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 M.O. 16-022007 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 outlined 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 outlined 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

Cameron Hamilton, Mayor