Roll Call: Council Member McCracken, Council Member Pedro Martinez (arrived at 3:32 p.m.), Mayor Pro Tem Felipe Martinez, Council Member Hernandez, Mayor Hamilton (arrived at 3:34 p.m.)

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

ORAL COMMUNICATIONS

• Kik Ellis, 1470 North Beverly Street, came forward on behalf of the Monache Band Parents Association (“MBPA”) and thanked the Council for their time and willingness to take their matter under consideration.
• Donnette Silva-Carter, 998 North Roberta Way, spoke of the good works done in the community by the Monache Band Parents Association, and in favor of a twelfth fireworks booth for the organization.
• Dick Eckhoff, 197 North Main Street, spoke of the good works done by the Monache Band Parents Association, and requested that the Council approve a twelfth fireworks booth for the organization.

SCHEDULED MATTER

1. CONSIDERATION OF FIREWORKS PERMIT FOR THE MONACHE BAND PARENTS ASSOCIATION

Recommendation: That the City Council adopt the draft resolution, or provide direction to staff.

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

Mayor Hamilton thanked fire personnel for their work on the matter, and the Council for their time that day to consider the item.

Council Member Hernandez spoke favorably of the work of the MBPA, and voiced support for moving forward with a solution to the problem.

Mayor Pro Tem Felipe Martinez commented that he believed the community was behind the MBPA, and spoke of offers that had been made to the organization by other non-profits. Ms. Ellis confirmed that to be so, and came forward and elaborated on the various offers.

City Attorney Julia Lew clarified that the subject location was a site at which a fireworks booth had historically been located, yet due to the recent annexation, 2007 was the first year that the location was actually in the City limits.
• Kik Ellis, address on record, came forward and offered additional information as to MBPA’s fireworks booth at the Westwood/Olive location. She stated that the prior year, the organization had operated a fireworks booth at the location, and at that time it was within the County’s jurisdiction. She added that MBPA had also participated in the City’s fireworks lottery in 2007, and that it had been the eleventh name drawn. She then spoke of the learning of the problem with the booth, and elaborated on the organization’s efforts to legally operate its booth at the subject location in order to raise funds for the Monache Band.

Mr. Longley stated that he did not believe that the subject location was in the County’s jurisdiction the previous year, but instead he believed it was actually in the City. He stated that April 1, 2006 was the date the annexations had become effective, and indicated that City staff had just not caught the issue the previous year.

In response to questions posed by Council, Fire Chief Mario Garcia elaborated on the requirements to which fireworks lottery winners must adhere. He indicated that the process involved: attendance at a safety meeting; payment of the fee; provision of proof of appropriate insurance coverage; and provision of a schematic pertaining to the location of the sea train storing the fireworks on site.

Council Member Pedro Martinez spoke of his children’s current and past participation in the Monache Band, and indicated that pursuant to the City Attorney’s advise, he had no conflict of interest because there was no financial benefit. He spoke of his desire to be fair and of a situation that had arisen the prior year with regard to an organization’s application not being submitted in a timely fashion due to an error on the part of the fireworks’ company. He stated that the City did not allow that organization to participate. He spoke of his dilemma in that he was a band supporter, yet at the same time needed to be fair and apply the same standards to all organizations. He stated, however, that the population had officially increased since the prior year due to the annexations, and that pursuant to the City’s Municipal Code, up to twelve booths could now be allowed. He clarified with staff that the Code allowed for twelve booths, plus an additional one for the Exchange Club for its efforts related to the annual fireworks show. Council Member Martinez then spoke in favor of allowing the MBPA, as the eleventh name drawn, to have a booth, as well as the organization that was drawn twelfth.

In response to Council Member McCracken inquiry, staff confirmed that while the Council had typically defined the number of allowed fireworks booths, the City’s ordinance actually set forth a formula based on the City’s population, being one booth per 4,000. It was stated that staff had requested that the number be limited to ten, and that historically, Council had defined the number of allowable booths. It was noted that the reasoning behind limiting the number of booths to ten was to assist the organizations by limiting the number of competing booths, and that at that time, the population had not yet officially increased.

A brief discussion ensued as to competing sites in the County’s jurisdiction which were in close proximity to the City’s jurisdiction.
• Kik Ellis, address on record, came forward and spoke of MBPA’s experience the previous year in securing a location for its fireworks booth. She then requested that in the event the Council approved an eleventh booth for MBPA, that the safety meeting take place on Monday, as the organization was to receive the fireworks on Tuesday.

A discussion ensued as to increasing the number of allowed booths to twelve, pursuant to the formula set forth in the Code. It was noted that the twelfth organization selected in the fireworks lottery might have challenges with timelines. Mr. Longley clarified that pursuant to the Council’s direction, staff would not bring the item back the following year, but rather Chief Garcia would have the authority to increase the number of booths as so needed, based on the formula in the Code. The Council concurred.

Council Member Pedro Martinez inquired as to whether Fire Chief Garcia also dictated the locations of the booths. Chief Garcia clarified that the vendors had secured many of the locations in Porterville, and that the Fire Department approves those locations.

Council Member McCracken moved that the Council follow the existing Ordinance, and authorize the Fire Chief to issue up to one fireworks booth permit per every 4,000, based on the official population of Porterville at the time of the fireworks lottery.

Mr. Longley clarified that the following year, if the population rose to 52,000, Fire Chief Garcia would have the authority to increase the allowed booths to 13, based on the formula. He stated that in the event the Chief was uncomfortable with making that determination, he could bring the item to Council. The Council concurred.

COUNCIL ACTION:  MOVED by Council Member McCracken, SECONDED by Council Member Hernandez that the Council follow the existing Ordinance, and authorize the Fire Chief to issue up to one fireworks booth permit per every 4,000, based on the official population of Porterville at the time of the fireworks lottery. The motion carried unanimously.

Disposition: Approved.

The Council recessed for five minutes at 3:58 p.m. and then convened in Closed Session.

CLOSED SESSION
2. GOVERNMENT CODE SECTION 54957.6 - CONFERENCE WITH LABOR NEGOTIATOR. AGENCY NEGOTIATOR: JOHN LOLLIS. EMPLOYEE ORGANIZATIONS: PORTERVILLE CITY EMPLOYEES ASSOCIATION, PORTERVILLE CITY FIREFIGHTERS ASSOCIATION, PORTERVILLE POLICE OFFICERS ASSOCIATION, POLICE SUPERVISOR SERIES, AND MANAGEMENT AND CONFIDENTIAL SERIES.
The Council reconvened in Open Session at 4:36 p.m. at which time it was reported that no action had taken place during Closed Session.

ADJOURNMENT
The Council adjourned at 4:37 p.m. to the Council Meeting of June 29, 2007 at 2:30 p.m.

Patrice Hildreth, Deputy City Clerk

SEAL

Cameron Hamilton, Mayor