company property; and

2. Authorize the City Clerk to record the Resolution of Vacation and Easement Deed with the County Recorder

ATTACHMENTS: Resolution
Exhibit “A” - Legal Description
Exhibit “B” - Map of Right of Way Abandonment
Exhibit “C” - Reservations and Exceptions

P:\PUBWORKS\ENGINEERING\COUNCIL ITEMS\2006-12-05 PUBLIC HEARING - VACATION OF A PORTION OF GARDEN AVENUE.DOC

Item No. 12
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ORDERING THE VACATION AND CLOSING TO PUBLIC USE, A PORTION OF GARDEN AVENUE BETWEEN FOURTH STREET AND THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY PROPERTY

WHEREAS, by Resolution No. 138-2006, passed on November 7, 2006, the Council of the City of Porterville declared its intention to vacate a portion of Garden Avenue between Fourth Street and the Atchison, Topeka and Santa Fe Railroad Company property, hereinafter more particularly described, and set the hour of 7:00 p.m. on the 5th day of December, 2006, in the Council Chambers of said City as the time and place for hearing all persons objecting to the proposed vacation; and

WHEREAS, such public hearing has been held at said time and place, and there were no protests, oral or written, to such vacation;

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

SECTION 1: The Council hereby finds, from all the evidence submitted, that the street right of way hereinafter described is unnecessary for present or prospective right of way, and the City Council hereby makes its order vacating said portion of Garden Avenue between Fourth Street and the railroad property east of Fourth Street which is described in the legal description attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2: The subject street vacation shall be subject to the reservations of a pedestrian access easement through and across the northern portion of the street vacation and an easement for a water line and access to a Municipal water well through and across the southern part of the street vacation which is described in the legal description attached hereto, marked Exhibit "A" and shown on Exhibit "B" and by reference made a part hereof.

SECTION 3: The subject street vacation shall be subject to the reservations and exceptions set forth in Exhibit "C" which is attached hereto and by reference made a part hereof.

SECTION 4: The City Clerk shall cause a copy of this resolution to be recorded in the office of the County Recorder of Tulare County, California.

SECTION 5: The City Clerk shall certify to the passage and adoption of this resolution and it shall thereupon take effect and be in force.

______________________________
Cameron Hamilton, Mayor

ATTEST:

______________________________
John Longley, City Clerk
EXHIBIT ‘A’ - LEGAL DESCRIPTION

That portion of Garden Street, in the City of Porterville, County of Tulare, State of California, according to the Map thereof recorded in Book 7, Page 11 of Maps, in the office of the County Recorder of said County, in the Southwest quarter of Section 25, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, described as follows:

Beginning at the Northwest corner of Lot 1 in the West half of Block 18 of said City of Porterville as shown on said Map;

Thence East along the South right of way line of said Garden Street, 138.3 feet to a point in the East line of said City of Porterville as shown on said Map, said point also being the Northeast corner of Lot 4 in the East half of Block 18 of said City of Porterville;

Thence Northwesterly along said East line 60 feet more or less to a point on the North right of way line of said Garden Street, said point also being the Southeast corner of Lot 1 in the East half of Block 19 of said City of Porterville;

Thence West along the North right of way line of said Garden Street, 135.2 feet to the Southwest corner of Lot 4 in the West half of Block 19 of said City of Porterville;

Thence South 60.0 feet to the Point of Beginning.

RESERVING UNTO THE CITY OF PORTERVILLE an easement for pedestrian access over and across the South 20.00 feet of the North 30.00 feet thereof.

ALSO RESERVING UNTO THE CITY OF PORTERVILLE an easement for water line upon, over, across and within the North 10.00 feet of the South 25.00 feet thereof AND that portion of the South 25.00 feet thereof lying East of the Northerly projection of the Easterly line of said Block 18.
EXHIBIT 'B'

MAP OF RIGHT OF WAY ABANDONMENT

BEING A PORTION OF GARDEN STREET, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 1, PAGE 11 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 21 SOUTH, RANGE 27 EAST, MOUNT DIABLO BASE AND MERIDIAN.

OCTOBER 2006

PREPARED BY: NEIL ZERLANGE - LAND SURVEYOR
209 E. NOBLE AVENUE, VISALIA, CA. 93271; PHONE: (559) 739-1616

LEGEND

1  PORTION OF GARDEN STREET TO BE ABANDONED.
2  20.0 FOOT EASEMENT FOR PEDESTRIAN ACCESS.
3  EASEMENT FOR WATER LINE AND ACCESS TO MUNICIPAL WATER WELL.

CITY OF PORTERVILLE

SCALE: 1" = 40'

VICINITY MAP
NOT TO SCALE

ONE SHEET ONLY
EXHIBIT "C"

RESOLUTION NO.: _________

Reservations and Exceptions:

The City reserves and excepts from the vacation the permanent public utility easement and right at any time, or time to time, to construct, maintain, operate, replace, remove, renew, enlarge, and expand public utilities, and/or appurtenant structures in, upon, over and across any street or alley or part thereof proposed to be vacated and pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operations of gas pipe lines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and incidental purposes, including access and the right to keep the property free from inflammable materials, and wood growth, and otherwise protect the same from all hazards in, upon, and over the street or alley or part thereof proposed to be vacated.
CITY COUNCIL AGENDA: DECEMBER 5, 2006

PUBLIC HEARING- CONTINUED

SUBJECT:  ENNIS ESTATES TENTATIVE SUBDIVISION MAP (ENNIS HOMES)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On October 3, 2006, the City Council continued the public hearing for the proposed Ennis Estates project. That evening, representatives of Ennis Homes presented information to the City Council regarding the compatibility of the project and adjacent projects. The applicant requested that the matter be continued to a later date to allow time for further discussion between the interested parties. The applicant has requested a number of continuances in an effort to work out design issues with adjacent property owners. While progress has been made, the applicant is requesting that the item be continued until December 19, 2006, as the applicant will be out of town.

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 continue the item to the December 19, 2006 meeting.
During the budget development process of 2006/2007, Council authorized $30,000 from the General Fund to support code enforcement activities and authorized a non-sworn Code Enforcement Officer within the Fire Department structure. With the supplemental appropriation from the General Fund, a full time Code Enforcement Officer was designated. The expectation, at this time, is for the new code enforcement officer to spend their time dealing with general (non-technical) code issues on a complain basis, like illegal vendors, business license complaints, illegal signage, roofing contractors without permits, weed abatement, hazard abatement, or any singular request from Council. It is anticipated the Code Enforcement Officer will be on board by January 1, 2007. During the first few months, staff will closely monitor the program, continue to define the problems and priorities, and report back to Council on their findings. During the budget development process staff will submit their report and request Council direction on priorities. As the current singular approach does not allow for a broad based attack on all code violations, staff will be limited on what they can accomplish. Staff will prioritize the workload during the initial startup phase and keep the Council informed.

Below is a listing of our neighboring cities and their code enforcement staffing levels along with our proposed level of staffing.

<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visalia</td>
<td>110,000</td>
<td>1</td>
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<td>Tulare</td>
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<td>Porterville</td>
<td>52,000</td>
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<tr>
<td>Hanford</td>
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</tr>
<tr>
<td>Selma</td>
<td>22,000</td>
<td>1</td>
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</table>
Staff is currently developing a systems approach to the duties and tasks of an enforcement program. Each department will designate a person as their “Point of Contact” for code issues. All departmental P.O.C’s will meet regularly with the Code Enforcement Officer to coordinate their combined approach to various issues.

As the tasks for the new Code Enforcement Officer do not include “in-depth” technical knowledge of any specific discipline, it will be necessary for individual departments to continue expending resources on compliance issues. Also, there are no provisions for the Code Enforcement Officer to have any support staff.

The City Attorney’s office has been directed to develop an Administrative Program with Administrative Remedies for violations of the City Code and related issues. This program will also include a resolution from Council authorizing the City Manager, in concurrence with the City Attorney, to proceed with enforcement actions as needed.

There are currently nine (9) major code issues being handled by the City Attorney’s office. If these issues were assigned to the Code Enforcement Officer it would be beyond their skill sets and completely consume their time.

A review of pending code complaints by department indicates there are over 100 active cases. A Code Enforcement Officer, without administrative support and staff, should be able to carry a caseload of 20 active cases. As single cases are closed, new ones will be added and prioritized on their list. As the priorities may change depending on the severity of the issue, no employee shall infer to the public any timelines involving code enforcement.

RECOMMENDATION: That the City Council:

1. Accept this informational report.
2. Approve the implementation concept.
3. Direct staff to bring back a review of the program during budget development.

ATTACHMENTS: None
SUBJECT: RECRUITMENT OF A DEPUTY CITY MANAGER

SOURCE: ADMINISTRATION

COMMENT: With the upcoming retirement of the Deputy City Manager/Fire Chief in December 2006, and the current City Manager’s contract expiration in June 2008, staff has developed a draft job description and funding source to create a full time Deputy City Manager position. The person recommended to fill this newly created position will be selected by the City Manager with participation from the City Council. The objective will be to have him/her in a City Manager training role and for the incumbent to be considered for the City Manager’s position when it becomes vacant.

Cooperative Personnel Services conducted a Pay and Classification Study for the City using eight valley cities. CPS recommended the Deputy City Manager be paid 10% above the highest paid department director. In order to be competitive and to attract qualified candidates, Staff is recommending the approval of the following pay and benefit package for the new position of Deputy City Manager: (Pay Range 253, $98,028-$119,592), plus the same benefits approved for all department heads. A 5% increase may be authorized should this person also perform the duties of Airport Manager.

This position will, along with the City Manager, oversee all departments, with emphasis on public works, community development and risk management. Funding for this position will be spread among various funds in accordance with the attached spreadsheet. This funding methodology will be initiated in April, 2007, and be a component of the 2007/2008 fiscal year budget.

Until April or May, 2007, the City Manager is requesting authorization to appoint a current department director to the position of Acting Deputy City Manager while still maintaining their current organizational responsibilities. A ten percent (10%) pay differential for these additional duties will be budgeted from the Risk Management Account.

A draft job description and resolution are attached for Council consideration.
The candidate pool for this type of position is very limited and highly competitive. According to the California League of Cities, for every ten City Managers retiring, only five or six are entering the profession.

The Council may choose to have the recruitment done by a professional executive search firm or by the City’s Human Resource Division. While an in-house approach will save money, it will interfere with the current and ongoing recruitments the City is currently undertaking. Also, staff does not have access to the list of potential applicants that the various executive search firms have. A professional executive search firm will charge $25,000-$30,000 to conduct the process from start to finish.

Staff has surveyed the members of the Central San Joaquin Valley Risk Management Authority, which is made up predominately of department heads from 58 Central Valley Cities, to determine who might be interested in becoming our Deputy City Manager with the strong possibility of becoming our next City Manager. Only two people expressed interest, and only if the City would waive the residency requirement for the City Manager’s position. This highlights the need for a professional search firm to conduct an extensive outreach to find viable candidates.

RECOMMENDATION: That the City Council:

1. Approve the recruitment of a Deputy City Manager who may succeed the current City Manager.

2. Approve the attached Resolution and job description.

3. Authorize a budget adjustment to implement the attached allocation methodology.

4. Determine whether to use in-house staff or a professional executive search firm for the recruitment of a Deputy City Manager. If an executive search firm is approved, authorize $30,000 from the City’s unallocated General Fund Reserve for the recruitment.

5. Authorize the City Manager to appoint an existing director as an additional duty to serve as Deputy City Manager with a 10% pay differential.

ATTACHMENTS: 1) Draft Resolution
2) Job Description
3) Draft Allocation of Monies to Fund the City Manager’s Department.
RESOLUTION No. __________ - 2006

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE PROVIDING FOR THE
REORGANIZATION OF CITY FORCES

Whereas, the City Council has acted to provide for the reorganization of the City Manager’s office, effective January 1, 2007; and

Whereas, the reorganization of City departments is periodically beneficial to enhance the economy and efficiency of City operations; and

Whereas, the City Manager has considered the current organization of the staff and in consultation with the department directors has defined an organizational structure that will enhance organizational integration and effectiveness; and

Whereas, the structure has been recommended to the City Council for consideration and adoption to be implemented.

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

1. Establish the classification of Deputy City Manager at Salary Range 253 ($8169-$9966), effective January 1, 2007. This position shall be designated as exempt from the Competitive Service.

2. Amend Section II, Position Allocation Schedule and Position Pay Plan of the Employee Pay and Benefit Plan to reflect this allocation.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

Attest:

Cameron Hamilton, Mayor

Georgia Hawley, Chief Deputy City Clerk
CITY OF PORTERVILLE

DEPUTY CITY MANAGER
JOB DESCRIPTION

DEFINITION

The Deputy City Manager is an exempt management position. The Deputy City Manager is the principal assistant to the City Manager; as directed, acts for the City Manager in his/her absence; within the City Manager’s office is responsible, in conjunction with the City Manager, for managing the day-to-day activities of the various departments.

SUPERVISION RECEIVED/EXERCISED

General supervision is received from the City Manager. Exercises supervisory responsibilities over professional and support staff.

TYPICAL DUTIES

1. Serves as principal assistant to the City Manager providing advice and assistance on matters associated with municipal management.

2. As assigned, either personally or through others, undertakes a variety of special studies and projects.

3. Works closely with the Administrative Services Manager on issues of Risk Management and Labor Relations.

4. Administers selected franchise agreements.

5. As directed, provides management advice and assistance to operating departments.

6. Under the direction of the City Manager, exercises overall responsibility for the delivery of City services.

7. Oversees preparation of the City Budget.

8. Coordinates department activities with those of other City departments.

10. Serves as the City’s Hearing Officer on labor and employment issues.

11. Advises and makes recommendations to the City Manager on matters related to personnel; provides similar advice to City staff.

12. Assists in the formulation and implementation of City policies and procedures.

13. Interacts with other city and county agencies on a regular basis.

14. Interacts with the public on a regular basis and attends various city and public events.

15. Assists the City Manager with the management of the Municipal Airport.

MINIMUM QUALIFICATIONS

Knowledge of:

Thorough knowledge of modern municipal government principles and practices, particularly as they apply to overall city government.

Skills:

1. General management skills to include goal setting, planning, organizing, staffing, decision making, coordinating, problem solving, conflict resolution, budget preparation and administration.

2. Excellent writing and speaking skills.

Education:

Bachelor degree from an accredited university or college in a field of study appropriate to municipal management. A Masters degree in public or business administration is desirable.

Experience:

A minimum of five years of progressively more responsible and varied experience in public management; municipal management experience preferred.

License:

Possession of a valid Class C California driver’s license.
CITY COUNCIL AGENDA

December 5, 2006

SUBJECT: Consideration of Establishing Priority Projects
For 2007

SOURCE: City Manager

The City Council has held two planning sessions. The former was lead by Ms. Lucie Garcia and addressed issues affecting the community. The second was focused on priority projects. Project priorities were defined through staff specifying current project commitments, providing recommendations on important projects in other departments and the Council members defining their most important project in each department and also their most important project overall.

To establish overall priorities, each project that received any vote was placed on a list. In all, this consisted of 41 projects. To emphasize projects where we are currently engaged and committed and projects seen by council members as overall priorities, a weighting of 5 points was provided. For all other voting, 1 point was assigned. The list as compiled has been attached.

The resulting list, provided the following 10 top projects:

✓ Airport Water Inter-Tie
✓ General Plan
✓ Jaye Street Widening/190 to Springville
✓ Effluent Pipeline Project
✓ Police Officer Recruitment
✓ Porterville Hotel Project
✓ Meet And Confer Budget Analysis
✓ Courthouse Project
✓ Police Gang Enforcement Projects
✓ Implementation of Skate Park

What does Priority Project mean? Every month, these projects will be featured in the monthly project report. Where decisions are made to allocate resources (staff time and monies), it will be to accomplish priority projects. Also, in December 2007, the status of priority projects will be closely reviewed. Other projects that have been committed or are under direction to be completed will continue to be pursued unless specific direction is provided by the City Council.

RECOMMENDATION: Approve a list of 10 priority projects. Approve the statement defining how priority projects will be managed and reviewed.
## PRIORITY PROJECT ANALYSIS FOR 2007
Analysis Based on Committed Project & Councilmember Green Priority

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<th>Priority Project Number</th>
<th>Department</th>
<th>Project</th>
<th>Blue Department Head Committed</th>
<th>Yellow Department Head Other Dept Priority</th>
<th>Green Councilmember Overall Priority</th>
<th>Red Councilmember Dept Priority</th>
<th>1 Point Each 5 Points for Committed &amp; Council Green</th>
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SUBJECT: Consideration of A Proposed Letter to Assemblyman Maze Defining Porterville’s Legislative Proposals

SOURCE: City Manager

Since gaining his seat in the Assembly, Mr. Maze has asked each year for specific legislative proposals from the Porterville City Council. These have been submitted for his consideration.

A fair amount of law has developed consistent with the proposals from Porterville. Most notably, legislation was carried to improve access to higher education in rural areas such as Kings and Tulare counties and passed in a previous session.

The draft letter prepared for this year includes proposals to modify the Ralph Brown Act regarding City Council organization, legislatively establishing an enterprise zone in Porterville, supporting work on Highways 65 and 190.

In addition, the letter request very significant funding to support several key community projects. Regarding these request, there are no guarantees. They do, however, express vital community needs when some funding may be available.

RECOMMENDATION:

Approve the letter to Assemblyman Maze and transmit it with the Mayor’s signature. In addition, the City’s Legislative Program for 2007 should be prepared in substantially the same form as the letter and provided to the City’s other legislators.

Item No. 17

City Manager Longley
December 5, 2006

The Honorable Bill Maze
Assemblyman, 34th District
P.O. Box 942849
Sacramento, California 94249-0034

Dear Assemblyman Maze:

We thank you very much for your letter of October 11, 2006 asking the City of Porterville for legislative proposals. You have done this each year and it becomes the focus of the City’s effort to formulate a legislative program.

This year the Council met to review the matter. We have formulated the following legislative proposals to address important needs within the Porterville community.

1. **Ralph Brown Act: Council Organization:** The City Council needs to meet periodically to consider internal organizational matters. The Ralph Brown Act now requires that this be done in open session. It is the conclusion of the City Council that there should be a specific authorization in the Ralph Brown Act that would allow City Councils to meet at least two times per year in closed session to discuss internal organization. Actions would not be able to be taken at the closed session, but it would provide an opportunity for Council members to air perspectives on how the City Council organization is operating.

2. **Enterprise Zone:** On several occasions in the past we have written to you about the enterprise zone designation. This year, Porterville’s designation expired in October. We are now completing an environmental review for the designation. We respectfully request that through legislation, Porterville be re-designated for the enterprise zone.

3. **Highway 65 and Highway 190:** Porterville’s highest priority year-in-and-year-out has been assistance with funding to complete Highway 65 to four lanes between Porterville and Bakersfield or Highway 190 to four lanes between Porterville and Tipton. This is so important and there is always little progress with the project. Your assistance is critical to expedite these projects.
4. **State Bond Act Projects:** In the November 2006 election, the electorate passed several bond issues. You assistance in having monies earmarked for the following projects is requested:

   **A. Proposition 1C-Housing and Emergency Shelter Trust Fund Act of 2006:** An earmark of $7,000,000 is requested to support the replacement of water and sewer facilities in Porterville neighborhoods east of Main Street. This area has great potential for infill housing construction, however to achieve this objective new infrastructure must be installed.

   **B. Proposition 1D-Kindergarten – University Public Education Facilities Bond Act of 2006:** An earmark of $12,000,000 is request to support the remodeling of current schools sites for the development of a Health Careers Institute. The institute would provide educational opportunities for nurses and other health care professional to meet critical health care needs in the region and throughout California. It is anticipated that this project would potentially be a partnership involving Porterville College, Porterville schools, Sierra View District Hospital, the City of Porterville and State agencies.

   **C. Proposition 84-Water Quality, Safety and Supply, Flood Control, Natural Resource Protection, Park Improvements, Bonds, Initiative Statute:** An earmark of $10,000,000 is requested to support the development of a field sports facility near Porterville College. This project is anticipated to be a partnership involving Porterville College, Porterville schools, the City of Porterville and potentially the County of Tulare.

The City of Porterville deeply appreciates this opportunity to comment on proposed legislation for the coming session. Representatives of the City Council and the City Manager would like to meet with you to discuss the programs outlined above.

Sincerely,

Cameron Hamilton
Mayor
October 11, 2006

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

Dear Mr. Longley,

The Legislature has adjourned until December 2006. During the fall interim, I once again turn to the local representatives in Assembly District 34 for their legislative priorities, ideas, and needs.

As a representative for your jurisdiction, I am interested to know if any legislative remedies are necessary. If you require legislation for a particular situation or have a legislative idea that would benefit the cities and counties of Assembly District 34, I am most interested in hearing from you.

Please contact my Capitol Office with your legislative need or idea. Any background information and substantiating statistics or evidence is always tremendously helpful in drafting legislation.

Before I reach my bill limit, I want to be sure that I have met the needs of my district. I respectfully ask that you respond to this query as soon as possible. The fall interim is but a few short months – a work period effectively shortened by the holidays. **In order to maximize our chances of success, I must be in receipt of your requests by early December at the latest.**

While I cannot guarantee that I can introduce every legislation request submitted, I want to assure you that I will give the local jurisdiction I represent top priority.

I look forward to hearing from you. It is an honor to represent you in the California State Assembly.

Sincerely,

BILL MAZE  
Assemblyman, 34th District
CITY COUNCIL AGENDA: December 5, 2006

SUBJECT: COUNCIL MEMBER REQUEST FOR AN AGENDA ITEM - “Budget Request for Toys for Tots”

SOURCE: Administration

COMMENT: A Council member has requested the above subject matter be added to the agenda for consideration under Scheduled Matters.

Mayor Hamilton asked for this item and is requesting authorization to appropriate $1,000 for the Toys for Tots program.

RECOMMENDATION: As directed by Council.

ATTACHMENT: None