CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
DECEMBER 4, 2007, 6:00 P.M.

Call to Order at 6:03 p.m.
Roll Call: Council Member McCracken, Council Member Pedro Martinez, Mayor Pro Tem Felipe Martinez, Council Member Hernandez, Mayor Hamilton

ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. Closed Session Pursuant to:
   2- Government Code Section 54956.9(b) – Conference with Legal Counsel - Anticipated Litigation: One Case
   3- Government Code Section 54956.9(c) – Conference with Legal Counsel - Anticipated Litigation: One Case
   4- Government Code § 54957 - Public Employee Performance Evaluation - Title: City Manager.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that no action had been taken.

Pledge of Allegiance led by Mayor Cameron Hamilton
Invocation – a moment of silence was observed.

PRESENTATIONS
   Employee of the Month – Dan Holloway
   Introduction of New City Employees

   Mayor Pro Tem Felipe Martinez made a statement with regard to Mr. Shelton's allegations. He stated that payments received from David Gonzalez for services rendered had been reported on his Form 700 for the 2007 calendar year. The Mayor Pro Tem added that he had not received any compensation from the Tule Tribe and therefore, had not abstained from voting on items concerning the Tribe. He requested that the City Attorney ask the Fair Political Practices Commission to provide written advice concerning future agenda items, and announced that the Friends of Felipe Martinez Committee would be self-reporting to the FPPC. He apologized for the apparent unease that the situation had caused in the community, and concluded by stating that he did not wish for the community to fall apart as a result of bigotry.

ORAL COMMUNICATIONS
• Mary McClure, 23149 Joseph Court, spoke at length regarding her and the Tribe's alleged
actions related to a card room and the allegations brought forward by Greg Shelton on November 20, 2007, and inquired whether Mayor Pro Tem Martinez would resign.

- Kay Garrett, a resident of Paradise, California, voiced displeasure for what she perceived was unethical behavior by a Council Member.
- Martha Alcazar Flores, 249 S. Indiana, expressed support for a resolution for all of the parties involved in the situation pertaining to Mr. Shelton's allegations.

**CONSENT CALENDAR**

Item No. 14 was removed for further discussion, and Item No. 18 was moved to Scheduled Matters.

1. **CITY COUNCIL MINUTES OF JUNE 5, 2007 AND NOVEMBER 20, 2007**


Documentation: M.O. 01-120407

Disposition: Approved

2. **CLAIM - DANNY RAY HENDERSON II**

Recommendation: After consideration and investigation, staff recommends that the 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. 02-120407

Disposition: Approved

3. **AUTHORIZATION TO RELEASE REQUEST FOR PROPOSAL FOR ENTREPRENEURIAL TRAINING MARKET ANALYSIS**

Recommendation: That the City Council authorize staff to distribute the Request for Proposal for Analysis of Market and Industry Trends for Planning of Entrepreneurial Training and Business Incubator Assessment.

Documentation: M.O. 03-120407

Disposition: Approved

4. **MEMORANDUM OF UNDERSTANDING - TULE RIVER & DEER CREEK WATERSHED “INTEGRATED REGIONAL WATER MANAGEMENT PLAN”**

Recommendation: That the City Council:

1. Approve the Memorandum of Understanding to participate and become a full member of the Tule Integrated Regional Water Management Plan;
2. Authorize the Mayor to execute the MOU;
3. Direct the Chief Financial Officer to execute a budget entry in the amount of $1,000 and that said amount in paid from the Water
Replacement fund;
4. Direct Public Works to make payment to the Tule IRWMP when said TULE IRWMP makes a request for membership payment; and
5. Direct that the Public Works Director be assigned as the City’s representative to the Tule IRWMP.

Documentation: M.O. 04-120407
Disposition: Approved

5. AUTHORIZATION TO ADVERTISE FOR BIDS - OLIVE AVENUE AND HOLCOMB STREET BUS TURNOUT

Recommendation: That City Council:
2. Approve staff’s recommended Plans and Project Manual; and
3. Authorize staff to advertise for bids on the project.

Documentation: M.O. 05-120407
Disposition: Approved

6. AUTHORIZATION TO ADVERTISE FOR BIDS - MATHEW AND WESTFIELD STORM DRAIN PROJECT

Recommendation: That City Council:
4. Approve staff’s recommended Plans and Project Manual; and
5. Authorize staff to advertise for bids on the project.

Documentation: M.O. 06-120407
Disposition: Approved

7. AWARD OF CONTRACT - WELL NO. 29 PROJECT (PUMPING PLANT)

Recommendation: That City Council:
1. Award the Well No. 29 Project (Pumping Plant) to Vulcan Construction in the amount of $599,000;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs.

Documentation: M.O. 07-120407
Disposition: Approved

8. AWARD OF CONTRACT - ‘C’ STREET WATER MAIN & MISCELLANEOUS FIRE HYDRANT PROJECT

Recommendation: That City Council:
1. Award the ‘C’ Street Water Main & Miscellaneous Fire Hydrant Project Base Bid and Add Alternate A to Halapoff & Sons, Inc. in the amount of $137,180.28; and
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs.

Documentation: M.O. 08-120407
Disposition: Approved

9. AWARD OF CONTRACT - TRAFFIC SIGNAL #11 (INDIANA STREET & PUTNAM AVENUE)

Recommendation: That City Council:
1. Award the Traffic Signal #11 project to AC Electric Company in the amount of $257,000.00;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs.

Documentation: M.O. 09-120407
Disposition: Approved

10. ACCEPTANCE OF THE AIRPORT WATER INTER-TIE PROJECT

Recommendation: That City Council:
1. Accept the project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

Documentation: M.O. 10-120407
Disposition: Approved

11. ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 269-050-055 - BIG BIDNESS, LLC – JAYE STREET WIDENING PROJECT

Recommendation: That City Council:
1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Big Bidness, LLC in the amount of $22,060.00 after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

Documentation: Resolution 120-2007
Disposition: Approved

12. PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT - CONSTRUCTION OF THE CNG FACILITY

Recommendation: That the City Council:
1. Approve the subject program supplement by passing a resolution
authorizing the Mayor to sign the subject program supplement; and
2. Direct staff to return the signed program supplement to CalTrans.

Documentation: Resolution 121-2007
Disposition: Approved

13. THIS ITEM WAS REMOVED FROM THE AGENDA.

15. AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN, AND
EMPLOYEE RETIREMENT SYSTEM

Recommendation: That the City Council rescind Resolution No. 100-2000 and adopt the
attached resolution amending the Employee Pay and Benefit Plan for Fiscal
Years 2007-08 and 2008-09, and the Employee Retirement System, and
authorize the Mayor to execute these and other documents necessary to
implement the provisions thereof.

Documentation: Resolution 122-2007
Disposition: Approved

16. AMENDMENT TO THE SCHEDULE OF SEASONAL AND PART-TIME PAY
RATES

Recommendation: That the City Council:
1. Adopt the draft resolution authorizing a change to the Schedule of Wages
   for Seasonal and Part-Time Employees of the City's Employee Pay and
   Benefit Plan; and
2. Authorize the Mayor to execute these and other documents necessary to
   implement the provisions thereof.

Documentation: Resolution 123-2007
Disposition: Approved

17. CANCELLATION OF JANUARY 1, 2008 CITY COUNCIL MEETING

Recommendation: That the City Council cancel the January 1, 2008 City Council Meeting.

Documentation: M.O. 11-120407
Disposition: Approved

19. CONSIDERATION OF SUPPORT FOR LETTER TO TULARE COUNTY
BOARD OF SUPERVISORS CONCERNING PROPOSED COUNTY IMPACT
FEE PROGRAM.

Recommendation: That the City Council consider the draft letter concerning the proposed
County Impact Fee Program, and authorize the Mayor to sign the letter.
COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Council Member Pedro Martinez that the City Council approve Item Nos. 1 through 13, 15 through 17, and 19. The motion carried unanimously.

14. LETTER OF PUBLIC CONVENIENCE OR NECESSITY/BALDWINDER JOHAL - 709 W. OLIVE AVENUE

Recommendation: That the City Council:

1. Approve a letter supporting the issuance of a Type 21 off-sale of beer, wine and distilled spirits license within Census Tract No. 41.01 for the Olive Mini Mart, located at 709 West Olive Avenue; and
2. Authorize the Mayor to sign said letter.

City Manager Longley introduced the item, and no staff report was given. A brief discussion ensued, in which it was noted that the applicant was requesting an upgrade from a Type 20 to a Type 21, therefore the number of off-sale licenses within the Census Tract would not be increased.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the City Council approve a letter supporting the issuance of a Type 21 off-sale of beer, wine and distilled spirits license within Census Tract No. 41.01 for the Olive Mini Mart, located at 709 West Olive Avenue; and authorize the Mayor to sign said letter.

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

Disposition: Approved

PUBLIC HEARINGS

20. CONDITIONAL USE PERMIT 5-2007 MODIFICATION NO. 1 TO ALLOW FOR A MODIFICATION TO THE EXISTING FLOOR PLAN FOR THE SITE LOCATED AT 1091 W. OLIVE AVENUE

Recommendation: That the City Council adopt the draft resolution approving Conditional Use Permit 5-2007 Modification No. 1 subject to conditions of approval.

City Manager Longley introduced the item. City Attorney Julia Lew explained that there were three Council Members with a conflict of interest: Mayor Hamilton, Council Member Pedro Martinez, and Mayor Pro Tem Felipe Martinez. She recommended that the Mayor Pro Tem be disqualified and not subject to the Rule of Necessity. Council Member Pedro Martinez and Mayor
Hamilton's names were placed in a hat and one was selected at random to determine who would participate in Council's consideration of the item. Council Member Pedro Martinez's name was selected. Mayor Hamilton and Mayor Pro Tem Felipe Martinez recused themselves.

Community Development Director Brad Dunlap presented the staff report, and clarified that the request was to modify the floor plan to provide space that could accommodate game tables or other multi-purpose type uses in the future. He explained that the Council was not considering the approval of game tables, as that would require a separate permitting process. City Attorney Julia Lew noted that a unanimous vote would be required to approve the resolution pursuant to the City's Charter.

The hearing opened to the public at 7:38 p.m.

- Greg Shelton, 888 N. Williford Dr., commented on statements made regarding bigotry; spoke in opposition of the Conditional Use Permit; and suggested that the problems raised should be addressed prior to the approval.

- Marilyn Winter, resident one block south of the applicant's establishment, spoke against the approval of the Conditional Use Permit, and requested that a decision on the item be delayed.

- Maynard Bradshaw, 1090 W. Roby, complained about the noise from the nightclub, and spoke of the owner's unfulfilled promise to build a concrete wall behind the property for sound attenuation.

- Luis Farias, Bakersfield resident and applicant, spoke in favor of the CUP, and of his family's desire to work with the neighbors.

- Martha Alcazar Flores, Chair of the Hispanic Chamber of Commerce, spoke in favor of the CUP, and noted the need for the Chamber to support all businesses.

- Rodney Martin, 146 S. Villa, noted a letter to the City Manager for the record, and indicated that a card room would be a separate entity from the Eagle Mountain Casino.

The hearing closed to the public at 7:56 p.m.

Council Member Hernandez expressed concern with the extension of operating hours, and the issue of the noise level. Community Development Director Dunlap stated that staff could work with the applicant and the residents to come up with an amenable solution. Mr. Dunlap indicated that a concrete block wall was already a condition of approval on the existing Conditional Use Permit. After a lengthy discussion, Council directed staff to work with the applicant and residents to resolve the issues that had been raised.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Hernandez that the Council continue the Public Hearing to the January 15th, 2008 City Council Meeting; and direct staff to work with the applicant and neighboring residents to resolve issues that had been raised.
AYES: McCracken, P. Martinez, Hernandez
NOES: None
ABSTAIN: F. Martinez, Hamilton
ABSENT: None

Disposition: Approved

21. DESIGN REVIEW (D) OVERLAY 8-2007 (CVS PHARMACY)

Recommendation: That the City Council approve Design Overlay Site Review 8-2007 subject to conditions of approval.

City Manager Longley introduced the item, and City Planner Ben Kimball presented the staff report.

The hearing opened to the public at 8:40 p.m.

- Bill McDermott, Sacramento resident, Armstrong Development, spoke on behalf of the applicant, expressed concern with the condition of vine placement.

- Ben Ennis, 643 N. Westwood, spoke in favor of the item.

The hearing closed to the public at 8:45 p.m.

A brief discussion ensued about vine placement. During the discussion it was discovered that there had been a miscommunication, and that staff had requested cantilevered trellis work, not lattice work. It was then agreed that the vines would not be a condition of approval, as the lattice would not be incorporated into the architecture, and the trellis would be added per staff’s request.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the City Council approve Design Overlay Site Review 8-2007, as amended to change Condition 7 to require cantilevered trellis instead of lattice work. The motion carried unanimously.

Disposition: Approved, as amended.

22. CONDITIONAL USE PERMIT 12-2007 WIRELESS COMMUNICATIONS TOWER (RON JAMES)

Recommendation: That the City Council adopt the draft resolution approving Conditional Use Permit 12-2007 subject to the conditions of approval.

City Manager Longley introduced the item, and City Planner Kimball presented the staff report.
The hearing opened to the public at 9:00 p.m.

- Ron James, Ridge Communications, representing Verizon Wireless, spoke in favor of the item.
- Mr. Wilson, representing T-Mobile, spoke in favor of the item, and complimented the City’s Downtown.

The hearing closed to the public at 9:03 p.m.

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez, SECONDED by Council Member McCracken that the City Council adopt the draft resolution approving Conditional Use Permit 12-2007 subject to the conditions of approval. The motion carried unanimously.

Disposition: Approved

**SCHEDULED MATTERS**

**18. CONSIDERATION OF SUPPORT FOR THE FORMATION OF TULARE COUNTY COUNCIL OF CITIES**

Recommendation: That the City Council:
1. Consider support for the formation of the Tulare County Council of Cities; and
2. Select a member of the Council to serve as the City of Porterville representative to the Council of Cities, as well as an alternate.

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

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Pedro Martinez that the Council support the formation of the Tulare County Council of Cities; and select Mayor Hamilton to serve as the City’s representative to the Council of Cities, and Council Member Hernandez as the alternate. The motion carried unanimously.

Disposition: Approved

**23. REPORT CONCERNING LEGALITY OF THE ADOPTION OF LOCAL BIDDING PREFERENCES FOR AWARD OF MUNICIPAL CONTRACTS**

Recommendation: That the City Council consider the report and provide any further direction.

City Manager Longley introduced the item, and City Attorney Julia Lew presented the staff report. Following the presentation, a brief discussion ensued and Council Member Pedro Martinez invited former Mayor Pro Tem Ron Irish to come forward and speak of his experiences bidding in other cities. The Council thanked the City Attorney for the information.
Disposition: No action taken.

24. RENEWAL OF PAID TELECOMMUNICATION SERVICE FOR COUNCIL MEMBER LAPTOP COMPUTERS

Recommendation: That the City Council:

1. Select a wireless service provider to provide telecommunication services for Council Members laptop computers; and
2. Authorize Staff to negotiate a service contract with the selected wireless provider.

The City Manager introduced the item, and Management Information Systems Manager Gus Beatty presented the staff report.

The Council directed staff to decide, and the City Manager indicated that he would recommend the City pursue a contract with Verizon. Mr. Beatty concurred that Verizon was the most consistent and stable provider.

Disposition: Direction provided.

ORAL COMMUNICATIONS

- Ron Irish, 768 North Prospect, commended the Council Members for their handling of Item 20; and spoke of the need for higher compensation for Council Members. He suggested that a ballot measure should be pursued, and volunteered his assistance with the effort.
- Greg Shelton, 888 North Williford Drive, made comments as to the wireless service for Council Members’ laptop computers.
- Dick Eckhoff, business address of 197 North Main Street, commented that the Council Members handled Item 20 well; inquired how the police reports pertaining to responses to the business at 1091 West Olive compared to responses to other like businesses; inquired as to whether new legislation recently passed would affect the limit of card tables; and noted that the area behind Save Mart on D Street was being maintained better, but suggested a problem existed with traffic traveling in the wrong direction.

OTHER MATTERS

- Council Member Hernandez spoke of his recent trip to San Francisco, emphasizing his pleasure in returning home to Porterville.
- Council Member Pedro Martinez inquired whether the City Attorney could work to draft a ballot measure to increase Council Member compensation. Mr. Longley confirmed that staff would work with Mr. Irish on an agenda item to be brought back to the Council.
- Mayor Pro Tem Felipe Martinez noted Porterville High School’s basketball team’s winning season; and spoke of his upcoming meeting with the student councils to discuss establishing a Youth Commission, noting the positive benefits it would have on Porterville’s youth. Mayor Pro Tem Martinez then commented on Rotary’s Camp Royal.
- Council Member Pedro Martinez spoke of the positive comments he had received on the Parks & Leisure Services’ recent Fishing Derby.
- Mayor Hamilton noted his approval on proceeding with the preparation of a Day of Prayer Proclamation; and spoke of his recent meeting with the Porterville Developmental Center’s
employees and inquired whether other Council Members wished to sign a letter that he was drafting to Receiver Bob Sillen on their behalf. He spoke of the challenges that Sierra View District Hospital and PDC faced, as well as other State hospitals, due to the actions of Mr. Sillen, and voiced support for taking legal action. Mr. Longley confirmed that the matter would be placed on the next Closed Session for discussion.

**CLOSED SESSION**

The Council recessed at 9:46 p.m. for ten minutes before reconvening Closed Session.

**ADJOURNMENT**

The Council adjourned at 10:30 p.m. to the meeting of December 8, 2007 at 9:00 a.m. at the Community Room of the Porterville Library, 41 West Thurman Avenue.

__________________________________
Patrice Hildreth, Acting Chief Deputy City Clerk

By: Luisa Herrera

SEAL

Cameron Hamilton, Mayor