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

Pledge of Allegiance led by Council Member Pete McCracken
Invocation – a moment of silence was observed.

ORAL COMMUNICATIONS
None

SCHEDULED MATTER

1. MEET AND CONFER STUDY SESSION

City Manager John Longley explained that the purpose of the meeting was to provide training on meet and confer sessions as they related to City employee groups. He indicated that a presentation would be provided by Attorney Richard Whitmore, representing Liebert Cassidy Whitmore, a law firm specializing in employment law. Mr. Longley then called on Deputy City Manager John Lollis to present the staff report.

Mr. John Lollis introduced the presenter and expressed the importance of the subject in terms of processes and the legalities of same. Mr. Richard Whitmore came forward, introduced himself, and briefly reviewed the training he would be providing that day. He added that the training materials had been edited down to cover the issues that Mr. Longley had mentioned were relevant to Porterville. Mr. Whitmore continued by providing information regarding the firm he represents, and recognized Desiree Francois, from their Fresno office as being in attendance.

His intent, he explained, was to provide an overview of general concepts of negotiations, labor relations, and the public sector as they affected the City going into its negotiations. He indicated that his overview would then be followed by Closed Session to discuss the City’s upcoming negotiations.

Mr. Whitmore began his presentation by briefly going over Government Code Section 3500, the Meyers-Milias-Brown Act, its history, what it allowed for, and the differences between private sector and public sector law. He explained that the employer-employee relations resolution was essentially a set of procedures to utilize if employees chose to be recognized as an employee group. He emphasized that the employees did not get to vote on bargaining unit grouping, rather, that was decided by the City. He stated however, that they do vote on which union or association they want. Mr. Whitmore described the two different styles of meet and conferring – both traditional and interest based. He added that regardless of which kind was used, it was important for management to keep in mind that management should make proposals, and address operational and pay issues.
He also discussed exceptions of the Meyers- Milias-Brown Act that applied to the public sector, as well as managerial policy decisions, management rights clauses, and waivers.

During Mr. Whitmore’s presentation, Council Member Pedro Martinez asked Mr. Whitmore if the Council, as an entity, was required to disclose its reasoning in regards to those items that had been identified by the courts as outside of the duty to bargain. Mr. Whitmore responded that it was often advantageous to disclose reasoning as a means of meeting and conferring in good faith, but that it was not necessarily required.

Mr. Whitmore continued his presentation by going over impact or effect bargaining, using layoffs as an example. In the instance of layoffs, he stated, while it might be a management right to layoff employees, a meet and confer would be required to bargain the details of the layoff which would impact the bargaining unit members. He explained the impasse resolution procedure, which he stated occurred when there was no successful agreement and both parties had gone as far as they could go. He spoke of the procedures that could be utilized at impasse, such as employing a mediator, or going to the Public Employee Relations Board, and of the right of management to take unilateral action. Mr. Whitmore noted that this action was limited to a year term, and that the action must be the last, best and final proposal made in negotiations. He stated that if the action was worse, it was considered punishment, and if it was better, it undermined the negotiation process. The alternative to unilateral action is to just say you were done.

City Manager Longley inquired about the status of mandatory arbitration for public safety. Mr. Whitmore responded that there was a state law on the books which required that an arbitrator resolve all of the unsettled economic issues in police and fire negotiations. He indicated that the arbitrator’s decision would be binding unless it was overturned by a unanimous vote of the Council.

In regards to the Public Employment Relations Board (“PERB”), Mr. Whitmore mentioned that it had jurisdiction to hear allegations of unfair labor practices by associations or cities, but had limited authority in regards to remedies. He stated that PERB also had some limited authority to assess local rules, such as employer-employee relations resolutions, to decide if they were reasonable. He concluded his general overview by providing examples of unfair labor practices, which included interfering or causing a delay in an agreement, negotiating with lack of authority, regressive bargaining, conditional bargaining, and direct dealing.

Mayor Hamilton asked if the employer-employee relations resolution was a living document, to which Mr. Whitmore answered that it was a living document that could be modified from time to time, but emphasized it stayed in place.

City Manager Longley stated that the Council would be provided with materials specific to meeting and conferring in good faith during Closed Session.

ORAL COMMUNICATIONS

- Larry Newby, 482 N. Kanai Dr., asked Mr. Whitmore some questions in regards to the meet and confer process and negotiations, requesting clarification on the limitations of communication between the Council and members of an association at different points of time in the process.
A brief conversation took place in which Mr. Whitmore explained the extent to which a city negotiator provided reasoning for association requests. He added that it was very common for associations to believe that the reason a request was not being met was a result of a lack of effort by the City negotiator.

In response to Mr. Newby’s inquiry regarding the meet and consult process, Mr. Whitmore explained the difference between the ‘meet and consult’ and ‘meet and confer’ processes. A discussion then ensued as to whether a bargaining group’s inaction on an issue would be construed as a form of acceptance. Mr. Whitmore explained that by not acting or complaining about something, it could become established enough so that a group could waive the right to bargain about the issue. He stated that those issues could, however, be addressed at the next set of negotiations.

OTHER MATTERS
- Council Member Pedro Martinez asked if any of the Council Members would be interested in attending the Lemoore League of Cities meeting.
- Council Member Hernandez stated that he was interested in attending the Conference, but that he had a previous engagement that he was trying to reschedule.

The Council recessed for ten minutes at 1:28 p.m., after which the Council convened Closed Session.

CLOSED SESSION
A. Closed Session Pursuant to:

The Council reconvened the public meeting at 2:49 p.m. It was reported that no action had taken place during Closed Session.

ADJOURNMENT
The Council adjourned at 2:50 p.m. to the Meeting of February 20, 2007.

Georgia Hawley, Chief Deputy City Clerk
By: Luisa Herrera

SEAL

Cameron Hamilton, Mayor