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:
   3- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   4- Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: One Case.

7:00 P.M. RECONVENE OPEN SESSION

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

Pledge of Allegiance Led by Council Member Eddie Hernandez
Invocation

**PROCLAMATION**
“Public Schools’ Month” - April 2007
“Community Development Week” - April 9-15, 2007
“Iris Festival Day” - April 28, 2007

**PRESENTATION**
Employee of the Month - Ted Williams
County General Plan Update Presentation -- Theresa Szymanis, Tulare County Local Agency Formation Commission
CAFR

**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 October 26, 2006 and February 20, 2007

2. Budget Adjustment for the 2006-2007 Fiscal Year
   Re: Considering authorization for budget adjustment for replacement of six police vehicles at a cost of $188,778.70 from General Fund Equipment Replacement Unallocated Reserves.

3. Authorization to Proceed with Request for Proposals to Design and Install Public Sound System for Centennial Plaza and Main Street
   Re: Authorizing staff to proceed with RFP for P.A. System at an estimated cost of $50,000.

4. Authorization to Proceed with Request for Proposals for Banking Services
   Re: Authorizing staff to proceed with RFP for Banking Services, with specific interest in merchant services operations, transactions fees and the capabilities for online bill pay for utility customers.

5. Expansion of Contract for Planning Services
   Re: Approving amendment to contract with Provost & Pritchard to expand services to provide assistance with General Plan Update, in an amount not to exceed $3,500 per month.

6. Acceptance of Donation of Centennial Plaza Refuse Bin Enclosure
   Re: Accepting offer from Ennis Commercial Properties, LLC to construct and donate refuse bin enclosure to serve both Centennial Plaza development and Centennial Park.

7. Porterville Pacific Associates Payment-In-Lieu of Taxes Agreement for Sequoia Village at River’s Edge Multifamily Development
   Re: Authorizing Agreement pertaining to a proposed 64 unit multifamily development to be located on South E Street.

8. Request for a Six (6) Month Extension of Time for One (1) Temporary Modular Structure to be Utilized as a Sales Office
   Re: Considering extension of time for temporary modular structure located in Sierra Estates, formerly known as North Gate Estates, on the corner of Leggett Street and East Grand Avenue.

9. Proposed Indemnification Agreement for the City of Porterville for All Local Agency Formation Commission (LAFCO) Projects
   Re: Approving resolution to require execution of Indemnification Agreement by all applicants submitting projects requiring LAFCO action.

10. Approval for Community Civic Event - Porterville Chamber of Commerce Iris Festival April 28, 2007
    Re: Approving annual event to take place from 3:30 a.m. to 7:30 p.m. (9:00 a.m. to 5:00 p.m. for the public) in Downtown Porterville, subject to stated restrictions and requirements.
Re: Approving event to take place in Murry Park, Pavilion No. 5, on Saturday, April 28, 2007 from 8:00 a.m. to 3:00 p.m., subject to stated restrictions and requirements.

12. Authorization to Apply for FAA Grant for Airport Electrical Work
Re: Authorizing application for FAA Grant in an amount of $150,000 to fund lighting systems improvements at the Porterville Municipal Airport.

13. Assign Airport Lease – Lot 33
Re: Approving assignment of Lease Agreement for Airport Hangar Lot 33 between the City of Porterville and Dr. Westel L. Creager to James Costa.

14. Consideration of Amendment to Scope of Work of Franchise Compliance/Renewal of Consultant
Re: Considering an expansion of services with Communications Support Group, Inc. to include a cable franchise fee audit for calendar year 2006, at a cost of $8,500.

Re: Considering approval to appropriate $300,000 from the Wastewater Capital Reserve Fund to be added to the 06/07 Budget for the disposal bio-solids.

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

PUBLIC HEARINGS
15. Conditional Use Permit 1-2007 – Proposed Family Pizzeria/Arcade to be Located at 45 North Second Street (Formerly the Police PAL Building)
Re: Considering approval of CUP to allow for proposed family pizzeria/arcade, to include a Type 41 Beer and Wine License.

16. Ennis Estates Tentative Subdivision Map (Ennis Land Development, Inc.)
Re: Continuing the public hearing to the Meeting of April 17, 2007.

17. Ordinance Pertaining to the Regulation of Squatter Camps
Re: Considering ordinance for first reading to regulate occupation of any land or structure without bona fide claim or consent of property owner.

SCHEDULED MATTERS
18. Nuisance Abatement Along River and Other Private Properties
Re: Considering options available to the City to effectuate clean-up on private properties negatively impacted by trespassers.

19. Regulations Establishing an Administrative Code Enforcement Program
Re: Considering draft ordinance establishing regulations pertaining to a Code Enforcement Program.

20. Consideration of Hayes Field Concession License Agreement with the Porterville Amateur Youth Softball Association
Re: Considering Agreement for sale of concessions at Hayes Field.
21. Request from Porterville Chamber of Commerce for a Partnership Financial Investment of $10,000
   Re: Considering a request from the Chamber’s Economic Development Committee for $10,000 for assistance towards the development of a Porterville branding initiative.

22. City Flag
   Re: Considering designs for an official City of Porterville flag.

23. Consideration of Re-Establishment of a Planning Commission
   Re: Considering pros and cons of re-establishing a City of Porterville Planning Commission.

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 April 17, 2007

   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.
PORTERVILLE CITY COUNCIL MINUTES
ADJOURNED MEETING - OCTOBER 26, 2006
PORTERVILLE PUBLIC LIBRARY COMMUNITY ROOM
41 W. THURMAN AVENUE, PORTERVILLE
THURSDAY - 6:30 P.M.

Roll Call: Council Member McCracken, Council Member P. Martinez, Mayor Pro Tem F. Martinez, Council Member Hernandez, Mayor Hamilton

EDC Members Present:
Greg Woodard, Chairman
Art Cardell
John Corkins
Bill McKinley
Gary Reed
Rosa Carlson

EDC Members Present:
Dick Eckhoff
Avtar Singh Barra
Mary S. Leavitt

Public:
Josef D. Guerrero
Gilbert Ynigues
Aaron Burgin

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

ORAL COMMUNICATIONS
None

SCHEDULED MATTER

1. ECONOMIC DEVELOPMENT PRIORITIES

The City Manager stated that there was a request from the Porterville Chamber of Commerce Economic Development Committee to meet with the City Council to discuss their priorities, including siting the new courthouse in Porterville. He stated that the Chamber had provided a copy of information on the Chamber EDC Mission, Objectives and Project Priorities. He stated that the Chamber EDC Committee Chairman was present, with some of the members, to meet with the Council.

Mayor Hamilton asked Greg Woodard if he was going to speak for the EDC, and Mr. Woodard stated that he would.
Greg Woodard, 461 N. Crestview, spoke as the Chairman of the Chamber. He stated that they had talked a lot about economic development and where they were going as a community, as citizens and as government, with one community with one vision and one heart and one mind, all on the same page. He stated that several of the Council members had been part of those meetings where they had been together with elected officials who looked at them and stated that if their community comes up with a vision that was comprehensive, and it was something that the elected officials would agree with and buy into, then they would be there to do whatever it took in order to be able to get them the funds, the money, and the grants, and the legislation to be able to do what they needed to do as a community. He stated that they could talk about past actions, but they were more interested in talking about what their potential was as a community, not about all the past history that they could rehash and go over, but that was part of the impetus of this group, part of what had spurred them on, had been some of that history. He stated that they were there to talk about their mission, their objectives, their priorities and what they believe was a priority. Mr. Woodard stated that they were there for the Council’s agreement and buy-in, but they also wanted to know if those weren’t the Council’s priorities, objectives or missions, then let them know. He stated that they had twenty something community leaders on their Committee, and they were there to address those concerns and get the Council’s input and understand where they were at and needed to do as a government and legislative body that makes decisions on behalf of all the citizens. Mr. Woodard stated that the Committee was there to put their full weight, resources, abilities, energies, talents and strengths behind what they believe they were there to do—to promote a common goal, common vision, and common dream. If not for themselves then for their children and grandchildren. He stated that they were at a tipping point where they could pivot back and fall back or fall forward to achieve some great and fantastic things that all of their kids and grandkids could be proud of. Mr. Woodard stated that he knew the Council felt the exact same way, and was willing to make decisions that would last a lifetime. He stated that they were there to be partners, not adversaries, and they didn’t want the credit either. He then briefly reviewed their mission statement. He then reviewed the EDC Objectives and Project Priorities.

Mayor Hamilton asked what was a business friendly environment was as far as the EDC envisioned. Was it action by the Council or by the community.

Mr. Woodard stated that it was probably two separate entities, but they all had to work together in the effort. He stated that when a business comes to the community, if they had a streamlining process for permits, or if they had already accomplished some of those things, such as the General Plan Update, to incorporate a lot of the things needed from an environmental review standpoint, those were all things they needed to be thinking about. He stated that they needed to think ahead and get ahead of the curve.

Mayor Hamilton stated that he wanted Brad to interject about companies coming to them and it was a matter of ‘stealth,’ and the Council and the Chamber didn’t get to work on a lot of things.

Brad Dunlap, Director of Community Development, stated that it was a matter of balancing the confidentiality the perspective businesses want, and being ready to be able to accommodate them. One of the ways they have approached it is to try and line up the land ahead of time, or site readiness, so they can streamline the process to make it as quick as possible. He stated that they had become more effective in bringing all the different disciplines together at the table, while attempting to maintain confidentiality. Mr. Dunlap stated that they had dealt with companies that, if anything
got out, it could cost them contracts and/or millions of dollars. He stated that the process of making everything an open discussion and bringing everything to Council, would be self-defeating. He stated that sometimes that could have input from local developers, at the company’s request, and they had in one instance brought in Mr. Woodard. Brad stated that site readiness was critical, but the fall back has been City owned land. It should not be working that way, they should have private market partnerships, but they had been fortunate to have the City owned land to make it happen, but that can’t be the sole source of available land for new development, so they needed partnerships in that regard. Mr. Dunlap stated that they also needed to work together to make the land site ready—none of that had to be business specific, it just had to be goal oriented and mission sensitive. That could still be achieved and maintain confidentiality on the individual business being worked. So there was availability of land, site readiness, and streamlining of processes so they were able to bring them in as quickly as possible with a short turn around time for the start of construction in order to meet start up periods and time lines. Mr. Dunlap stated that time was of the essence, and it became more problematic when layers were added in. He stated that it also needed to be clear, from the City’s organizational standpoint, that it needed to become a priority for all the departments to participate in the planning and preparation for future development. That would also require some awareness from the Council’s position that some items may take a secondary role when it comes to prioritization of efforts. He stated that they were working on eight deals right now, and it was very time consuming, and there were a lot of logistical issues that varied from business to business. Mr. Dunlap stated that it was a complex equation they needed the ability to work on, and they needed the understanding that they couldn’t disclose all the information while they were doing it.

Mayor Hamilton clarified that although there was sometimes misinformation out in the City that City Hall was holding up projects, that was not the case, it was that confidential information was not readily going out, or sometimes the people that brought the project in the first place want to sidestep something, and they start the rumors that the City is holding them up. He stated that if they were all to be a cohesive group, they needed to be of a mind set that these things were not necessarily true, and if they were all not held in the loop, they should not get their feelings hurt when there was something they didn’t know about.

Mr. Dunlap stated that they all wanted the success, and the other element that had to be there was that one of the critical paths in all the projects was the environmental review process, and they were trying to streamline that process through a better EIR for the General Plan that would allow them to come in and tier off of that. One of the things that had been very effective on their 74 acre industrial property was that they jump-started that process ahead of time and went to the Porterville Civic Development Foundation and got seed money to go out and map it, prepare grading plans, and get the environmental done to be able to move forward with that. Mr. Dunlap stated that it had been very beneficial, with regard to one prospective business in particular, it was a very important factor in their consideration. He stated that they needed to be able to do that with individuals and private property owners, to insure that the infrastructure was there, and there was a willingness to get the environmental review done—to build the envelope. He stated that they had talked to developers or contractors about getting 20,000 sf buildings plan checked and ready to go on a site, so if they got a proposed use they could get it done in an expedited manner. Mr. Dunlap stated that they had not had good results in that regard from the standpoint of the City partnering with the private sector. There’s been interest, but interest only went so far, it had to play out in working with the City on real property, specific buildings, and getting the envelop ready to go and turn-key when someone comes
in—that was where it was critical. Mr. Dunlap stated that there was a lot of room to improve in that regard.

Mr. Woodard added that they understood the value of the secrecy, and as the Economic Development Committee, if all twenty of them knew what was going on, there would be slight chance that it wouldn’t get out somewhere. So they understood that, and were ready to deal with that, however part of the collaborate effort that they would like to see and bring forth tonight was that they had an individual, a civic minded individual, Teresa Jackson, that had agreed to be a liaison, a coordinator, and facilitator between the Chamber and the City. The other thing the EDC would like is for the Council to have two Council members attend the Chamber meetings, along with the City staff currently attending, so the Chamber could get their thoughts and share ideas, which would achieve a higher level of communication as far as the collaborate effort goes.

The City Manager that such an arrangement might trigger the Brown Act for the Committee, but they would check into that.

Mr. Woodard stated that as on the EDC Priorities, they were at a tipping point, and one of the projects that was in the public eye, was the future courthouse. The project would be a huge catalyst in the revital of the downtown area. That project could bring up existing businesses and bring in new business, and create jobs and sales tax that would potentially help with several million dollars worth of allocation toward land. With the cooperation of the City with City-owned parking lots, in addition to monies available for land purchases, those dollars could be leveraged to create parking garages or to get grants, so that would not only would the facilities be able to be used during the day by the 107 employees of the courthouse, not counting sheriffs, deputies, support staff, and the 300 to 500 people that could be at the facility each day, but would be an opportunity for use by downtown in the evening. Mr. Woodard stated that there were areas that would be perfect to create a downtown courthouse complex that would be accessible, such as the intersections of Main and Olive or Main and Second, or along in that vicinity, that would be prime areas where people could get access to the courthouse.

Mayor Hamilton clarified that the EDC had not discussed this project as a whole and where they were in the process, however, they had discussed that they felt the prime location would be somewhere behind the alley on the east side of Main Street, all the way to Third Street, from Olive to Putnam. The Mayor stated that it was imperative that more than one location was offered to the State, so they had looked at various areas.

Mr. Woodard stated that if they all came together, and they decided that the best location was in downtown Porterville, then they needed to figure out the resources needed to make that the best location. That was the difference in the community now, they had decided, either directly or indirectly, that now was the time for Porterville to step up and not be the cheapest place to live, but the best place to live.

Mayor Hamilton stated that they needed the County to transfer to the State before any of this could happen, and they were knocking their head against a brick wall now. He stated that they could do all the planning, but if the County didn’t transfer the land to the State, it would phase out.
Mr. Woodard stated that he understood that was the trip wire—that if by July 2007 either the existing courthouse had to be mitigated for seismic danger, or the land had to be transferred.

Mayor Hamilton stated that he understood that this had to be in the budget by January 10 for the $4.4 million for the land acquisition and design, and to do it the land transfer needed to be done before that. So it was a shorter period.

Mr. Woodard stated that perhaps July 2007 was the drop dead date.

Mr. Longley stated that he had spoken to Supervisor Maples who stated that this was their number one priority, and the critical path to the State was the transfer of the courthouse. If it didn’t end up in the State Department of Finance budget, then there was an opportunity in the Governor’s budget, and the next one goes to the May revise.

Mr. Woodard stated that if this Council committed tonight that this was their choice, that was where they were going to put their resources behind, the Chamber felt they could put their public resources behind making sure that happens. He stated that they would like the Council to support a downtown location.

Mayor Hamilton stated that one offer the City had received was 1/8 of a mile from the Forestry property. He stated that half of getting the property was getting an agreement with the property owner, and the property owner would appreciate being in on the discussion.

Mr. Woodard agreed, but he stated that they felt that the chance for greater economic revitalization of downtown comes a lot better from a contiguous area to downtown rather than far away.

Mayor Hamilton stated that he heard Mr. Woodard use eminent domain to do this, and he had a problem with that. He felt that almost anything could be negotiated, and eminent domain was a last resort. He stated that he hated to see the term brought up so early in the conversation.

Mr. Woodard stated that there were advantages even to the property owners on the friendly condemnation side for public use. From the friendly condemnation side, there were advantages to the property owner because, to his understanding, that became a capital gain tax free situation. He stated that Paul Saldana may be able to address that. But where property may have been worth $250,000, without having to pay capital gains, the net value would be much greater.

The City Manager asked if Mr. Woodard was talking about a private group that would look at areas downtown, and the Mayor stated that he had asked Mr. Woodard to be the seamstress before and he was not sure if he had gone anywhere with it. The Mayor stated that back in the area being discussed it would have to be many parcels, and there would have to be a seamstress, either the City or EDC, and he was hoping that the EDC would speak to the property owners.

Mr. Woodard stated that it becomes a joint effort, and if the City buys in and says that this was the number one choice, they could assemble it, but the City has a huge stakehold in it because a large part of that area was City-owned parking lots. So there alone was the leverage—parking lots
could be abandoned and parking garages built, and if necessary, if the $4.4 was insufficient, then COPs and financing could be done.

Mayor Hamilton stated that borrowing the money was easy, the problem would be paying it back.

Mr. Dunlap stated that again one of the challenges they enter into when dealing with the City going out and acquiring property for any project was that they had to have the environmental complete. So that was the hinge-pin for the City to even go out and start negotiations on property acquisition, and it was not the same for the private sector to do that. Mr. Dunlap stated that there was a timing issue, and they needed to realize that the City had to adhere to different laws than a private group.

In answer to Mayor Hamilton, Mr. Woodard stated that the EDC voted on a general area of downtown, but there was a vote for that specific area as an alternative because it was more blighted, more vacant, and more City-owned property.

Dick Eckhoff stated that if the courthouse was established at a distant site from downtown it would be a neutral effect. If the courthouse was shifted to another area on the outer edge of downtown, it would be destructive and shift the downtown in that direction. He stated that placing the courthouse in the alley/Third, Olive/Putnam area would be a more positive influence to the development, growth and improvement in the downtown area. He stated that the ideal location would be centered up with parking pushed to both sides, so the parking garage setup would benefit the entire downtown.

Mr. Woodard stated that their Committee was of the opinion that the Council has the will, and a lot of the way, and the EDC also had the will also to get behind the Council and be a resource, support and partner, and if that meant that part of the time was dedicated to sew some things together, then they were there to help do that.

Mayor Hamilton stated that would be extremely beneficial as the City has its hands tied in certain processes. He stated that was why he asked for help, as Mr. Woodard understood acquisition. Mayor Hamilton stated that he liked the idea of behind the Porterville Hotel, as the area to the south needed to be developed also. He stated that parking garages were a dream, and they certainly needed to find out how Visalia got a $6 million grant for a parking garage.

Mr. Woodard stated that they were looking at needing 200 stalls for the courthouse, at $12,000 a stall, plus land, would $2.5 million, and if the City owned a big part of the land, then the City could be the recipient of some of the monies allocated for land acquisition, and then that money could be leveraged, along with land the City owned along Second Street, to get a grant. The legislators were there to say they would help with everything they could in a comprehensive effort. He stated that the courthouse project was that one catalyst project that they all agreed would be a huge benefit to the community.

Mayor Hamilton stated that the key was finding the site, and somehow helping the County figure out how to transfer the property.
John Corkins suggested that the EDC could act as a conduit to the Council to help facilitate some of the needs the Council and the community may have. Instead of appointing a separate steering committee, the EDC, as a preset committee, could be used with confidentiality for site selection. He stated that the EDC was not looking a site definition that evening, they were offering the olive branch if they would like the EDC to work on the Council’s behalf and look for areas and help facilitate.

Mayor Hamilton stated that he saw the benefits of the offer, and it made sense to him, and he noted that this was on the next regular Council meeting.

Mr. Woodard stated that they were open to offering that service, and to offering to consider other ideas by the Council. Mr. Woodard then reviewed the remaining items on the EDC Project Priorities, and spoke on cohesive efforts toward these goals. He stated that they wanted to know if the Council had other priorities besides these they were looking at that the EDC could get behind. He stated that the EDC wanted a partnership with the Council in helping anyway they could.

Mayor Hamilton asked John Snavely, Porterville Unified School District, if he had spoken to his Board about using the facilities out at the adult center, and Mr. Snavely stated that he had spoke to them about a month ago and they were in complete support. Mayor Hamilton stated they had picked a niche in this town as far as a nursing program, and it was something they wanted to follow through with.

Mayor Hamilton stated that he appreciated Mr. Woodard bringing this subject to the forefront, as this could be a great start for what they were trying to do for the community. He stated that when the EDC went back to discuss economic development amongst themselves, it was thought that Tulare County used to be so poor that we grabbed at whatever jobs came our way, but with the way the State was growing and coming into our area, we needed to decide what we wanted here instead of just grabbing. This was a prime opportunity to decide to become what we wanted to become.

Mr. Woodard stated that this was part of their efforts, and they were also requesting that the Council consider participating as a stakeholder in the effort of building and discovering their brand, and discovering their strategy to implement that brand. That would become a part of centering down as to who they were and what their assets were, and who best could use the assets they have, and direct their efforts in that area, while looking at opportunities they haven’t seen. They needed to see the forest for the trees.

Mayor Hamilton stated that as they looked at the courthouse, the needed to look at what they were trying to draw home. Most large courthouses have cafeterias, so how would they expand the courthouse into their downtown area.

Mr. Woodard stated that speaking from jury experience, the courthouse cafeterias were not overrunning with folks.

Gilbert Ynigues stated that he had a problem with industry secrets as rumors could be more damaging than the truth. He stated that several companies had been coming to Porterville and then didn’t, and the community never found out the reason. Either people wanted to come in or they
didn’t, and the truth should be out there for the people. He stated that he didn’t understand the secrecy.

Mayor Hamilton stated that it was at the applicant’s request to protect their business.

Paul Saldana spoke regarding the need for confidentiality and the complications of the process. He spoke on a city losing the Walmart Distribution Center to Porterville due to a lack of confidentiality and a lack of cohesiveness in the community. Mr. Saldana spoke on Items three and four regarding the COS campus, and the entrepreneurial activities funded with $50,000.

Rosa Carlson, President of Porterville Jr. College, spoke regarding the smart campus. She also addressed the grant just available for $50,000 to explore four year colleges for BA programs, and they would be applying with CSU Fresno and CSU Bakersfield.

The lack of nurses and the need for nursing training was discussed, and its effect on Sierra View District Hospital and the community.

Mayor Hamilton stated that getting the adult school going and getting Dominion here was the easy part. The internships were the hard part.

Mr. Woodard stated that the Committee would like to have resolution from the Council that they were on the same page and moving in the same direction.

Mayor Hamilton clarified with the City Manager that this would be discusses at the next Council meeting.

ORAL COMMUNICATIONS

Council Member P. Martinez thanked the EDC for coming out to speak with them and spoke about this being a positive step for the community. He also spoke regarding the role played by the City staff in making the Council’s priorities a reality. He stated that they needed to work together and spend time together and had to have the same vision and priorities in order to move forward.

Council Member Hernandez stated that the Council was a team, and he appreciated the open hand, and he felt this was first step in reaching the goals of the City.

Council Member McCracken stated that he was glad to see the Chamber and the people involved working toward the same things as the rest of them. He stated that this was a step in the right direction from the lack of cohesiveness in the past.

Mayor Pro Tem F. Martinez spoke on the sharing of ideas and taking history and moving forward. He thanked individuals for coming forward and being heard.

Council Member P. Martinez spoke on moving forward with the General Plan and meeting the challenge of losing Mr. Dunlap. He stated that he was committed to filling the positions to keep the train moving to keep their train running. He asked the City Manager to address the challenges that were before them.
The City Manager stated that it was the General Plan, the Kit Fox Corridor, the Hillside Ordinance, Subdivision Ordinances, and just keeping up with current planning for the community.

Council Member P. Martinez stated that the community needed to know that they were taking care of this.

Neil Smith stated that he had worked on getting Main Street to be a vibrant segment of the community for years, and he thought everyone in the room was a winner directly or indirectly with the courthouse being located downtown. Property values would go up which would eliminate the hobby shop-owners, and provide for a more vibrant downtown. People coming downtown at night would eliminate the riffraff, and the educational opportunities were great, and the community as a whole would be a terrific winner.

Mayor Pro Tem F. Martinez stated that when he came back four years ago the community was splintered, but for the last year and a half they had moved together. He stated that they were ready to move forward as a Council and a community.

It was stated that pride started at the top and they all needed to be proud of our community.

ADJOURNMENT
Council adjourned at 8:04 p.m. to November 7, 2006.

______________________________
Georgia Hawley, Chief Deputy City Clerk

SEAL

______________________________
Cameron Hamilton, Mayor
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
FEBRUARY 20, 2007, 6:00 P.M.

Call to Order at 6:00 p.m.
Roll Call: Council Member McCracken, Council Member Pedro Martinez (arrived late), Mayor Pro Tem Felipe Martinez, 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 et al. v. City of Porterville et al.
   2- Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: One Case.

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

Pledge of Allegiance Led by Council Member Pedro Martinez
Invocation - One individual participated.

PRESENTATION
City Manager’s Featured Projects for February, 2007
   • Indiana Street Project
   • Seven Human Resources Placements
   • Sign Ordinance Update

ORAL COMMUNICATIONS
• Gregg Shelton, 888 N. Williford Dr., requested to speak when Item 28 was considered.
• Barbara Gibbs, 31900 Success Valley Dr., on behalf of Americans for Safe Access, spoke in support of medical marijuana dispensaries in Porterville. She provided the Council with literature on medical marijuana and spoke on the history of marijuana usage for medicinal purposes.

CONSENT CALENDAR
Item No. 9 was removed for further discussion.
1. CLAIM - MILLS

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

Documentation: M.O. 01-022007
Disposition: Approved.

2. CLAIM - CARMONA

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

Documentation: M.O. 02-022007
Disposition: Approved.

3. CLAIM - RODRIGUEZ

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

Documentation: M.O. 03-022007
Disposition: Approved.

4. AMENDMENT OF DEE JASPAR AND ASSOCIATES WATER WELL DESIGN AND INSPECTION SERVICE AGREEMENT

Recommendation: That the City Council:
1. Authorize the Mayor to execute an Amendment to Dee Jasper & Associates Service Agreement at an agreed fee of not-to-exceed $24,932 for the services described herein; and
2. Authorize progress payments up to 100% of the fee amount and authorize a 10% contingency to cover unforeseen costs.

Documentation: M.O. 04-022007
Disposition: Approved.

5. CALIFORNIA INFRASTRUCTURE & ECONOMIC DEVELOPMENT BANK (CIEDB) WATER LOAN APPLICATION

Recommendation: That the City Council:
1. Approve the Water Loan CIEDB Application as prepared by Quad Knopf;
2. Pass a resolution authorizing the submission of the Application to the CIEDB for financing of Eastside Water Improvement Projects and approving certain other matters in connection therewith;
3. Authorize the Mayor to execute the CIEDB Water Loan Application; and
4. Direct Public Works to package and transmit the CIEDB Water Loan Application and supporting documents to:
California Infrastructure & Economic Development Bank
1001 “I” Street, 19th Floor
Sacramento, CA 95814

Documentation: Resolution 07-2007
Disposition: Approved.

6. INTENT TO SET A PUBLIC HEARING FOR REIMBURSEMENT AGREEMENTS FOR CONCRETE IMPROVEMENT CONSTRUCTION BY THE CITY - INDIANA STREET PROJECT, PUTNAM AVENUE TO OLIVE AVENUE

Recommendation: That the City Council:
1. Set a public hearing for March 6, 2007 according to the Mitigation Fee Act, for the establishment of the concrete reimbursement fee; and
2. Authorize staff to notify all affected property owners of the public hearing, via certified mail, including the concrete reimbursement amount.

Documentation: M.O. 05-022007
Disposition: Approved.

7. ACCEPTANCE OF IMPROVEMENTS - AMALENE ESTATES, PHASE ONE (ANTOINE BECHARA - BECHARA CONSTRUCTION)

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

Documentation: M.O. 06-022007
Disposition: Approved.

8. REIMBURSEMENT FOR THE CONSTRUCTION OF MASTER PLAN IMPROVEMENTS - AMALENE ESTATES, PHASE ONE SUBDIVISION

Recommendation: That the City Council approve reimbursement to Bechara Construction per Section 25-32.3 of the City of Porterville Municipal Code. The total reimbursement amount to be disbursed shall not exceed $56,270.24.

Documentation: M.O. 07-022007
Disposition: Approved.

10. AIRPORT LEASE RENEWAL - LOT 44A
Recommendation: That the City Council approve the Lease Agreement between the City of Porterville and Mr. Silvio Addamo of Porterville, CA, for Lot 44A at the Porterville Municipal Airport.

Documentation: M.O. 08-022007
Disposition: Approved.

11. APPROVAL FOR COMMUNITY CIVIC EVENT - PORTERVILLE BREAKFAST ROTARY CANCER RUN - MAY 5, 2007

Recommendation: That the City Council approve the Community Civic Event Application and Agreement from Porterville Breakfast Rotary, subject to the Restrictions and Requirements contained in the Application and Agreement.

Documentation: M.O. 09-022007
Disposition: Approved.

12. STATE OF CALIFORNIA, OFFICE OF TRAFFIC SAFETY GRANT

Recommendation: That the City Council:
1. Authorize staff to proceed with the grant application process; and
2. Authorize staff to purchase the equipment under the negotiated bid process.

Documentation: M.O. 10-022007
Disposition: Approved.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council approve Item Nos. 1 through 8, and 10 through 12. The motion carried unanimously.

9. COMMUNITY CLEAN-UP EVENTS

Recommendation: That the City Council:
2. Encourage all residents to clean up their properties and take advantage of these special opportunities offered by the City;
3. Authorize the City to accept trash, litter and yard clippings delivered by City residents receiving City refuse service to the Spring and Fall Clean Up Events for free disposal; and
4. Authorize the cost of both events be funded from the Solid Waste Operating Budget.

Council Member Pedro Martinez noted that the Iris Festival also took place on April 28th and suggested that an alternative date for the Spring Clean Up Day be selected. A discussion ensued, during
which Mr. Rodriguez proposed May 12, 2007 as a tentative date. It was decided to approve the May 12th date, and in the event the day needed to be changed, Mr. Longley would authorize it.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council approve staff’s recommendation, as amended to tentatively declare May 12, 2007 as “Spring Clean Up Day,” instead of April 28, 2007. The motion carried unanimously.

Disposition: Approved, as amended.

PUBLIC HEARINGS


Recommendation: That the City Council:

1. Adopt the draft resolution approving the Environmental Impact Report prepared for General Plan Amendment 1-2007 (formerly 1-2006(A)) and Zone Change 3-2007 (formerly 1-2006);
2. Adopt the draft resolution approving General Plan Amendment 1-2007 (formerly 1-2006 (A));
3. Adopt the draft revised ordinance approving Zone Change 3-2007 (formerly 1-2006) and give first reading to the draft ordinance; and
4. Waive further reading of the draft ordinance approving Zone Change 3-2007 (formerly 1-2006) and order it to print.

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

The public hearing opened at 7:17 p.m.

• John Hale, applicant and Bakersfield resident, spoke in favor of approval of the item, and indicated that he was available to answer any questions that the Council might have.
• Greg Shelton, address on record, spoke in favor of the item.

The public hearing closed at 7:18 p.m.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council adopt the draft resolution approving the

Resolution 08-2007 Environmental Impact Report prepared for General Plan Amendment 1-2007 (formerly 1-2006(A)) and Zone Change 3-2007 (formerly 1-2006); adopt the draft resolution approving General Plan Amendment 1-2007 (formerly 1-2006 (A)); adopt the draft revised ordinance approving Zone Change 3-2007 (formerly 1-2006) and give first reading to the draft ordinance, waive further reading and order the ordinance to print, being AN ORDINANCE OF THE
CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 3-2007 (FORMERLY 1-2006) FROM M-1 (LIGHT MANUFACTURING) TO C-2 “D” (GENERAL COMMERCIAL DESIGN REVIEW OVERLAY) FOR THAT 10.7± ACRE VACANT SITE LOCATED ON THE NORTHEAST CORNER OF SOUTH JAYE STREET AND STATE ROUTE 65. The motion carried unanimously.

Mayor Hamilton voiced appreciation for the parties involved in the matter working together.

Mr. Longley read the Ordinance by title only.

Disposition: Approved.

14. ZONE CHANGE 1-2007

Recommendation: That the City Council:
   1. Adopt the draft ordinance approving Zone Change 1-2007 and give first reading to the draft ordinance; and
   2. Waive further reading of the draft ordinance, and order it to print.

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

The public hearing opened at 7:22 p.m. and closed at 7:23 p.m. when nobody came forward.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council adopt the draft ordinance approving Zone Change 1-2007; give first reading to the draft ordinance; waive further reading; and order it to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING FINDINGS SUPPORTING FACTS THAT SUBSTANTIAL CHANGES HAVE OCCURRED AND APPROVING ZONE CHANGE 1-2007 ON PROPERTY LOCATED ON THE SOUTH SIDE OF WEST MORTON AVENUE. The motion carried unanimously.

Disposition: Approved.

15. ZONE CHANGE 2-2007

Recommendation: That the City Council:
   1. Adopt the draft ordinance approving Zone Change 2-2007; and
   2. Waive further reading of the draft ordinance and order the ordinance to print.

City Manager John Longley presented the item and Community Development Director Brad Dunlap presented the staff report.
The public hearing opened at 7:24 p.m. and closed at 7:25 p.m. when nobody came forward.

COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council adopt the draft ordinance approving Zone Change 2-2007; give first reading of the ordinance; waive further reading; and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING FINDINGS SUPPORTING FACTS THAT SUBSTANTIAL CHANGES HAVE OCCURRED AND APPROVING ZONE CHANGE 2-2007 ON PROPERTY LOCATED ON THE SOUTHWEST CORNER OF WEST MORTON AVENUE AND NORTH SALISBURY STREET. The motion carried unanimously.

Disposition: Approved.

16. ENNIS ESTATES TENTATIVE SUBDIVISION MAP (ENNIS HOMES)

Recommendation: That the City Council continue the item to the March 6, 2007 City Council Meeting.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report, indicating that the applicant had again requested a continuance of the item.

Disposition: Continued to the meeting of March 6, 2007.

SECOND READING

17. ORDINANCE 1711, ZONING ORDINANCE AMENDMENT 2006-7 (FORMERLY 3-2004) – AN ORDINANCE AMENDING VARIOUS SIGNAGE REGULATIONS

Recommendation: That the City Council give Second Reading to Ordinance 1711, waive further reading, and adopt said Ordinance.

City Manager John Longley presented the item and 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 1711, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING PORTIONS OF THE MUNICIPAL CODE AND ZONING ORDINANCE PERTAINING TO SIGNAGE STANDARDS. The motion carried unanimously.

Mr. Longley read the Ordinance by title only.

Disposition: Approved.
18. ORDINANCE 1712, REQUEST FOR SPECIAL FIREWORKS PERMIT

Recommendation: That the City Council give Second Reading to Ordinance 1712, waive further reading and adopt said Ordinance.

City Manager John Longley presented the item and 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 1712, waive further reading and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE. The motion carried unanimously.

Mr. Longley read the Ordinance by title only.

Disposition: Approved.

SCHEDULED MATTERS

19. RESOLUTION OF NECESSITY PERTAINING TO THE ACQUISITION OF A PORTION OF PROPERTY (APPROXIMATELY 7.3 ACRES) LOCATED AT 1099 SOUTH INDIANA STREET, APN #268-090-008, OWNERS CARL D. DENNIS AND ALMA L. DENNIS, FOR THE PROPOSED CONSTRUCTION OF A DRAINAGE BASIN

Recommendation: That the City Council:
1. Hear testimony from the owners and/or their representative(s), if they appear at the hearing and request to be heard;
2. Adopt the draft Resolution of Necessity; and
3. Authorize the City Attorney to take all appropriate action necessary to acquire said property on behalf of the City of Porterville.

City Manager John Longley noted a potential conflict of interest, recused himself, and left the Council Chambers.

Acting Deputy City Manager John Lollis presented the item and City Attorney Julia Lew presented the staff report. Ms. Lew clarified for the record that the Notice of Intent included in the staff report stated that the City would acquire the property by fee, however there was a portion pursuant to the owner’s request that they asked be acquired by easement. She stated that the City had agreed to that request. She stated that the agenda item reflected that change.

Mayor Hamilton inquired if the property owner and/or the property owner’s representatives were present and would like to come forward and speak. When nobody came forward, the Mayor invited comments from the Council.
In response to questions posed by the Council, Public Works Director Baldo Rodriguez elaborated on the need for the City’s acquisition of the property.

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council adopt the draft Resolution of Resolution 10-2007 Necessity; and authorize the City Attorney to take all appropriate action necessary to acquire said property on behalf of the City of Porterville.

Disposition: Approved.

The Council recessed for five minutes.

20. “D” OVERLAY SITE REVIEW 1-2007 (PROSPECT PLAZA)

Recommendation: That the City Council adopt the draft resolution containing findings and conditions in support of approval for “D” Overlay Site Review 1-2007.

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 adopt the draft resolution containing findings and conditions in support of approval for “D” Overlay Site Review 1-2007. The motion carried unanimously.

Disposition: Approved.

21. REGULATIONS CONCERNING THE USE OF LAND FOR THE PURPOSE OF OPERATING DISPENSARIES OF MARIJUANA FOR MEDICAL PURPOSES

Recommendation: That the City Council consider the staff report and attachments, accept the report as the report required pursuant to the interim ordinance adopted February 9, 2007, and provide direction concerning the regulation of medical marijuana dispensaries.

City Manager John Longley presented the item, and City Attorney Julia Lew presented the staff report.

Mayor Hamilton commented that while he was not a proponent for marijuana, he was a proponent for State rights, noting that Proposition 215 had been approved by the people the California. He stated that the City of Tulare had come up with a reasonable solution and had adopted an ordinance that regulated the dispensaries without creating a problem. He commented that he would like to see the Council move in that direction.

Council Member McCracken stated that he was in favor of proceeding with a public hearing to hear what the people of Porterville wanted. He commented that the Council would not be deciding
whether or not individuals could use medical marijuana to relieve pain, but rather whether the City would allow dispensaries to operate in the City, and if so, by what regulations.

Mayor Pro Tem Felipe Martinez commented that he personally did not like drugs, but acknowledged the prevalence of cancer and of the suffering its victims endured. He spoke in favor of moving forward with an ordinance fashioned after the City of Tulare’s.

Council Member Hernandez spoke of his internal struggle with the item, noted the medicinal benefits derived from medical marijuana. He voiced support for an ordinance regulating the dispensaries.

Council Member Martinez spoke of the need for more clarification by the State, and that he would be in favor of adopting the ordinance prohibiting dispensaries from operating in the City. He stated while medical marijuana had its place in society, he could not in good conscience vote to allow for the operation of dispensaries in Porterville. He spoke of problems in the community and suggested that allowing the dispensaries to operate in Porterville would not work towards alleviating those problems.

In response to the Mayor’s observation that more time would be needed to review the item, Community Development Director Brad Dunlap clarified that the Council would need to hold a public hearing prior to the expiration of the extension if it wished to maintain the moratorium until a decision had been made. He stated that the moratorium could be extended up to a maximum of ten months and 15 days, with the possibility of an additional one-year extension, if needed.

Council Member McCracken suggested that the Council could direct staff to set the public hearing prior to the expiration of the Interim Ordinance, and prepare options for the Council’s consideration.

City Attorney Julia Lew recommended that a public hearing also be set for the extension of the moratorium, pointing out that if the Council chose to regulate the dispensaries, rather than ban them altogether, it would take some time to draft the ordinance.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Mayor Pro Tem Felipe Martinez that the Council direct staff to set a public hearing for March 6, 2007 for the extension of the interim ordinance; and, set a public hearing for March 6, 2007 for the consideration of options for regulating dispensaries and for banning them, pursuant to Federal regulations.

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

Disposition: Approved.
22. PORTERVILLE MUNICIPAL WATER SLIDE – CONSTRUCTION OPTIONS

Recommendation: That the City Council:
1. Direct the Public Works Director to negotiate a contract with Webb & Sons for the installation of the water slide at a cost not to exceed $183,288.29;
2. Authorize a 10% contingency to cover unforeseen construction costs; and
3. Authorize progress payments up to 90% of the contract amount.

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

Mayor Hamilton commented that when the project first came before the Council, it had a price tag of approximately $36,000, and that it since had grown to $190,000. He suggested that the $1.5 million the City previously spent on the pool might be enough. He stated that he was no longer willing to support a $190,000 water slide. Mayor Hamilton then inquired whether the funds could be utilized for another project, such as lighting the ball fields at Monache High School. Community Development Director Brad Dunlap indicated that it would be highly unlikely that the funds could be utilized at Monache High School. A discussion ensued, during which staff indicated that the funds might be able to be utilized on the ballfields at the Heritage Center.

Council Member McCracken commented that there were other projects at Murry Park needing funding.

Mayor Pro Tem Felipe Martinez agreed with the idea of spending the funds on another worthwhile project in the vicinity, or in the park itself, noting that the children had a swimming pool in which to play and stay cool.

Mayor Hamilton suggested that the Council cancel the Water Slide Project that evening, and direct staff to bring back options for projects to which to reallocate the funds.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council cancel the Porterville Municipal Water Slide Project and direct staff to bring back options for the Council at the next meeting as to reallocating the funds to a different project. The motion carried unanimously.

Disposition: Project cancelled, Item continued to the meeting of March 6, 2007.

23. GENERAL PLAN REFERRAL - PORTERVILLE UNIFIED SCHOOL DISTRICT

Recommendation: That the City Council determine that the proposed University Center to be located generally on the northwest corner of the easterly prolongation of Morton Avenue and the northerly prolongation of Holcomb Street is consistent with the General Plan of the City of Porterville.
City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report.

Mayor Hamilton spoke in favor of the proposed University Center.

Council Member Pedro Martinez agreed with the Mayor’s comments.

Council Member Hernandez also voiced support for the item.

**COUNCIL ACTION:** MOVED by Council Member Hernandez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council determine that the proposed University M.O. 14-022007 Center to be located generally on the northwest corner of the easterly prolongation of Morton Avenue and the northerly prolongation of Holcomb Street is consistent with the General Plan of the City of Porterville. The motion carried unanimously.

Disposition: Approved.

Mayor Hamilton noted that the property on which the proposed University Center was to be constructed had been donated by Mr. and Mrs. Woodard. He noted their presence in the audience and requested that they stand and be recognized, which they did.

24. CONSIDER REVISED MASTER PLAN AND DESIGN SERVICES FOR HERITAGE SITE SOFTBALL COMPLEX

Recommendation: That the City Council consider the Heritage Center site; and

1. Approve the revised Master Plan for a softball complex as recommended by the Parks & Leisure Services Commission;
2. Approve Addendum No. 1 to the Service Agreement with Community Works Design Group;
3. Adopt the initial phase of construction being the entrance area landscaping and parking lot improvements with the funding presently allocated; and
4. Direct staff to prepare information to allow consideration by the Council for the issuance of debt to build the full sports facility by 2008.

City Manager John Longley presented the item, and Parks & Leisure Services Director Jim Perrine presented the staff report. Mr. Perrine then invited Parks & Leisure Services Commissioner Hardin to come forward and supplement staff’s report.

- Commissioner Hardin spoke of the Commission’s reasoning behind its recommendation in support of a softball complex. He spoke in favor of the item and indicated that he was available to answer any questions the Council might have.

A discussion ensued as to the size of the complex, the number of fields proposed, and the need for adult softball fields in Porterville.
Council Member Hernandez spoke in favor of the item and complimented the Commission on its efforts.

Council Member Pedro Martinez commented that he would like to see the possibilities for lighting the Sports Complex. A discussion ensued, during which it was stated that lighting the Complex could be done, but that there were some limitations due to the proximity of the Porterville Municipal Airport. Council Member Martinez then spoke in favor of including a walking path around the circumference of the proposed softball complex, noting the benefits it would provide to the health and welfare of Porterville’s residents.

Mayor Pro Tem Felipe Martinez agreed with Council Member Pedro Martinez’s suggestion for a walking path, and requested that staff present different scenarios for financing the project. He spoke in favor of the project.

Council Member McCracken noted that the Council had saved $200,000 by canceling one recreational project to spend $4.9 million on another.

Mayor Hamilton voiced support for the proposed project, and spoke of the importance of reinvesting in the community. He then complimented the Commission on its efforts.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council approve the revised Master Plan for a softball complex as recommended by the Parks & Leisure Services Commission, as amended to include a walking path along the circumference of the project; approve Addendum No. 1 to the Service Agreement with Community Works Design Group; adopt the initial phase of construction being the entrance area landscaping and parking lot improvements with the funding presently allocated; and direct staff to prepare information for Council’s consideration for the issuance of debt to build full project by 2008.

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

Disposition: Approved, as amended.

25. MONACHE BASKETBALL COURT LIGHTING PROJECT

Recommendation: That the City Council approve the Parks & Leisure Services Commission’s recommendations for considering the project along with other capital projects for prioritization and allocation of funding during the next budgetary cycle.

City Manager John Longley presented the item, and Parks & Leisure Services Director Jim Perrine presented the staff report.
Council Member Pedro Martinez moved that the Council approve the Commission’s recommendation.

In response to an inquiry from Mayor Hamilton, Mr. Perrine indicated that no funding source had yet been identified, but during the next budgetary cycle staff would look at options.

Mr. Longley stated that if the project was a priority for the Council, it could direct it be included in the budget, funded by reserves.

Council Member Pedro Martinez spoke in favor of lighting the fields, and noted the significant number of famous baseball players from the local area, such as Rance Mulliniks, Tex Clevenger, Brant Brown, Steve Cox, and Thad Reese. He commented that the prevalence of successful baseball players coming out of the area represented the community’s love of baseball, which he called the “American Game.”

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council approve the Parks & Leisure Services Commission’s recommendations for considering the project along with other capital projects for prioritization and allocation of funding during the next budgetary cycle. The motion carried unanimously.

Disposition: Approved.

26. CENTENNIAL PLAZA BENCH DONATIONS

Recommendation: That the City Council approve the Parks & Leisure Services Commission’s recommendation and accept offers for donations of installed custom benches personalized with Rotary Club of Porterville, and Kelly and Janice West.

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 approve the Commission’s recommendation, as supported by staff. A discussion ensued as to the proposed personalization of the benches.

Mayor Hamilton voiced concern with the benches being “personalized” with commercial advertising.

Council Member Pedro Martinez agreed with Mayor Hamilton’s concerns. A discussion ensued as to whether the City could prohibit companies from donating. City Attorney Julia Lew indicated that the City could not discriminate against companies that wished to donate a bench, if individuals and other organizations were allowed to do so. Council Member Martinez proposed that businesses wishing to donate benches at the park could be acknowledged by a plaque at the foot of the bench, to which Ms. Lew stated that the procedure for acknowledging the donors should be applied uniformly.
A discussion ensued as to how donations had been handled at other City locations. It was suggested that the donated benches be personalized with a plaque rather than on the back of the bench as proposed. Mayor Pro Tem Felipe Martinez indicated that he would be in favor of acknowledging the donators on plaques, rather than on the benches themselves, and amended his motion as such.

Council Member McCracken confirmed that the Mayor Pro Tem’s motion was to approve the same style bench as proposed, yet without the name of the donator across the back.

Council Member Pedro Martinez confirmed that the Mayor Pro Tem’s motion was to personalize the donated benches with a plaque at the foot of the bench, consistent with past practice.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member McCracken that the Council approve the Parks & Leisure Services M.O. 17-022007 Commission’s recommendation, as amended to personalize benches with a plaque placed at the foot of the bench rather than on the back of the bench.

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

Disposition: Approved, as amended.

The Council recessed for ten minutes.

27. REMEDIATION OF PESTICIDES NEAR THE AIR ATTACK BASE AT THE PORTERVILLE AIRPORT

Recommendation: That the City Council authorize staff to advertise for bids for the completion of the soil removal action project.

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

The Council Members noted that they did not have much of a choice in the matter, noting that the City would pay today for actions fifty years ago.

Mayor Hamilton inquired whether anything could be built over the area, to which Mr. Longley indicated that possibly in time it could be utilized. He stated that once the proposed work had been completed and DTSC had signed off on the work, the City might wish to perform additional work, such as placing a compass rose on the site, so that it would have some practical use in the future.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Mayor Pro Tem Felipe Martinez that the Council authorize staff to advertise for bids for the completion of the soil removal action project. The motion carried unanimously.

Disposition: Approved.
28. AUTHORIZATION TO ADVERTISE FOR RECLAMATION AREA MANAGER OR FARM LEASE SERVICES

Recommendation: That the City Council extend the City’s current Farm Manager Contract for an additional ten years.

City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report. Mr. Rodriguez noted that the recommendation should be amended to extend the contract for an additional five years, and not the ten years as stated in the staff report.

• Greg Shelton, address on record, spoke against staff’s recommendation to award the contract to Mr. Nuckols for an additional five years, without taking the contract to bid. He voiced concern with what he stated appeared to be favoritism. He suggested that the City sent out RFPs for such inconsequential items as office supplies, yet was willing to simply award a $5 million contract to Mr. Nuckols. Mr. Shelton then spoke of a perceived discrepancy in staff’s current recommendation to wait until December 2007 to award the new contract, while the August 2006 staff recommendation was to commence the new contract in July 2007. He then alleged that the City was not abiding by the recommendations of the Grand Jury.

• Bob Nuckols, 13144 Road 216, spoke of the current agreement and of the right by either party to extend the contract by mutual agreement. He spoke of his 20 plus years of experience in working with effluent and of the special on-site demands of such farming. He cautioned the Council on the importance of maintaining a strict handle on the effluent situation and heeding the requirements of the Cease and Desist Order. Mr. Nuckols then spoke of what he perceived were advantages for the City in maintaining its contract with him, such as the fact that he resided within the middle of the reclamation area. He then went on to discuss the good working relationship he had maintained with the City, and of the scrutiny of the farm accounting, noting the farm’s profit for 2005/2006.

Mayor Hamilton inquired as to Mr. Nuckols plans for retirement, and whether his son would be inheriting the proposed contract. Mr. Nuckols indicated that he would continue as long as was necessary, but that every year responsibilities were being transferred to his son, Justin. He pointed out that Justin was an onsite person who was learning the special needs of the operation. Mayor Hamilton then inquired as to what actions the City was taking to get out from under the Cease and Desist Order, and what the proposed timeline for that was.

Mr. Rodriguez indicated that staff hoped to be finished with the principal items of work by December 2007, and spoke briefly of the City’s efforts in acquiring more land, as was required. He added that once the City had completed all of the requirements, it was to return to the Board, who would then make its determination as to whether the City had met all of its obligations. He stated that the staff had hoped to have all of the physical work completed in December 2007, which was the timeframe dictated by the CIEDB loan of $5.3 million. Mr. Rodriguez then stated that while he believed Mr. Shelton’s intentions were good, he was simply wrong on this item. He noted that contrary to Mr. Shelton’s statements, Mr. Nuckols had been the only farmer to receive the City’s effluent and had in excess of 20 years of experience. He stated that it would be more beneficial for the City to select a farmer that had effluent experience rather than one without such experience. Mr. Rodriguez then spoke of the primary focus of the operation being the discharge of water to meet the requirements of the Cease
and Desist Order. He stated that the purpose was not for the City to get into the farming business. He indicated that with the progression of the operation, it was now reaching a point where the farming offset the costs of discharging the water. He then spoke of the problems that the City would endure if the Board imposed the building moratorium, noting that since the farming operation had been in place, the Board had not had any problems. Mr. Rodriguez stated that if another farmer was hired to manage the operation, he believed the cost would exceed what the City was currently paying, noting that the operation required a 24/7 management approach. He stated that he did not see the need, nor did he believe it would be a good thing, to change the management at that point, particularly when the City had gone from spending $200,000 per year, to the present where the City was within approximately $72,000 of breaking even.

Mayor Pro Tem Felipe Martinez acknowledged Mr. Shelton’s due diligence on the issue, and spoke of the serious nature of the Cease and Desist Order. He commented that the most important issue was the discharge of the water.

Council Member Hernandez also thanked Mr. Shelton for his comments and stated that it was nice to see that the Council was constantly scrutinized. He then spoke of the severity of the issue, noting a building moratorium would have harsh consequences on the City. He commented that the status quo seemed to be working well.

Council Member McCracken noted the Council’s responsibility in getting things done in the proper manner. He spoke of the significance of the Cease and Desist Order and of the need to discharge the water in the most cost effective manner possible. He stated that he believed Mr. Nuckols had done a pretty good job, acknowledging that there had likely been some learning processes on both his and the City’s part. Council Member McCracken noted that the current contract was fairly consistent with the RFP. He then spoke against the lease option, and in favor of either pursuing the RFP option, or extending Mr. Nuckols’ contract.

Council Member Pedro Martinez spoke of the seriousness of the Council’s consideration of extending the current contract, and stated that the Council should also consider an RFP. He then inquired as to how the Council could be assured that the City was getting the most for its money. Mr. Rodriguez stated that the effectiveness of the current management was evident in the City’s lack of any building moratorium being imposed by the Water Board. He then elaborated on the quantity of discharged water handled by Mr. Nuckols, which he estimated to be approximately 1.825 billion gallons per year. Mr. Rodriguez stated that based on that annual figure, and the net loss of $72,000, the cost to the City for discharging the water was approximately 4,000ths of a penny per gallon. He went on to speak of Mr. Nuckols’s contract and the impetus of many of its provisions, which he indicated were drafted in favor of the City.

In response to a question posed by Council Member Pedro Martinez, Mr. Longley elaborated on the Grand Jury’s recommendations and the City’s response. He stated that he understood that if the Council fully considered all of the options before them that evening, it would have complied with representations made to the Grand Jury. City Attorney Julia Lew clarified that the Grand Jury made recommendations and did not mandate anything. She stated that the City needed to be consistent with what it indicated it would do in the response to the Grand Jury. A discussion ensued, during which Mr. Longley stated that he had not represented to the Grand Jury that he would make a specific
recommendation. He clarified that he had conveyed to the Grand Jury that the Council would consider the hired farmer approach, and that an RFP would be prepared and fully considered by the Council.

Council Member McCracken noted that the Council depended upon staff to provide their best judgment, which was represented in the recommendation of the report. He stated that ultimately, the decision lies with the Council.

Mayor Hamilton confirmed with staff that it would not lose control of the Cease and Desist Order in the event the contract went to a different farmer. He suggested that all of the discussion surrounding the Cease and Desist Order was not the issue, and that the real issue was whether or not the City was going to award a contract without first going to bid. He stated that while he believed Mr. Nuckols was totally qualified for the task at hand, it was important for government to be completely transparent, which would mean proceeding with the RFP. He stated that if Mr. Nuckols was the most qualified, he would get the contract.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council extend the City’s current Farm Manager M.O. 19-022007 Contract for an additional five years.

**AYES:** McCracken, P. Martinez, F. Martinez, Hernandez

**NOES:** Hamilton

**ABSTAIN:** None

**ABSENT:** None

Disposition: Approved.

29. TULARE COUNTY INDIAN GAMING INITIATIVE - SPECIAL INVESTIGATIONS OFFICER AND FIRE PREVENTION/PUBLIC EDUCATION OFFICER

**Recommendation:** That the City Council:

1. Approve the grant application seeking funding for continuance of a Special Investigations Unit position for the Police Department, and a Fire Prevention/Public Education Officer for the Fire Department; and

2. Authorize staff, if successful in receiving these grant funds, to continue the two programs outline in the staff report.

Council Member Pedro Martinez clarified with City Attorney Julia Lew that he need not recuse himself from the discussion.

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

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council approve the grant application seeking funding for continuance of a Special Investigations Unit position for the Police Department, and a Fire Prevention/Public Education Officer for the Fire Department; and authorize staff, if successful in receiving these grant
funds, to continue the two programs outline in the staff report. The motion
carried unanimously.

Disposition: Approved.

30. COUNCIL MEMBER REQUEST FOR AN AGENDA ITEM - “DISCUSSION OF
CITY NEPOTISM RULE”

Recommendation: None

City Manager John Longley presented the item and Acting Deputy City Manager John Lollis
presented the staff report.

Mayor Hamilton indicated that he had requested that the item be placed on the agenda. He
voiced disagreement with the City’s current nepotism rule, and commented that what was before him
was not a policy, but was instead a statement. He stated that he had contacted the Cities of Lindsay,
Visalia, Tulare, and Delano, and that those cities allowed relatives to work for them, although not in
supervisor/subordinate roles. Mayor Hamilton spoke against the current nepotism rule, and voiced
concern that the City was limiting its labor force with an unnecessary policy. He then elaborated on the
circumstances that brought the item to his awareness.

Mayor Pro Tem Felipe Martinez suggested that Mayor Hamilton and Council Member
McCracken form an ad hoc committee to discuss the matter with Mr. Longley. The Council concurred.

Disposition: Continued.

31. REQUEST BY COUNCIL MEMBER– DISCUSSION OF RESOLUTION OF
SUPPORT OF THE REQUEST FOR CROSS DEPUTIZATION OF THE TULE RIVER
TRIBE’S TRIBAL POLICE FORCE

Recommendation: None

Council Member Pedro Martinez noted a potential conflict of interest, which he confirmed with
City Attorney Julia Lew. He then recused himself from the discussion and left the Council Chambers.

City Manager John Longley presented the item, and noted that Mr. Rodney Martin of the Tule
River Tribe was in attendance that evening. He requested that he be allowed to come forward and
address the Council.

• Rodney Martin, Tribal Administrator, Tule River Tribe, came forward and spoke of the
Tribe’s development of its own police force, which he stated would be provided Federal
Commissions by the Bureau of Indian Affairs Federal Law Enforcement Division that
week. He then elaborated on the process for adjudicating Federal offenses, which he
stated would be in conjunction with the Sheriff’s Department and State Court System.
At the Mayor’s request, Chief McMillan came forward to address the Council. He commented that he understood that the Sheriff’s Department had not yet made a decision due to potential liability issues surrounding the 24 hour police status of reserve officers.

Mayor Pro Tem Felipe Martinez confirmed with Chief McMillan that reserve officers with the Porterville Police Department did not have 24 hour police powers.

Mr. Longley indicated that he perceived the Tribe’s request to be a policy request, in that, if the Council chose to approve the draft resolution it would be a statement of policy support on the part of the Council, rather than a statement of administrative feasibility.

Rodney Martin, Tule River Tribe, returned to the podium and added that he had sent a letter that day to Sheriff Whitman which addressed the liability issue to which Chief McMillan referred. He stated that in the letter, the Tribe offered to include in its Cross-Deputization Agreement, an indemnification to the County with regard to its officers.

Council Member Hernandez commented that the Tribe had been a very good neighbor to the Porterville Community, and spoke in favor of approving the Tribe’s request.

Mayor Hamilton agreed with Council Member Hernandez’s comments, and stated that if the Sheriff had issues regarding the administrative aspects of the item, it was between the two parties to resolve.

COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council authorize the resolution in support of the Resolution 12-2007 request to cross-deputize the Tule River Tribe’s Tribal Police Department.

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

Disposition: Approved.

32. COUNCIL MEMBER REQUEST FOR AN AGENDA ITEM - “WORK ASSISTANCE PROGRAM FROM EMERGENCY RESERVE”

Recommendation: That the Council provide direction to staff in consideration of the work assistance program presented, authorizing both the program option and the necessary budget adjustments.

City Manager John Longley presented the item, and Acting Deputy City Manager John Lollis presented the staff report. Mr. Longley added that the recommendation would also include authorizing the Mayor and/or City Manager to sign the necessary agreements.
Mayor Pro Tem Felipe Martinez indicated that he had requested the item. He spoke of the need to provide jobs for individuals affected by the freeze.

Council Member McCracken requested further detail as to exactly what work the individuals would be performing for the City.

Mayor Hamilton agreed that additional information was needed and voiced disappointment that specific projects had not been brought to the Council, despite the Council’s request for them. He added that while he understood the desire of staff to utilize a third party for hiring the individuals, he noted that Proteus would have the authority to hire anybody it wished, whether documented or undocumented. He then inquired as to whether there would be restrictions on hiring individuals only from Porterville, or if individuals from other communities would be eligible. He stated that he would prefer to have a specific projects brought back, as well as a plan for sign-up opportunities for individuals from the Porterville Community.

Mr. Longley stated that City projects generally required skilled craftspeople and a measure of continuity, pointing out that the proposed program was to hire individuals for one week in a month. He then spoke of the significant interest in cleaning up the community, and noted that clean-up jobs would be suitable for the purpose of assisting those in need. A discussion ensued as to why the program proposed employing individuals for only one week per month, during which Mr. Longley stated that the intent was to assist as many affected individuals as possible. As to the Mayor’s concerns over the hiring of undocumented workers, Mr. Longley indicated that Proteus had committed to verify documentation of all hired individuals. He then elaborated on the reasoning behind working in conjunction with Proteus.

A discussion next ensued as to ways in which the residency of the program applicants could be verified. When it was suggested that the individuals provide City of Porterville utility bills, City Attorney Julia Lew stated that she would need to research the legality of such a requirement. Mayor Hamilton voiced concern over the complexity of the issue, when all the Council had intended to do was help some individuals affected by the freeze.

Council Member Pedro Martinez requested that staff work out all of the miscellaneous details and bring the item back to the Council. He then suggested that the clean-up of the Tule River could be a project on which the individuals could work. A discussion ensued as to the feasibility of that suggestion. Ms. Lew indicated that since private property was involved, the Council would first need to declare a nuisance, and if the property owners did not take action to clean up the property, then the City could proceed. Council Member Martinez then noted that Zalud Park was also in need of maintenance, particularly the rose garden.

Council Member McCracken suggested that the Council appoint the Mayor Pro Tem and perhaps another Council Member work with staff on the item.

Mayor Pro Tem Felipe Martinez stated that there were also some awnings on City buildings that needed to be re-roofed. He added that CSET had offered their assistance with some of the projects at no cost to the City.
Council Member Hernandez spoke of the need for beautifying the City and questioned ways in which the City could encourage and/or enforce certain standards for private property owners. He commented that he had a hard time spending money on beautification efforts on City properties, when private property owners made no effort. He then spoke in favor of finding a way to make the Tule River Clean-up Project work.

The Council concurred that staff be directed to identify specific projects, possibly including the clean-up of the Tule River, and bring the item back to the Council for consideration.

Disposition: Continued.

**ORAL COMMUNICATIONS**

- Candy Medina, 569 N. Verdugo, as a new resident he thanked Council and staff for their hard work.

**OTHER MATTERS**

- Council Member McCracken requested an agenda item on the reinstatement of the Planning Commission. A discussion ensued as to potential interest of the Council and the possible timeline for the item.
- Mayor Pro Tem Felipe Martinez noted the presence of chicken coups and a bulldozer, amongst other items, on the property located on the southeast corner of Olive Avenue and H Street, and requested that staff look into a potential code violation. Mr. Longley confirmed that the code enforcement officer would be sent out to look into the matter.
- Council Member Hernandez voiced concern with potential liability caused by the large unsecured hole in the ground on the Singer property. Staff indicated that a barricade was to be installed.
- Council Member Pedro Martinez:
  1. Requested that the Art Association be contacted regarding a possible rotating art display at City Hall; and
  2. Requested that some type of recognition be bestowed upon those professional baseball players that have hailed from Porterville.

**ADJOURNMENT**

The Council adjourned at 10:47 p.m. to the meeting of February 23, 2007.

______________________________
Patrice Hildreth, Deputy City Clerk

SEAL

______________________________
Cameron Hamilton, Mayor
SUBJECT: BUDGET ADJUSTMENT FOR THE 2006-07 FISCAL YEAR

SOURCE: Administrative Services

COMMENT: During the course of the fiscal year, budget information becomes available that more accurately identifies revenue projections and project costs. Once known, budget modifications are necessary to complete projects and record revenues. To address budget adjustments in an orderly fashion, all adjustments will be presented as one agenda item for Council's consideration.

There is one (1) adjustment proposed for Council consideration:

No. 1: Police Department Vehicle Replacement
The Police Department has requested a budget adjustment for the replacement of a total of six (6) police vehicles, including four (4) marked patrol vehicles and two (2) unmarked vehicles. Funds are available and would be allocated from the General Fund Equipment Replacement unallocated reserves.

RECOMMENDATION: That the Council approve the attached budget adjustment, and authorize staff to modify revenue and expenditure estimates as described on the attached schedule.

ATTACHMENT: Budget Adjustment Worksheet
CITY OF PORTERVILLE
Budget Adjustments

Date: April 3, 2007

<table>
<thead>
<tr>
<th>FUND</th>
<th>NO.</th>
<th>DESCRIPTION</th>
<th>FUNDING SOURCE</th>
<th>DOLLAR AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>003-5030-095-720</td>
<td>1</td>
<td>Police Department Vehicle Replacement</td>
<td>General Fund Equipment Replacement Unallocated Reserves</td>
<td>$188,778.70</td>
</tr>
</tbody>
</table>

Modification No: 5-06/07
COUNCIL AGENDA: APRIL 3, 2007

SUBJECT: AUTHORIZATION TO PROCEED WITH REQUEST FOR PROPOSALS TO DESIGN AND INSTALL PUBLIC SOUND SYSTEM FOR CENTENNIAL PLAZA AND MAIN STREET

SOURCE: Administrative Services

COMMENT: As a component of the Centennial Plaza park project, the City had committed to the installation of a sound system that would support both Centennial Plaza and Main Street, whereby the audio of events occurring at Centennial Plaza could be broadcast both within the Plaza and to the length of Main Street between Olive and Morton Avenues. The amount of $50,000 has been provided for the sound system project in the 2006-2007 capital projects budget, and staff seeks the Council's approval to proceed with a Request for Proposals to design and install the system, with the Administrative Services Department (through Purchasing) to supervise the inception and completion of the project.

RECOMMENDATION: That the City Council authorize staff to proceed with a Request for Proposals to design and install the sound system for Centennial Plaza and Main Street.

Dir.  Appropriated/Funded  C/M  Item No. 3
COUNCIL AGENDA: APRIL 3, 2007

SUBJECT: AUTHORIZATION TO PROCEED WITH REQUEST FOR PROPOSALS FOR BANKING SERVICES

SOURCE: Administrative Services

COMMENT: On November 2, 2006, the City Council approved Ordinance No. 1703, Internal City Audits, which established an Audit Committee that was charged with meeting to review any financial matters of the city.

At its meeting on February 8, 2007, the Audit Committee discussed the City's current banking services operations in consideration of several different issues, and requested that staff prepare a Banking Services RFP to attend to those subjects of discussion. The areas of interest discussed by the Audit Committee included the length of time (12 years) that the City has been with its current banking services provider (Union Bank of California) since conducting the last Banking Services RFP in 1995, the City's current merchant services operations and transaction fees, and capabilities for customer online bill paying of City utilities.

At its meeting on March 15, 2007, staff presented to the Audit Committee a draft of the Banking Services RFP, which with some comment for minor edit was accepted by the Committee and is brought to the Council for authorization to proceed.

In support of this item, the City Council at its meeting on March 20, 2007, approved a three (3) month moratorium on the use of Visa and MasterCard credit cards, establishing a maximum transaction amount of $250. The moratorium period, April 1 through June 30, 2007, is intended to coincide with the Banking Services RFP process and potential merchant services modifications to take effect July 1, 2007.

RECOMMENDATION: That the City Council authorize staff to proceed with a Request for Proposal (RFP) for Banking Services.

Dir. Appropriated/Funded C/M Item No. 4
AGENDA: APRIL 3, 2007

SUBJECT: EXPANSION OF CONTRACT FOR PLANNING SERVICES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The City Council on February 6, 2007 approved a reorganization of the Community Development Department to, among other things, re-create the position of City Planner. The City is currently recruiting to fill the positions that were created. Until such time as additional staff has been hired, Staff is recommending expanding the contract with Provost & Pritchard Engineering Group to assist with the General Plan process. Both of the individuals with Provost and Pritchard that would provide services under this contract have experience in the City's General Plan update process. Therefore the learning curve can be shortened for expediency.

The Community Development Department is requesting Council’s approval to amend the existing consultant services contract with Provost and Pritchard expanding the services to assist in the General Plan Update. The amendment would designate up to an additional amount not to exceed $3,500 per month for the update. The funds are available from the project account for the General Plan Update. The General Plan Update is presently making little progress because of the numerous vacancies within the Planning Division. Hiring Provost and Pritchard would allow the City to expedite the completion of the General Plan Update for the anticipated date of July 2007. Since the funds are already designated for the General Plan Update, no budget adjustment is required.

During the December 19, 2006 City Council meeting, Council approved a contract with Provost and Pritchard to assist the Community Development Department with Planning projects. Provost and Pritchard Staff have been working on numerous projects for the City through this contract including wrapping up the Murry Park Environmental as well as other projects which include the Noise Ordinance, the Airport Industrial Park Environmental, the Airport Access Road National Environmental Policy Act document, the Environmental Assessment for the Valley Elderberry Longhorn Beetle Habitat Conservation Plan and review of portions of the Draft General Plan.

RECOMMENDATION: That the City Council:

1. Authorize staff to amend the contract with Provost & Pritchard for an additional amount not to exceed $3,500 per month; and
2. Authorize the Mayor to sign all necessary documents.

ATTACHMENTS: 1. Provost & Pritchard’s Proposal
2. Consultant Services Agreement Amendment No. 1

DD [ ] Appropriated/Funded [ ] CM [ ] ITEM NO. [5]
March 27, 2007

Mr. Bradley D. Dunlap, AICP
Community Development Director
City of Porterville
291 North Main Street
Porterville, CA 93257

Subject: Proposed Amendment 2007-1 to Planning Services Contract

Dear Brad:

At your request we have put together this proposal to amend our current planning services contract specifically to assist in meeting the anticipated July 2007 completion of the General Plan Update. We appreciate the opportunity to be of service and help the City with this specific and important need.

During the summer of 2005, the City began a comprehensive update of the General Plan. The originally scheduled completion date was December 2006. Due in part to the numerous vacancies within the Planning Division, the General Plan Update is progressing slowly. A new target date of July 2007 has been set and there are several milestones to be accomplished before the General Plan Update can be completed.

In the spirit of full disclosure, we want to reiterate from our original contract that Provost & Pritchard (P&P) is currently involved in a number of development projects at various locations in and around the City, and these projects will be subject to review by Planning and/or Public Works staff, and may require City Council approval. Projects we currently have under contract include:

- Fairways Tract Annexation and water systems study;
- Riverview Phase III- Woodard Homes;
- General Plan Update Water Supply Assessment;
- Sequoia Ranch (Springville).

Other contracts may be entered into during the duration of the proposed agreement with the City, and we would disclose those projects with you as soon as appropriate. We understand that the City would separately retain another
consultant to provide planning review on projects where a real or perceived conflict exists for P&P.

We are proposing that Jennifer Byers be the primary staff for this assignment. We believe she would need to spend perhaps one or parts of two days in the Community Development Department office each week to keep the most pressing issues moving forward. The uncertain scope and level of effort indicate that a Time-and-Materials billing basis would be most appropriate to use. We estimate that at our current rate schedule, our billing would be approximately $3,500 per month for one and one-half days per week of Project Administrator time. To meet the City's billing needs, charges to General Plan Update related tasks would be added to the existing monthly fee amount, increasing the contracted amount to $10,000 per month.

We propose that we enter into an agreement to provide services in accordance with the 2007 Rate Schedule, with a monthly maximum (not to exceed without your verbal approval) of $10,000; this will provide an additional allowance of $3,500 to pursue the City's efforts toward completion of the General Plan Update. We'd further propose that this arrangement be reviewed periodically with the option to make adjustments if more hours are consistently required to meet the City's needs.

Again, thank you for the opportunity to provide this proposal. We look forward to discussing it with you in greater detail if you choose to move forward.

Sincerely Yours,

Richard M. Moss, PE
Vice-President

Enclosure: 2007 Fee Schedule

Copy: DKM/MGT/JDB/JMB
PLANNING CONSULTANT  
SERVICE AGREEMENT  
AMENDMENT NO. 1

DATE: April 4, 2007

PARTIES: City of Porterville, a California municipal corporation, hereinafter referred to as "CITY"; and Provost and Pritchard Engineering Group, Inc., hereinafter referred to as "CONSULTANT".

RECITALS: CITY has undertaken a project on which it is seeking assistance from CONSULTANT. Said project which will hereinafter be referred to as "project" is described as follows:

Project Name: Planning Consultant Services

Description of Project: Provide assistance with Planning Division activities on a time and materials basis up to a maximum of $6,500.00 per month for general planning services and up to an additional $3,500.00 per month from the General Plan Update project account for use specifically on the General Plan Update.

AGREEMENTS:

IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS HEREINAFTER set forth the parties hereto do contract and agree as follows:

SECTION 1. CONTRACT SERVICES: CONSULTANT hereby agrees to provide the following services and materials, in a timely manner as described in Attachment 1, as provided by Consultant in connection with the above described project.

SECTION 2. CONTRACT SERVICES: In consideration for said services and materials, CITY shall pay CONSULTANT as defined in Attachment 1, Exhibit A (specifically-Provost and Pritchard Engineering Group, Inc. 2006 Fee Schedule, effective January 10, 2006) as may be amended. Changes/updates to the Fee Schedule must be agreed upon by both parties prior to any work being performed under changed fees. Direct costs such as travel, telephone, postage, printing, etc. shall be itemized on the invoice or attachments thereto and shall be consistent with the costs defined in Exhibit A.

TIME OF PAYMENT: Progress payment requests shall be itemized, identify the project budget, budget balance and shall reference the completion of tasks associated with the billable hours, and submitted by the 25th of each month. CONSULTANT should receive payment within 30 days of the date the bill is received.

SECTION 3. COMPLETION DATE: The services to be performed by CONSULTANT will commence upon execution of this agreement and all work directives shall be completed in a timely manner and until such time as the vacant City positions are filled or this contract is terminated in compliance with Section 10 below.
SECTION 4. FAMILIARITY WITH PROJECT: CONSULTANT agrees that it will rely on its own findings and research to perform the services required under this agreement and will not rely solely upon opinions or representations of CITY unless CITY is the only available source of said information. CONSULTANT shall become familiar enough with project details to independently perform its services in conformance with the normal standard of care for such projects.

SECTION 5. INDEPENDENT CONTRACTOR: It is expressly understood that CONSULTANT is entering into this contract and will provide all services and materials required hereunder as an independent contractor and not as an employee of CITY. CONSULTANT is currently working on specific projects within the City of Porterville. It is expressly understood that while working for CITY, the CONSULTANT shall not undertake work of any kind associated with private clients of CONSULTANT on projects with the City. It is also expressly understood that any violation of this partition will result in immediate termination of this contract. CONSULTANT specifically warrants that it will have in full force and effect, valid insurance covering:

1. Full liability under worker's compensation laws of the State of California; and
2. Bodily injury and property damage insurance in the amount not less than One Million Dollars ($1,000,000) per occurrence; and
3. Automotive liability in the amount not less than One Million Dollars ($1,000,000) per occurrence; fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of CONSULTANT and any injuries to third parties, including employees of CITY and CONSULTANT. CONSULTANT agrees to indemnify, defend (at CITY's election), and hold harmless the CITY against any claims, actions or demands against CITY, and against any damages, liabilities for personal injury or death or for loss or damage to property, or any of them arising out of negligence of CONSULTANT or any of its employees or agents.

As an independent contractor, the consultant will obtain and maintain an active City business license.

SECTION 6. WORKMANSHIP AND MATERIALS: Every part of the work herein described shall be executed in a professional manner with competent, experienced personnel. Finished or unfinished material prepared under the agreement, prepared by CONSULTANT, shall become property of CITY. CONSULTANT hereby warrants that any materials prepared under this agreement shall be fit for the intended use contemplated by the parties.

SECTION 7. ASSIGNMENT OF CONTRACT: It is acknowledged by the parties that CITY has entered into this contract with the express understanding that all work will be performed by CONSULTANT or CITY approved sub-consultant. CONSULTANT shall not, without the prior written consent of CITY, assign, transfer or sublet any portion or part of this work, nor assign any payments to others. Further, Julie Boyle, as identified
in the proposal is integral to the performance of the scope of services and shall not be changed or replaced without first obtaining written approval from the City of a replacement(s) in the completion of the work effort.

SECTION 8. AFFIRMATIVE ACTION. CONSULTANT will not discriminate against any employee, or applicant for employment because of race, color, religion, gender, marital status, or national origin.

SECTION 9. CONFLICT OF INTEREST CODE: CONSULTANT agrees to comply with the regulations of CITY'S Conflict of Interest Code. Said code is in accordance with the requirements of the Political Reform Act of 1974.

CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of service required hereunder. The term "conflict" shall include, as a minimum, the definition of a "conflict of interest" under the California Fair Political Practices Act and the City of Porterville Conflict of Interest Code, as that term is applied to consultants.

SECTION 10. TERMINATION: This contract may be terminated by either party for just cause by giving thirty (30) days written notice by either party except that City may cancel contract upon five (5) days written notice in the event of nonperformance by Contractor. Nonperformance by the contractor or repeated lack of response or attention to responsibilities and/or directions and requests of City shall be considered adequate cause for termination of contract and/or withholding of funds to contractor which City must pay to third party or parties to correct deficiencies due to lack of performance as determined by City. Upon termination by CITY, CITY shall be relieved of any obligation to pay for work not completed. CONSULTANT may be entitled to just and equitable compensation for satisfactory work completed.

SECTION 11. ENTIRE CONTRACT: It is understood and agreed that this Service Agreement represents the entire Agreement between the parties. Should it be necessary to institute legal proceedings to enforce any and all of the covenants and conditions of this Agreement, the prevailing party shall be entitled to recover attorney fees and costs.

SECTION 12. DISPUTES; VENUE: If either party initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that the venue thereof shall be the County of Tulare, State of California. CONSULTANT hereby waives any rights it might have to remove any such action pursuant to California Code of Civil Procedure Section 394.
IN WITNESS WHEREOF, the parties have executed this Service Agreement on the date and year first above written.

CITY OF PORTERVILLE

By ___________________________  By ___________________________
Cameron Hamilton, Mayor  Richard Moss, Vice President

Date ___________________________  Date ___________________________
SUBJECT: ACCEPTANCE OF DONATION OF CENTENNIAL PLAZA REFUSE BIN ENCLOSURE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: As part of the construction of the commercial building adjacent to Centennial Plaza, Ennis Commercial Properties, LLC (Ennis) is required to construct a refuse bin enclosure for waste disposal at both the commercial building and Centennial Park. The scheduled location of the refuse bin enclosure is at the end of the public paseo, requiring pedestrians utilizing the paseo to maneuver around the bin enclosure when entering or exiting the paseo. Additionally, the placement of the bin enclosure at the end of the public paseo would be visually unappealing from Main Street, detracting from the aesthetics of the park.

To remedy the situation, Ennis has proposed to construct the refuse bin enclosure next to the electrical panel in Centennial Plaza and donate the enclosure to the City. Nearly all of the structures along Main Street, from Morton to Olive, are built to the rear property line; therefore, refuse bin locations in the Main Street alleys in this area have historically been handled on a “best fit” scenario. In most cases the best fit was to locate the refuse bin enclosures in the City-owned parking lots and to have multiple tenants share the refuse bin. The billing for the refuse service is split between the tenants, with the cost being shared proportional based on level of usage. The City owns and maintains these refuse bin enclosures.

As there is a precedent for refuse bin enclosures being located on City-property in the downtown area, and the enclosure would serve both the Ennis project and Centennial Park, moving the enclosure to the Centennial Park location is a feasible solution to the current undesirable location.

RECOMMENDATION: That the City Council accept the offer from Ennis Commercial Properties, LLC for the construction and donation of a refuse bin enclosure at Centennial Plaza.

Attachments: 1) Site Plan
2) Correspondence from Ennis Commercial Properties, LLC

[Signature]

DD [Signature] CM [Signature] ITEM NO. 10
March 21, 2007

City of Porterville
291 N. Main Street
Porterville, CA 93257

To alleviate the problem of a refuse bin enclosure at the end of the public paseo being constructed as part of commercial building adjacent to Centennial Plaza, Ennis Commercial Properties, LLC is offering to construct a refuse bin enclosure next to the electrical panel at Centennial Plaza and donate the enclosure to the City of Porterville.

By moving the enclosure out of the public pathway, the paseo will be more visually appealing from Main Street and will be more complementary to the park. Additionally, the bin enclosure will serve both the commercial project and the park.

I am requesting that the City Council allow the construction of the refuse bin enclosure in Centennial Park and accept Ennis Commercial Properties, LLC offer to donate the enclosure to the City of Porterville.

Sincerely,

Ben Ennis
Managing Member
AGENDA: APRIL 3, 2007

SUBJECT: PORTERVILLE PACIFIC ASSOCIATES PAYMENT-IN-LIEU OF TAXES AGREEMENT FOR SEQUOIA VILLAGE AT RIVER’S EDGE MULTIFAMILY DEVELOPMENT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: City staff is in the process of completing the loan documents and regulatory agreement with Porterville Pacific Associates for the HOME loan to construct the 64 unit affordable multifamily development known as Sequoia Village at River’s Edge which is located on South “E” Street within the Porterville Redevelopment Area #1. This development has also received a reservation of state tax credits for the project. Both funding sources will require recorded affordability covenants to remain on the property for 55 years.

As is typical of tax credit projects, the owner intends to claim a welfare property tax exemption which will exempt the owner from paying real estate taxes on the property and any related improvements. In the process of the City applying for the HOME funds for this project, there was discussion and concurrence on the part of the owner to negotiate a Payment-In-Lieu of Taxes Agreement (PILOT) that would essentially replace the lost tax revenue to the City and the Redevelopment Agency.

The agreement has been prepared and is attached. The revenues from this agreement will be allocated to the City and Redevelopment Agency according to the distribution percentages of property tax revenues applicable at the time of receipt of the PILOT.

RECOMMENDATION: That the City Council approve the draft resolution to enter into a Payment-In-Lieu of Taxes Agreement with Porterville Pacific Associates for the Sequoia Village at River’s Edge development and authorize the Mayor to execute said Agreement.

ATTACHMENTS: 1. Draft Resolution
2. Payment-In-Lieu of Taxes Agreement

[Signatures] Appropriated/Funded CM

ITEM NO. 7
RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING AND AUTHORIZING THE
EXECUTION OF THE PAYMENT-IN-LIEU OF TAXES AGREEMENT WITH
PORTERVILLE PACIFIC ASSOCIATES

WHEREAS, Porterville Pacific Associates ("Owner") is the owner of that certain
parcel of real property legally described in Exhibit A attached hereto (the "Subject
Property"); and

WHEREAS, City has agreed to make a loan of $925,000.00 in HOME Investment
Partnership Program Funds to Owner at a below-market interest rate with principal and
interest due according to the various loan documents (the "HOME Loan"); and

WHEREAS, Owner intends to claim a welfare property tax exemption which will
exempt Owner from paying real estate taxes on the Subject Property and any related
improvements thereon; and

WHEREAS, Owner agrees to hold harmless City regarding the City’s loss of
revenue from its general fund or Redevelopment Agency which would result from the
above described exemption through a Payment-In-Lieu of Taxes Agreement

NOW, THEREFORE, BE IT RESOLVED:

1. The Payment-In-Lieu of Taxes Agreement between the City of Porterville
and Porterville Pacific Associates is hereby approved by the City Council.

2. Owner and City declare and agree that the Subject Property will be held,
transferred, encumbered, used, sold, conveyed, leased, and occupied, subject
to the covenants and restrictions set forth in the Payment-In-Lieu of Taxes
Agreement expressly and exclusively for the use and benefit of the property
and of each and every person or entity who now or in the future owns any
portion or portions of the Subject Property.

3. That the Mayor is authorized to execute the Agreement in the name of the
City of Porterville.

_________________________________________
Cameron Hamilton, Mayor

Attest:
John Longley, City Clerk
By
Georgia Hawley, Chief Deputy City Clerk
Exhibit A

Legal Description

That portion of the Northeast quarter of the Southeast quarter of Section 35, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, described as follows:

Beginning at the intersection of the North line of the Southeast quarter of Section 35, and the East line of “E” Street of the City of Porterville; thence East along said North line 424 feet to the west line of the right of way of the Southern Pacific Railroad Company; thence Southeasterly along the said Westerly line of said right of way, 427.8 feet; thence West parallel with the said North line of the Southeast quarter of Section 35, 506 feet to a point on a line of the Southerly projection of said East line of “E” Street; thence North 420 feet to the point of beginning.

APN: 260-260-001
AGREEMENT REGARDING PAYMENT IN LIEU OF TAXES
AND
COVENANT RUNNING WITH THE LAND

THIS AGREEMENT AND DECLARATION ("Agreement"), made this 1st day of March 2007, by, between and among Porterville Pacific Associates, a California Limited Partnership ("Owner") and the City of Porterville, California ("City")

WHEREAS, Owner is the owner of that certain parcel of real property legally described in Exhibit A attached hereto (the "Subject Property"); and

WHEREAS, City has agreed to make a loan of $925,000.00 in HOME Investment Partnership Program Funds to Owner at a below-market interest rate with principal and interest due according to the various loan documents (the "HOME Loan"); and

WHEREAS, Owner intends to claim a welfare property tax exemption which will exempt Owner from paying real estate taxes on the Subject Property and any related improvements thereon; and

WHEREAS, Owner agrees to hold harmless City regarding the City's loss of revenue from its general fund or Redevelopment Agency which would result from the above described exemption.

NOW, THEREFORE, Owner and City declare and agree that the Subject Property will be held, transferred, encumbered, used, sold, conveyed, leased, and occupied, subject to the covenants and restrictions hereinafter set forth expressly and exclusively for the use and benefit of the property and of each and every person or entity who now or in the future owns any portion or portions of the Subject Property.

1. City will close and fully fund the HOME Loan.

2. In each year in which the Owner or the Subject Property qualify for and receive a welfare property tax exemption, Owner shall pay to City a payment in lieu of taxes.
No payment in lieu of taxes shall be made for any year in which no property tax exemption is secured. City will not request or require the payment of any money by Owner to Tulare County or any other entity. The amount of the payment for any given year shall be calculated as set forth in Exhibit “B”.

3. Of the principal payment due for each year, one-half of the payment shall be made on or before December 10 and the remaining principal shall be paid on or before April 10 of the following year. In the event that said payment dates fall on the weekend or national holiday, payments required hereunder shall be due the next business day.

4. The obligations of the Owner of the Subject Property to make the principal tax in lieu installment payments are secured by a lien against the Subject Property and the lien may be foreclosed upon by City in the event of delinquency.

5. In addition to the principal amount calculated in accordance with Exhibit “B” attached hereto, the City is authorized and entitled to penalties equaling five percent (5%) of any outstanding delinquent amount, and additional interest of one percent (1%) per month which commences from the date immediately following the principal payment due date until the date that all principal, penalties and interest are paid in full. Additionally, Owner shall be responsible for any administrative costs, fees or other charges, including reasonable attorney’s fee and costs, as well as all other charges pertaining to the enforcement of the provisions of this Agreement.

6. The covenants contained in this Agreement are to run with the land and will be binding on the parties, their assigns and successors in interest and all persons claiming an interest in the Subject Property until such time as the Subject Property is no longer eligible for a welfare exemption or similar exemption from the payment of real property taxes.

7. Enforcement will be proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

8. This Agreement shall be recorded in the Official Records of Tulare County, State of California.

(Remainder of this Page Intentionally Left Blank – Signature Page to Follow)
IN WITNESS WHEREOF, Owner and City execute this Agreement on the date first written above.

Porterville Pacific Associates,  
A California Limited Partnership

City of Porterville

By: ______________________  
Caleb Roope, Manager  
Roope, LLC

By: ______________________  
Cameron Hamilton

Its: ___ Administrative General Partner

Its: ___ Mayor

By: ______________________  
Christina Alley, Chief Executive Officer  
Central Valley Coalition for Affordable Housing

Its: ___ Managing General Partner
STATE OF IDAHO  )
COUNTY OF CANYON   )

On this _____ day of ____________, 2007, before me, the undersigned, a Notary Public in and for said
County and State, personally appeared Caleb Roope, in his capacity as Manager of Roope, LLC, personally known
to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA  ) My Commission Expires
COUNTY OF MERCED    )

On this _____ day of ____________, 2007, before me, the undersigned, a Notary Public in and for said
County and State, personally appeared Christina Alley, in her capacity as C.E.O. of C.V.C.A.H., personally known
to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA  ) My Commission Expires
COUNTY OF TULARE    )

On this _____ day of ____________, 2007, before me, the undersigned, a Notary Public in and for said
County and State, personally appeared Cameron Hamilton, in his capacity as Mayor of City of Porterville,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this
instrument.

WITNESS my hand and official seal.
Exhibit A

Legal Description

That portion of the Northeast quarter of the Southeast quarter of Section 35, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, described as follows:

Beginning at the intersection of the North line of the Southeast quarter of Section 35, and the East line of "E" Street of the City of Porterville; thence East along said North line 424 feet to the west line of the right of way of the Southern Pacific Railroad Company; thence Southeasterly along the said Westerly line of said right of way, 427.8 feet; thence West parallel with the said North line of the Southeast quarter of Section 35, 506 feet to a point on a line of the Southerly projection of said East line of "E" Street; thence North 420 feet to the point of beginning.

APN: 260-260-001
Exhibit B
Methodology for Calculating Payment-In-Lieu of Taxes (PILOT)

Step 1: Calculate the Assessment: The County Assessor shall annually assess the Subject Property in accordance with California State Law applicable to the assessment of low-income housing developments financed with Federal or State Low-Income Housing Tax Credits (the “Assessed Value”).

Step 2: Calculate the Total Tax: Without regard to any welfare tax exemption that may be available to the Subject Property, the Assessed Value shall be multiplied by 1% with the resulting amount specified as the “Total Tax”. The Subject Property shall not be exempt from any special assessments that are in excess of the 1% tax rate.

Step 3: Calculate the City’s Share of the Total Tax: Whatever percentage of the 1% tax rate that currently is allocated to the City and the Redevelopment Agency for the Subject Property, that percentage shall be multiplied by the Total Tax. Similarly, if the City or the Redevelopment Agency receives an additional percentage of the Total Tax as a result of the improved value of the Subject Property, such additional percentage shall also be paid to the City.

Sample Calculation Only:

Assessed Value from Assessor: $3,000,000

Allocation of 1% Tax Rate: City of Porterville – 10%  
City of Porterville Redevelopment Agency - 80%  
County of Tulare - 10% (not part of in-lieu agreement)

Assessed Value of $3,000,000 multiplied by 1% equals Total Tax of $30,000 multiplied by 90% equals $27,000. $27,000 shall be the payment-in-lieu of taxes to the City and Agency (City - $3,000, RDA - $24,000)

(The 90% figure for the total City and Agency share is calculated by taking 10% City share plus 80% RDA share to equal 90% of the 1% tax rate of the Assessed Value)
SUBJECT: REQUEST FOR A SIX (6) MONTH EXTENSION OF TIME FOR ONE (1) TEMPORARY MODULAR STRUCTURE TO BE UTILIZED AS A SALES OFFICE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: K. Hovnanian Homes is requesting a six (6) month extension of time to allow for the temporary use of a 12'x60' modular structure as a sales office on Lot 53 of Sierra Estates, formerly North Gate Estates, a single family residential subdivision.

K. Hovnanian Homes has indicated that due to soil conditions and improvements required, the building permits for the model homes were delayed and are now under construction.

On September 19, 2006, the Porterville City Council approved a request from K. Hovnanian Homes to allow for the temporary use of a 12'x60' modular structure as a sales office on Lot 53 of Sierra Estates until the model homes could be completed. The time period approved was from September 19, 2006 to March 19, 2007.

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

RECOMMENDATION: That the City Council:

1. Adopt the attached resolution and conditions of approval for a six (6) month extension of time for the temporary modular structure for a period of time expiring on September 19, 2007 or until the model homes open, whichever occurs first.

ATTACHMENTS:

1. Locator Map
2. Construction plan
3. Letter of request
4. Resolution No. 127-2006
5. Draft Resolution
Note: Property line is 4.6 feet behind sidewalk.

12' x 60' Sales Trailer

5' Sidewalk

Curb & Gutter

5' Sidewalk

Metal Ramp

AOA Compliant

Concrete Walkway

HVAC

29A Sub Panel

Lot SF: 7,540
Trailer SF: 720
Lot Coverage: 9.5%

Sierra Estates
Lot #53
815 E. Grand Avenue
City of Porterville
A.P.N.: 254-010-064(Mother)

PORTERVILLE 53

K. Hovnanian Homes
March 26, 2007

City of Porterville
Planning Department
291 N. Main Street
Porterville, CA 93257

Attn: Bubba Frasier

Dear Mr. Frasier:

This is a written request for a time extension on the approval for our temporary sales trailer on Lot 53 in the Sierra Estates Subdivision.

The sales trailer was originally approved for a time period ending on March 19, 2007. Due to the fact that the improvements for the subdivision were not completed until February of 2007, we were not able to place the trailer until late February of 2007 instead of the anticipated August of 2006.

The projects specifics will remain the same as for the original approval. Those specifics are as follows:

This project will consist of a 12 foot wide by 60 foot long trailer. The trailer will house our sales team for the purpose of selling new single family homes in this subdivision. The sales trailer will be open from 10:00am to 7:00pm, seven days per week.

Sewer, water and electrical service for the sales trailer will be provided by those improvements installed to service the proposed single family homes.

The sales trailer will be needed for a period of 6 months until the model home complex is complete. The date of completion of the models and removal of the temporary sales trailer is currently set for September 19, 2007.

Thank you for your consideration. Please call me at (916) 595-2794 with any questions.

Sincerely,

Michael Horrell
Planner
RESOLUTION NO. 127-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ONE (1) TEMPORARY MODULAR STRUCTURE FOR K. HOVANIAN HOMES TO BE LOCATED ON LOT 53 OF SIERRA ESTATES SUBDIVISION GENERALLY LOCATED ON THE SOUTHEAST CORNER OF GRAND AVENUE AND LEGGETT STREET

WHEREAS: The Porterville City Council, on September 19, 2006, considered a request to place one (1) temporary modular structure on Lot 53 of Sierra Estates Subdivision formerly known as North Gate Estates, generally located on the southeast corner of Grand Avenue and Leggett Street; and

WHEREAS: The proposed temporary 12' x 60' modular structure is intended to be utilized for a sales office until model homes can be built; and

WHEREAS: That the temporary modular structure shall be allowed for a period of time expiring on March 19, 2007. Any additional time after this date would require an extension of time to be granted by the City Council; and

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

WHEREAS: The City Council has thoroughly reviewed and examined the request for the temporary structure.

NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the temporary modular structure to be utilized for a sales office, located on Lot 53 of Sierra Estates Subdivision, is approved subject to the following conditions:

1. That the temporary modular structure shall be allowed for a period of time expiring on March 19, 2007. Any additional time after this date would require an extension of time to be granted by the City Council.

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

3. Compliance with all applicable codes is required.

4. School Development fees and all other City fees are due at the time of building permit issuance.
5. Modular unit must have approval listing with the State of California.

6. Signs require a separate permit.

7. The developer/applicant shall pay all applicable fees according to the Municipal Code and State Law.

8. If installed, landscaped areas shall be on an automatic watering system.

Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By Georgia Hawley, Chief Deputy City Clerk
I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 19th day of September, 2006.

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

<table>
<thead>
<tr>
<th>Council:</th>
<th>McCracken</th>
<th>P. Martinez</th>
<th>F. Martinez</th>
<th>(Vacant)</th>
<th>Hamilton</th>
</tr>
</thead>
<tbody>
<tr>
<td>AYES:</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>NOES:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABSTAIN:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABSENT:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

JOHN LONGLEY, City Clerk

[Signature]

by Patrice Hildreth, Deputy City Clerk
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING A SIX (6) MONTH EXTENSION OF TIME FOR A
TEMPORARY MODULAR STRUCTURE FOR K. HOVnanian HOMES PRESENTLY TO
BE LOCATED ON LOT 53 OF SIERRA ESTATES SUBDIVISION GENERALLY LOCATED
ON THE SOUTHEAST CORNER OF GRAND AVENUE AND LEGGETT STREET

WHEREAS: The Porterville City Council, on April 3, 2007 reviewed the request for an
extension of time to allow for an additional six (6) months to allow one (1) temporary modular
structure to be placed on Lot 53 of Sierra Estates Subdivision formerly known as North Gate Estates,
generally located on the southeast corner of Grand Avenue and Leggett Street; and

WHEREAS: The Porterville City Council, on September 19, 2006, approved a request to
allow one (1) temporary modular structure to be placed on Lot 53 of Sierra Estates Subdivision
formerly known as North Gate Estates, generally located on the southeast corner of Grand Avenue
and Leggett Street; and

WHEREAS: The temporary 12’ x 60’ modular structure is intended to be utilized for a sales
office until model homes can be built; and

WHEREAS: That the temporary modular structure was allowed for a period of time
expiring on March 19, 2007. Any additional time after this date would require an extension of time
to be granted by the City Council; and

WHEREAS: K. Hovnanian Homes is requesting an extension of time of six (6) months to
allow for the temporary use of a 12’x60’ modular structure as a sales office on Lot 53 of Sierra
Estates, formerly North Gate Estates, a single family residential subdivision; and

WHEREAS: K. Hovnanian Homes has indicated that due to soil conditions and
improvements required, the building permits for the model homes were delayed and are now under
construction.

WHEREAS: Chapter 7, Section 7-3.3 of the City Code empowers the City Council to
approve temporary structures in conjunction with residential, commercial or industrial development
or in times of stress or emergency; and
WHEREAS: The City Council has thoroughly reviewed and examined the request for the additional extension of time for the temporary structure.

NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the additional six (6) months to allow for the temporary modular structure to be utilized for a sales office, located on Lot 53 of Sierra Estates Subdivision, is approved subject to the following conditions:

1. That the temporary modular structure shall be allowed for a period of time expiring on September 19, 2007, or until the model homes open, whichever occurs first. Any additional time after this date would require an extension of time to be granted by the City Council.

2. That all conditions relevant to City Council Resolution 126-2006 shall be adhered to.

Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By __________________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: PROPOSED INDEMNIFICATION AGREEMENT FOR THE CITY OF PORTERVILLE FOR ALL LOCAL AGENCY FORMATION COMMISSION (LAFCO) PROJECTS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: On December 7, 2005, the Tulare County Local Agency Formation Commission (LAFCo) adopted a policy requiring an executed indemnification agreement for all LAFCo projects. The format suggested by LAFCo is based on the form, which was recently approved by the Board of Supervisors (BOS) for use in all BOS projects. The proposed language states that "Applicant" shall indemnify, defend, and hold harmless the Tulare County Local Agency Formation Commission from and against any claims, actions, or proceedings for damages awarded to any party against LAFCo to attack any findings by LAFCo". The form requires the signature of a representative of the Applicant.

As a result of the anticipated policy change, the Porterville City Council on November 15, 2005, designated the Mayor to sign all indemnification agreements for projects submitted to LAFCo by the City, whether privately or publicly initiated.

City Staff is proposing an additional indemnification agreement similar to the one required by LAFCo that would indemnify the City. This indemnification agreement would require applicant(s) to submit an executed indemnification agreement to the City prior to Council Action. This agreement would basically state the following:

"Applicant(s)" shall indemnify, defend, and hold harmless the Porterville City Council and the City of Porterville from and against any claims, actions, or proceedings for damages awarded to any party against the Porterville City Council City of Porterville and any employee or agent of the City of Porterville to attack any findings by Porterville City Council and the City of Porterville. A copy of the agreement is attached and has been approved by the City Attorney.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution requiring applicant(s) to submit an executed indemnification agreement to the City prior to Council Action.

2. Adopt the Draft Indemnification Agreement.

ATTACHMENT:
1. Draft Resolution
2. Draft Indemnification Agreement.

Appropriated/Funded: Item No. 9
RESOLUTION NO. ____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
REQUIREING APPLICANTS (S) TO SUBMIT AN
EXECUTED INDEMNIFICATION AGREEMENT TO THE CITY OF PORTERVILLE
PRIOR TO CITY COUNCIL ACTION FOR PROJECTS REQUIRING
LOCAL AGENCY FORMATION COMMISSION ACTION

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of April 3, 2007 reviewed and considered a resolution requiring applicant(s) for projects
requiring Local Agency Formation Commission action to submit an executed indemnification
agreement to the City of Porterville prior to City Council action; and

WHEREAS: On December 7, 2005, the Tulare County Local Agency Formation
Commission (LAFCo) adopted a policy requiring an executed indemnification agreement for all
LAFCo projects; and

WHEREAS: As a result of the anticipated policy change, the Porterville City Council
on November 15, 2005, designated the Mayor to sign all indemnification agreements for projects
submitted to LAFCo by the City, whether privately or publicly initiated.

WHEREAS: City Staff is proposing an additional indemnification agreement similar to
the one required by LAFCo that would indemnify the City. This indemnification agreement
would require applicant(s) to submit an executed indemnification agreement to the City prior to
Council Action, pursuant to Exhibit A attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville,
that the City Council does hereby require that applicants submitting projects requiring Local
Agency Formation Commission action shall submit an executed indemnification agreement
(Exhibit A) to the City of Porterville prior to City Council action.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ____________________________
Georgia Hawley, Deputy
Application Indemnification Agreement

Project Title: ______________________

Applicant(s) shall indemnify, defend, and hold harmless to the fullest extent of the law, the City of Porterville from and against any claims, actions, or proceedings for damages, losses, attorneys’ fees, private attorney general fees and/or costs awarded to any party against the City of Porterville to attack, set aside, void, or annul any findings, resolutions, entitlements, certifications under the California Environmental Quality Act (“CEQA”) or other environmental review, and approvals by the City of Porterville given in regard to the Project described or identified in this Application and any other related proceedings (hereinafter referred to collectively as “Project” which includes annexations, reorganizations, detachments, dissolutions, formations, mergers, consolidations, sphere of influence amendments and extraterritorial service agreements), or to impose personal liability against such City of Porterville Council Members, officers, employees, agents, or attorneys resulting from their official involvement in any Project proceedings, including any claims, actions or proceedings for any damages, losses attorneys’ fees, private attorney general fees and/or awarded to any party and against the City of Porterville.

For the purposes of this Agreement, the term “Applicant” shall include all parties applying for discretionary approval of the Project, including but not limited to the subject agency, or agencies (the district(s) and/or city for which a change of organization or reorganization is proposed), the owner or owners of the property or properties upon which the Project is sited, the developer or developers of the property or properties upon which the Project is sited and the Applicant(s)’ heir(s), assign(s), and successor(s)-in-interest to which this Agreement applies.

The undersigned Applicant(s) expressly warrant his/her/its/their authority to enter into this Agreement and bind all applicants and parties, including but not limited to the subject agency or agencies, owner or owners of any property or properties upon which the project is sited, the developer or developers of the property or properties upon which the Project is sited and the Applicant(s)’s heir(s), assign(s), and successors-in-interest. The Applicant(s) having read and considered the above provisions, indicate his/her/its their agreement by their authorized signatures below.

Date: ____________________________

Subject Agency: City of Porterville

By: ________________________________ Attest: ________________________________

Printed Name: Cameron Hamilton Mayor

Printed Name: ________________________________

City or District Clerk

EXHIBIT A
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
PORTERVILLE CHAMBER OF COMMERCE
IRIS FESTIVAL, APRIL 28, 2007

SOURCE: Administrative Services - Finance Division, Business Tax Section

COMMENT: The Porterville Chamber of Commerce is requesting approval to hold its 8th Annual Iris Festival on Saturday, April 28, 2007, from 3:30 a.m. to 7:30 p.m. (9:00 a.m. to 5:00 p.m. is actual event time). The following street/sidewalk/parking lot closures/uses are requested:

STREETS:
Main Street from Morton Avenue to Olive Avenue;
Garden Avenue from Main Street to the alley east of Main Street;
Oak Avenue from Division Street to Second Street;
Mill Avenue from Division Street to the alley east of Main Street;
Putnam Avenue from Division Street to the alley east of Main Street;
Cleveland Avenue from Division Street to the alley east of Main Street.
Thurman Avenue from Division Street to alley east of Main Street and
Harrison Avenue from Division Street to alley east of Main Street.

SIDEWALKS:
Main Street from Olive Avenue to Cleveland Avenue;
Oak Avenue from Main Street to Second Street;
Mill Avenue from Hockett Street to Main Street; and
Putnam Avenue from Hockett Street to Main Street.

PARKING LOT:
Former J.C. Penney parking lot.

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

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

ATTACHMENT: Community civic event application and agreement, vendor list, request for street, sidewalk and parking lot closure/usage, Exhibit A, map, outside amplifier permit.
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 3/23/07  Event date: 4/28-2007

Name of Event: Iris Festival

Sponsoring organization: Porterville Chamber  PHONE # 754-7802
Address: 93 W. Main, Suite A

Authorized representative: Donnette Silva Carter  PHONE # 754-7802
Address: 

Event chairperson: Gary Grand

Location of event (location map must be attached): Main Street

Type of event/method of operation: Festival - Food, Craft booths, Stage entertainment, Kids' amusements, non-profit information booths

Nonprofit status determination: 501(c)(3)

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

<table>
<thead>
<tr>
<th>Service</th>
<th>Quantity</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barricades (quantity)</td>
<td>120</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Police protection</td>
<td>Yes</td>
<td>No</td>
<td>X</td>
</tr>
<tr>
<td>Street sweeping</td>
<td>Yes</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Refuse pickup</td>
<td>Yes</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Other:

Parks facility application required: Yes X No

Assembly permit required: Yes No

Centennial Park

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

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

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

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

City Code requirements:

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

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

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

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

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

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

Porterville Chamber of Commerce

[Signature]

(Date)

2/23/07
CITY OF PORTERVILLE

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

Name of event: Iris Festival
Sponsoring organization: Porterville Chamber
Location: Main Street Event date: 4-28-2007

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

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vendors will be submitted one week prior to event</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
CITY OF PORTERVILLE

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

Name of event: Iris Festival
Sponsoring organization: Porterville Chamber of Commerce

Event date: 4-28-07
Hours: Event 9am-5pm
Street Closures 3:30 am - 7:30 pm

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Street</td>
<td>Olive</td>
<td>Morton</td>
<td>Booths, Kids</td>
</tr>
<tr>
<td>Garden Oak</td>
<td>Main</td>
<td>East Alley</td>
<td>Vee, Stage</td>
</tr>
<tr>
<td>Mill Division</td>
<td>Division</td>
<td>Second</td>
<td>Entertainment</td>
</tr>
<tr>
<td>Putnam Division</td>
<td>Division</td>
<td>East Alley</td>
<td>Pedestrians</td>
</tr>
<tr>
<td>Cleveland Division</td>
<td>From</td>
<td>East Alley</td>
<td>Traffic</td>
</tr>
<tr>
<td>Thomas Division</td>
<td>To</td>
<td>East Alley</td>
<td></td>
</tr>
<tr>
<td>Harrison Sidewalks</td>
<td>From</td>
<td>Cleveland</td>
<td>Sidewalk</td>
</tr>
<tr>
<td>Main</td>
<td>Olive</td>
<td>Second</td>
<td>Sales</td>
</tr>
<tr>
<td>Oak</td>
<td>Main</td>
<td>Main</td>
<td></td>
</tr>
<tr>
<td>Mill</td>
<td>Hackett</td>
<td>Main</td>
<td></td>
</tr>
<tr>
<td>Putnam</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Parking lots and spaces

Parking lot

Location

Between Allen's and Jc Penney
Activity

Booths Shuttle Stop
REQUIREMENTS FOR COMMUNITY CIVIC EVENT
PORTERVILLE CHAMBER OF COMMERCE
IRIS FESTIVAL
APRIL 28, 2007

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

Public Works Director:  B. Rodriguez
Provide general clean up after event.

Community Development Director:  B. Dunlap
No comments.

Field Services Manager:  B. Styles
No comments.

Fire Chief:  M. Garcia
All booths must be on one side of center line, other side is for fire apparatus access. Cooking booths must have fire extinguishers.

Parks and Leisure Services Director:  J. Perrine
No comments.

Police Chief:  C. McMillan
No comments.

Interim Deputy City Manager:  J.D. Lollis
See attached, exhibit A, page 2.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Porterville Chamber of Commerce
Event: Iris Festival
Event Chairman: Gary Giraudi
Location: Main Street
Date of Event: April 28, 2007
Time of Event: 3:30 a.m. to 7:30 p.m.

RISK MANAGEMENT: Conditions of Approval

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

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

B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A:VII, and the insurance company must be an “admitted” insurer in the State of California.
This application must be submitted 10 days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1. Name and home address of the applicant:
   Porterville Chamber  Phone # 784-7502
   93 W. Main, Suite A

2. Address where amplification equipment is to be used:
   Main Street  Phone # 780-3519

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

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

5. Dates and hours of operation of amplification equipment:
   4-28-67  9 am - 5 pm

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

[Signature]

Applicant

[Signature]

Chief of Police

2/23/07

Date

3/7/07

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: APPROVAL FOR COMMUNITY CIVIC EVENT

SOURCE: Administrative Services - Finance Division

COMMENT: The Victory Outreach Ministry is requesting approval to hold a public presentation in an effort to minister the children of the community at Murry Park, pavilion #5, on Saturday, April 28, 2007, from 8:00 a.m. to 3:00 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: 3-7-07 Event date: 4-28-07

Name of Event: Kinz Crusade

Sponsoring organization: Victory Outreach PHONE #782-8759
Address: 129 North "D" Street

Authorized representative: Debbie Ortiz PHONE #793-2529
Address: 1938 W. Tomaé
Event chairperson: Debbie Ortiz PHONE #793-2529

Location of event (location map must be attached): Murray Park

See attached 12:30 - 1:30 PM

Type of event/method of operation: This is a Crusade for children

Nonprofit status determination: non-profit organization

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

Barricades (quantity): _______ Street sweeping Yes ___ No X
Police protection Yes ___ No x Refuse pickup Yes ___ No x
Other:

Parks facility application required: Yes X No _______ Rental Contract
Assembly permit required: Yes ___ No X

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
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.

Victory Outreach Ministry  Debbie L Ortiz  3/1/07
(Name of organization) (Signature) (Date)
CITY OF PORTERVILLE

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

Name of event: **Kidz Crusade**

Sponsoring organization: **Victory Outreach Ministry**

Location: **Murry Park Par. # 5** Event date: **4/28/07 Saturday**

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

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>This event will not have any outside vendors.</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
CITY OF PORTERVILLE

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

Name of event: **Kidz Crusade**

Sponsoring organization: **Victory Outreach Ministry**

Event date: **April 28, 2007 Saturday**  Hours: **8am - 3pm (Setup)**

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Closed From</th>
<th>Closed To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sidewalks

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Parking lots and spaces

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

NO STREETS WILL BE CLOSED. IT WILL BE IN PARK #5.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

VICTORY OUTREACH MINISTRY
KIDZ CRUSADE

APRIL 28, 2007

Business License Supervisor:
S. Perkins

No requirements.

Public Works Director:
B. Rodriguez

Provide general clean up after event.

Community Development Director:
B. Dunlap

Describe the activities.

Field Services Manager:
B. Styles

No comments.

Fire Chief:
M. G. Garcia

No comments.

Parks and Leisure Services Director:
J. Perrine

No comments.

Police Chief:
C. McMillan

Has approved amplifier permit, 3/14/02.

Interim Deputy City Manager:
J.D. Lollis

See attached, exhibit A, page 2.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Victory Outreach Ministry
Event: Kidz Crusade
Event Chairman: Debbie Ortiz
Location: Murry Park, pavilion #5
Date of Event: April 28, 2007
Time of Event: 8:00 am to 3:00 pm

RISK MANAGEMENT: Conditions of Approval

That the Victory Outreach Ministry 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.
Murry Park Arbor #5

Arbor 5

Kids' Cruise

Table

Table
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:
   
   Debbie Ortiz  
   Phone # 793-2529  
   1938 W. Tomah Porterville, CA

2. Address where amplification equipment is to be used:
   Murry Park - Pav. #5  
   Phone # Cell # 920-5250

3. Names and addresses of all persons who will use or operate the amplification equipment:
   Victory Outreach Ministry - (Sound men)

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

5. Dates and hours of operation of amplification equipment:
   April 28, 07 Saturday 8A-3pm

6. A general description of the sound amplifying equipment to be used:
   Speakers, microphones, stereo amplifiers for microphones.
I hereby certify that all statements and answers on this registration form are true and correct.

[Signature]
Debbie L Ortiz
Applicant

[Signature]
Chief of Police

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

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

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

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

cc: ______________________________________
                                            ______________________________________
                                            ______________________________________

3/27/01
The City of Porterville is allocated airport grant monies for project work. It is essential that the application for funding be completed by May, 2007. At this point, several projects are being considered, but the priority appears to be the improvement of lighting systems at the Airport.

The suggestion is to apply for design funds for Airport lighting systems including:

- Upgrade power source for runway end indicator lights (REIL)
- Convert taxiway lights to LED because of energy savings and efficiency
- Improve ramp lighting for safety and security
- Install the lighted wind socks at the end of runway 30 and runway 12
- Rebuild the segmented circle, wind-T and lighted wind sock.

The initial aspect of the project will be preliminary studies, design including plans and specifications.

**RECOMMENDATION:** The annual allocation amount is $150,000. To preserve this amount, it is recommended that the City be authorized to apply for $100,000 in the study and design portions and $50,000 for early implementation of any aspect of the outlined scope of work.
SUBJECT: ASSIGN AIRPORT LEASE - LOT 33

SOURCE: Administrative Services/Purchasing Division

COMMENT: Dr. Westel L. Creager, the current leaseholder of Lot 33, has sold his hangar to James Costa of Tulare, CA. The new owner is requesting Council authorization to assume the existing lease between the City of Porterville and Dr. Creager dated March 1, 1986. The lease provides for a twenty-year option, which Dr. Creager exercised in 2006. The lease will expire February 28, 2026.

RECOMMENDATION: That the City Council approve the assigning of the lease agreement for Airport hangar Lot 33 between the City of Porterville and Dr. Westel L. Creager to James Costa.

Attachments: Current Airport Map showing Lot 33
Assignment of Lease
Lessor's Consent to Assignment of Lease
Letters of Request from the parties
ASSIGNMENT OF LEASE
PORTERVILLE MUNICIPAL AIRPORT

THIS AGREEMENT, made this 1st day of April, 2007, by and between Dr. Westel Creager, 33282 Tule Oak, Springville, CA, owner of a hangar on Lot 33 at the Porterville Municipal Airport, as the Assignor, and Mr. James Costa, 18250 Rd. 152, Tulare, CA, as the Assignee.

In consideration of the mutual covenants herein contained, each act to be performed hereunder, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Effective April 1, 2007, Assignor hereby assigns, transfers and conveys to Assignee all of his right, title and interest as Lessee, in, to and under a certain Lease Agreement dated March 1, 1986 (hereinafter "Lease"), executed by and between the City of Porterville, as Lessor, and Westel L. Creager, M.D., as Lessee, providing for the letting of certain premises located at the Porterville Municipal Airport, Porterville, California, being more particularly described as follows:

   An airport hangar known as No. 33, and containing a total area of approximately 14,000 square feet, and establishing an original Lease terminating February 28, 2026.

2. Effective April 1, 2007, Assignee hereby accepts and assumes all of the obligations, responsibilities and liabilities of Assignor under said Lease, and agrees to perform said Lease Agreement according to its terms, covenants and conditions, without exception, and Assignee understands and agrees that Landlord makes no warranty or representation that either Assignor or Assignee would be given an exclusive use in the Porterville Municipal Airport for the use thereof by Assignor and/or Assignee, except as provided in the Lease.

3. Upon execution of this Assignment of Lease and Landlord’s consent hereto, Assignee’s Noticed Address and Assignee’s Billing Address shall be as set forth herein above.

4. Assignor hereby covenants said Lease as valid and existing and is not in default as of the date of this Assignment.

5. This Assignment shall be binding upon and shall inure to the benefit of the respective parties, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Lease as of the date first above written.

ASSIGNOR

BY: Westel L. Creager, M.D.

ASSIGNEE

BY: James Costa

airport/lease/Creamer
The City of Porterville, a municipal corporation of the State of California, being the Landlord under the Lease for Airport Hangar Lot No. 33, described in the foregoing Assignment, hereby consents to the foregoing Assignment of Lease upon the expressed condition, however, that there shall be no further assignment without the prior written consent of the Landlord.

Dated this 3rd day of April, 2007.

CITY OF PORTERVILLE

BY: ____________________________
Cameron Hamilton
MAYOR, CITY OF PORTERVILLE

"LESSOR"

ATTEST: ________________________
John Longley, CITY CLERK

APPROVED AS TO FORM:

BY: ____________________________
Julia Lew, City Attorney
February 23, 2007

John Longley
City Manager
City of Porterville
40 W. Cleveland Ave.
Porterville, CA 93257

Re: Purchase of 33 Porterville Airport

I am in the process of selling the aircraft hangars, Lot 33, at Porterville Airport. As per the lease agreement, I would like to transfer the land lease between myself and the City of Porterville to Mr. James Costa. We will split the $150.00 transfer fee.

Please put this on the next Council Agenda.

Thank you.

Sincerely,

Wes Creager, M.D.
February 23, 2007

James Costa
Road 252
Tulare, Ca 93274

John Longley
City Manager
City of Porterville
40 W. Cleveland Ave.
Porterville, CA 93257

Re: Purchase of 33 Porterville Airport

I am in the process of negotiating the purchase of the hangar on Lot 33 at Porterville Airport. As per the lease agreement, I am requesting the City Council approval for the transfer of the lease.

Sincerely,

James Costa

[Signature]
SUBJECT: CONSIDERATION OF AMENDMENT TO SCOPE OF WORK OF FRANCHISE COMPLIANCE/RENEWAL OF CONSULTANT

SOURCE: Administration

COMMENT: As the Council is aware, the City had retained Communications Support Group, Inc., a specialist in the cable franchise compliance arena, to engage in a cable franchise compliance audit. The consultant has recently completed both the general compliance audit and the franchise fee audit for the periods of January 1, 2003, through December 31, 2005, with significant findings to the City's favor projected at more than $140,000 for the three (3) year period. These findings provide evidence that it would be beneficial to the City to audit the prior 2006 calendar year as well, which the consultant has indicated the cost of expanding the audit would be $8,500. It is recommended that the City Council authorize staff to engage the consultant in expanding the scope of services to allow for the expanded fee audit for the 2006 calendar year, authorizing as well a budget adjustment from unallocated General Fund reserves for the audit.

RECOMMENDATION: That the City Council:

1. Authorize staff to expand the franchise fee audit by Communications Support Group, Inc., to include the 2006 calendar year at a cost of $8,500, and authorize the execution of any and all documents necessary to effect the scope of services; and

2. Authorize a necessary budget adjustment of $8,500 from unallocated General Fund reserves to the City Council's Professional Services account.
SUBJECT: BIO-SOLIDS ANNUAL MANAGEMENT AND DISPOSAL CONTRACT

SOURCE: Public Works Department – Field Services Division

COMMENT: The City’s consultant, Carollo Engineers, has indicated the bio-solid management plan will only accommodate approximately 1,000 tons annually in the reclamation area. Since this is the amount of bio-solids that the City produces each year, the City needs to dispose of its stockpile of approximately 6,500 tons through a processing facility. The bio-solids processing facility is willing to accept the material now. With the increasing competition with the other cities for this service, staff feels that time is of the essence to dispose of the stockpile.

Mitch Brown was awarded the contract to provide annual disposal/beneficial reuse of the City’s bio-solids and their current contract is good until January 2008. City staff is recommending an increase to the 06/07 budget appropriation by $300,000 for the removal of the stockpiled bio-solids. Funds are available from the Wastewater Capital Reserve.

RECOMMENDATION: That the City Council approve appropriating $300,000 from the Wastewater Capital Reserve fund to be added to the 06/07 budget for the disposal of the City’s bio-solids.
PUBLIC HEARING

TITLE: CONDITIONAL USE PERMIT 1-2007 – PROPOSED FAMILY PIZZERIA/ARCADE TO BE LOCATED AT 45 NORTH SECOND STREET (FORMERLY THE POLICE PAL BUILDING)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

COMMENT: The applicants are requesting approval of a Conditional Use Permit to allow for a family pizzeria/arcade, similar to a “Chuck E Cheese’s” to be located at 45 North Second Street. The proposed name of the business will be “Giovanni’s Pizzeria & Arcade”. In conjunction with proposed conditional use permit, the applicants are proposing to serve beer and wine with the serving of meals. The subject site is located in the C-2 (Central Commercial) Zone.

The primary area for the arcade games will be located in the center of the building. The applicants indicate that approximately 50± arcade games are proposed. The interior portion of the main entrance will consist of men’s & ladies restrooms and an office. The kitchen area and other service related functions will also be located in this area. The dining area will be located around the arcade area on the north, south and west sides as shown on the floor plan (Attachment No. 1). The proposed hours of operation will be Wednesday through Friday from 3:00 pm to 11:00 pm and Saturday and Sunday from 10:00 am to 11:00 pm. Any substantial change in these hours would require approval by either the Zoning Administrator or City Council.

Section 801.5 A-8 of the Porterville Zoning Ordinance states:

“Commercial recreation, including not limited to arcades in the C-2 Zone require a conditional use permit. Any use involving the serving of alcoholic beverages under an on-sale license shall be subject to the provisions of Section 2100B of this ordinance.”

The alcohol license application indicates that the applicants for the proposed business are applying for a Type 41 Beer and Wine license in conjunction with the serving of meals. In this particular situation, a conditional use permit is not required for the on-sale of alcohol.
The subject site is located within 600 feet of an existing church. Section 2100 B-2f of the Porterville Zoning Ordinance states: “Where such a use is within 600 linear feet of the nearest property line of an sensitive use (church), the outdoor advertising of alcoholic beverages shall be prohibited.”

Although the proposed sale of beer and wine does not require approval of a conditional use permit, the subject site is located in Census Tract 38.02, which has an over concentration of alcohol licensees. The California Department of Alcoholic Beverage Control (ABC) has indicated that Census Tract 38.02 can accommodate up to four (4) on-sale licenses without being deemed “over concentrated”. At present, ten (10) on-sale licenses and one (1) pending license currently exist. As a result of this, a letter from the applicant requesting approval of a finding of Public Convenience or Necessity for the on-sale license is required to be submitted to the ABC. It does not require the City’s approval of a finding of Public Convenience or Necessity.

Pursuant to Section 15301 Class 1 (Existing Facilities), the proposed project is categorically exempt from the California Environmental Quality Act.

RECOMMENDATION: It is recommended that the City Council adopt the draft resolution approving Conditional Use Permit 1-2007 subject to conditions of approval.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: APRIL 3, 2007

PUBLIC HEARING - STAFF REPORT

TITLE:      CONDITIONAL USE PERMIT 1-2007

APPLICANT:  Maria & Pat Mena
            22660 Ave. 178
            Porterville, CA 93257

SPECIFIC REQUEST: The applicants are requesting approval of a Conditional Use Permit
To allow for a family pizzeria/arcade, similar to a “Chuck E Cheese’s” to be located at 45
North Second Street. The proposed name of the business will be “Giovanni’s Pizzeria &
Arcade”. In conjunction with proposed conditional use permit, the applicants are proposing
to serve beer and wine in conjunction with the serving of meals. The subject site is located in
the C-2 (Central Commercial) Zone.

PROJECT DETAILS: The primary area for the arcade games will be located in the center of
the building. The applicants indicate that approximately 50± arcade games are proposed.
The interior portion of the main entrance will consist of men’s & ladies restrooms and an
office. The kitchen area and other service related functions will also be located in this
area. The dining area will be located around the arcade area on the north, south and west
sides as shown on the floor plan (Attachment No. 1). The proposed hours of operation
will be Wednesday through Friday from 3:00 pm to 11:00 pm and Saturday and Sunday from
10:00 am to 11:00 pm. Any substantial change in these hours would require approval by
either the Zoning Administrator or City Council.

The primary area for the arcade games will be located in the center of the building. The
applicants indicate that approximately 50± arcade games are proposed. The interior portion
of the main entrance will consist of men’s & ladies restrooms and an office. Additionally, the
kitchen area will be located in this area which will consists of an order counter and service
counter. The eating area will consist of tables and chairs along the north side of the building
with booths located on the east side. Restrooms, mechanic and storage rooms to include a
meeting room will be located on the west end of the building. The proposed hours of
operation will be Wednesday through Friday from 3:00 pm to 11:00 pm and Saturday and
Sunday from 10:00 am to 11:00 pm. Any substantial change in these hours would require
approval by either the Zoning Administrator or City Council.

Section 801.5 A-8 of the Porterville Zoning Ordinance states:

“Commercial recreation, including not limited to arcades in the C-2 Zone require a
conditional use permit. Any use involving the serving of alcoholic beverages under an on-
sale license shall be subject to the provisions of Section 2100B of this ordinance.”
The alcohol license application indicates that the applicants for the proposed business are applying for a Type 41 Beer and Wine license in conjunction with the serving of meals. In this particular situation, a conditional use permit is not required for the on-sale of alcohol. The subject site is located within 600 feet of an existing church. Section 2100 B-2f of the Porterville Zoning Ordinance states: “Where such a use is within 600 linear feet of the nearest property line of an sensitive use (church) the outdoor advertising of alcoholic beverages shall be prohibited.”

Although the proposed sale of beer and wine does not require approval of a conditional use permit, the subject site is located in Census Tract 38.02, which has an over concentration of alcohol licensees. The California Department of Alcoholic Beverage Control (ABC) has indicated that Census Tract 38.02 can accommodate up to four (4) on-sale licenses without being deemed “over concentrated”. At present, ten (10) on-sale licenses and one (1) pending license currently exist. As a result of this, a letter from the applicant requesting approval of a finding of Public Convenience or Necessity for the on-sale license is required to be submitted to the ABC. It does not require the City’s approval of a finding of Public Convenience or Necessity.

Pursuant to Section 15301 Class 1 (Existing Facilities), the proposed project is categorically exempt from the CEQA Guidelines.

GENERAL PLAN AND LAND USE/ZONING DESIGNATION:

The site is designated for General Commercial uses and is zoned C-2 (Central Commercial) Zone.

SURROUNDING AREA ZONING AND LAND USE:

NORTH: City C-2 – Bank of Sierra and parking lot
SOUTH: City C-2 – Commercial business and parking lot
EAST: City C-2 – Second Street and the Redevelopment area parking lot
WEST: City C-2 – Alley and commercial businesses

STAFF ANALYSIS: On March 7, 2007, the Project Review Committee reviewed the Application request. Section 801.5 A-8 of the Porterville Zoning Ordinance states:

“Commercial recreation, including not limited to arcades in the C-2 Zone require a conditional use permit. Any use involving the serving of alcoholic beverages under an on-sale license shall be subject to the provisions of Section 2100B of this ordinance.”

Section 800 A35 of the Porterville Zoning Ordinance requires approval of a Conditional Use Permit for arcades.
ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No project. Denial of the proposed use permit would prohibit the applicant to establish a family pizzeria and arcade at this location. Additionally, the building would remain vacant.

2. Approve the project. Approval of the request would allow the applicant to establish a family pizzeria and arcade at this location.

ENVIRONMENTAL: Pursuant to Section 15301 Class 1 (Existing Facilities), the proposed project is categorically exempt from the CEQA Guidelines. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: March 7, 2007

DATE ACCEPTED AS COMPLETE: March 8, 2007

RECOMMENDATION: It is recommended that the City Council approve the application for Conditional Use Permit 1-2007.

ATTACHMENTS:

1. Locator map, elevation and interior layout of the arcade
2. Application
3. Notice of Exemption
4. Draft Resolution
CONDITIONAL USE PERMIT
NO. #1-2007

MAIN ST.

OLIVE

SECOND ST.

GARDEN

SUBJECT SITE
CITY OF PORTERVILLE

APPLICATION FOR CONDITIONAL USE PERMIT

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

PROJECT NAME: Giovanni's Pizzeria & Arcade

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF PROPERTY OWNER(S):
Pat and Maria Mena 559-781-9073
22660 Ave 178, Porterville, CA. 93257

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF APPLICANT/CONTACT PERSON:
Pat & Maria Mena 559-781-9073
22660 Ave 178, Porterville, CA. 93257

PROJECT ADDRESS AND NEAREST CROSS STREETS:
45 North Second St, Porterville
Olive Ave - Nearest Street.

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

Date of most recent sale of property: 1980

If applicant is the lessee, give date property was leased:

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

Date said restrictions expire:

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

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

   The proposed business is family oriented specifically catered for small kids parties.

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

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

      250 +

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

      12

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

      235 city parking in front and within 300 feet from the building.

   (d) Maximum height of buildings or structures.

      20

   (e) If the application is not intended to be for a permanent conditional use, state the length of time for which it is requested.
We, the undersigned OWNERS of ADJACENT PROPERTY as shown upon the map attached to the application, hereby certify that we have read the foregoing petition and agree that the fact stated correctly and completely present the conditions surrounding the property involved in the application, and believe the application SHOULD BE GRANTED. (Add additional sheets where necessary. These signatures are desirable but not required.)

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Name</th>
<th>Address</th>
<th>APN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

OWNER'S DECLARATION

STATE OF CALIFORNIA  )  ss
COUNTY OF TULARE  )

I, ____________________________, being duly sworn, declare and say that I am the owner of part (or all) of the property involved and that this application has been prepared in compliance with the requirements of the Porterville City Council as printed herein and that the foregoing information thoroughly and completely, to the best of my ability, presents the argument in behalf of the application except as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at ____________________________ this 23rd day of March, 2007.

Telephone (559) 781-9078  Signed ____________________________

Mailing Address 2760 Ave 178
Porterville, CA 93257

This is to certify that the foregoing application has been inspected by me and found to be complete and acceptable for filing with the Porterville City Council.

Received ____________________________ Date ____________________________

Receipt No. ____________________________

By ____________________________
NOTICE OF EXEMPTION

TO:       Office of Planning and Research
          1400 Tenth Street, Room 121
          Sacramento, CA 95814
          Tulare County Clerk
          County Civic Center
          Visalia, CA 93291

FROM:     City of Porterville
          291 N. Main Street
          Porterville, California 93257
          Maria & Pat Mena
          22660 Ave. 178
          Porterville, CA 93257

Conditional Use Permit 1-2007

Project Title

45 North Second Street

Project Location (Specific)

City of Porterville

Project Location (City)

Tulare

Project Location (County)

A conditional use permit to allow for a family pizzeria and arcade.

Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville

Name of Public Agency Approving Project

Maria & Pat Mena

Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

_______ Ministerial (Section 15073)

_______ Declared Emergency (Section 15071 (a))

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

_______ Categorical Exemption. State type and section number: 15301 Class 1

Existing facilities.

Reasons why project is exempt

Bradley D. Dunlap, AICP, Community Development Director

Contact Person

If Filed by Applicant:

1. Attached certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the Project? Yes: 

Date Received for filing: ______________

Signature

Community Development Director

Title

U/NoticeExemptCUP1-2007

ATTACHMENT
ITEM NO. 3
RESOLUTION NO._______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL FOR CONDITIONAL USE PERMIT 1-2007 TO ALLOW FOR A FAMILY PIZZERIA AND ARCADE TO BE LOCATED AT 45 NORTH SECOND STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of April 3, 2007, conducted a public hearing to consider Conditional Use Permit 1-2007, being a request to allow for a family pizzeria and arcade to be located at 45 North Second Street in the C-2 (Central Commercial) Zone; and

WHEREAS: Section 801.5 A-8 of the Porterville Zoning Ordinance states: "Commercial Recreation, including not limited to arcades in the C-2 Zone require a conditional use permit. Any use involving the serving of alcoholic beverages under an on-sale license shall be subject to the provisions of Section 2100B of this ordinance;" and

WHEREAS: In conjunction with proposed conditional use permit, the applicants are proposing to serve beer and wine in conjunction with the serving of meals; and

WHEREAS: Pursuant to Section 2100 B.2 of the Porterville Zoning Ordinance, as proposed, the on-sale of beer and wine with serving of meals does not require approval of a conditional use permit; and

WHEREAS: The subject site is located within 600 feet of an existing church. Section 2100 B-2f of the Porterville Zoning Ordinance states:

"Where such a use is within 600 linear feet of the nearest property line of an sensitive use (church), the outdoor advertising of alcoholic beverages shall be prohibited;" and

WHEREAS: The subject site is located in Census Tract 38.02. The California Department of Alcoholic Beverage Control (ABC) has indicated that Census Tract 38.02 can accommodate up to four (4) on-sale licenses without being deemed "over concentrated". At present, ten (10) on-sale Licenses and one (1) pending license currently exist. As a result of this, a letter from the applicant requesting approval of a finding of Public Convenience or Necessity for the on-sale license is required to be submitted to the ABC. It does not require the City's approval of a finding of Public Convenience or Necessity.

WHEREAS: The City Council received testimony from all interested parties Relative to said Conditional Use Permit; and

ATTACHMENT
ITEM NO. 4
WEREAS: The City Council made the following findings:

1. Pursuant to Section 15301 Class I (Existing Facilities), the proposed project is categorically exempt from the CEQA Guidelines.

2. That the proposed project is consistent with the General Plan.

   The Land Use Element of the General Plan designates the subject site as General Commercial, which allows for the proposed intensity of development.

3. That the design and operation of the proposed project are consistent with the General Plan.

   The property is in the C-2 Zone which allows for the proposed use. The project is designed in compliance with all applicable codes and regulations.

4. That the proposed use is not likely to cause substantial environmental damage.

   The site and surroundings are currently developed and the property was previously used as a youth center.

NOW THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 4-2005 subject to the following conditions:

1. Any future change in operation, which substantially alters the condition or nature of the subject business, will require approval by the City Council if such modification involves the sale of alcoholic beverages.

2. Upon approval of the Conditional Use Permit, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls to the Police Department resulting from the sales of alcohol will result in revocation of the Conditional Use Permit.

3. No outdoor advertising of alcohol will be allowed.

4. No live entertainment will be allowed.

5. No separate bar area is allowed.

6. The Conditional Use Permit shall become null and void if not undertaken and actively and continuously pursued within one (1) year.

8. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.

9. The developer/applicant shall construct and/or repair street, curb, gutter, sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306).

10. The developer/applicant shall provide streetlights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer. Do not use wood poles without prior written approval of the City Engineer. Street light type shall match the streetlights across Second Street, the Downtown Redevelopment Area theme.

11. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply.

12. The developer/applicant shall comply with Ordinance No. 1636 regarding Waste Water Discharge requirements and shall complete and submit the following:

   1. Wastewater Discharge Permit Application, Part “A”; and

      If monitoring is required, based on the responses to questions in Part “A” of the Wastewater Discharge Permit, then the developer/applicant shall complete and submit the remainder of the application along with the Permit Fee, and provide monitoring facilities to allow inspection, sampling, and flow measurement of the flows in the sewer and drainage system.

13. A back-flow device is required on the water meter.
14. A grease trap or grease interceptor is required.

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

16. The developer/applicant shall establish a location for the refuse container. Location shall have protection for the bin rolling freely and damaging the building. The location to be approved by the City.

17. The owner/applicant shall install tree wells within the sidewalk area and provide and maintain city-approved street trees along the Second Street frontage of the property. In the event that underground waterway culverts impair in-ground tree planting, the owner/applicant shall provide concrete planter boxes containing a minimum volume of 2 cubic feet per tree. The number of trees to be planted shall be equivalent to a minimum of one tree per 35 feet of roadway frontage. The trees are to be a minimum of #15 size specimens and root barriers must be utilized for in-ground planted trees. The selection of planting locations, and performance of canopy maintenance for street trees shall be conducted in manners to minimize vehicular sight safety conflicts.

18. The owner/applicant shall provide an automatic irrigation system for all landscape planting, including trees and right of way planting. All landscaping shall be installed prior to occupancy and be permanently maintained by the owner/applicant in a healthy and vigorous growing condition, and clean appearance.

19. Install nostalgic streetlights and poles along Second Street frontage.

20. The proposed project is considered A-3 occupancy.

21. The building must have sprinklers if the square footage exceeds more than 5,000 square feet if alcohol is served.

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

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

24. Plan check fees are required at the time of building permit submittal.

25. Soil compaction test may be required.

26. School Development fees and all other City fees are due at the time of building permit issuance.
27. Approval from the Tulare County Health Department prior to issuance of the building permit.

28. Restrooms and main entrance must comply with ADA access laws.

29. Signs require separate permit.

30. The project must comply with latest applicable codes.

31. Based on the occupancy classification, a fire alarm and/or an automatic sprinkler system may be required. This occupancy would be classified as an A-2.1 and require minimum type V-1 hr construction.

32. When a sprinkler system is required all valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers are:
   a. Twenty or more in Group I Divisions 1.1 and 1.2 occupancies.
   b. One hundred or more in all other occupancies.

33. Submit three (3) complete sets of sprinkler and/or fire alarm plans to the Fire Department for review prior to installation.

34. For automatic sprinkler systems, underground plans must be submitted and approved prior to submittal of the above ground plans. A hydrant will be required within 50 feet of the Fire Department connection.

35. Depending on the location of the existing fire hydrant(s), additional fire hydrants may be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

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

37. Fire hydrant spacing shall be as follows:
   In Commercial development, one hydrant shall be installed at 300-foot intervals.

38. Project must meet minimum fire flow requirements per the table in Appendix III-A & III-B of the California Fire Code. The fire flow for this project as proposed with automatic sprinklers would be 1,500 GPM.

39. Areas identified as "Fire Lanes" must be identified as such by red painted curbs and identified per requirements set forth in the California Vehicle Code Section 22500.1.

40. A Knox box may be required. An application may be obtained from the Fire Department.
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ____________________________
Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: APRIL 3, 2007

PUBLIC HEARING- CONTINUED

SUBJECT: ENNIS ESTATES TENTATIVE SUBDIVISION MAP (ENNIS LAND DEVELOPMENT INC.)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On October 3, 2006, the City Council continued the public hearing for the proposed Ennis Estates project. 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 April 17, 2007.

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 April 17, 2007 meeting.
PUBLIC HEARING

TITLE: ORDINANCE PERTAINING TO THE REGULATION OF SQUATTER CAMPS

SOURCE: CITY ATTORNEY

COMMENT: The City Council directed, at the March 20, 2007 City Council Meeting, that this Ordinance be scheduled for a public hearing and consideration for first reading at this Meeting.

As noted at the prior Meeting, City staff has received numerous complaints from members of the community and property owners concerning the location of squatter camps on private and public property. The camps can cause blight and the deterioration of the city’s neighborhoods and pose serious health and safety concerns. Most recently, the City has received complaints of such camps along the river areas, posing additional health and safety concerns for both the camps’ inhabitants as well as the community.

The proposed regulations in the municipal code would provide an additional tool for the City in addressing these camps. The regulations would make it unlawful to settle or occupy any land, without a bona fide claim or color of title, or without obtaining consent of the property owner. It would also be unlawful to construct a tent or other structure on the property as well. The ordinance also sets forth a specific process for abating unlawful squatter camps, providing for the removal of the camps and discarding of any items left after posted notice at the site of the camp.

The City Council requested that the definition of “squatter camps” include the habitation of vacant structures without permission of the property owner, or the inhabitants of any structure deemed substandard and/or unsuitable for habitation by City Building officials. When applied, these regulations will not replace the existing process for posting and removing residents from substandard structures who are otherwise there lawfully. Language has also been added to clarify the designation of the Health Officer.

RECOMMENDATION: That the City Council hold the public hearing and consider public comment concerning the proposed regulations, and approve and give First Reading to the attached ordinance and order to print.

ATTACHMENTS: Ordinance No. ____, An Ordinance of the City Council of the City of Porterville Adding Article VII, Sections 18-76 through 18-83 to Chapter 18 of the Porterville Municipal Code Pertaining to the Regulation of Squatter Camps.

Item No. 17
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADDITION ARTICLE VII, SECTIONS 18-76 THROUGH 18-83 TO CHAPTER 18 OF THE
PORTERVILLE MUNICIPAL CODE PERTAINING TO THE REGULATION OF
SQUATTER CAMPS

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

SECTION 1. Article VII of Chapter 18, of the Porterville Municipal Code is
hereby added and shall read as hereinafter set forth:

Chapter 18

ARTICLE VII
REGULATION OF SQUATTER CAMPS

Sections:
18-76 Purpose
18-77 Definitions
18-78 Unlawful Occupancy
18-79 Enforcement
18-80 Nuisance
17-81 Procedure for Abatement of Nuisance
17-82 Penalty
17-83 Severability

Sec. 18-76. Purpose.

The purpose of this section is to assist code / law enforcement in minimizing the
impact that squatter camps have on the City’s quality of life. Squatter camps are
unsightly, accumulating over time on public and private property causing blight
and similar conditions resulting in depreciation of property values and
deterioration of the city’s neighborhoods. Such encampments are also
detrimental to the public health, safety, and welfare, and constitute a public
nuisance and, hence, the City herewith provides a means by which they can be
eliminated.
Sec. 18-77. Definitions.
Unless otherwise stated herein, whenever used in this section, the following terms shall be defined as follows:

(a) "Health Officer" shall mean the Health Officer of the City, as appointed by the City Manager, and the Health Officer’s duly authorized representatives and deputies.

(b) A "squatter camp" is an area of land, public or private, upon which any person has settled or located, or which he/she occupies, without having a bona fide claim or color of title thereto, or without the express consent of the owner or person legally in charge thereof or the agent of the same, and which is occupied or inhabited in violation of Section 103 of the California Building Code or Chapter 10 of the Uniform Housing Code as adopted by the City of Tulare. It includes any tent camp space, house court and every other kind of camp, tent, shelter, structure, or collection of tents, shelters, or structures of any kind established, constructed, maintained, or operated thereon. It also includes the inhabiting of any vacant structure without permission of the property owner, or the inhabiting of any structure deemed substandard and/or unsuitable for habitation by City Building officials.

(c) A "squatter" is one who settles or locates on land enclosed or unenclosed with no bona fide claim or color of title or without the express consent of the owner or person legally in charge of the land.

Sec. 18-78. Unlawful Occupancy.
No person shall settle or locate on or occupy any land without a bona fide claim or color of title thereto, or without the express consent of the owner or person legally in charge of said land, or erect or construct any tent, shelter, or structure of any kind thereon.

Sec. 18-79. Enforcement.
It shall be the duty of the Chief of Police or the City Health Officer to enforce the provisions of this chapter.

Sec. 18-80. Nuisance.
Every squatter camp as defined in this Chapter is hereby declared to be a public nuisance, and may be abated by the City in the manner provided by this Chapter.

Sec. 18-81. Procedure for Abatement of Nuisance.
The Health Officer and the Chief of Police are hereby authorized to abate such a nuisance as follows:

(a) Notice must be served upon the owner or person in charge of the property upon which said squatter camp is located. Such notice shall be in writing, signed
by the Health Officer or Chief of Police, and served upon the owner or the person in charge of the property upon which said squatter camp is located according to the provisions of Section 1162 of the Code of Civil Procedure of California. Such notice shall require that said squatter camp be completely abandoned, abated, closed and vacated and demolished within three (3) days from the date of service of notice upon the owner or operator or person in charge thereof. Failure or refusal on the part of any such owner or person in charge of such squatter camp to abate, vacate, and close it in compliance with such written notice shall constitute a violation of this chapter. Where public property is involved, the notice shall be served upon the squatter(s).

(b) Upon the failure or refusal on the part of the owner or person in charge of the land, upon which the squatter camp is located, to comply with the notice, the Health Officer or Chief of Police may post notices notifying all squatters that said squatter camp is condemned as a public nuisance and that all persons shall, within three (3) days, vacate the premises upon which such squatter camp space is located. Any person who shall thereafter enter in or upon or make any use of such squatter camp shall be guilty of a violation of this chapter.

(c) If the Health Officer of Chief of Police is unable to ascertain or find the owner of the land upon which any such squatter camp is located, or where no person is in charge of the same, the Health Officer or Chief of Police may notify all squatters within such squatter camp, in writing, that the same has been condemned and to remove all personal belongings there from within three (3) days. In addition, the Health Officer or Chief of Police shall post a written notice in a conspicuous place, within said squatter camp, notifying all squatters to remove all personal belongings and vacate said squatter camp within three (3) days, after which the City may remove all remaining personal belongings and shall hold such for ten (10) days. The City may discard all items not claimed within the ten (10) day holding period.

(d) Failure or refusal of any person to comply with any notice provided according to this section shall be a violation of this chapter.

Sec. 18-82. Penalty.
Every squatter camp, as defined by this Chapter, is hereby declared a public nuisance, and as such may be abated in the manner provided for in this Chapter. Furthermore, all violations of this Chapter shall be considered misdemeanors, punishable according to Porterville Municipal Code Section 1-9. Upon the recommendation of the prosecuting attorney, the Court may reduce the charged offense from a misdemeanor to an infraction, punishable under Penal Code Section 19.8.

Sec. 18-83. Severability.
If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person or circumstance shall be held invalid, such invalidity shall
not affect the other provisions or application of the provisions of this Chapter which can be given effect without the invalid provisions or application and, to this end, the provisions of this Chapter are declared to be severable.

**SECTION 2.** This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.

ADOPTED, SIGNED AND APPROVED this ______ day of __________, 2007.

______________________________
Mayor of the City of Porterville

ATTEST:

______________________________
Chief Deputy City Clerk and Clerk of the Council of the City of Porterville
SUBJECT: NUISANCE ABATEMENT ALONG RIVER AND OTHER PRIVATE PROPERTIES

SOURCE: Administration

COMMENT: At the request of City Council, this report is prepared concerning the City's ability to clean up private property related to transients or "squatters." The City Council is reviewing local regulations that would provide an additional remedy. However, the City Attorney has identified two potential alternative processes that can be followed.

Option 1
From a purely technical standpoint, any belongings left by any trespassers on private property can be deemed to have been abandoned by the individuals who left them there. It would then become the responsibility of the landowner to remove it and abate any nuisances on his or her property.

Generally, the City can require the owner to abate the nuisance through Municipal Code Section18-26. This Section allows the City to declare private property a public nuisance after a 90-day period. After the running of the 90-day period and a "last chance" notice, the City can file a court action and obtain a court order requiring the owner to abate, or allowing the City to abate and recoup the costs from the owner.

However, the City has acknowledged that much of the activities on private property constituting a public nuisance have been caused without the consent and by no fault of the property owners. In those circumstances, at any time during the process discussed above, the City Council can publicly determine that circumstances warrant City involvement (and use of time and resources) in the clean up. However, in those circumstances, the City Council should make a public determination that the City's use of resources or funds in assisting or even completely paying for the clean up serve the public health and welfare. It would also be important that the situation is distinguished from general property neglect issues so as not to set a precedent in future nuisance abatement cases (e.g. it was clear from the beginning that the owner opposed the use of

Dir. Appropriated/Funded C/M

Item No. 18
the property by others, and it was apparent to City officials that the owner did not cause or assist in causing the nuisance) in situations where the nuisance was caused at least in part by the owner, or in cases where the owner permitted the squatters in the first place.

Option 2
In cases where the private property owners with squatters have clearly expressed their desire to have the transients and their personal belongings removed, the City can require that the transients leave and allow a reasonable amount of time for the removal of the items left behind (with written notice of the time, to the extent possible, to the transients). The City can then (with the landowner’s consent) enter the property and confiscate the items, retain for a reasonable period of time to allow recovery (with, to the extent possible, notice to the affected transients), and then discard.

Regardless of whether the City proceeds with either alternative discussed above, or in accord with the proposed local regulations, if adopted, the City can make a finding that the use of public resources are justified in any clean up effort.

RECOMMENDATION: As directed by Council.
REGULATIONS ESTABLISHING AN ADMINISTRATIVE CODE ENFORCEMENT PROGRAM

CITY ATTORNEY

The City has hired a Code Enforcement Officer who will be starting on April 3, and is gearing up its code enforcement process. The City’s current code enforcement staff continues to make a conscious effort to notice Municipal Code violators (on a complaint-basis) and gain voluntary compliance. When this fails, the City is left with involving its legal counsel and filing legal actions, which can be time-consuming and expensive.

To improve the effectiveness of a code enforcement program in the City, this office and staff would like the Council to consider implementation of an Administrative Citation Program. The Administrative Citation process is designed to provide the City an option to compel compliance with various ordinance provisions without the necessity of judicial intervention. This type of program is gaining wide use among other California cities with favorable results.

This office has been working with the other City departments, and in particular the Porterville Fire Department, on the development of a comprehensive program. Attached is a draft ordinance that would establish the framework for an administrative citation program. The ordinance is modeled after recent regulations adopted in City of Tulare, adopted under very similar circumstances.

The attached regulations serve two main purposes. The first is to formally set forth the powers and duties of the Code Enforcement Officer position. The second is to provide for the code enforcement process, including but not limited to the administrative citation and requisite appeal process. The proposed regulations also establish the criminal penalties for violations and reiterate the City’s ability to file legal action to enjoin or abate the violations. The bulk of the proposed regulations however, are dedicated to establishing the administrative citation process. Under these provisions the City will be able to cite and fine violators without going through the court system. If a violator fails to remedy the violation, subsequent greater fines may be assessed. Those cited will be able to appeal the citation; however they will be required to deposit the full amount of the fine with the City prior to obtaining an appeal hearing. In the event the decision to fine is reversed by the Hearing Officer, the full amount of the fine will be refunded. If the fine is upheld, the cited individual may see judicial relief. The Hearing Officer is proposed to be an individual, designated by the City Manager, who shall not be a current City employee.

Item No. 19
While this ordinance sets forth the framework for the program, the details for implementation are still being developed. Staff intends to bring further information to the City Council at subsequent City Council meetings. This office and staff recommend that the City Council hold at least one (and possibly more) public hearing before full implementation of the program. It is also important to keep in mind that while this office and staff believe that the implementation of an administrative citation system will improve the effectiveness of the code enforcement program in the City, it is certainly not a “cure all” for all code violations within the City. However, this system sets forth a substantial foundation for future code enforcement efforts, which can grow in subsequent years with additional dedicated resources and staffing.

RECOMMENDATION: At this time, this office recommends that the City Council consider the proposed ordinance, provide further direction, and schedule a public hearing for a subsequent meeting to consider the Code Enforcement Program and this Ordinance.

ATTACHMENTS: An Ordinance of the City Council of the City of Porterville Adding Article IV, Sections 2-26.1 through 2-26.4, and Adding XIV, Sections 2-141 through 2-155, to Chapter 2 of the Porterville Municipal Code, Pertaining to the Code Enforcement Officer and Administrative Citations.

\julia\nmkjl\Porterville\general\agncodesen\prgrm.doc
ORDINANCE NO. ______


WHEREAS, the City desires to enforce the Porterville Municipal Code and the City’s ordinances in the most efficient manner possible, and this Ordinance establishes a Code Enforcement Officer, sets forth the duties and responsibilities of said Officer, and sets forth an administrative procedure for the enforcement of the Porterville Municipal Code and the City’s ordinances, and the imposition and collection of fines for violations pursuant to California Code of Civil Procedure Section 1094.6 and Government Code Section 53069.4; and

WHEREAS, in adopting this ordinance the City Council desires to reduce, to the greatest extent possible, the costs expended by all parties during enforcement proceedings, thereby reducing the burden on the City, the accused offender, and the already taxed judicial system. The City Council further desires to provide those accused of violating the Porterville Municipal Code or the City’s ordinances with the due process rights of a fair hearing before an impartial decision maker and the opportunity to call and cross-examine witnesses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DO ORDAIN, AS FOLLOWS:

SECTION 1: Article IV, Sections 26.1 thru 26.4 of the Porterville Municipal Code are hereby added to Chapter 2 to read as follows:

CHAPTER 2
ARTICLE IV
CODE ENFORCEMENT OFFICER

Sections:

2-26.1 Code Enforcement Officer
2-26.2 Duties
2-26.3 Enforcement
2-26.4 Compliance

2-26.1 Code Enforcement Officer. A duly appointed employee of the Prevention Division of the Fire Department, the Code Enforcement Officer shall be authorized to perform the enforcement duties identified in this Chapter and as otherwise defined in the Municipal Code. The Code Enforcement Officer will work closely with members of other departments, including Public Works, Community Development, Parks and Leisure Services, Finance, and Police. The Code Enforcement Officer shall be under the supervision of the Fire Chief.
2-26.2 **Duties.** The duties of the Code Enforcement Officer shall include but are not limited to issues involving property maintenance by abating hazardous conditions which threaten the life, health, safety and welfare of the public.

2-26.3 **Enforcement.** The Code Enforcement Officer shall enforce the provisions of all applicable State and City codes including but not limited to the City Municipal Code, the California Health and Safety Code, Uniform Fire Code, Uniform Building Code, Uniform Housing Code and Uniform Code for the Abatement of Dangerous Buildings, as said codes may, from time to time be amended.

2-26.4 **Compliance.** The Code Enforcement Officer shall work with property owners/residents to obtain voluntary compliance. However, the Code Enforcement Officer shall also have authority to issue citations and pursue other legal remedies as necessary and as authorized by local or state law.

**SECTION 2:** Article XIV, Sections 141 thru 154 of the Porterville Municipal Code are hereby added to Chapter 2 to read as follows:

**CHAPTER 2**
**ARTICLE XIV**
**ADMINISTRATIVE CITATIONS**

Sections:
2-141 Legislative Findings and Statement of Purpose
2-142 Definitions
2-143 Authority
2-144 Violations, Penalties and Enforcement.
2-145 Service Procedures
2-146 Contents of Notice
2-147 Satisfaction of Administrative Citation
2-148 Appeal of Administrative Citation
2-149 Hearing Officer
2-150 Hearing Procedure
2-151 Hearing Officer’s Decision
2-152 Failure to Pay Fines
2-153 Right to Judicial Review
2-154 Notices
2-155 Severability

2-141 **Legislative Findings and Statement of Purpose**

(a) The City Council hereby finds that there is a need for an alternative method of enforcement for minor violations of the Porterville Municipal Code, or State Codes specifically adopted by reference in the applicable chapters of the Porterville Municipal Code. The City Council further finds that an appropriate method of enforcement for minor violations is an Administrative Citation Program as authorized by Government Code Section 53069.4.
(b) The procedures established in this Chapter shall be in addition to criminal, civil or any other legal remedy established by law, which may be pursued to address violations of the Porterville Municipal Code and State Codes specifically adopted by reference in the applicable chapters of the Porterville Municipal Code.

(c) The City Council hereby finds and determines that enforcement of the Municipal Code, other ordinances adopted by the City, conditions on entitlements and terms and conditions of City agreements are matters of local concern and serve important public purposes. Consistent with its powers as a Charter City, the City of Porterville adopts this Administrative Citation Program provision in order to achieve the following goals, and:

1. To protect the public health, safety and welfare of the citizens of the City;

2. To gain compliance with the Municipal Code and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code in a timely and efficient manner;

3. To provide a method to hold parties responsible when they fail or refuse to comply with the provisions of the Municipal Code and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code;

4. To minimize the expense and delay where the sole remedy is to pursue responsible parties in the civil or criminal justice system;

5. To provide for an administrative process to appeal the imposition of Administrative Citations and fines.

(d) The Purpose of this Chapter is to enable the City, acting as a charter city pursuant to Article XI, Section 5 and 7 of the state Constitution, to impose and collect civil administrative fines in conjunction with the enforcement of provisions of the Municipal Code or State Codes specifically adopted by reference in the applicable chapters of the Municipal Code. Notwithstanding the provisions herein, the City has and shall continue to employ the philosophy of voluntary compliance when seeking compliance with the Municipal Code and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code.

Prior to the implementation of the enforcement policies and penalties stated herein, voluntary compliance approaches, when practical, should first be used in order to educate City property owners and businesses concerning the requirements of the Municipal Code, or State Codes specifically adopted by reference in the applicable chapters of the Municipal Code, and the corrective action necessary to correct a violation of the Municipal Code and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code.

(e) Use of this Chapter shall be at the sole discretion of the City.
2-142 Definitions

(a) Responsible Person shall mean any individual or entities who are the registered owner or occupant of real property, owner or authorized agent of any business, company, or entity, or the parent or the legal guardian of any person under the age of eighteen (18) years, who causes or maintains a violation of the Municipal Code or State Codes specifically adopted by reference in the applicable chapters of the Municipal Code.

(b) Enforcement Officer shall mean any officer or employee with the authority to enforce the Municipal Code, and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code.

(c) Hearing Officer shall mean any person appointed by the city manager to preside over the administrative hearings provided for in this Article.

2-143 Authority.

(a) Any person violating any provision of the Municipal Code, or State Codes specifically adopted by reference in the applicable chapters of the Municipal Code may be issued an Administrative Citation by an Enforcement Officer as provided in this Chapter. A violation of this Code includes, but is not limited to all violations of the Municipal Code, and applicable State Codes, ordinances or regulations adopted by the City Council, failing to comply with any condition imposed by any entitlement, permit, agreement or environmental document issued or approved under the provisions of this Code.

(b) Each and every day a violation exists, may constitute a separate and distinct offense.

(c) A civil fine shall be assessed by means of an Administrative Citation issued by the Enforcement Officer and shall be payable directly to the City of Porterville.

2-144 Violations, Penalties and Enforcement.

The City Council of the City of Porterville intends to secure compliance with the provisions of the Municipal Code, and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code. To the extent that such compliance may be achieved by less drastic methods of enforcement the following alternate, separate and distinct methods may be utilized. Each method set forth herein is intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance against continuing violations. Each and every day any such violations exist constitutes a separate offense. Notwithstanding any other provision of the Municipal Code, and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code, each violation of the provisions of this Code may be enforced alternatively as follows:

(a) Infraction. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Municipal Code, and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code, may be prosecuted for an infraction. Written citations for infractions may be issued by police officers or non-safety
employees designated by Porterville Municipal Code. Fines shall be assessed in the amounts specified as follows:

(1) A fine not exceeding one hundred dollars ($100.00) for a first violation;

(2) A fine not exceeding two hundred dollars ($200.00) for a second violation of the same ordinance within 12 months;

(3) A fine not exceeding five hundred dollars ($500.00) for each additional violation of the same ordinance within 12 months.

(b) Misdemeanor. In the alternative, with the concurrence of the City Attorney, any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Municipal Code, and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code, may be prosecuted for a misdemeanor. Written citations for misdemeanors may be issued by police officers or by non-safety employees designated by the Municipal Code. Any person convicted of a misdemeanor under the provisions of the Municipal Code, and State Codes specifically adopted by reference in the applicable chapters of the Municipal Code, shall be punished by a fine not exceeding one thousand dollars ($1,000.00) or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

(c) Civil Action. The City Attorney, or an Attorney hired for such purposes by and at the request of the City Council, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition(s) found to be in violation of the provisions of the Municipal Code, or State Codes specifically adopted by reference in the applicable chapters of the Municipal Code, as provided by law.

(d) Administrative Citation. Upon a finding by the city official vested with the authority to enforce the various provisions of the Municipal Code, or State Codes specifically adopted by reference in the applicable chapters of the Municipal Code, that a violation exists, he or she may issue an Administrative Citation under the provisions of this Chapter.

2-145 Service Procedures

(a) An Administrative Citation on a form approved by the City Manager shall be issued to the Responsible Person by an Enforcement Officer for violations of the Municipal Code, or State Codes specifically adopted by reference in the applicable chapters of the Municipal Code, in the following manner:

(1) Personal Service. In any case where an Administrative Citation is issued:

(i) The Enforcement Officer shall attempt to locate and personally serve the Responsible Person and obtain the signature of the responsible person on the Administrative Citation.
(ii) If the Responsible Person served refuses or fails to sign the Administrative Citation, the failure or refusal to sign shall not affect the validity of the Administrative Citation or of subsequent proceedings.

(2) Service of Citation by Mail. If the Enforcement Officer is unable to locate the Responsible Person, the Administrative Citation shall be mailed to the Responsible Person by certified mail, postage prepaid with a requested return receipt. Simultaneously, the Citation may be sent by first class mail. If the Citation is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the Citation sent by first class mail is not returned.

(3) Service by Citation by Posting Notice. If the Enforcement Officer does not succeed in serving the Responsible Person personally, or of certified mail or regular mail, the Enforcement Officer shall post the Administrative Citation on any real property within the City where the City has knowledge that the responsible person has a legal interest, and such posting shall be deemed effective service.

2-146 Contents of Notice

Each Administrative Citation shall contain the following information:

(a) Date, approximate time, and address or definite description of the location where the violation(s) was observed;

(b) The Code sections or conditions violated and a description of the violation(s);

(c) An order to the Responsible Person to correct the violations within the time specified, and an explanation of the consequences of failure to correct the violation(s);

(d) The amount of the fine for the violation(s);

(e) An explanation of how the fine shall be paid and the time period by which it shall be paid;

(f) Identification of rights of appeal, including the time within which the Citation may be contested and the place to obtain a Request for Hearing form to contest the Administrative Citation; and

(g) The name and signature of the Enforcement Officer.

(h) If possible, the signature of the responsible person.

2-147 Satisfaction of Administrative Citation

Upon receipt of a Citation, the responsible person shall:
(a) Pay the fine to the City within fifteen (15) working days from the issuance date of the Administrative Citation. All fines assessed shall be payable to the City of Porterville. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the City and;

(b) Remedy the violation(s). If the responsible person fails to correct the violation(s), subsequent Administrative Citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at a rate specified in this Chapter or by Ordinance.

2-148 Appeal of Administrative Citation

Any recipient of an Administrative Citation may contest that there was a violation of the Municipal Code, or State Codes specifically adopted by reference in the applicable chapters of the Municipal Code or that he or she is the Responsible Person by completing a Request for Hearing form and returning it to the City within fifteen (15) working days from the issuance date of the Administration Citation, together with an advanced deposit (full amount) of the fine. Any Administrative Citation fine, which has been deposited, shall be refunded if it is determined, after a hearing, that the person charged in the Administrative Citation was not the Responsible Person for the violation(s) or that there was no violation(s) as charged in the Administrative Citation.

2-149 Hearing Officer

The City Manager shall designate the Hearing Officer for the Administrative Citation hearing. The Hearing Officer shall not be a current Porterville City employee. The employment, performance evaluation, compensation and benefits of the Hearing Officer, if any, shall not be directly or indirectly conditioned upon the amount of Administrative Citation fines upheld by the Hearing Officer.

2-150 Hearing Procedure

(a) No hearing to contest an Administrative Citation before a Hearing Officer shall be held unless and until a request for hearing form has been completed and submitted and, the fine has been deposited in advance.

(b) A hearing before the Hearing Officer shall be set for a date that is not less than fifteen (15) working days and not more than sixty (60) working days from the date that the request for hearing is filed in accordance with the provisions of this Chapter. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) working days prior to the date of the hearing.

(c) The Enforcement Hearing Officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible person has caused or maintained the violation(s) of the Municipal Code, or State Codes specifically adopted by reference in the applicable chapters of the Municipal Code, on the date(s) specified in the Administrative Citation.
(d) The Responsible Person contesting the Administrative Citation shall be given the opportunity to testify and present witnesses and evidence concerning the Administrative Citation.

(e) The failure of any recipient of an Administrative Citation to appear at the Administrative Citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

(f) The Administrative Citation and any additional documents submitted by the Enforcement Officer shall constitute prima facia evidence of the respective facts contained in those documents.

(g) If the Enforcement Officer submits an additional written report concerning the Administrative Citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be served by mail on the person requesting the hearing at least five (5) working days prior to the date of the hearing. At least ten (10) working days prior to the hearing, the recipient of an Administrative Citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the Enforcement Officer. No other discovery is permitted. Formal rules of evidence shall not apply.

(h) The Hearing Officer may continue the hearing and request additional information from the Enforcement Officer or the recipient of the Administrative Citation prior to issuing a written decision.

2-151 Hearing Officer’s Decision

(a) After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision within ten (10) working days of the close of the hearing to uphold or deny the Administrative Citation and shall list in the decision the reasons for that decision. The decision of the Hearing Officer shall be final, subject to judicial review.

(b) If the Hearing Officer determines that the Administrative Citation should be upheld then the fine amount on deposit with the City shall be retained by the City.

(c) If the Hearing Officer determines that the Administrative Citation should be dismissed, the City shall refund the amount of the deposit within ten (10) working days of the date of its receipt of the decision.

(d) The recipient of the Administrative Citation shall be served with a copy of the hearing officer’s written decision in the manner prescribed above.

2-152 Failure to Pay Fines

The failure of any person to pay the civil fines assessed by an Administrative Citation within the time specified on the Citation may result in the matter being referred to the City of Porterville – Finance, to file a claim with the Small Claims Court. Alternatively, the City may pursue any other legal remedy to collect the civil fines. The City may also recover all of its collections costs.
Right to Judicial Review

Any person aggrieved by a decision of a Hearing Officer on an Administrative Citation may obtain review of the Administrative Decision by filing a Petition for Review with the Tulare County Municipal Court in accordance with the timelines and provisions as set forth in California Government Code Section 53069.4.

Notices

(a) The Administration Citation and all notices to be given by this Chapter shall be served on the responsible person in accordance with the provisions of this Chapter.

(b) Failure to receive any notice specified in this Chapter does not affect the validity of proceedings conducted hereunder.

Severability

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such Decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 3: This Ordinance shall be in full force and effect thirty (30) days from and after its passage, adoption, and approval.

Mayor

ATTEST:

City Clerk
SUBJECT: CONSIDERATION OF HAYES FIELD CONCESSION LICENSE AGREEMENT WITH THE PORTERVILLE AMATEUR YOUTH SOFTBALL ASSOCIATION

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The City has routinely provided a license to youth athletic leagues for their use of city concession facilities located at the Sports Complex and Hayes Field. The last Hayes Field Concession License was with Porterville Bobby Sox Girls Softball Association, with a term that expired on July 20, 2004. A successor organization, the Porterville Amateur Youth Softball Association (PAYSA) now exists. PAYSA and two other youth sports organizations have previously entered into Concession License Agreements with the City for use of the Sports Complex facility. It would be appropriate for a similar Concession License to be approved between PAYSA and the City for Hayes Field.

A one-year agreement for the use of the Hayes Field Concession Building is proposed with PAYSA. A one-year term will provide an opportunity for updating the provisions consistent with risk management requirements and other provisions that may result from an anticipated September 2007 renewal of the various Sports Complex agreements. The agreement provides PAYSA with a license for services to the public in general, of the sale of soft drinks, ice creams, hot dogs, pre-packaged food, and general confectionary articles and products. PAYSA is to keep and maintain the concession building during the hours in which Hayes Field is being utilized or at any other time the City deems the operation of the concession necessary for special activities.

PAYSA shall keep and maintain all concession facilities, equipment and grounds at and around the concession building in good and sanitary condition and shall keep and maintain all of the concession fixtures and equipment in good condition and repair. PAYSA is requested to pay monthly to the City a fee of $5.44 per hour for the use of the concession building. This fee is consistent with the fee paid by other concessionaires. PAYSA has requested that the fee not be charged for this one-year license. According to the PAYSA schedule there will be approximately 140 hours of concession use during the current season.

RECOMMENDATION: That the City Council approve the Hayes Field Concession License Agreement between the Porterville Amateur Youth Softball Association and the City of Porterville, and determine if the hourly fee is to be included and charged or not.

ATTACHMENTS: Hayes Field Concession License Agreement

DIRECTOR / Appropriated/Funded CITY MANAGER

ITEM NO.: 20
CITY OF PORTERVILLE
HAYES FIELD
CONCESSION LICENSE

The City of Porterville, hereinafter referred to as “CITY” hereby grants to the Porterville Amateur Youth Softball Association, hereinafter referred to as “LICENSEEE”, a license for services to the public in general, of the sale of soft drinks, ice creams, hot dogs, pre-packaged food, and general confectionery articles and products at the Hayes Field Concession Building located at Hayes Field Park, for a term of one year commencing April 1, 2007 and ending March 31, 2008. The LICENSEE shall not sell or serve any type of alcoholic beverage on the premises.

1. The LICENSEE shall, at all times during the term of said License, keep and maintain the concession building open for the convenience of patrons at said Field during the hours in which said Field is being utilized for organized baseball or softball or at any other time the CITY deems the operation of the concession necessary for special activities.

2. The LICENSEE shall keep and maintain all concession facilities, equipment and grounds at and around said concession building in good and sanitary condition and shall keep and maintain all of the concession fixtures and equipment in good condition and repair.

3. The LICENSEE shall open all gates and secure them open with locks upon opening the park and concession facility. The LICENSEE shall close and lock all gates upon closing the concession building and park.

4. In the event the LICENSEE shall fail, neglect or refuse to abide by and perform the terms, conditions, covenants, and agreements hereof, the CITY may, at its option, terminate and cancel this License and in the event of a termination of this License, the LICENSEE shall surrender up and deliver to the CITY complete possession of the premises were said License is being operated within 30 days after receiving notice to vacate.

5. The LICENSEE shall not assign, transfer or convey this license or any of the rights or benefits hereunder to any person, firm or corporation without first securing the written consent of the CITY.

6. The CITY, by its authorized agents and servants, reserves the right of entry upon the premises where said license is being operated for purposes of inspection.

7. Nothing herein shall be construed as making the CITY and the LICENSEE partners and/or joint ventures.

8. The LICENSEE shall pay monthly to the City a fee of $5.44 per hour for the use of the concession building by the 5th of each month. The payment will be made by PAYSA. The fee will be adjusted each year by the San Francisco Consumer Price Index.
9. To the fullest extent permitted by law, the LICENSEE shall and hereby does agree to save, defend and indemnify the CITY, all of its officers, agents and employees of and from all manner of claims, demands, actions or causes of actions of all persons arising from or in any way connected with the use, occupation or employment of said License, or activities engaged in, or carried on or conducted upon the premises by the LICENSEE, together with costs and attorney’s fees and shall secure, at LICENSEE’s expense, liability insurance including product liability indemnifying the CITY and the LICENSEE in the sum of one million dollars ($1,000,000) combined single limit for property damage and injury, including death, to one or more persons, and deposit with the CITY an original certificate of said insurance, name the CITY, its officers, agents and employees as an additional insured on LICENSEE’s policy.

10. LICENSEE shall maintain Workers’ Compensation Insurance for all its employees and volunteers who are in any way connected with the performance of LICENSEE’s concessionary interests.

11. During the entire term of this License, the Licensee shall not suffer, allow, or permit any income, profit, or emolument gross and net, from any of its activities arising from, connected with, or in any manner associated with the use and employment by the LICENSEE of this License to enure, to be paid to, or delivered to the benefit of any members, private shareholder, or individual; and/or income, profit, gross and net, or other rights or benefits which shall arise from the use and employment of this LICENSEE shall be used solely, positively and exclusively to meet the necessary expenses or upkeep and operation of the activities of the LICENSEE as such, and not any members, shareholders, or individual.

12. The LICENSEE shall maintain and keep adequate records of its sales from the Licensed premises and agrees to permit the CITY to examine said records on demand.

13. The LICENSEE shall have the right and privilege, provided it is not in default of the terms and provisions of the License, at the end of the term or sooner termination thereof, to remove from the Licensed premises all personal property belonging to the LICENSEE, together with their stocks, goods and wares and trade fixtures that LICENSEE may have installed, provided the same can be removed without material injury to the premises and the LICENSEE hereby acknowledges receipt of the premises in good condition and repair.

14. Notwithstanding any provision of this agreement to the contrary this agreement may be terminated by either party, with our without cause, by giving the other party thirty (30) days written notice of termination. Notice shall be given by personal delivery or first class mail, return receipt requested.

15. Attorney Fees. If any litigation is commenced between the parties to the Agreement concerning the Agreement or the rights and duties of either in relation to the Agreement, the party prevailing in that litigation shall be entitled, in addition to any other relief that may be granted in the litigation to a reasonable sum as and for its attorneys fees in the litigation, which shall be determined by the court in that litigation or in a separate action brought for that purpose.
IN WITNESS whereof the parties have executed this License Agreement at Porterville, California this 20th day of March 2007.

CITY OF PORTERVILLE

BY: ____________________________
Cameron J. Hamilton, Mayor

PORTERVILLE AMATEUR YOUTH
SOFTBALL ASSOCIATION

BY: ____________________________
President

ATTEST:

_____________________________
John Longley, CITY CLERK

APPROVED AS TO FORM:

_____________________________
Julia M. Lew, City Attorney
SUBJECT: REQUEST FROM PORTERVILLE CHAMBER OF COMMERCE FOR A PARTNERSHIP FINANCIAL INVESTMENT OF $10,000

SOURCE: City Manager

COMMENT: Attached is a letter from Porterville Chamber of Commerce Board Chair Greg Woodard for a partnership financial investment of $10,000. The letter defines that the Porterville Chamber of Commerce’s Economic Development Committee is leading a community “branding initiative”. The letter reports that Kevin Kelley, of Shook Kelley, has been engaged to provide consulting services in Porterville for this purpose. “Mr. Kelley is a specialist in community visioning, conceptual design, and branding development as applied to economic development.”

Recommendation: If the Council determines to approve the request, $10,000 should be budgeted from non-allocated reserve monies for the purpose.
March 5, 2007

Cam Hamilton, Mayor
City of Porterville
291 N. Main Street
Porterville, CA 93257

Dear Mayor Hamilton:

As you and Council are aware, the Porterville Chamber of Commerce’s Economic Development Committee is spearheading a community branding initiative. We have engaged Kevin Kelley, of Shook Kelley, to provide consulting services in Porterville for this purpose. Mr. Kelley is a specialist in community visioning, conceptual design, and branding development as applied to economic development.

The Chamber is seeking the City of Porterville’s investment and partnership in this process, which we intend to lead to the identification of a brand, vision and practical strategic plan for our community’s future. The Chamber is requesting a partnership financial investment of $10,000. All investors in the project will be partners/stakeholders actively involved in the discovery process, plan development, and strategy implementation. Note, some partners who have already committed include: Sierra View District Hospital, Community Civic Foundation, Woodard Homes, and The Porterville Recorder.

The City of Porterville has a vested interest in the betterment of the local economy and Porterville’s future. As such, we are certain that you will find this project to be a worthy utilization of public funds. Also, the Chamber is confident that the results for the strategies will complement the general plan update by helping to lay the ground work for the community’s brand identity - a critical component for growth.

We appreciate City Council’s continued efforts in partnership with the Chamber, the business community and others, as we collaborate for change and economic growth. Thank you for your consideration of this investment request.

Sincerely,

[Signature]

Greg Woodard
Board Chair

cc: John Longley, City Manager
COUNCIL AGENDA: April 3, 2007

SUBJECT: CITY FLAG

SOURCE: Administration

COMMENT: On July 18, 2006, the City Council awarded the design of a City flag to Mel Gosage Optigraphics and appointed Council Members Pedro Martinez and Pete McCracken to work with staff and Mr. Gosage to create a flag design to bring before the full Council for final approval.

Three potential designs have been created, all of which have a patriotic theme with 45 stars representing the number of states in the union when the City of Porterville was incorporated in 1902. The patriotic theme is combined with the oranges and grape leaves from the City Seal blending in our agricultural background. Copies of the three different designs and the Pantone colors available are attached for reference, and they will also be presented along with this item at the Council meeting.

In addition to recommending approval of one of the three designs, the committee also recommends that the City flag rules should be consistent with the U. S. flag rules, only modified to pertain to City regulations or events. Specifically, respect shall be maintained for the City flag; it shall be flown lower than the California flag; and the Mayor shall be the designee appointed to make decisions for the lowering of the City flag and for making decisions relating to organizations requesting to borrow the City flag for City-related events.

Once a design has been approved by the City Council, the committee will work with Mr. Gosage to assemble the art work necessary to obtain several bids for the preparation of two flags. The main City flag will fly outside of City Hall, and the additional flag will be a ceremonial flag for special events. It is felt that the bids will come in under $1,000 to obtain two flags and the necessary grommets, ropes, etc.

DD

Appropriated/Funded

CM

Item No. 22
RECOMMENDATION: That the City Council:

1. Determine which design shall be designated as the art work to be finalized for preparation of the official City flag;

2. Determine that the City flag rules shall be consistent with the U. S. flag rules, only modified to address City regulations or events;

3. Designate the Mayor as the person to make decisions relating to lowering the City flag and approving requests for its use; and

4. Direct the committee to obtain bids and make an award for the preparation of two City flags. Said award shall be no more than $1,000, unless further authorization is received from the City Council, and shall be charged against unallocated General Fund reserves.

ATTACHMENTS: 1. Design Nos. 1, 2 and 3; and

2. Pantone Colors for Flags.
PANTONE COLOR SETTINGS FOR PORTERVILLE FLAG

--- ORANGES ---
- PANTONE SOLID COATED: 021C
- PANTONE SOLID COATED: 165C
- PANTONE SOLID COATED: 1655C

--- GREENS ---
- PANTONE SOLID COATED: 348C
- PANTONE SOLID COATED: 349C
- PANTONE SOLID COATED: 357C

--- BLUE ---
- PANTONE SOLID COATED: 293C

--- RED ---
- PANTONE SOLID COATED: 032C
SUBJECT: CONSIDERATION OF RE-ESTABLISHMENT OF A PLANNING COMMISSION

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

BACKGROUND: On February 20, 2007 the City Council requested Staff to evaluate the issues associated with, and the budgetary implications of, re-establishing a Planning Commission separate from the City Council. Re-establishment of a separate planning commission is a topic that has been discussed periodically since it was abolished in 1986. When the separate commission was abolished, the City Council was defined formally as the Planning Commission in Article III, Sections 2-22 and 2-23 of the Municipal Code.

The following is an overview of the most recent events involving the status of a separate planning commission:

- The Planning Commission was abolished on April 1, 1986, in an effort to streamline the development permitting process and eliminate unnecessary delays (according to records from the action).

- At an adjourned City Council Meeting, (study session) on March 27, 2001, the City Council directed staff to bring back to the April 17, 2001 meeting, an item for discussion of the re-establishment of a Planning Commission.

- During the April 17, 2001 meeting, Staff was directed to develop an implementation plan for the establishment of a Long-Range Planning Committee.

- A Long-Range Planning Committee Implementation Plan was presented to City Council during the May 15, 2001 meeting. During that meeting Council adopted Resolution 80-2001 approving the structure and purpose of the Long-Range Planning Committee and set a deadline date of June 5, 2001 for the Council to appoint the nine (9) member committee.

- During the June 5, 2001 meeting, the item was continued to the next meeting of a full council.

- During the June 19, 2001 meeting a Draft Zoning Ordinance Amendment granting the Long-Range Planning Committee authority to review General Plan Amendments was presented to Council. Council directed staff to set a Public Hearing at the next scheduled meeting.
- The Public Hearing was held on July 10, 2001 for Zoning Ordinance Amendment 3-2001 and adopted. Also during the July 10, 2001 meeting the appointments were made to the Long-Range Planning Committee.

- On December 16, 2003, the City Council voted to eliminate the Long Range Planning Committee.

- On February 17, 2004 the City Council rescinded resolution 80-2001 that established the Long Range Planning Committee.

Establishment of the Long Range Planning Committee was the product of a compromise solution to keeping the Council as the formal Planning Commission and establishing a review body that would review and make recommendations to City Council on General Plan Amendments, updates, land use studies and other items as directed by the Council. When asked about the effectiveness of the Committee, members of the committee at the time questioned the clarity of the Committees purpose. Since the Committee's elimination in 2003, the Council has continued to serve as the Planning Commission.

From January 1990 through January 2000, there were 324 planning projects, excluding annexations, for consideration by the City Council. Of those 324 projects, 129 (40%) would have necessitated dual public hearings by the City Council and remaining projects would have been subject to review by only the Planning Commission. If the Council chooses to re-establish the Commission, its authority would have to be consistent with State Planning Law and certain Articles of the City Code.

From January 2000 to present there were 316 planning projects, excluding annexations. All of these projects were brought before the City Council for consideration. Of those projects, 167 (53%) would have required two public hearings if there were a separate Planning Commission. The remaining projects would have been subject to review only by the Planning Commission. For example, General Plan Amendments, Zone Changes, Code Amendments, development agreements, and any other legislative act requiring the adoption of an ordinance would under normal circumstances come before both bodies.

**COMMENT:** Under normal circumstances, the Planning Commission would consider information and a recommendation presented by Staff, and make a recommendation to the City Council. It is conceivable that the Council's consideration could entail differing recommendations – one by the Commission and one by Staff. This was the case on a few of the items considered by Council when the Long Range Planning Committee was in existence.

A typical distribution of authority for Planning Commissions is that the Commission would consider non-legislative matters such as Conditional Use
Permits, Tentative Subdivision Maps, Design Review Overlays, Variances, and appeals of Staff decisions on administrative planning matters (appeals on Planning Commission determination on Staff decisions would be heard by the City Council). The Commission would generally also consider recommendations on General Plan Amendments, Zone Changes and Code Amendments and make a recommendation to the Council. They could also initiate planning studies, and initiate efforts to make recommendations that the Council initiate efforts to amend policies, the codes, the General Plan or other planning documents.

If the Council chooses to move forward with the re-establishment of a Planning Commission, a comprehensive code amendment would be required to weave into the code the function of the Planning Commission and processes associated with their actions. Staff is anticipating that this effort could take 100-140 hours if the process moves smoothly. If there are significant changes to the draft ordinances, additional time will be required.

BUDGETARY ISSUES: Based on the conceptual breakdown of responsibilities outlined above, Staff has prepared a summary report that defines budgetary impacts based on the expanded process. The total additional cost is $141,000 the first year which includes $6,000.00 for partition walls, computers, and equipment/furniture. Subsequent years would be $135,000 per year.

SUMMARY PROS and CONS:

PROS:

- Provides an additional opportunity for public input.

- Provides for a dedicated commission in addition to City Staff to review matters and make an informed recommendation to the City Council.

- Provides for a level of review that Council can direct planning matters to for review and input.

CONS:

- A major emphasis in the City’s Economic Development program is that the City markets itself as having a streamlined development review process with defined processing timelines. Creation of a planning commission would insert a level of uncertainty into the process and substantial time could be added to the process.

- The process of appointing Commissioners can become extremely political and can dramatically affect the outcome/effectiveness of the process.
• Results in higher processing costs if the Council wishes to maintain the same level of cost recovery.

• There are different types of appeals. There can be appeals on focused matters that do not necessitate the appeal body’s review of the entire matter, and there is an appeal de-novo, which provides the Council the opportunity/authority to review the entirety of the matter. This affects how the process is created and the cost of the process.

There are certainly more pros and cons on the matter than are identified here. The pros and cons identified above represent fairly significant issues to address in considering whether to re-establish a Planning Commission.

For Council discussion purposes, Staff has prepared attachments outlining the previous Planning Commission’s role, structure and effect on processing schedules and budget. Also attached is a timeline comparing existing process with that including a Planning Commission.

RECOMMENDATION: Staff recommends that the City Council consider the information presented and direct Staff accordingly.

Attachment: 1. Re-establishment of Planning Commission – Summary Report  
2. Processing Timeline
RE-INSTATEMENT OF PLANNING COMMISSION – SUMMARY REPORT

In its original configuration, the Planning Commission consisted of seven (7) members appointed by the Mayor with the approval of the city Council to serve four (4) year terms. Meetings consisted of two (2) regularly scheduled meetings per month, which were previously held on the second and fourth Mondays of the month. Although there were originally seven (7) members of the Commission it is not required to consist of seven (7) members. Staff recommends that the City Council consider a five (5) member commission given the difficulty in identifying people to serve. In addition, the City Council currently serves as a five (5) member Commission.

If the Commission were re-established to function as in the past, it would serve in an advisory role in the review of General Plan Amendments, Zone Changes, and Zoning and Subdivision Ordinance Amendments. The Commission would have final approval, unless a proposal is appealed to the Council, over Conditional Use Permits, Variances, Design Review ("D" Overlay Zones) Projects, and Tentative Subdivision Maps.

The environmental process would change with a Planning Commission. The Commission would be the approval body for Conditional Use Permits, Variances, Design Review Projects, and Tentative Subdivision Maps, etc. The City Council would be the final approval for General Plan Amendments, Zone Changes, and Zoning and Subdivision Ordinance Amendments. Items referred back to the Planning Commission from the City Council could require recirculation of an environmental document, which could substantially change the total processing time for certain, likely more complex, projects.

Projects that would be subject to both Planning Commission and City Council consideration prior to final approval (General Plan Amendments/Updates, Zone Changes, and Zoning and Subdivision Ordinance Amendments) would require an additional public hearing and could add approximately 21 days (3 weeks) to the process.

It should also be noted that when a city, including a charter city, has a Planning Commission, any substantial modification to a project (specifically General Plan and Zoning Amendments) made by the City Council that was not previously considered by the Planning Commission, must be referred back to the Commission prior to final Council consideration (Government Code Sections 65356 and 65857). This situation could ultimately result in four (4) public hearings for one project. (Normally, no additional fee is charged the applicant for the additional hearing since it was not the applicant’s request). The Planning Commission has up to 45 days to respond to the Council or the modification is considered approved by the Commission.

In the event a project does not require City Council action, an appeal period on Planning Commission action would be required establishing a time frame for members of the public to appeal and thereby seek consideration by the Council. Typical appeal periods are approximately 10 days and can add a minimum of 14 days and appeal costs
associated with items appealed to the City Council. Appeal fee is typically paid by the appellant and is currently $316.00.

FISCAL EFFECTS:

A. MEETING, EDUCATIONAL EXPENSE: Staff has identified a budget of $1,000.00 per year for miscellaneous meeting expenses. In the past, Planning Commissioners traditionally met with staff prior to each meeting to clarify and discuss agenda items. This involved meals on many occasions at an estimated cost of approximately $2,600 per year.

Staff is anticipating that the Commission members and 1 or 2 Staff members would attend the League sponsored Planners Institute that brings Staff and planning commissioners up to speed on emerging issues and legal parameters of Planning Commissions. Educational expenses would run approximately $8,000 per year.

B. EFFECT ON THE PRESENT LEVEL OF STAFF: The re-establishment of a Planning Commission would result in the addition of one (1) Assistant Planner and (1) Clerical Assistant II position and related equipment. In addition, the Secretary attending the Commission meetings to take minutes would incur overtime pay. Additional staff cost would be approximately $122,000 (annually) plus furniture equipment and miscellaneous increases in operating expenses estimated at $10,000. It should also be noted that the City Engineer would need to be at all Planning Commission meetings, Parks and Leisure Services Director may need to be at some meetings, and the City Attorney may need to be at some. The additional staff would be necessary to serve the Planning Commission due to existing and anticipated/existing workloads. The following are additional task areas requiring the added Staff:

- Producing two (2) additional agendas per month
- Following up on planning matters requested by the Commission
- Returning to Commission with additional information on projects
- Copying items for the Commission
- Producing meeting minutes
- Distribution of agendas (typically hand delivered)
- Additional information to be provided in Council agendas
- Reporting to City Council
- Responding to questions and inquiries from the Commission outside of the Commission meetings.

C. SUMMARY OF FISCAL IMPACT: The sum of the various increases in cost are estimated to be approximately $135,000 per year. In the first year there would be some additional expense for the installation of partition walls, acquisition of desks, computers and related office materials totaling approximately $6,000.00. In the first year there would also be additional expenses associated with the various Zoning Ordinance Amendments that would be required to make the transition. This could equate to between 100 and 140 hours of staff time as well as legal fees associated with the City Attorney to
review. The costs for the Zoning Ordinance Amendments may be absorbed if the Comprehensive Zoning Ordinance Amendment is approved in the 2007/2008 Annual Budget.
### APPLICATION FEES

<table>
<thead>
<tr>
<th>Application:</th>
<th>Current Fees:</th>
<th>Estimated Fees with Planning Commission: (30% increase)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change of Zone</td>
<td>$1,105.00</td>
<td>$1,436.50</td>
</tr>
<tr>
<td>Pre-Zoning</td>
<td>$1,105.00</td>
<td>$1,436.50</td>
</tr>
<tr>
<td>Variance</td>
<td>$1,026.00</td>
<td>$1,333.80</td>
</tr>
<tr>
<td>General Plan Amendment</td>
<td>$1,599.00</td>
<td>$2,78.70</td>
</tr>
<tr>
<td>Annexation (City Fee)</td>
<td>$3,449.00</td>
<td>$4,483.70</td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>$1,164.00</td>
<td>NA</td>
</tr>
<tr>
<td>Planned Unit Development (Conceptual and Specific Plans)</td>
<td>$1,818.00</td>
<td>$2,363.40</td>
</tr>
<tr>
<td>Site Plan Review</td>
<td>$753.00</td>
<td></td>
</tr>
<tr>
<td>Lot Line Adjustment</td>
<td>$616.00</td>
<td></td>
</tr>
<tr>
<td>Tentative Parcel Map (Four Parcels)</td>
<td>$1,500.00</td>
<td></td>
</tr>
<tr>
<td>Tentative Subdivision Map (Five Parcels)</td>
<td>$3,004.00 plus $39.00 per lot</td>
<td></td>
</tr>
<tr>
<td>Extension of Time (Subdivision)</td>
<td>$316.00</td>
<td></td>
</tr>
<tr>
<td>Extension of Time (Parcel Map)</td>
<td>$237.00</td>
<td></td>
</tr>
<tr>
<td>Appeals</td>
<td>$316.00</td>
<td></td>
</tr>
<tr>
<td>Environmental Assessment (Exemption)</td>
<td>$79.00</td>
<td></td>
</tr>
<tr>
<td>Negative Declaration</td>
<td>$1,105.00</td>
<td></td>
</tr>
<tr>
<td>Modification of Approved Plan</td>
<td>Actual Cost – minimum of $500.00</td>
<td></td>
</tr>
<tr>
<td>Design Overlay Site Plan Review</td>
<td>$1,065.00</td>
<td></td>
</tr>
<tr>
<td>Activity</td>
<td>City Council Process</td>
<td>Process with Planning Commission</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>----------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>Submit for PRC</td>
<td>12 Days to PRC</td>
<td>No additional time</td>
</tr>
<tr>
<td>Write PRC Letter</td>
<td>3-5 days</td>
<td>No additional time</td>
</tr>
<tr>
<td>Resubmit Revised Plans</td>
<td>Applicant dictates timeline (7 days used for comparison)</td>
<td>No additional time</td>
</tr>
<tr>
<td>Resubmittal of revised plans starts preparation of Environmental Document</td>
<td>12 days to ERC</td>
<td>No additional time</td>
</tr>
<tr>
<td>ERC – Send out documents the next day to responsible and trustee agencies, Notice Public Hearing</td>
<td>23 days</td>
<td>No additional time</td>
</tr>
<tr>
<td>Hold Planning Commission Public Hearing</td>
<td>Within 7-13 days of Environmental review period</td>
<td>No additional time unless the item is a GPA, ZC, or Code Amendment</td>
</tr>
<tr>
<td>Appeal Period from Planning Commission (If applicable)</td>
<td></td>
<td>10 days additional time</td>
</tr>
<tr>
<td>Notice City Council Meeting (either on appeal or req.)</td>
<td></td>
<td>*13-24 days additional time</td>
</tr>
<tr>
<td>Action Final unless referred back to the Commission</td>
<td></td>
<td>**13-24 days additional time for notice back to Commission</td>
</tr>
<tr>
<td>Commission Action</td>
<td></td>
<td>*13-24 days for public notice back to Council</td>
</tr>
<tr>
<td>Additional Processing period Min/Max Average</td>
<td></td>
<td>49/82 days</td>
</tr>
<tr>
<td>Total Min/Max Average</td>
<td></td>
<td>114/154 days</td>
</tr>
</tbody>
</table>
*If Planning Commission meetings were held on the second and fourth Monday of the month, as was the practice, it would take approximately 13 to 24 days to get to Council due to meeting schedules and mandatory noticing periods. If taken to Council on appeal, it may require the 10 days to run before scheduling as a result of a last minute appeal. Also, the Code typically provides for a 30 day period to take an appeal to the Council.

**This would apply if the Council amended a recommendation of the Planning Commission (specifically a General Plan or Zoning Ordinance Amendment). The item would then need to be sent back to the Commission before the Council can take action on the matter.