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

7:00 P.M. RECONVENE OPEN SESSION

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

Pledge of Allegiance Led by Council Member Pedro Martinez
Invocation

**PROCLAMATIONS**
- National Family Caregivers Month – November, 2008
- America Recycles Week – November 16–22, 2008

**PRESENTATIONS**
- Employee of the Month – Lupe Diaz
- Auto-Theft Reduction Efforts

**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.

2. Claim – Victor Albert Rocha  
Re: Considering rejection of a claim in an amount exceeding $25,000 in the unlimited jurisdiction of Tulare County Superior Court for personal injury and civil rights violation which claimant alleges were incurred when Police Officers used excessive force when he was arrested on November 3, 2007 at El Reventon Nightclub located at 1091 West Olive Avenue.

3. Claim – Karen Smith  
Re: Considering rejection of a claim in an amount exceeding $25,000 in the unlimited jurisdiction of Tulare County Superior Court for personal injury that the Claimant alleges she sustained due to the deteriorated condition of the curb when she fell on May 3, 2008 in the vicinity of 15 West Mill Avenue.

4. Authorization to Advertise for Bids – Henderson Avenue (Jaye Street to San Joaquin Valley Railroad Crossing) Rehabilitation Project  
Re: Considering approval of staff’s recommended plans and project manual for the project consisting of the rehabilitation of Henderson Avenue, between Jaye Street and the San Joaquin Valley Railroad.

5. Authorization to Reject Bid and Re-Advertise – Biosolids Hauling and Land Application  
Re: Considering rejection of the bid for the hauling and/or land application of biosolids on agricultural land used by the City as a reclamation site for effluent water, and authorizing staff to re-bid the services.

6. Street Performance Measure – 1st Quarter Update  
Re: Informational report on the progress made in street reconstruction, overlay, micro-overlay and pothole repair efforts for the period of July 1 through September 30, 2008.

7. Code Enforcement Update  

8. Attendance Report for City Commissions, Boards & Committees – 1st Quarter Update  
Re: Informational report consisting of the first quarter Fiscal Year 2008/2009 attendance records for the Parks & Leisure Services Commission; Library Board of Trustees; Transaction and Use Tax Oversight Committee; CDBG Advisory and Housing Opportunity Committee; and Redevelopment Advisory Committee.

9. Water System Status / Phase II Water Conservation  
Re: Scheduling of a Public Hearing for November 18, 2008 to return to Phase I of the Water Conservation Plan.

10. Report on Mobile Computer Technology Adhoc Council Committee Progress  
Re: Informational report on the progress of the Mobile Computer Technology Adhoc Council Committee.

11. Hillside Development Ordinance Follow-up Report  
Re: Informational report on non-substantive changes to the Hillside Development Ordinance, (adopted September 16, 2008) for clarification purposes.
12. **Consideration of Policy Regarding City-Funded Special Event Liability Insurance Coverage for Historic Parades & Airshow**
   Re: Consideration of information regarding efforts to provide special event liability coverage for the city’s three annual historic parades and the air show.

13. **Request to Set Public Hearing for Ordinance Requiring Food Establishments to Post County Health Inspection Results or Scores**
   Re: Scheduling of a Public Hearing for December 16, 2008, to consider the requirement that food establishments post their County health inspection results or scores.

14. **Approval for Community Civic Event – Porterville Chamber of Commerce and Rotary Club of Porterville Annual Children’s Christmas Parade – December 4, 2008**
   Re: Approving an event to take place on Thursday, December 4, 2008 from 5:00 p.m. to 9:00 p.m. along Main Street.

15. **Scheduling of Meetings of the City Council, to Include Zoning Ordinance Update, Priority Project Review and Goal Setting, and First Meeting of January 2009**
   Re: Considering the scheduling of meetings of the City Council.

16. **Proposed Change in the Table of Organization Within the Police Department**
   Re: Considering adoption of the proposed draft resolution authorizing a change in the Table of Organization within the Police Department which would create the position of Animal Control Officer, and authorize the hiring of one (1) full-time individual.

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

**PUBLIC HEARINGS**
17. **Parkway Tree and Landscaping Ordinance**
   Re: Considering approval of the proposed Parkway Tree and Landscape Ordinance to insure the proper installation, protection, and maintenance of landscaped parkways along major streets and in new developments.

18. **Highway Wall and Landscaping Ordinance**
   Re: Considering approval of the proposed Highway Wall and Landscaping Ordinance to establish a consistent and attractive series of subdivision walls along Porterville’s highways and insure their continued maintenance.

**SCHEDULED MATTERS**
19. **Options for Dealing with Improperly Maintained Abandoned or Foreclosed Properties**
   Re: Consideration of options concerning the development of local regulations regarding improperly maintained and abandoned or foreclosed properties

20. **Consideration of Formation of Mosquito Abatement District in Southeastern Tulare County**
   Re: Consideration of fundamental issues identified by the Mosquito Abatement Study Group relative to the formation of a Mosquito Abatement District in Southeastern Tulare County.

21. **Update Regarding E-Mails to and from City Council Members and Status per the California Public Records Act**
   Re: Consideration of information regarding the handling of Council Member e-mail accounts.
22. Interim Financial Status Reports and Grants Summary Report
   Re: Acceptance of the interim financial status reports and grants summary report for the first
   fiscal quarter, in accordance with Council Minute Order Nos. 13-041602 and 10-011607.

23. Quarterly Portfolio Summary
   Re: Acceptance of the quarterly Portfolio Summary in accordance with SB 564 and SB 866.

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 November 18, 2008 at 6:00 p.m.

   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.

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda
packet are available for public inspection at the Office of City Clerk, 291 North Main Street, Porterville, CA
93257, during normal business hours.
Call to Order at 6:00 p.m.
Roll Call: Vice Mayor McCracken, Council Member Pedro Martinez (arrived late), Council Member Felipe Martinez, Council Member Ward, Mayor Hamilton

Adjourn to a Joint Meeting of the Porterville City Council and Porterville Redevelopment Agency.

JOINT CITY/PORTERVILLE REDEVELOPMENT AGENCY AGENDA

Roll Call: Vice Chairman McCracken, Member Pedro Martinez (arrived late), Member Felipe Martinez, Member Ward, Chairman Hamilton

ORAL COMMUNICATIONS
None

REDEVELOPMENT AGENCY CLOSED SESSION:
A. Closed Session Pursuant to:

Adjourn during Closed Session to a meeting of the Porterville City Council.

CITY COUNCIL CLOSED SESSION:
B. Closed Session Pursuant to:

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY AGENCY/COUNCIL ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that no action had been taken.
Pledge of Allegiance Led by Boy Scout Troop 124
Invocation – one individual participated.

PROCLAMATIONS
Porterville Municipal Library’s Centennial – Month of October
Silver Star Banner Day – May 1, 2009

PRESENTATIONS
Employee of the Month – Debbie Salter

ORAL COMMUNICATIONS
- John Coffee, 1750 North Lotus, requested that the City Council reconsider its support for Proposition 8; and voiced support for Item No. 26.
- Brock Neeley, 1750 North Lotus, spoke against the Council’s support for Proposition 8 and requested that it reconsider.
- Ellen Nichols, Porterville resident, noted the planned reconstruction of the parking lot at Hockett Street and Mill Avenue and inquired as to the City’s intentions with regard to the trees. Public Works Director Baldo Rodriguez requested that Ms. Nichols contact him to discuss the matter.
- Jessica Mahoney, a Terra Bella resident, spoke against the City Council’s support for Proposition 8.
- Terry Detfield, 794 North Main, commended the City Council on its decision to support Proposition 8.
- Dick Eckhoff, business address at 197 North Main Street, commended the individuals who previously spoke, noting that it had likely been difficult; inquired as to vendor licensing in Item 20; and voiced support for the enforcement of the prohibition of parking along Olive Avenue as proposed in Item 27.
- Barry Caplan, requested that the City Council reconsider its support for Proposition 8, and spoke of the intentions of America’s founding fathers.
- Martha Alcazar Flores, 249 South Indiana, applauded everyone who had addressed the City Council that evening; and invited everyone to a candlelight vigil against domestic violence to be held on October 16th.
- Greg Shelton, 888 North Williford Drive, requested that he have an opportunity to address the Council during its discussion of Items 24 and 27.
- Denise McCurry, commended the City Council for its support of Proposition 8.
- Dave Paynter, Henderson-Prospect Partners, thanked the City Council and staff for their support and diligence in helping Target achieve their accelerated opening date for the new Target Store.
- Rudy Martinez, local pastor, thanked the City Council for voicing its support of Proposition 8.
- Bud Goins, a retired local pastor, voiced support for the Council’s decision to support Proposition 8.
- Tony Mauck, West Median Circle, thanked the City Council for its support of Proposition 8.
- Martie Mahoney, a Porterville resident, spoke against the Council’s support of Proposition 8.
CeCe Townsend, a Springville resident, commended the City Council for its support of Proposition 8.
Crystal (last name not given), a Porterville resident, requested that the Council reconsider its support for Proposition 8.
David Bird, a Springville resident, commended the Council for its support of Proposition 8.
An unidentified individual thanked the City Council for taking a stand on the issue and supporting Proposition 8.
Tom Moran, 482 North Sunnyside, commended the Council for its support of Proposition 8.
Yvette Ward, a Porterville resident, voiced support for Proposition 8, and thanked the Council for its action.

CONSENT CALENDAR

Item Nos. 1, 5 and 13 were removed for further discussion.

2. CLAIM – RAMONA GRAY

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. 01-100708
Disposition: Approved

3. AUTHORIZATION TO ADVERTISE FOR BIDS – FIRE STATION NO. 2 (SEWER CONNECTION) PROJECT

Recommendation: That the City Council:
1. Approve staff’s recommended plans and project manual; and
2. Authorize staff to advertise for bids on the project.

Documentation: M.O. 02-100708
Disposition: Approved

4. AWARD OF CONTRACT FOR ASSISTANCE WITH THE UPDATE TO THE CITY OF PORTERVILLE’S HOUSING ELEMENT

Recommendation: That the City Council:
1. Authorize staff to negotiate a contract with the number one (1) rated consultant and if a contract cannot be negotiated then allow staff to negotiate a contract with the second ranked consultant;
2. Authorize the Mayor to sign said contract for assistance in updating the City of Porterville’s Housing Element; and
3. Authorize staff to make payments, upon satisfactory completion of the contracted work, up to 100%.
6. AWARD CONTRACT – DIGESTER CLEANING SERVICES

Recommendation: That the City Council:
1. Award the annual contract to clean the digester at the City’s Wastewater Treatment Facility to North American Digester Cleaning Services of Portland, OR, in the initial amount of $34,000, or $8,500 per digester;
2. Authorize payment upon satisfactory completion; and
3. Authorize staff to exercise annual renewals as necessary.

7. AUTHORIZATION TO PROCEED WITH JAYE STREET/MONTGOMERY AVENUE ROUNDBOOUT DESIGN

Recommendation: That the City Council approve Omni-Means’ and staff’s recommended Roudabout design alternative and commence the public involvement and community outreach phase of the project.

8. THIS ITEM WAS REMOVED.

9. STATUS REPORT – SUCCESS DAM REMEDIATION EFFORT

Recommendation: None – information only.

10. SEAFOOD CAFÉ/EL REVENTON UPDATE

Recommendation: None – information only.

11. REQUEST FOR A CITY COUNCIL STUDY SESSION TO REVIEW THE LATEST DEVELOPMENTS WITH THE COMPREHENSIVE ZONING ORDINANCE UPDATE

Recommendation: That the City Council authorize staff to schedule a study session to review the latest developments with the zoning ordinance and provide comment to staff.
12. LAW ENFORCEMENT JOINT USE HELICOPTER PROGRAM

Recommendation: None – information only.

14. ANNUAL LIBRARY FOOD FOR FINES CAMPAIGN/LIBRARY CENTENNIAL CELEBRATION FINE FORGIVENESS DAY

Recommendation: That the City Council:
1. Authorize the second Annual Food for Fines Campaign from October 13 through December 13, 2008; and
2. Designated October 11, 2008 as Fine Forgiveness Day.

15. AUTHORIZE STAFF TO PROCEED WITH OHV FACILITY DEVELOPMENT GRANT ACTIVITIES

Recommendation: That the City Council authorize staff to proceed with OHV facility development grant activities.

16. APPROVAL OF ANNUAL TRANSPORTATION AGREEMENT WITH TULARE COUNTY

Recommendation: That the City Council enter into an Agreement with the County of Tulare for FY 2008-2009 to provide service to County residents within the Service Area Boundary Map, and authorize the Mayor to execute the Agreement on behalf of the City.

17. INFORMATION CONCERNING THE VALLEY INNOVATIVE ENERGY WATCH PARTNERSHIP

Recommendation: Receive information only.
18. APPROVAL FOR COMMUNITY CIVIC EVENT – PORTERVILLE UNIFIED SCHOOL DISTRICT BUTTERFIELD STAGE DAYS – OCTOBER 17, 2008

Recommendation: That the City Council approve the Community Civic Event Application and Agreement from Porterville Unified School District, subject to the Restrictions and Requirements contained in the application, agreement and Exhibit “A”.

Documentation: M.O. 12-100708
Disposition: Approved


Recommendation: That the City Council approve the City of Porterville’s Parks & Leisure Services annual Veterans’ Day Run subject to the restrictions and requirements contained in the application, agreement and Exhibit “A” of the Community Civic Event application.

Documentation: M.O. 13-100708
Disposition: Approved


Recommendation: That the City Council approve the Community Civic Event Application and Agreement submitted by the Veterans’ Homecoming Committee, subject to the stated requirements contained in Exhibit “A”.

Documentation: M.O. 14-100708
Disposition: Approved

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Vice Mayor McCracken to accept Item Nos. 2 through 4, 6 through 12, and 14 through 20. The motion carried unanimously.


Prior to the Council taking action, Council Member Pedro Martinez stated that he would be abstaining from approval of the June 3, 2008 Minutes, due to his absence at that meeting. Council Member Ward noted the same reason for his abstention from the April 15 and June 3, 2008 Minutes.

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Vice Mayor McCracken that the Council approve the Minutes of April 15, 2008.

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

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Vice Mayor McCracken that the Council approve the Minutes of June 3, 2008.

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

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Vice Mayor McCracken that the Council approve the Minutes of September 16, 2008.

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

Disposition: Approved

5. AWARD OF CONTRACT – MURRY PARK RESTROOM PROJECT

Recommendation: That the City Council:
1. Award the Murry Park Restroom Project to Bates Construction in the amount of $25,945.00;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs.

Deputy City Manager John Lollis introduced the item. At the Council’s request, no staff report was given.

Council Member Ward expressed his concern with the costs of the project.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member
M.O. 16-100708  Pedro Martinez that the City Council reject the award of contract to Bates Construction in the amount of $25,945.00.

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

COUNCIL ACTION:  MOVED by Council Member Felipe Martinez, SECONDED by Vice Mayor McCracken that the City Council award the Murry Park Restroom Project to Bates Construction in the amount of $25,945.00; authorize progress payments up to 90% of the contract amount; and authorize a 10% contingency to cover unforeseen construction costs.

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

Disposition:  Approved

13. YOUTH/FAMILY INTERVENTION PROGRAM

Recommendation:  That the City Council:
1. Approve the employment of Mr. Perez as a part-time Community Services Officer II;
2. Authorize the expenditure of Measure H funds to fund the position not to exceed $20,000; and
3. Authorize the necessary adjustment to the Police Department’s Measure H budget.

Deputy City Manager Lollis introduced the item.  At Council’s request, no staff report was given.

Council Member Pedro Martinez expressed his contentment with what he believed to be an investment in the community.

COUNCIL ACTION:  MOVED by Council Member Pedro Martinez, SECONDED by Council Member Ward that the City Council approve the employment of Mr. Perez as a part-time Community Services Officer II; authorize the expenditure of Measure H funds to fund the position not to exceed $20,000; and authorize the necessary adjustment to the Police Department’s Measure H budget. The motion carried unanimously.

Disposition:  Approved
SECOND READINGS

21. ORDINANCE 1747, ADDING A HILLSIDE DEVELOPMENT ORDINANCE TO THE MUNICIPAL CODE

Recommendation: That the Council give Second Reading to Ordinance No. 1747, waive further reading, and adopt said Ordinance.

Deputy City Manager Lollis introduced the item, and the staff report was waived at the Council’s request.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Ward that the City Council give Second Reading to Ordinance No. 1747, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING A HILLSIDE DEVELOPMENT ORDINANCE TO THE MUNICIPAL CODE. The motion carried unanimously.

The Deputy City Manager read the ordinance by title only.

Disposition: Approved

SCHEDULED MATTERS

22. RESOLUTION APPROVING AMENDMENT 1 TO MEASURE R EXPENDITURE PLAN

Recommendation: That the City Council:
1. Affirm by Resolution the six (6) changed identified in the “Summary of 2008 Measure R Amendment Requests”;
2. Authorize the Mayor to sign the Resolution;
3. Direct the City Clerk to transmit the executed Resolution to the attention of Ted Smalley, Tulare County Transportation Authority;
4. Approve and adopt the Bike Plan as described and shown in the Bike Plan Attachment; and
5. Direct the Public Works Director to transmit the adopted Bike Plan to the Tulare County Transportation Authority.

Deputy City Manager Lollis introduced the item, and Public Works Director Baldo Rodriguez presented the staff report.

COUNCIL ACTION: MOVED by Vice-Mayor McCracken, SECONDED by Council Member
Resolution 87-2008 Felipe Martinez that the City Council affirm by Resolution the six (6) changed identified in the “Summary of 2008 Measure R Amendment Requests”; authorize the Mayor to sign the Resolution; direct the City Clerk to transmit the executed Resolution to the attention of Ted Smalley, Tulare County Transportation Authority; approve and adopt the Bike Plan as described and shown in the Bike Plan Attachment; and direct the Public Works Director to transmit the adopted Bike Plan to the Tulare County Transportation Authority. The motion carried unanimously.

Disposition: Approved

23. APPOINT COUNCIL REPRESENTATIVE TO THE AD HOC LIBRARY FACILITY PLANNING COMMITTEE

Recommendation: That the City Council appoint a representative of the Council to the ad hoc Library Facility Planning Committee.

Deputy City Manager Lollis introduced the item, and the staff report was waived at the Council’s request.

COUNCIL ACTION: MOVED by Mayor Hamilton, SECONDED by Council Member Felipe Martinez that the City Council appoint Council Member Ward to the ad hoc Library Facility Planning Committee. The motion carried unanimously.

Disposition: Approved

24. PROPOSAL FOR RECREATIONAL FACILITIES GRANTS, AND OPTIONS FOR GRANT PROGRAMS AND MANAGEMENT

Recommendation: That the City Council provide direction to staff in options toward the pursuit of grant monies for the construction of the Heritage Center ball fields.

Deputy City Manager Lollis introduced the item and presented an amended staff report, which included the following options for consideration:

Option 1: For a single fee of $10,000, California Consulting proposes to make application for grant monies exclusively for ball field development through Proposition 84, Mayor League Baseball Tomorrow Fund, and California State Parks Land and Water Conservation Fund. Most notable is the pursuit of Proposition 84 monies, with approximately $50 million available for Central Valley projects, of which the Heritage Center softball complex would be an exemplary project. It is anticipated that Proposition 84 applications will be available in February 2009 and due shortly thereafter in April 2009.
Option 2: This option is broader in scope that, for a monthly fee of $2,500 (plus expenses), California Consulting will make applications for an unlimited number of grants in whatever areas are defined as priority. This option would include State lobbying efforts as well.

Option 3: A variation of the second option, California Consulting would charge a monthly fee of $1,000 (plus expenses) for the application of grant funds, and in addition would receive a bonus equal to ten percent (10%) of grants that are successfully funded.

Option 4: It may be an interest of the Council to proceed with a Request for Proposals (RFP) in selection of an individual/entity to prepare and make application for grant-funding on the behalf of the City for the proposed ball field construction. This process would assist in identifying potentially superior qualifications and comparable cost efficiencies. It is anticipated that this process would take no more than two (2) months to undertake, with the Council approving a selection no later than the December 16th meeting of the Council.

- Greg Shelton, address on record, voiced concern with hiring a consultant versus utilizing staff time; and questioned Mr. Samuelian’s grant writing experience and his ethics.

A brief discussion ensued about the costs associated with the options presented, and the ability of staff to perform the grant writing duties. Deputy City Manager Lollis spoke of the political aspect of the grant application process and the importance of attending to that variable in the Request for Proposals process.

Vice-Mayor McCracken made a motion to implement Option 4, amended to include political connections in the criteria. The motion died for lack of a second.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor McCracken to implement Option 4 from the amended staff report. The motion carried unanimously.

The Council then directed staff to conduct an in-house review of staff capacity for grant writing.

Disposition: Approved, and direction given.

25. CONSIDERATION OF CALLING STUDY SESSIONS WITH THE PARK(S) & LEISURE SERVICES COMMISSION, LIBRARY BOARD OF TRUSTEES, AND THE TRANSACTION AND USE TAX OVERSIGHT COMMITTEE (MEASURE H TUTOC)

Recommendation: That the City Council determine whether to schedule meetings with the Park(s) and Leisure Services Commission, Library Board of Trustees and TUTOC.

Deputy City Manager Lollis introduced the item and presented the staff report.
COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Ward that the Council direct staff to schedule the proposed meetings after the goal setting session. The motion carried unanimously.

Disposition: Direction given.

26. CONSIDERATION OF ESTABLISHING CITY EMAIL FOR COUNCIL MEMBERS

Recommendation: Define which option the Council should use regarding city-based email.

Deputy City Manager Lollis introduced the item and presented the staff report, which included the following options for the Council’s consideration.

Option 1: The first option is to install on City laptops held by Council members, a copy of software that will allow Council members to recover from the City’s server e-mails. The Councilmember would be issued a normal ci.porterville.ca.us e-mail address. The positive about this is that this solution would be most direct. On the other hand, the use of the remote software can at times be complex. Also, there may be some difficulty regarding how arching would be achieved and the ability through the system to monitor e-mails.

Option 2: The second option is to establish on Olsen servers, separate Council e-mails. The City owns the domain porterville.ca.gov or cityofporterville.us. An e-mail account could be issued to each Council member that could be accessed through the web. The positive regarding this is the ease of external access the downside would be having the accounts on an external server and the possible limited expense required to support this.

Option 3: A third option is to continue private email as it currently exists. Various domains are available to Council members which can be accessed through City issued computers.

City Attorney Julia Lew provided some background on the issue and stated that there was no current case law on the subject. She indicated that the Council could waive any exemption that would apply and choose to make the records public, and spoke of the deliberative process privilege.

The Council directed staff to implement Option No. 2, with preference to the “flast@porterville.ca.gov” address format, and directed the City Attorney to do further research on policies and bring them back for consideration.

Disposition: Direction given.

27. REQUEST BY COUNCIL MEMBER – ENFORCEMENT OF PROHIBITION OF PARKING TRUCKS ON OLIVE AVENUE

Recommendation: That the Council provide direction to staff.
Deputy City Manager Lollis introduced the item, and no staff report was presented. Chief of Police McMillan and Public Works Director Rodriguez provided some background information and spoke about the issue of enforcement.

A discussion ensued about safety concerns, additional problem areas, and enforcement problems in the County areas within the city.

- Greg Shelton, address on record, spoke of previous attempts to resolve the issue, and agreed that the issue needed to be addressed.

The Council directed that the item be brought back with enforcement options for consideration.

Disposition: Direction given.

**ORAL COMMUNICATIONS**

- Dick Eckhoff, address on record, spoke regarding Item 27, noting the safety hazards created by large commercial vehicles parking along City corridors, such as Olive Avenue, and requested that the Council work to resolve the issue.
- Greg Shelton, address on record, spoke regarding Item 25, suggesting that the Council schedule a cruise or retreat for its meetings.
- Barry Caplan, spoke regarding Item 26, commenting that his analysis of the legal issues were consistent with that of the City Attorney; and reiterated his early comments with regard to his opposition to Proposition 8, and suggested that the Council reconsider its action in support thereof.
- Tony Mauck, lauded the City Council for being innovative and supporting Proposition 8.

**OTHER MATTERS**

- Council Member McCracken spoke of the posting of ratings by the Health Department available on the Visalia-Times Delta website, and suggested that everyone look at the grades many of the local restaurants received.
- Council Member Pedro Martinez:
  1. Reported on his attendance at the League of California Cities Annual Conference recently held in Long Beach, and spoke of the financial information provided;
  2. Spoke favorably of the Filipino-American cultural event that took place at Veteran’s Park; and
  3. Requested that Council Members be provided a key to the City Manager’s office for ease in retrieving mail.
- Council Member Brian Ward:
  1. Requested that support staff members be allowed to leave the City Council Meeting once their items had been heard and their attendance was no longer crucial;
  2. Reported on his attendance at the League of California Cities Annual Conference in Long Beach, speaking on the information gleaned from the various sessions;
3. Requested that the Council look into forming an Arts Commission, or something similar; and
4. Spoke of his interest in reestablishing a Neighborhood Watch Program.

- Council Member Felipe Martinez reported on his attendance at the League of California Cities Annual Conference in Long Beach, specifically noting sessions on Art Commissions, and diversity within communities.
- Mayor Hamilton spoke favorably of the recent Filipino-American Cultural event held at Veteran’s Park.

**ADJOURNMENT**

The Council adjourned at 10:12 p.m. to the meeting of October 21, 2008 at 6:00 p.m.

___________________________
Luisa Herrera, Deputy City Clerk

SEAL

___________________________
Cameron Hamilton, Mayor
Call to Order at 8:01 a.m.
Roll Call: Vice-Mayor McCracken, Council Member Pedro Martinez, Council Member Felipe Martinez, Council Member Ward (via teleconference from 1960 Bryor Court, Merced, California); and Mayor Hamilton

Adjourn to a Joint Meeting of the Porterville City Council and Porterville Redevelopment Agency.

Roll Call: Vice-Chairman McCracken, Member Pedro Martinez, Member Felipe Martinez, Member Ward (via teleconference from 1960 Bryor Court, Merced, California); and Chairman Hamilton

Pledge of Allegiance led by Vice Mayor Pete McCracken
Invocation – a moment of silence was observed.

**ORAL COMMUNICATIONS**
None

**JOINT CITY COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION:**
A. Closed Session Pursuant to:

**RECONVENE OPEN SESSION**

**REPORT ON ANY ACTION TAKEN IN CLOSED SESSION**
The Joint City Council/Redevelopment Meeting reconvened in Open Session at 8:21 a.m., after which it was reported that no action had taken place during Closed Session. The Joint Meeting then adjourned to a Meeting of the Porterville City Council.

**ADJOURNMENT**
The City Council adjourned at 8:21 a.m. to the Meeting of November 4, 2008.

_______________________________
SEAL       Patrice Hildreth, Chief Deputy City Clerk

_________________________________
Cameron Hamilton, Mayor
SUBJECT: CLAIM – VICTOR ALBERT ROCHA

SOURCE: ADMINISTRATION

COMMENT: Mr. Victor Albert Rocha has filed a claim against the City in an amount exceeding $25,000 in the unlimited jurisdiction of Tulare County Superior Court for personal injury. Claimant alleges that Porterville Police Officers used excessive force and violated his civil rights when he was arrested on November 3, 2007 at El Reventon Nightclub located at 1091 West Olive Avenue.

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.

Item No. }

DOM / Appro./ Funded  
CM /
RECEIVED
MAY 29, 2008

OF PORTERVILLE CITY CLERK OFFICE

Claim Against (Name of Entity): CITY OF PORTERVILLE

Claimant's Name: Victor Albert Franey
Claimant's Address: 2513 W. Victor, Visalia, CA 93277
Claimant's Telephone No. (Home): 559-623-9807
Claimant's Telephone No. (Work): 559-623-9807

Address where notices about claim are to be sent, if different from above:

Date of incident/accident: November 3, 2007
Date injuries, damages, or losses were discovered: November 3, 2007
Location of incident or accident: 1091 W. Olive, Porterville, CA

What did entity or employee do to cause this loss, damage, or injury? Porterville Police Officers arrested claimant with excessive force, causing injury

What are the names of the entity's employees who caused this injury, damage, or loss (if known): Officers: Leard, Kick; William others

What specific injuries, damages, or losses did claimant receive? Injuries, Concussion, cuts to face, nose, arms, hands, injury, etc.

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)].

Above $25,000 Unlimited Civil

How was this amount calculated (please itemize): To be determined

Date Signed: May 29, 2008
Signature: J. Calden

If signed by representative:
Representative's Name: Jocelyn Calden
Telephone: 559-623-9807
Address #: 2513 W. Victor, Visalia, CA 93277
Relationship to Claimant: Girlfriend

See Attached
CITY OF PORTERVILLE
NOTICE OF INSUFFICIENCY OF CLAIM
AND RETURN WITHOUT ACTION

FORM C

Date: May 8, 2008
Date of Claim: May 3, 2008
Date of Incident/Accident: November 3, 2007

To: Victor Albert Rocha
2513 W. Victor
Visalia, CA 93277

This is to advise you that the Claim submitted on behalf of Paul David Vera, Jr. has been reviewed, evaluated, and found to be deficient for the reason(s) circled below:

1. The Claim fails to state the name and mailing address of the claimant.
2. The Claim is not signed.
3. The Claim fails to state the mailing address to which the person desires notices to be sent.
4. The Claim does not provide enough information to determine when, where, and/or how the incident/accident occurred.
5. The Claim does not provide enough information to determine what the loss, damage, or injury is.
6. The Claim does not provide enough specific information to determine what, if anything, the public entity did or failed to do to create liability exposure. What was the "excessive force" used?
7. The Claim does not comply with Government Code 910(f) as to the amount sought or the court of appropriate jurisdiction.
8. The Claim does not provide the name(s) of any of our employees who may be responsible for the incident/accident.
9. The Claim does not comply with Government Code 910.4(a) in that all claims against a public entity shall be submitted on a claim form supplied by the public entity.

The Claim will not be acted upon for fifteen (15) days from the date of this Notice to allow for your amendment of this Claim.

WARNING: A claim that is deficient or does not contain sufficient information, as required by law, may not be considered to have been filed in a timely manner and may prevent the prosecution of a lawsuit based on the incident/accident which is the subject of this Claim.

PROOF OF SERVICE

On May 8, 2008, I served the within NOTICE OF INSUFFICIENCY OF CLAIM on the claimant by placing a true copy thereof enclosed in a sealed envelope in the outgoing mail addressed as requested by the claimant.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Porterville, California on May 8, 2008.

[Signature]
Patrice Hildreth, Chief Deputy City Clerk
Report Victor Alberta Rocha  
Case Number PCM 193469

Interview April 28, 2008 with Victor Albert Rocha, with his girl friend Jocelyn Calderon acting as interpreter.

Victor stated that he was at the El Reventon Nightclub Nov. 3, 2007 with some friends, and as they were getting ready to leave, his friend Robert Guzman backed into a parked car. Robert exchanged information with someone from the other car and started to leave. When the other occupants in the car that had been backed into wanted more information, two of the occupants got out and approached Robert's vehicle acting very aggressive. The taller one of the two threw a half-full bottle of beer at Victor, who was not in the car, and it hit him in the leg. The man then swung at Victor. Victor defended himself and hit the taller guy on the cheek. That man swung back, hitting Victor in the mouth. Robert pulled the tall guy back and when he did the tall guy fell to the ground. Victor stated that at that time someone got him from behind and dumped him to the ground. Victor stated at this time he went unconscious. Jocelyn stated that the officer who approached had his tazer gun drawn and in his hand. This officer had tazed Victor before he hit the ground. The officer continued to taze him while he was on the ground. Victor was shaking from the tazer. The other officers were moving people back. Jocelyn said there were a lot of people around. Jocelyn stated that the officer then picked Victor up from the ground and slammed him face first back to the pavement in the parking lot. Jocelyn stated that Victor was still shaking and having a seizure while they were cuffing him. She said he shook for a long time and his face was dripping with blood. She advised that the other officers were telling everyone they needed to leave or be arrested.

Investigative Observation:

Officer Ward states in his statement that while at the hospital, he advised Victor of his Miranda Rights. Victor does not speak English, therefore how
could he understand his Miranda Right unless Officer Ward read them in Spanish? Also, what he states that Victor said to him afterward in a statement at the hospital is also questionable. Like I just stated, Victor does not speak English. Also, if Victor was being advised of his Miranda Rights, then it could be assumed that he was under arrest and therefore his medical treatment is the reasonability of the City of Porterville as he was in the custody of the Porterville Police Department.

When Victor was admitted to the Emergency Department at Sierra View District Hospital, he was suffering wounds to the forehead, nose, back of skull, and neck. He was also suffering memory loss and had lost consciousness and was dazed prior to coming to the hospital, all of which is documented in hospital reports. Officer Ward’s report states that he observed Victor to have a pulse of 125 beats per minute from the ER’s digital machine. But in the report of the emergency room nurse, she states on her record of patient care that his pulse was 100 beats per minute. This, along with Officer Ward’s statement of his advising Victor of his rights, and that he understood them, raises doubt as to the accuracy of his report.
COUNCIL AGENDA – NOVEMBER 4, 2008

SUBJECT: CLAIM – KAREN SMITH

SOURCE: ADMINISTRATION

COMMENT: Ms. Karen Smith has filed a claim against the City in an amount exceeding $25,000 in the unlimited jurisdiction of Tulare County Superior Court for personal injury. Claimant alleges that she sustained injuries when she fell on May 3, 2008 in the vicinity of 15 West Mill Avenue due to the deteriorated condition of the curb.

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.

DCM

Item No. 3

Approved Funded
CLAIM FORM
(Please Type Or Print)

CLAIM AGAINST CITY: OF PORTERVILLE

Claimant's Name KAREN SMITH

Claimant's Date of Birth November 27, 1958 Telephone # (559) 783-0431

Claimant's Address 681 E. Scranton, Porterville, CA 93257

Address where Notices about Claim are to be sent, if different from above:

Law Office of Robert E. Vanderhorst, 288 North "D" Street, Porterville, CA 93257

Date of Incident/Accident/Arrest: MAY 3, 2008

Date Injuries, Damages or Losses were discovered: MAY 3, 2008

Location of Incident/Accident/Arrest: Sidewalk / Curb in front of 15 W. Mill, Porterville, CA

What did Entity or Employee do to cause this Loss, Damage or Injury?

SEE ATTACHMENT 1

What are the Names of the Entity's Employees who caused this Injury, Damage or Loss (if known)?

The identities of the specific employees who caused Claimant's injuries are

unknown at this time.

What specific Injuries, Damages or Losses did Claimant receive?

Head injury, right shoulder injury, left knee injury. The full extent of Claimant's injuries and damages is unknown at this time

What Amount of Money is Claimant Seeking, or which is the appropriate court of Jurisdiction [Govt. code 910(i)]?

In excess of $25,000.00; in the Tulare County Superior Court. Unlimited Jurisdiction

How was this Amount Calculated, if applicable (please itemize)? Claimant's injuries & damages; medical expenses.

Date Signed: Sept 8, 2008 Signature:

If signed by Representative:

Representative's Name Robert E. Vanderhorst, Attorney at Law

Address 288 North "D" Street, Porterville, CA 93257

Telephone # (559) 781-0506

Relationship to Claimant Attorney for Claimant
ATTACHMENT 1

Attachment to Claim Form

The City of Porterville, its agents, employees, contractors, sub-contractors, and each of them, negligently and carelessly designed and constructed the sidewalks and curbs in the area of Claimant’s fall. Additionally, the City of Porterville, its agents, employees, contractors, sub-contractors, and each of them, negligently and carelessly failed to inspect maintain, and repair or cause to be repaired City sidewalks and curbs in the area of Claimant’s fall, all of which conduct on the part of the City of Porterville, its agents, employees, contractors, and sub-contractors caused a dangerous condition to exist (a broken and crumbling curb) of which the City of Porterville, its agents, employees, contractors, sub-contractors, and each of them, negligently failed to warn Claimant, all of which conduct caused Claimant to suffer the injuries and to incur the damages complained of herein.
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – HENDERSON AVENUE (JAYE STREET TO SAN JOAQUIN VALLEY RAILROAD CROSSING) REHABILITATION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Plans and Project Manual have been prepared for the Henderson Avenue Rehabilitation Project. Henderson Avenue between Jaye Street and the San Joaquin Valley Railroad requires reconstruction due to base failures associated with inconsistent base material or lack thereof. The contract documents direct the contractor to rehabilitate Henderson Avenue within the defined project limits by implementing a “Full Depth Reclamation” process. This process is considered a rehabilitation project because most of the existing materials remain at the construction sites, whereas under a reconstruction project, the existing materials are removed and new materials are brought in.

The existing asphalt concrete, aggregate base and existing soils will be ground, mixed and injected with an asphaltic emulsion that will harden the base prior to the placement of a 4” asphalt overlay. There are several benefits to this process such as 1) most of the materials are recycled and remain at the project site; 2) minimize interruption to the community and businesses by reducing the construction period in half; and 3) allowing the City to take advantage of new paving technology with the hope that this technology can be replicated along other busy City corridors such as Olive Avenue.

The Cities of Delano, Bakersfield, Stockton, and the City of El Centro have all successfully completed “Full Depth Reclamation” projects. Staff’s site visit to review Delano’s project impressed Staff on how little effect the project had on the surrounding businesses. The construction process allowed traffic to cross over the construction zone without diminishing the final product. Staff recently observed Cecil Avenue, approximately one year after construction and the final asphalt overlay is in good to great shape.

The Plans and Project Manual have been completed and are available in the La Barca Conference Room for Council’s review.

The Estimate of Probable Cost is $582,387 with $58,232 required for the construction contingency (10%). An additional $29,116 is required for construction management, quality control and inspection (5%). The total estimated cost associated with the project is $669,735. An Estimate of Probable Cost is attached for Council’s review.
Funding for a portion of the preliminary design was provided by a $5,000 federal grant and Caltrans is asking that this portion of the project be formerly accepted and closed. Construction funding is provided by State Transportation Improvement Program (STIP) funds and Local Transportation Funds (LTF).

RECOMMENDATION: That City Council:

1. Direct Staff to formally close out the preliminary design phase of the project funded by Federal funds (RPSTPL – 5122(039));

2. Approve Staff's recommended plans and project manual; and

3. Authorize Staff to advertise for bids on the project.

ATTACHMENTS: Estimate of Probable Cost Locator Map

P:\public\Engineering\Council Items\Authorization to Advertise for Bids - Fire Site No. 2 (Sewer Connection) Project - 2006-10-07.doc
**City of Porterville**

Based on 60 feet wide From Jaye Street to the SJVRR (1550 feet long)

Based on data from Consolidated Testing Lab.

**PROJECT: Henderson Avenue Rehabilitation Project**

**Bid Date: 12/01/08**

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<th>ITEM NO</th>
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<td>$500.00</td>
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<td>9</td>
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<td>23</td>
<td>Ton</td>
<td>$850.00</td>
<td>FDR Asphalt Emulsion</td>
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**TOTAL BID**

| TOTAL BID | $529,389.00 |

(F) Designates Final Pay Item

10% Estimating Contingency: **$5,393.90**

Total: **$584,782.90**

---

**Estimate Certified**

**Michael K. Reed**

Project Manager **10-29-08**

**Public Works Director**

Date **10-29-08**

**City Engineer**

Date **10-29-08**

**City Manager**

Date **10/27/08**
COUNCIL AGENDA: NOVEMBER 4, 2008

SUBJECT: AUTHORIZATION TO REJECT BID AND RE-ADVERTISE – BIOSOLIDS HAULING AND LAND APPLICATION

SOURCE: ADMINISTRATIVE SERVICES/PURCHASING DIVISION

COMMENT: Staff solicited bids to establish an annual contract for the hauling and/or land application of biosolids on agricultural land used by the City as a reclamation site for effluent water. Only one bid was received which significantly exceeded the cost estimate and funds available.

Wastewater Treatment Facility staff have evaluated the bid and the specifications and have identified other potential contractors that may increase competition. It is therefore requested that Council give staff the authorization to re-bid the services in an effort to stay within budget. Funding is available from the Sewer Department’s Operating Budget.

RECOMMENDATION: That the Council reject the bid for the hauling and land application of biosolids and authorize Staff to re-bid the services.

D.D. Appropriated/Funded C.M. Item No. 5
SUBJECT: STREET PERFORMANCE MEASURE – 1st QUARTER UPDATE

SOURCE: Public Works Department - Engineering Division

COMMENT: The purpose of this staff report is to provide Council with an update on the progress made on street reconstruction, overlay, micro-overlay and pothole repair efforts for the 1st quarter in FY 2008/2009.

For Council’s edification, the light blue bar represents staff’s estimated quantity of “work” for each category. The black overlaid bar represents the quantity of work accomplished to date.

Staff did not project any micro-overlay work in 2008/2009. However, Council awarded a Crack Seal & Type II Slurry Mix contract to service the streets collectively known as the East Granite Hills area with the expectation that the work would be performed prior to the end of the 07/08 FY. Regrettably, this did not happen. The work actually got done at the beginning of the 08/09 FY. Therefore, this work is shown on the graph as work performed in FY 08/09.

RECOMMENDATION: Information Only

ATTACHMENT: 1st Quarter Street Performance Chart
<table>
<thead>
<tr>
<th>Task</th>
<th>Start Date</th>
<th>End Date</th>
<th>Duration</th>
<th>Status</th>
<th>Notes</th>
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<td>Task 1</td>
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<td>03/31/2024</td>
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CITY OF FORT WORTH
2023-2024 Annual Report
Prepared by B. Rodriguez

Quarterly Progress Report
1st Quarter Report
July 1, 2023 - September 30, 2023
SUBJECT: CODE ENFORCEMENT UPDATE

SOURCE: FIRE DEPARTMENT

COMMENT: FOR INFORMATION ONLY

The Code Enforcement Officers have been very busy in dealing with new and outstanding code issues, citizen complaints, and educating the public while obtaining voluntary compliance from the citizens of this community.

At the direction of Council, this quarterly report is prepared for your information concerning the activities and code issues that Code Enforcement have addressed and the impact that the program has contributed to making this a safer community.

(See attached Code Enforcement Stats for July 1 – September 30, 2008.)

CODE ENFORCEMENT STATS FROM 7-1-2008 TO 9-30-2008

**General Complaints**

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**Weed Abatement**

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<td>Total Properties reviewed</td>
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**Business License**

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<td>License checks</td>
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<td>Permit checks</td>
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SUBJECT: ATTENDANCE REPORT FOR CITY COMMISSIONS, BOARDS AND COMMITTEES – 1ST QUARTER UPDATE

SOURCE: ADMINISTRATION/CITY CLERK DIVISION

COMMENT: At its meeting of May 6, 2008, the City Council expressed a desire to be kept apprised of member attendance at City Commission, Board and Committee meetings. In consideration of that direction, staff is herein providing for informational purposes the attendance records as of the 1st Quarter FY 2008/2009 ended September 30, 2008 for the following City Commissions, Boards, and Committees:

➤ Parks & Leisure Services Commission;
➤ Library Board of Trustees;
➤ Transaction and Use Tax Oversight Committee;
➤ CDBG Advisory and Housing Opportunity Committee; and
➤ Redevelopment Advisory Committee.

RECOMMENDATION: Informational Report.

ATTACHMENTS: Attendance Reports

Item No. 8
## Parks & Leisure Services Commissioner's Record of Attendance

### 2006

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### Meetings for the months of December 2006, March and June 2007 were scheduled one week sooner to enhance attendance capabilities

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## Parks & Leisure Services Commissioner's Record of Attendance

### 2007

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<th>Nov</th>
<th>1</th>
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P = Present at meeting  E = Excused Absence  A = Absent
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<tr>
<th>LIBRARY BOARD OF TRUSTEES - Attendance Record</th>
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<td>P = Present  A = Absent  E = Excused absence</td>
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*January's meeting was combined with the P & L Commission Board meeting for ethics training.*

*There was a Special Session on January 22, 2008. Hector was absent and Obdulia had an excused absence.*

As of 9/30/08
## Transaction & Use Tax Oversight Committee
### Attendance

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<thead>
<tr>
<th>Committee Member</th>
<th>Attendance</th>
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<tr>
<td>Baumgartner, John</td>
<td>20% (1 of 5 meetings)</td>
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<tr>
<td>Black, Barbra</td>
<td>60% (3 of 5 meetings)</td>
</tr>
<tr>
<td>Eckhoff, Dick</td>
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<tr>
<td>Gillett, Greg</td>
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</tr>
<tr>
<td>Gray, Bob</td>
<td>80% (4 of 5 meetings)</td>
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<tr>
<td>Guerrero, Josef</td>
<td>100%</td>
</tr>
<tr>
<td>Hickman, Shirley</td>
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</tr>
<tr>
<td>Irish, Jack</td>
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<tr>
<td>McIntyre, Rick</td>
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</tr>
<tr>
<td>Shelton, Greg</td>
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</tr>
<tr>
<td>Committee Member</td>
<td>Year Originally Appointed</td>
</tr>
<tr>
<td>------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>Pat Contreras</td>
<td>1988</td>
</tr>
<tr>
<td>Reuben Fuentes</td>
<td>2004 - resigned in 2007</td>
</tr>
<tr>
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<td>Grace Munoz-Rios</td>
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<td>Rudy Roman</td>
<td>1997</td>
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<tr>
<td>John Dennis</td>
<td>1998</td>
</tr>
<tr>
<td>Theb Manivanh</td>
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</tr>
<tr>
<td>Rebecca Vigil</td>
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</tr>
<tr>
<td>Art Cardell</td>
<td></td>
</tr>
<tr>
<td>Dean Craig</td>
<td>X</td>
</tr>
<tr>
<td>Ken Goodwin</td>
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<tr>
<td>Marlene Marquez</td>
<td>Illness has prohibited attendance. Has indicated desire to continue serving</td>
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<tr>
<td>Donnette Silva-Carter</td>
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<tr>
<td>Steve Tree, Chairman</td>
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<tr>
<td>Daren Griswold</td>
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<tr>
<td>Francisco Mardigal</td>
<td>Appointed 2005</td>
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<tr>
<td>Renay Sprague</td>
<td>Appointed 2006</td>
</tr>
<tr>
<td>Janice Castle</td>
<td>Appointed 2007</td>
</tr>
<tr>
<td>Dick Eckhoff</td>
<td>Appointed 2007</td>
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SUBJECT: WATER SYSTEM STATUS / PHASE II WATER CONSERVATION

SOURCE: Public Works Department – Field Services Division

COMMENT: With the change in the seasons upon us and temperatures on the way down, water usage has slightly declined giving us the opportunity to let some of our wells rest from the long summer run. The water system operated through the peak hot months exceptionally well with only a few minor pump malfunctions. The addition of the newest Well No. 29, on West Henderson Avenue, was a great addition to the system and an asset for sustaining satisfactory water pressure levels during peak demand times throughout the summer. The system once again operated exceptionally well with no low pressure and fewer affiliated complaints than in past years.

Phase II of our Water Conservation Plan was implemented May 1st of this year with the introduction of the new voluntary odd/even watering plan. A media campaign for the conservation plan began with radio and newspaper messages. Billing statements were also sent out with inserts explaining the new plan (odd addresses would water on Tuesday, Thursday and Saturday, and even addresses would water on Wednesday, Friday and Sunday with NO watering on Mondays). Other programs promoted were May being declared Water Conservation Month and promotion of water saving ideas at the Porterville Fair booth. There was an approximate 10% lower consumption in the months of June and July than the previous year. Porterville residents are commended for their conservation efforts.

Council set November 4, 2008 as the Public Hearing date during the October 21, 2008 meeting. In order to meet proper public notification regulations, Staff is seeking authorization to postpone the Public Hearing meeting to November 16, 2008.

RECOMMENDATION: That the City Council set a Public Hearing for November 18, 2008, to return to Phase I of the Water Conservation Plan.

ATTACHMENT: Production Graph

Appropriated/Funded

Item No. 9
REPORT ON MOBILE COMPUTER TECHNOLOGY ADHOC COUNCIL COMMITTEE PROGRESS

PARKS AND LEISURE SERVICES DEPARTMENT

The City Council adhoc Committee met on October 20, 2008. The adhoc Committee discussed cost factors for equipping and operating a mobile computer technology vehicle. Issues related to methods, cost, and performance of wireless web access links were included with this discussion. The adhoc Committee also conferred on the benefits and desires of having regularly maintained web access filters for the protection of minors.

It was reported that Kings County Department of Education has implemented a program of establishing broadband infrastructure at school sites. The students can obtain internet access for educational purposes through the school computer filters via broadband links with their neighborhood schools.

The adhoc Committee has decided to investigate the Kings County Department of Education program and evaluate how a similar system might be implemented within Porterville. The adhoc Committee believes that this may serve the local community more beneficially than a mobile computer technology vehicle. Additional information on the Kings County program and One Laptop Per Child equipment is to be researched and reviewed with the local city/schools committee. The next meeting of the city/schools committee is scheduled for November 24, 2008.

This is an informational item and no action of the City Council is requested at this time.
CONSENT CALENDAR

SUBJECT: HILLSIDE DEVELOPMENT ORDINANCE FOLLOW-UP REPORT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: At the August 5, 2008 City Council meeting the Council reviewed the administrative draft of the proposed Hillside Development Ordinance. The purpose of the Hillside Development Ordinance is intended to facilitate the orderly development of property within the hillside areas through a set of hillside development goals and standards aimed at protecting the public health, safety and welfare; protecting and preserving natural and biological resources for the long-term benefit of the Porterville community and the broader community; recognizing the inherent value in the properties subject to this ordinance; allowing size, type, location, density, and intensity of development based on available infrastructure, the geographic steepness of terrain, presence of unique geographic conditions and constraints, presence of environmentally sensitive areas; and optimizing the use of sensitive site design, grading, landscape architecture, and architecture, all to achieve the City’s objectives.

The item was continued to the following meeting to allow staff time to confer further with Jim Winton, a local engineer who had been commenting on the proposed ordinance. At the September 2, 2008 meeting, the item was continued again to allow staff and Mr. Winton to meet further. The ordinance was adopted on September 16, 2008.

After adoption, staff continued to meet with Mr. Winton, at the Council’s request, to discuss remaining concerns that he had with the ordinance. Staff conducted additional meetings with Mr. Winton, as instructed and obtained additional suggestions. The comments received in these meetings did not constitute policy changes or major departures from what was adopted. Rather they included typographical errors, portions of the document that were internally inconsistent, and items that needed additional clarification. Since these items were minor and only intended to clarify the intent of the ordinance, the Zoning Administrator authorized those changes.

The attached version of the Ordinance is the approved version, with those minor corrections made.

RECOMMENDATION: For informational purposes only.

ATTACHMENTS:

1. Draft Hillside Development Ordinance

DD Appropriated/Funded CM Item No. 11
Section 240.00 Purpose and Intent

A. This Article, H-D: Hillside Development Zone is established to achieve the City’s objective to facilitate and permit the orderly development of property within the hillside areas through a set of hillside development standards aimed at protecting the public health, safety and welfare; protecting and preserving natural and biological resources for the long-term benefit of the Porterville community and the broader community; recognizing the inherent value in the properties subject to this Article; allowing size, type, location, density, and intensity of development based on available infrastructure, the geographic steepness of terrain, presence of unique geographic conditions and constraints, and presence of environmentally sensitive areas; and optimizing the use of sensitive site design, grading, landscape architecture, and architecture, all to achieve the City’s objectives.

B. The Hillside Development (H-D) zoning district and the regulations contained in this Article are intended to provide development that is consistent with and serves to implement the goals and policies of the Porterville General Plan for properties classified in the H-D Zone. Specific regulations and standards address the following City objectives:

1. To uphold the value of the community and the subject property by protecting ridgelines, prominent landforms, rock outcroppings, open space areas, hydrologic features, wildlife communities, unique and sensitive habitat and vegetation communities, and other natural, biological, and scenic resources.

2. To establish a Hillside Residential Development Application process that requires property owners to select suitable development sites on their real property for new hillside development projects founded on science-based conclusions, including the use of slope density calculations and maximum land holding capacity, to determine the appropriate density and intensity of a structure that can be built on a particular hillside slope.

3. To provide for hillside development that maintains the integrity of the hillsides’ natural characteristics and features.

Hillside developments should be designed with respect to natural hill characteristics and development intensity appropriate for the area.

4. To ensure the ridgelines that frame the City of Porterville will be preserved to the greatest extent possible.

ATTACHMENT ITEM NO. 1
5. To facilitate the protection of existing views from vantage points within public open spaces, rights-of-way, public parks, and private development from encroachment upon by new development.

6. To minimize grading and cut and fill operations where possible to retain the natural character of the hillside areas.

7. Minimize water runoff and soil erosion incurred in adjusting the terrain to meet onsite and offsite development needs.

8. To encourage all the characteristics and qualities of a cohesive neighborhood that promotes a "sense of place" within a hillside setting.

9. To promote and encourage a variety of high-quality, alternative architectural and development designs and concepts appropriate for hillside areas.

10. To preserve the public health, safety, and welfare and specifically protect the public and property from hazards such as seismic, geologic, hydrologic and fire, including damage to property from landslides, erosion, earth creep, and storm water runoff, and other hazards in and near hillsides.

11. To reflect the City's design goals and policies expressed in the General Plan.

12. To require that infrastructure such as but not limited to roads, utilities, drainage, and sound attenuation barriers serve both a utilitarian and aesthetic purpose.

13. To ensure that open space is an integral part of subdivision design.
Landscaping shall be used for aesthetic enhancement, erosion control and transition to natural open space areas.

14. To provide areas where residents can enjoy active and passive recreation.

Open space shall be an integral component of subdivision design, with developed open space areas

15. To ensure that proper landscape setbacks are provided to separate residential uses from non-residential uses and to allow for transitions between natural open space and development.
16. To ensure that the circulation system is a beneficial element in the hillside development setting and maintains, to the greatest extent possible, the natural characteristics of a hillside environment.

17. To ensure quality development that blends with the hillside environment, and to create neighborhoods that display a cohesive and harmonious form and complementary architectural styles.

18. To minimize resource consumption through the use of a drought-tolerant native plant palette.
Section 241.00 Administrative (Applicability and Permit Requirements)

A. This Article applies to all properties within the incorporated boundaries of the City of Porterville, as well as those properties within the City’s official Sphere of Influence, as may be amended from time to time, that are designated H-D Zone on the City of Porterville General Plan Land Use Map.

B. No person shall grade, erect, or construct into, over or on top of property within the H-D zoning district without first obtaining a Hillside Development Permit (HDP), except as otherwise provided for in the article.

Section 241.01 Hillside Development Permit Approving Authority

A. An application for a Hillside Development Permit or Hillside Development Permit Amendment shall be processed and approved concurrently with any other development permits required by this applicable provision of the Municipal Code. The City Council has the authority to approve, conditionally approve, or deny the other development permits required for the project and shall have the authority to approve, conditionally approve, or deny a Hillside Development Permit.

B. If no other development permits are required by this Article or other provisions of the Municipal Code, then the property owner or duly authorized agent may submit an application for an Administrative Hillside Development Permit. The Zoning Administrator shall have the authority to approve, conditionally approve, or deny an application for an Administrative Hillside Development Permit in the same manner as set forth in Article 30, Section 3002 of the Zoning Ordinance.

Section 241.02 Review Procedure and Cost Recovery

A. Administrative Hillside Development Permit

An Administrative Hillside Development Permit shall be processed in compliance with the procedures set forth in Article 30, Section 3002 of the Zoning Ordinance. (Requires an amendment to Article 30). The Zoning Administrator or designee may refer an Administrative Hillside Development Permit to the City Council, in which case, the City Council acts as the Director and follows the procedures outlined in Article 30 of the Zoning Ordinance.

B. Hillside Development Permit

A Hillside Development Permit shall be processed in compliance with the procedures and noticing requirements established for a conditional use permit, as set forth in Article 29 of the City Code, and it shall be acted upon by the City Council having final jurisdiction over accompanying actions.

Section 241.03 Exemptions from Hillside Development Permit

A. Notwithstanding the provisions of Section 241.00, the following actions and activities are exempt from the requirement for a Hillside Development Permit, except that all development in the Hillside Development Zone shall comply with hillside development standards set forth in this Article:

1. Construction that does not require a grading permit or a building permit.

2. The construction and installation (trenching, utility construction, and backfilling) of underground utility systems.

3. The re-grading of existing yard areas for landscaping installation provided such re-graded yard area does not exceed 2,500 square feet in area.
4. Swimming pools, spas, ponds, and associated hardscape and landscape improvements that do not involve the construction of any retaining walls over 3 feet in height, subject to the issuance of a grading permit and required building permits.

5. Additions to existing structures and/or construction of accessory structures located entirely on the existing pad area and are less than 500 square feet in area, unless a grading permit for establishment of same is required.

6. Any project that has received final approval for construction prior to the effective date of this Article, provided that such permit or approval has not expired or is not otherwise revoked.

Section 241.04   Land Use Regulations

A. Uses Requiring a Hillside Development Permit

The following uses require a Hillside Development Permit.

1. Single-family dwelling unit, detached or attached.

2. Second dwelling units, subject to the regulations contained in; Article 30, Section 3009 of the Zoning Ordinance and state law.

3. Detached garages, up to a maximum of 1,500 square feet in gross floor area.

4. Swimming pools, spas, ponds, and associated hardscape and landscape improvements that involve the construction of any retaining walls over 3 feet in height, subject to the issuance of a grading permit and required building permits.

5. Tennis courts, basketball courts, and similar sports courts, subject to the issuance of a grading permit and required building permits.

6. Public and private parks.

7. Landscaped parkways and medians, landscaped slopes, and similar other open spaces.

8. Riding and hiking trails for pedestrians, equestrians and non-motorized vehicles.

9. Residential care facilities serving six or fewer mentally or physically disabled, disordered, or dependent persons.

B. Uses Requiring an Administrative Hillside Development Permit

The following uses of land shall be subject to the granting of an Administrative Hillside Development Permit in compliance with the regulations contained in Article 30 of the Zoning Ordinance of this title.

1. Lighting of tennis courts, basketball courts, and similar sports courts.

2. Accessory structures containing more than 500 square feet of gross floor area.

3. Detached garages containing more than 1500 square feet in gross floor area.

4. Stables, corrals, and similar facilities for the private noncommercial keeping and containment of animals.

C. Permitted Accessory Uses

The following are permitted as accessory uses clearly subordinate to the principal use of the property.

1. Animals and poultry as follows:

   (a) Small domestic pets, such as cats, dogs and birds as permitted in the Porterville Municipal Code
(b) Educationally oriented agricultural projects similar but not limited to 4-H and FFA projects, recognized youth organizations and school projects, when conducted in compliance with the public health and animal laws of the city, subject to the stipulations of paragraph (c) of this section.

(c) Bovine animals, horses and other equine animals, sheep and goats where the lot area is twenty thousand (20,000) square feet or more and provided that the shelter for such animals shall not be closer than fifty (50) feet to any residence, including that of the owner. The minimum lot area of twenty thousand (20,000) square feet shall be required for each additional adult animal. Any building or shelter housing such animals shall not be closer than ten (10) feet to any property line. The keeping of all animals or poultry mentioned herein shall conform to other provisions of law governing same. The restrictions of this subparagraph relating to animals and poultry shall not apply when the area of any one (1) farm or ranch exceeds ten (10) gross acres.

2. Flower and vegetable gardens, agricultural crops, orchards, vineyards and horticultural collections.

**Section 241.05 Application Filing Requirements**

The following information is supplemental to the basic requirements for submittal of subdivision maps, information and/or other entitlement applications required for review by the Project Review Committee and City Council. The specified data shall be submitted concurrently with all required application forms and fees. Where appropriate, the following information may be combined onto submittal exhibits. The submittal of applications for parcel maps, containing four or fewer lots, shall only require items A, B, D, and E.

**A. Topographical Map**

A topographical map at a scale specified in development applications. This map shall identify all existing slope banks, ridgelines, canyons, natural drainage courses, federally recognized blue-line streams or Waters of the United States, rock outcroppings, existing manmade features, mines, and existing vegetation. The topographic map shall include areas of protected plant or animal communities identified in the biological resource survey report described in Section 241.05G.2. Also depicted shall be known landslides and other existing geologic conditions.

**B. Conceptual Grading Plan**

A Tentative Map, other entitlements, and conceptual grading plan, which shall include the following items in addition to those required by the City Code:

1. Top of walls
2. Top of curbs
3. High point and low point elevations
4. Pad and/or finished floor elevations
5. Areas of cut and fill, calculated as a percentage of the total site area
6. Contours for existing and proposed topography. Existing contours shall be depicted with a dashed line with every fifth contour darker, and proposed contours shall be depicted as above except with a solid line. Contours shall be shown at minimum intervals of 5 feet of change in elevation, with 2-foot contours shown in the flatter areas below 10%
7. Lot and pad dimensions, along with a statistical summary of lot and pad sizes.
8. Design of roads and driveways, including average grades indicated, as well as areas of the steepest grade
9. Lot drainage, including the gradient of the drainage and flow velocities

C. Cut and Fill Map

A cut and fill map identifying proposed fill areas colored blue and cut areas colored red, with depths of such areas clearly shown in 10 foot major contour lines. Quantities of each cut and fill area shall also be clearly specified on the map.

D. Slope Analysis Map

1. A detailed slope analysis map to use in determining the average slope and the amount and location of land as it exists in its natural state. For the slope analysis map, the applicant shall use a base topographical map of the subject site, prepared and signed by a registered civil engineer or licensed land surveyor. The map shall have a scale of not less than 1 inch to 100 feet and a two (2) foot contour interval. This interval may be adjusted with the approval of the Community Development Director and City Engineer on the basis of good engineering principles. This base topographical map shall include all adjoining properties to the extent necessary to determine impact to neighboring properties to portray the site's context. The slope map shall delineate slope bands, with monochromatic but distinct colors for the following slope ranges:
   a. Up to 5.9%
   b. 6% to 10.9%
   c. 11% to 20.9%
   d. 21% to 25.9%
   e. 26% to 30.9%
   f. 31% to 50%
   g. Greater than 50%

2. Also included shall be a tabulation of the land/area by slope percentage specified in acres. Such slope map shall be prepared using CAD-based or GIS-based software specifically designed for such purpose and approved for such use by the City Engineer.

3. A calculation of the average slope of the entire parcel. Such calculation shall be performed by using the average percent slope formula as follows:

\[ S = \frac{0.00229 I L}{A} \]

Where \( S \) = Average percent slope

\( I \) = Contour interval, in feet

\( L \) = Summation of length of contours, in feet

\( A \) = Area in acres of parcel being considered

4. Calculations of average slope percent shall be based upon accurate topographic surveys using a two (2) foot contour interval and a horizontal map scale of 1 inch : 100 feet or larger.

5. The slope analysis shall be stamped and signed by a registered or licensed professional to provide such analysis and indicating the datum, source, and scale of topographic data used in the slope analysis.

E. Future House Plotting Map

In the event that no grading is proposed, a statement to that effect shall be filed with a plan that shows possible future house plotting and driveway design for each parcel proposed. This future
house plotting map shall be prepared on a topographic map at the scale required in the
development application. Access drive and street elevations must be provided.

F. Site Sections
Sufficient number of site sections to clearly illustrate the extent of the proposed grading. The
sections shall:

1. All be drawn at the same scale and indexed, or keyed, to the existing topography,
grading plan, and project site map. Both vertical and horizontal scales shall be indicated
and not overly exaggerated. The site section shall extend at least 150 feet outside the
project site boundary to clearly show impact on adjacent property.

2. The site sections shall be stamped and signed by a licensed professional registered in the
State of California indicating the datum, source, and scale of topographic data used in
the slope profiles.

3. The site sections shall be stamped and signed by a registered civil engineer indicating the
datum, source, and scale of topographic data used in the slope profiles, and attesting to
the fact that the slope profiles have been accurately calculated and identified.

G. Technical Reports
The following technical reports:

1. A geologic and soils report prepared by a licensed professional, in sufficient detail to
substantiate and support the design concepts presented in the application as submitted

2. A biological resource survey report identifying all existing plant communities, with
sensitive or protected species or communities clearly delineated, as well as known
habitat area for protected animal species, including the location of sensitive biological
resources. All sensitive species surveys shall be conducted in accordance with any
applicable protocols established by the U.S. Fish and Wildlife Service and the California
Department of Fish and Game.

3. An archaeological survey will be required subject to the same terms as provided in
subparagraph G.2. above. The applicant shall engage in a third party agreement with the
City and the selected biological consultant and provide the funding for purposes of
payment to the consultant. The report shall be signed by the person preparing such
report, with the signature intended to verify that the mandatory protocols were
conformed to in the analysis as per the City's local guidelines for implementing the
California Environmental Quality Act (CEQA). The submission of the biological survey
may be deferred until after initial project submittal as approved by the Environmental
Coordinator.

A comprehensive architectural and landscaping design guideline manual shall be part of the
development application. Such manual shall be required for all Hillside Development Permit
applications except those involving the construction of one single-family dwelling unit on an
existing lot, in which case paragraph 1 below shall apply. Such manual shall be approved as part
of the applicable Hillside Development Permit and shall be binding upon all subsequent
development authorized by that applicable Hillside Development Permit. The manual shall
include the following, but the applicant/land owner may include additional information at his/her
discretion.

1. Illustrative, color drawings, photos or similar representations of the various architectural
styles to be used with text and visual descriptions on the overall architectural theme of
the project.
2. A neighborhood design diagram depicting the locations of proposed vehicular and pedestrian circulation, utility easements, developable pad, property lines, perimeter setbacks, parks, and recreation centers.

3. Identification of exterior building materials (structure and trim), roofing materials, and colors for primary structures.

4. Illustrations and descriptions of permitted fencing and wall materials.

5. Illustrations and descriptions of permitted/proposed signage and entry treatments.

6. Description and illustrative drawings or similar representations of how the architecture and building approaches established in the manual implement the Architectural Standards set forth in Section 244 of this Article.

7. Identification of landscaping approaches and plant palettes for all common open space areas, roadway medians, edge and berm treatments, common slopes, and private front yard areas.

8. Description of how the landscaping approaches and plant palettes established in the manual implement the Landscape Standards set forth in Section 243.

I. **Single Lot Applications**

For applications involving one single-family dwelling unit residence on an existing lot or a second unit on a single lot, architectural and landscaping treatment materials shall be provided consistent with the requirements set forth in Article 30, Section 3002 of the Zoning Ordinance.

J. **Additional Analysis**

The following items shall also be required as part of an application, unless waived or conditionally waived by the Community Development Director or the City Council to aid in the analysis of the proposed project to illustrate existing or proposed conditions or both:

1. A topographic model and/or large scale detailed partial model at a 1:1 vertical to horizontal relationship.

2. A line of site or view analysis as described in paragraph L below.

3. Visual simulation of the post-development condition, including use of photographic and/or computer generated graphic renderings as described in paragraph L below.

K. **Landscape and Irrigation**

Preliminary landscape and irrigation plans for all common areas showing project compliance with the provisions of this Article and requirements of the City Fire Chief for fire hazard mitigation and brush management zones in Chapter 12, Article III of the City Code and the State Code regarding wild land interface in State Response Areas.

L. **Visual Simulation**

1. **Photography**

   The requirement for a visual simulation provides decision makers with a pictorial representation of the future condition of a development project as close to reality as possible. The photograph is the basis of view simulation, and care shall be taken in the camera selection. The goal is to provide an analysis that, as closely as possible, represents site views from a variety of locations distant from the project and from surrounding areas that will have a direct view of the project.
Control Data

The location of the camera shall be recorded as accurately as possible at the time the photograph is taken.

2. Computer Modeling

Depending on the project site location, the proposed project may be required to be modeled based on subdivision design, architectural, and landscape data. Existing terrain, buildings, survey data, and any field notes shall be included in the modeling effort. The level of detail included in the computer model will be determined by the intended use of the simulation.

3. Staging

The computer model shall be aligned to the photographs in the rendering software utilizing the alignment data and the lens and focal length of the camera used. The model shall be lighted according to the time of day and year and the views rendered.

4. Rendering

The rendering process shall be completed after aligning the model to the photograph. The subject matter should be colored and textured to simulate the proposed project as closely as possible.

5. Photocomposition

Any retouching undertaken to make foreground objects visible shall be done in such a way so as to preserve the original photograph and the rendered image intact.
Section 242.00  Hillside Grading - Subdivision Design

A. Significant Ridgelines

1. Significant ridgelines are those ridgelines characterized by any combination of the criteria specified below.
   a. The ridgelines that surround or visually dominate the surrounding valley landscape either through their size in relation to the hillside or mountain terrain of which they are a part.
   b. Their visual dominance as characterized by a silhouetting appearance against the sky.
   c. A significant natural backdrop feature or separation of communities.
   d. Visual dominance due to proximity and view from existing development or major corridors.
   e. As an area of significant ecological, historical, or cultural importance, such as those that connect park or trail systems.

2. The Official Significant Ridgeline Map, incorporated herein by reference and identified on the City's 2030 General Plan Land Use Diagram, identifies crests of significant ridgelines in the City for the purpose of this Article and specifically, this Section 242.00. The precise delineation of a ridgeline shall be determined at the time a development application is received based on Official Significant Ridgeline Map and the criteria in subparagraph 1 above.

B. Ridgeline Preservation

1. No grading or improvements shall occur within 100 feet of a designated and delineated significant ridgeline area, as measured horizontally on a topographic map prior to any grading or improvements. A Significant Ridgeline area is determined by the Significant Ridgelines Map identified on the City’s 2030 General Plan Land Use Diagram on file at the Community Development Department except as approved by a Hillside Development Permit as in compliance with Section 241.05 No portion of any structure shall be closer to a designated and delineated significant ridgeline area, as measured 50 feet vertically from a cross section of the area.

2. No engineered slopes, housing construction, streets, utilities, excavation, or other permanent human-made features shall be permitted within any significant ridgeline area, as the same is determined by the Significant Ridgelines Map identified on the City’s 2030 General Plan Land Use Diagram on file at the Community Development Department. Exceptions may be granted as part of the Hillside Development Permit process if findings are made that:
   a. the encroachment into a significant ridgeline area will be in compliance with the intent and purpose of this Article and the specific criteria set forth herein;
   b. that conditions of approval applied via the Hillside Development Permit will implement the provisions of this Article.
Section 242.01  Grading

A. General Grading Requirements

1. Landform grading techniques such as varying slope height, rounding tops and toes of slopes, and incorporating variable gradients shall be used to ensure that manufactured slopes mimic natural hill forms. Landform grading shall be used for all post-disturbance conditions unless determined by the Community Development Director and the City Engineer that landform grading is not feasible due to soils conditions, encroachment into sensitive biological resource areas, protection of watersheds or watercourses, or other similar considerations. Findings shall be recorded as part of the Hillside Development Permit record as to why landform grading is not feasible. Grading should be kept to a minimum and should be performed in a way that preserves significant natural features and visually blends with adjacent properties. Factors to be considered include the
natural features of the site, slope and soil characteristics, vegetative cover, access to the site and orientation and visibility of both the site and the proposed development.

Figure 242.01.A
Landform grading techniques will resemble natural slopes.

2. Construction of artificial ridgelines shall be used to mask the view of dwelling units on a hillside from off-site locations, to preserve the appearance of a natural undeveloped hillside, and to preserve the appearance of open space.

3. A combination of berming and landscaping shall be used to screen utilitarian features such as, but not limited to, water tanks and detention basins.

4. Slopes which are readily visible from existing or proposed public right-of-way shall be landform graded.

5. Grading of any site shall conform to the following grading standards, based upon the percent of average slope.
   a. 6 - 15% - Redistribution of earth over large areas may be permitted.
   b. 15 - 20% - Some grading may occur, but landforms should retain their natural character. Padded building sites may be allowed, but custom foundations, split level designs, stacking and clustering are expected to mitigate the need for large padded building areas.
   c. 20 - 25.9% - Grading will be minimal, custom homes sites and access should follow the natural slope of the ground, custom foundations and split level design required to reduce disturbance.
   d. 26.0% and steeper - No grading shall be allowed other than house pad and access to pad.
   e. Minimize pad size to accommodate the structure and a reasonable amount of open space. A maximum of the remaining lot area should be kept in the natural state of the original slope.
   f. Sloping lot designs, such as split level building terraces are encouraged to reduce pad size.
   g. Minimize grading within 20 feet of all perimeter property lines of the project site, unless the grading naturally conforms to the existing adjacent slopes or to the planned grading of the adjacent slopes.
Figure 242.01.B
Double loaded street - 10% Slope Condition
Figure 242.01.C
Single loaded street - 17% Slope Condition
B. Prohibited Grading Practices

1. The cutting of significant ridgelines is prohibited.

2. Graded slopes that are characterized by linear (in plan), planar slope surfaces with unvarying gradients and angular slope intersections are prohibited.

3. Manufactured slopes shall complement the adjacent natural slopes in terms of hill form and slope height.

C. Berming

1. Any berm 3 feet or greater in vertical height shall be landform graded no steeper than 3:1.

2. All berms shall have varying slope gradients and rounded tops with a horizontal dimension half the vertical height of the berm.

3. A combination of berming and landscaping shall be used to screen utilitarian features such as, but not limited to, water tanks and detention basins.
4. Landscaping materials used on berms shall be drought tolerant and fire resistant and must be approved by the Parks and Leisure Services Director.

![Figure 242.01.F](image)

Berms shall be used to help screen hillside development and utilitarian features where topography warrants it. From public view, the berm shall completely hide development and other structures, providing a view of natural slope face where topography warrants.

D. Slopes between Residential Pads

Where there is at least a 4-foot elevation difference between residential flat pads, slopes shall be contour graded no steeper than 2:1.

![Figure 242.01.G](image)

Corner lot setbacks are 10 feet from right-of-way to privacy wall. Side slopes against public roads shall be landform graded.

E. Road Systems along Project Edges

Road systems shall be placed along project edges to the greatest extent practicable to maximize the use of aesthetic landscape buffers surrounding a development and to buffer residential neighborhoods from vehicular traffic. Project edges along roadway systems shall consist of varied slope and landscape treatments to provide visual interest.
F. Use of Loffelstein and Similar Living Walls

The use of Loffelstein walls and other similar living wall systems that allow for landscaping opportunities with planting pockets and stepped designs is required. Such wall shall be subject to the following development standards.

1. The minimum height shall be 15 feet, with a maximum height of 30 feet.

2. Such walls shall utilize a curvilinear slope pattern to mimic the appearance of natural hillside terrain.

3. Such walls shall be planted with landscape material suitable for the climate, wall exposure relative to the sun, and taking into consideration the landscape aesthetic effect to be achieved by the overall development. The color palette and materials selected for the retaining wall shall blend in with adjacent hillsides and landscape plant palette.

Figure 242.01.I
Loffelstein walls and similar living wall systems retain large amounts of earth while providing planting pockets for landscaping. Once landscaping matures, the wall will be masked and have a softer appearance than a hardscape wall surface.
G. Contour Construction and Materials

Retaining walls shall follow the natural contours of the slope to the greatest degree practicable, and all materials used to construct retaining walls shall consist of native stone, poured-in-place concrete, pre-cast concrete block, and shall be of a color and texture that mimic the color and texture of surrounding native plant materials.

H. Height Standards

1. The cumulative height of any retaining wall built to retain a cut slope or fill slope shall not exceed 6 feet in height. Cumulative height shall mean the combined height of any wall or series of walls required to retain a single slope.

Section 242.02 Site Drainage Improvements

A. General

Site and subdivision features required and designed to control and retain stormwater and other runoff pursuant to the requirements of City ordinances and other pertinent regulations shall be fully integrated into the design of the subdivision. Such features shall be designed and located to account for natural drainage patterns, integration of open space into overall subdivision design, location of trails and other mobility corridors, and placement of subdivision entry enhancements or other aesthetic features.

![Diagram of a natural landscape with trees and a building.](image)

**Figure 242.02.A**
Natural landscaped runoff control facilities shall be used to enhance appearance and allow for groundwater recharge.

B. Materials and Color

Water retention and detention features shall consist of natural earth and plant materials that must be approved by the Parks and Leisure Director. Concrete or similar hardscape materials shall not be permitted unless determined by the City Engineer to be the only feasible method of capturing and conveying runoff. Wherever concrete or similar structures are necessary, per drainage and storm water control plans approved by the City Engineer, such structures shall use integral color concrete to blend with surrounding color palette that blend with the natural environment.
C. Detention Basins

1. A detention basin area with gentle slopes (defined as 3:1 or less) and lined with turf or natural material such as rock may be used as an entry feature. Detention basins shall not be eligible for open space, park credit, or any fee credit.

2. Detention basin side slope ratios greater than 3:1 are prohibited.

D. Bioswales

1. Bioswales shall be used to collect surface runoff before it crosses pavement areas and to reduce ponding and damage to walkways. Bioswales shall be graded to direct water away from paved areas into detention basins prior to conveyance to the City drainage system per master plan.

![Figure 242.02.B](image)

Bioswales planted with native rocks and vegetation shall be used to the maximum extent to serve as a hillside community's drainage system.

2. Bioswales shall consist of primarily herbaceous plants whose stems and leaves retard water flow and help settle pollutants, and which, with the aid of the roots, decompose into the soil.

![Diagram](image)
Section 242.03  Street Requirements and Design

A. Minimum Number of Access Points

New hillside development projects shall have a minimum of two points of vehicular access, one of which may be established for emergency access only, as determined by the Fire Chief through the Hillside Development Permit review process.

B. Street Design Standards

All streets shall be designed and constructed in accordance with the following standards.

1. Street sections shall be designed in accordance with street standards and specifications adopted by the City and as revised from time to time. In addition to such adopted standards, the following street standards shall apply to development in the Hillside Residential zone.

   a. The maximum length of any cul-de-sac street shall be 600 feet unless approved otherwise by the Fire Chief and City Engineer.

   b. All streets shall contain two clear 12-foot travel lanes.

2. Split Level Streets

Where split level streets are used, the following standards shall apply.

   a. The use of split level roads is permitted to reduce the amount and visual effect of grading (Figure 242.03.A).

   b. The ground slope between the two traffic ways shall be of a ratio no more than 2:1.
Figure 242.03.A
Use of split level roadways is permitted and encouraged where such design can be used to facilitate landform grading. This type of road can also maximize the view opportunities in the hillside setting.

3. Street grades shall not exceed the following except as may be modified by the City Council in compliance with the Porterville City Code. The maximum length of street runs at the maximum specified grade shall be subject to the review and approval of the Fire Chief, or their respective designees. Minor adjustments to street grades shall be subject to the review and approval of the Fire Chief and the City Engineer.

   a. Primary Arterials shall be no steeper than eight percent (8%).
   b. Secondary Arterials shall be no steeper than ten percent (10%).
   c. Collector Streets shall be no steeper than ten percent (10%).
   d. Local Streets shall be no steeper than ten percent (10%).
   e. Loaded Local Streets shall be no steeper than eight percent (8%).
   f. Intersections shall be at six percent (6%) grade or less.
   g. Local Streets can have a minimum centerline radius of 150 feet provided minimum sightline distances are met.
   h. Street grades at fire hydrant locations shall be no steeper than seven percent (7%) for no less than twenty feet (20') on each side of hydrant.

C. Private Streets

1. Private streets and alleys shall not be permitted unless approved by the City Council and, if approved, all private streets or alleys shall be constructed to City standards. (Chapter 21, Article III, Section 21-3(j))

2. Driveway grades shall not exceed twelve percent (12%) unless otherwise approved by the Fire Chief and City Engineer. The finished grade of the driveway shall conform to the finished grade of the lot. Proper design consideration shall be given to vertical curves and parking landings.
3. Common drives in single family hillside residential development should be considered if grading is reduced by their use. Common easement maintenance agreements are required for common driveways.

D. Driveways

1. Driveways that are less than 150 feet (150') in length shall be a minimum of twelve feet (12') wide.

2. Driveways between 150 feet (150') and 400 feet (400') shall be a minimum of 16 feet (16') wide.

3. Driveways that are greater than 400 feet (400') in length shall be subject to the approval of the Fire Chief.

4. Grade changes through driveway approaches and transitions shall not exceed ten (10) degrees.

5. Driveways shall be paved with asphalt or Portland Cement Concrete (PCC). PCC or an approved alternative shall be used when grades exceed twelve percent (12%).
Hillside Landscape Requirements

Section 243.00    Open Space

A. Landscaping Required

Landscaping is an essential part of the site development by assisting in adapting the development into the natural backdrop of the hills, by providing areas of open space for use by residents and for assisting in slope stabilization, erosion control and filtering of pollutants from stormwater.

![Figure 243.00.A](image)

Open space shall be integral component of subdivision design, with developed open space areas

Section 243.01    Types of Open Space

A. Types of Open Space

Open space in the Hillside Development Zone shall consist of two general types of open space:

1. Natural Open Space, which shall be defined as undeveloped areas retained in their naturally occurring condition with regard to landform, vegetation, and water features; with the exception of walking trails and viewing platforms.

2. Developed or Improved Open Space, which shall be defined as any area not occupied by structures that has been improved with landscaping, trails, recreation amenities, and similar features that provide opportunities for active and passive recreation, and that provide landscape improvements that enhance the overall appearance and character of a development.

B. Use of Natural Open Space

Undeveloped open space shall be left in its natural state, with permitted improvements limited to the establishment of trails and associated viewing areas established as community open space.
Section 243.02  Open Space Requirements

A. Requirement to Provide Developed Open Space

Developed Open Space shall be provided for attached residential development as set forth in Table 244.03.B and Zoning Ordinance Article 3, Section 305 and as otherwise required for this Article to meet general landscaping, slope treatment, and parkway landscaping requirements.

B. Deed Restrictions

Any lands dedicated for open space purposes shall contain covenants and recordable deed restrictions burdening the subject property, in a form and content approved by the City Attorney, ensuring that:

1. The open space area will not be subdivided in the future;
2. The use of the open space will continue in perpetuity for the purpose specified;
3. Appropriate provisions will be made for the maintenance of the open space that clearly define future maintenance responsibilities; and
4. Common undeveloped open space shall not be turned into a commercial enterprise admitting the general public at a fee, unless otherwise authorized by policy or law.

C. Open Space Ownership

1. The fee title owner or easement holder of an interest in the land that is dedicated for open space purposes shall be selected by the property owner, developer, or sub-divider, subject to the approval by the Zoning Administrator or City Council. The ownership may vest in, but not be limited to, the following:
   a. The City, subject to acceptance by the City Council of a recordable interest.
   b. Other public jurisdictions or agencies, subject to their acceptance.
   c. Quasi-public and non-profit organizations, subject to their acceptance.
   d. Homeowner associations, landscape maintenance districts or other similar organizations.
2. The City may, in its reasonable discretion, require that the applicant establish a mechanism to fund the long-term maintenance of such open space, which may include a cash deposit, an assessment district, trust, or other appropriate funding mechanism.

D. Maintenance

The person or entity identified as having the right of ownership or control over the open space shall be responsible for its continuing upkeep and proper maintenance as set forth in Section 243.02.B, unless the City authorizes alternate maintenance strategies.

E. Required Planting Areas

Slopes requiring retaining at a height greater than 3 feet shall be terraced for planting areas. Such planting areas shall have a minimum width of 6 feet. No more than two terraces of retaining walls shall be permitted on one manufactured slope.
F. Irrigation Systems Required

All planting areas shall be provided with an automatic irrigation system.

G. Landscaped Parkways Required

1. All public streets shall include a landscaped parkway as indicated in the General Plan.

2. Such required parkways shall be landscaped as set forth in Section 243.03.B of this Article, including specifically Section 243.03.E (Drought-Tolerant/Native Vegetation).

Section 243.03 Landscape and Irrigation Plan Requirements

A. Landscape and Irrigation Plan

1. All proposed new development shall require approval of a conceptual landscape plan. Complete landscape and irrigation plans shall be submitted as part of the building permit application process. Such plans shall be subject to the review and approval of the Parks and Leisure Services Director and the Fire Chief.

2. All landscape and irrigation plans shall include all information required by this ordinance and shall be designed to ensure slope stability, fire safety, and design quality, as well as a tree removal and retention plan with the following information.

   a. Identification of the extent of vegetation removal required for site preparation and development; and

   b. The location and species of individual trees of 6-inch caliper or more. Maximum effort should be exercised to retain existing trees in place.

3. The Community Development Director may waive the landscape and irrigation plan requirement for additions and remodeling where no or only minor alterations to the existing landscape or topography are proposed.

4. All landscaping shall be planted and maintained in compliance with approved plans.

B. General Landscaping Standards

1. All portions of a site where existing vegetative cover is damaged or removed, or consists primarily of weeds (typically unwanted plants that grow aggressively and are damaging to landscaping), and are not otherwise covered with new improvements, must be successfully re-
vegetated with a substantial mix of native and/or drought tolerant grasses and ground covers. The density of the reestablished vegetation must be adequate to prevent soil erosion and invasion of weeds after one growing season.

2. A combination of berming and landscaping shall be used to screen utilitarian features such as, but not limited to, water tanks and detention basins.

3. Plants with similar water requirements shall be grouped together in hydrozones.

4. Prior to planting, consideration of soil compaction shall be used to determine planting pit depths and drainage.

5. The Community Development Director and the Parks and Leisure Services Director shall have the authority to require other improvements such as the removal of dead or diseased trees and the thinning of trees or other vegetation to encourage desirable growth.

C. Tree Removal and Replacement

For each existing native tree or shrub removed or damaged with a combined caliper equal to or greater than 6 inches at 4 feet above finish grade, a 24-inch box minimum replacement tree or shrub of the same genus and species or as otherwise approved by the Parks and Leisure Director shall be planted on the site. For trees equal to or in excess of an 8-inch combined caliper, the replacement tree shall be a 48-inch box or larger of the same genus and species. Should a tree of the same genus and species not be available, the applicant shall submit reasonable proof of general unavailability in the region, and a list of no less than five substitutes, one of which shall be of the same genus, for approval by the Parks and Leisure Services Director.

The Parks and Leisure Services Director may approve a substitute or may require provisions, including but not limited to bonds or similar security, to assure the installation and maintenance of the specific genus desired.
Figure 244.03.A
Standards for tree protection

D. Setbacks/Slopes along Roadway Edges

1. The following setbacks from the curb face, or line that would be the location of the curb face, to the property line shall be required from the following roadways, except for within the hillside transitional area:

a. Major Arterial: 80 feet  
  b. Minor Arterial: 60 feet  
  c. Parkway: 40 feet  
  d. Collector: 35 feet  
  e. Local Residential Street: 20 feet
Figure 243.03.B
Required Setbacks from Roadways

2. Setbacks and slopes along edges between roadways and rear property lines shall be fully landscaped with materials consistent with all other common open space areas. The landscape material shall transition in height to provide low vegetation immediately adjacent to the right-of-way edge to taller trees on the slope.
3. Any manufactured slope in excess of 4 feet vertical that abuts any public or private street or other right-of-way or open space use intended for public use and/or enjoyment shall be fully landscaped in accordance with the provisions of this Article and shall be maintained by a homeowners association or other entity required as part of the tentative map approval process for the maintenance of common open space.

E. Drought-Tolerant/Native Vegetation

1. All landscape plans must use native and/or drought-tolerant plant materials appropriate for their location and soil type, as identified in standard agricultural suitability soils test. Preferred landscaping materials shall consist of native plants. Landscape and irrigation plans shall comply with the City’s water efficient landscape requirements contained in Article 26, Section 2624 of the Zoning Ordinance,
2. All native vegetation outside the impact area shall be preserved and protected from damage during construction. Oak trees shall have a preservation zone of the dripline plus 10 feet surrounding the tree. Any project impact within this preservation zone shall be considered as damaging to the tree.

F. Interface between Natural Open Space Areas and Development

1. The area between a structure and wildfire hazard areas, as contained within the General Plan and defined by the Fire Chief, shall be planted and maintained as consistent with the provisions of paragraph K below (Section 243.03.K). The transition between manufactured areas and natural areas shall be established beyond residential structures so as to permit the development to meet the State Code regarding wild land interface in State Response Areas.

2. Climatically suitable shrubs and trees shall be used as wind breaks as appropriate.

G. Landscaping as Focal Points

Significant landscaping, such as signature trees (i.e., large or unique trees), hedges, and flowering plants shall be used to provide focal points within a development, including and specifically as entry statements that shall require the following setbacks measured diagonally from face of curb, or the line that would be the location of the curb face:

1. Major Arterial: 100 feet
2. Minor Arterial: 80 feet
3. Parkway: 50 feet
4. Collector: 50 feet
5. Local Residential Street: 20 feet

A landscape area shall then be provided generally matching the depictions within Figure 244.03.E. Provisions for maintenance of said landscape areas shall be an integral component of project approval. No landscaping or other features shall interfere with the established sight distance needed for safe vehicular access at intersections.
H. Slope Maintenance and Erosion Control

1. All cut and fill slopes shall be planted with native and/or drought-tolerant vegetation and irrigated with an automatic irrigation system to prevent erosion.

2. All cut or fill slopes exceeding 5 feet in vertical height shall be planted with adequate plant material to protect the slope against erosion. Planting shall be in the ratio of at least one shrub per 16 square feet of natural slope area and one tree per 400 square feet of actual slope area, with ground cover to completely cover the slope within 12 months from planting.

3. All shrubs shall be a minimum 1 gallon size,

4. All trees shall be minimum 15-gallon size.

5. Slopes less than 5 feet in vertical height shall be planted with ground cover to cover the slopes completely within 12 months of planting.

6. Landscape coverage and stabilization of graded slopes shall be selected and designed to be compatible with surrounding natural vegetation. A City-approved irrigation system shall be utilized for plant establishment. A minimum 3 feet flat area from top or toe of slope of 20 feet or greater in height shall be maintained to face of wall or fence on common area maintenance slopes.

7. Shrubs on manufactured slopes shall be heavily concentrated along the drainage flow of swales.

8. Lawns and sod shall not be installed on slopes steeper than 4:1. Low-maintenance bunch grasses can be used on slopes steeper than 4:1.

I. Irrigation

1. Irrigation shall be designed to conserve water and to protect existing native vegetation.
2. Drip irrigation shall be required in appropriate areas to reduce overspray and runoff.

3. Irrigation needs shall be reduced by careful control of drainage pattern on a slope and selection of appropriate plant material.

4. Technological irrigation equipment, such as humidity sensors, that control irrigation settings and run times due to seasonal weather changes shall be used.

J. Fuel Modification Zones

1. A permanent fuel modification area and fire prevention plan shall be required, subject to the determination of the Fire Chief, around development projects, or portions thereof, that are adjacent or exposed to hazardous fire areas for the purpose of fire protection. The recommended width of the fuel modification area shall be based on applicable Building and Fire Codes and the State Code regarding wild land interface in State Response Areas and the recommendations of the Fire Chief, with consideration given to:
   a. The natural non-graded slope of the land within the project and in the areas adjacent to the project.
   b. Fuel loading.
   c. Access to the project by fire suppression equipment, and access directly to the fuel modified area, and egress out of the project in case of evacuation.
   d. The on-site availability of water that can be used for firefighting purposes with regard to fire flows, water pressure, and duration.
   e. "Built-in" fire protection within structures.

![Diagram of fuel modification zones](image)

**Figure 243.03.F**

Fuel modification zones shall be designed to have graduated zones of reduced fuel.

2. Adequate provisions shall be made for the continual maintenance of such areas, and the Fire Chief may require brush, vegetation, or debris to be removed and cleared consistent with the
provisions of Chapter 12, Section 12.1.1 of the Porterville City Code, which adopts the Uniform Fire Code as the City’s fire code.

K. Private Yard Landscaping

1. The paving of over 40 percent of either the front yard or rear yard shall not be permitted.

L. Screening

1. Landscaping shall be designed to screen the view of downslope building elevations. The landscape plan for individual residential dwellings shall specifically consider the downslope elevation and demonstrate that portions of elevations below the bottommost floor are screened from view. Downslope elevations visible from any adjacent property or public right-of-way shall be landscaped with a selection of shrubs and trees that screen the downslope portion from view to the satisfaction of the Zoning Administrator.

2. Visual screening and privacy within side and rear yards shall be provided; front yards and building entrances shall be substantially visible for security purposes.

M. On-lot Tree Program

1. A minimum of two trees shall be installed and permanently maintained in each rear yard.

2. One additional tree shall be installed along the side yard adjacent to the street on corner lots with uphill visibility from roads.

3. Tree sizes shall be a minimum of 24-inch box for rear yards with 15 feet depths or less and 36-inch box for rear yards that are greater than 15 feet deep.

4. Minimum distance between tree trunk and adjacent property line shall be 5 feet.

5. Soil compaction and drainage shall be considered when determining planting pit depths.

Figure 243.03.G
On-lot tree program requires trees planted in each lot in locations that maintains views.
Section 244.00  Hillside Development Standards

The following Sections 244.01 through 244.07 development standards apply to the Hillside Development Zone.

Section 244.01  Allowable Density Calculation Procedures

A. For the purposes of this Article, allowable density is defined as the maximum number of dwelling units permitted per gross acre of land. The maximum allowable density shall be based upon and established by the average slope of a property, calculated in compliance with Section 241.05.D3. The maximum allowable density based on the average slope shall be as set forth in Table 244.01.A.

Table 244.01.A
Maximum Allowed Density Based on Average Slope

<table>
<thead>
<tr>
<th>Average Slope (Sec. 241.05.D.3)</th>
<th>Maximum Allowable Density</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 5.9% inclusive</td>
<td>2.4 units/acre</td>
</tr>
<tr>
<td>6 to 10.9%</td>
<td>2.2 units/acre</td>
</tr>
<tr>
<td>11 to 20.9%</td>
<td>1.8 units/acre</td>
</tr>
<tr>
<td>21 to 25.9%</td>
<td>1.0 units/acre</td>
</tr>
<tr>
<td>26 to 30.9%</td>
<td>1 unit/20 acres</td>
</tr>
<tr>
<td>31 to 50%</td>
<td>1 unit/80 acres</td>
</tr>
</tbody>
</table>

B. The maximum dwelling unit yield based on the maximum allowable density mathematical sum shall be considered maximum potentials and not an entitlement, right or vested right to develop. Other factors and individual property characteristics will affect and may reduce the yield, including but not limited to: physical constraints, floor-area ratio (Section 244.01.D); compliance with design guidelines, engineering design standards, hillside development standards; and performance criteria such as access, emergency response standards, and sensitive grading techniques and volumes.

C. Calculating the maximum allowable density for any parcel or group of parcels under common development application within the Hillside Development Zone shall involve the following steps:

1. Establish allowed density based on average slope:
   a. Alternative 1 – Average slope of the parcel or group of parcels.
      For Alternative 1, the average slope shall be calculated in compliance with Section 241.05.D3. For example, a 100-acre parcel which has an average slope for the entire parcel of 25 percent would yield a maximum of 100 units.
   b. Alternative 2 – Recalculation alternative.
      The largest contiguous area of the least steep slope category may be used to calculate average slope in compliance with the method established in Section 241.05.D2. For example, on a 100-acre parcel, of which 60 acres has an average slope of more than 25.9 percent, 30 acres are between 21 to 25.9 percent slope, and there is a contiguous 10-acre area of between 11 to 20.9 percent, the 10 acres with a average slope of 11 to 20.9 percent can be used to recalculate allowable density (1.8 units/acre X 10 acres = 18 units)

D. For the purposes of this Article, floor-area ratio (FAR) is defined as the ratio of the total gross square footage of the dwelling unit excluding both attached and detached garage square footage and any accessory structure on a lot to the square footage of the pad or that portion of the lot containing the dwelling and having a gradient of five percent or less. After constraints and
performance criteria have been addressed to develop a maximum yield, the maximum yields for a parcel is further affected by average FAR and are based on Table 244.01.B.

Table 244.01.B
Unit Yield Based on Floor-Area Ratio

<table>
<thead>
<tr>
<th>Dwelling Unit Yield</th>
<th>Maximum FAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum units</td>
<td>0.4</td>
</tr>
<tr>
<td>80% of Maximum</td>
<td>0.5</td>
</tr>
<tr>
<td>70% of Maximum</td>
<td>0.6</td>
</tr>
<tr>
<td>60% of Maximum</td>
<td>0.7</td>
</tr>
</tbody>
</table>

E. Physical Constraints are the on-site circumstances and resources that will be protected consistent with policies in the General Plan or other regulatory requirements. Factors that require special consideration are as follows:

a. USGS blue-line streams and potential habitat areas for endangered species or archaeological resources.

b. Areas greater than 25.9 percent slope greater than 1 acre as determined by Section 241.05.D.

c. Liquefiable soils, Alquist-Priolo Zones, shallow hard rock, faulting and naturally occurring asbestos.

d. Large, mature native trees including: Live Oak, Sycamores, or Willow.

Section 244.02 Development Standards - Detached Dwellings

Standards for detached dwelling units will provide assurance that development will be appropriate to the hillside setting. The following standards combined with the standards for grading and drainage, subdivision and landscaping design will result in adaptive hillside development.

Figure 244.02.A
Hillside developments should be designed with respect to natural hill characteristics and development intensity appropriate for the area.
A. Density

Density limitations shall be determined as set forth in Table 244.01.A of this Code.

B. Minimum Pad Size

The minimum area of a pad on a lot, including the summation of multiple pad areas where split-level construction is proposed, shall be 6,000 square feet.

C. Building Setbacks

Building setbacks shall be set forth in Table 244.02.C.

Table 244.02.C
Building Setbacks Detached Dwellings

<table>
<thead>
<tr>
<th>Setbacks</th>
<th>Pad Size in Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6,000 to 8,000</td>
</tr>
<tr>
<td>Front yard</td>
<td>20'</td>
</tr>
<tr>
<td>Side yard</td>
<td>7.5'</td>
</tr>
<tr>
<td>Rear yard</td>
<td>20'</td>
</tr>
<tr>
<td>Corner Setbacks*</td>
<td>20'</td>
</tr>
<tr>
<td>Privacy wall to structure</td>
<td>10'</td>
</tr>
</tbody>
</table>

*Setbacks are measured from face of curb or for rolled curbs, from the flowline.

Figure 244.02.B
Building Setbacks for 6,000 to 10,000 sq. ft. pads and greater.

E. Floor-Area Ratios

Maximum allowable floor-area ratios shall be as set forth in Table 244.01.B.

F. Building Height – Primary Structure

Each proposed single-family detached structure in the Hillside Development Zone shall comply with the following height limits.

1. Height Measurement
The maximum allowable building height shall be measured as the vertical distance from the existing or planned grade of the site at the point of the building foundation to an imaginary plane located at the allowed number of feet above and parallel to the grade. For split-level construction, each building component shall be measured from the lowest elevation of the site pad area on which that component is located.

![Diagram of building height measurement](image)

**Figure 244.02.C**
Allowable building height for conventional and split-level construction.

2. General Height Limit
   
   No structure shall exceed a height of 35 feet.

3. Height of Lowest Floor Level
   
   The vertical distance between the lowest point where the foundation wall meets grade and the lowest floor line of the structure shall not exceed 6 feet.

**Section 244.03 Development Standards – Attached Dwellings**

**A. Density**

Density limitations shall be determined as set forth in Table 244.01.A of this Article Code. Where attached housing is proposed, the overall permitted density of a development site shall determine the maximum number of units allowed, and all such units may be clustered or attached on a lot or lots restricted to a limited area of the development site, with the density calculation applicable to the site as a whole. However, in compliance with the provisions of Section 243.02 of this Article, any remainder open space lot or lots shall be deed restricted against further residential development and shall be permanently maintained as required by the provisions of this Article.

**B. Building Height**

Each proposed attached or clustered dwelling unit structure shall comply with the following height limits.

1. Height Measurement
   
   The maximum allowable building height shall be measured as in compliance with Section 244.02.F.

2. General Height Limit
No structure or group of structures shall exceed a height of 35 feet.

3. Height of Lowest Floor Level

The vertical distance between the lowest point where the foundation meets grade and the lowest floor line of the structure shall not exceed 6 feet.

D. Building Setbacks

1. Buildings shall be set back from lot lines as indicated in Table 244.03.A.

<table>
<thead>
<tr>
<th>Yard Lot Line</th>
<th>Minimum Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front yard</td>
<td>20'</td>
</tr>
<tr>
<td>Side yard</td>
<td>15'</td>
</tr>
<tr>
<td>Rear yard</td>
<td>20'</td>
</tr>
<tr>
<td>*Face of curb to privacy wall</td>
<td>20'</td>
</tr>
<tr>
<td>Privacy wall to structure</td>
<td>10'</td>
</tr>
</tbody>
</table>

*Setbacks are measured from face of curb or for rolled curbs, from the flowline.

2. Building to Building

The minimum setback between structures shall be no less than 20 feet.

3. Building to Street or Parking Area

The minimum building setback to street or parking area shall be no less than 20 feet, measured from face of curb.

4. Building to Privacy Wall

The minimum building setback to privacy wall shall be no less than 20 feet.

Figure 244.03.A
Building Separation and Setbacks
E. Required Common Open Space Area

Every attached or cluster development project shall be required to provide common open space areas accessible to all dwelling units within such development project. The required area shall be as set forth in Table 244.03.B. Such common open space area may consist of passive landscaped area, common recreation facilities such as a swimming pool or sports court, or any combination of such improvements. The minimum dimensions of such common open space area shall be 20 feet by 20 feet. Such common open space shall be centrally located and equally accessible to all dwelling units within the development.

Table 244.03.B
Required Common Open Space for Attached Dwellings

<table>
<thead>
<tr>
<th>Numbers of Dwelling Units within Development</th>
<th>Required Open Space Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-20</td>
<td>100 sq. ft. per dwelling unit</td>
</tr>
<tr>
<td>21-40</td>
<td>150 sq. ft. per dwelling unit</td>
</tr>
<tr>
<td>40+</td>
<td>200 sq. ft. per dwelling unit</td>
</tr>
</tbody>
</table>

F. Location of Garages

Garage structures for attached and cluster developments are not required to be attached to the dwelling units they serve. Common garage structures may be developed, provided parking is provided for each dwelling unit in compliance of the requirements of the City's Municipal Code.
Section 244.04    Custom Lot Design and Development Standards

A. Application Requirements

1. As specified in Section 241.00, an individual dwelling unit on an existing legal lot shall be subject to an Administrative Hillside Development Permit.

2. Proposed subdivisions of land planned for custom home sites shall be subject to a Hillside Development Permit.

B. Design Standards – General

1. Roadways, driveways, and individual building pads shall be designed to conform to the natural hillside contours, blending into the environment rather than forcing building sites and infrastructure upon the land. An emphasis shall be placed on limiting grading to individual flat graded pad areas for residential building sites and any roads accessing the residential building sites, ensuring a minimal cut and fill situation.

2. Any areas that require grading shall incorporate landform grading techniques to further encourage the natural appearance of custom pads.

3. For any standard not specifically indicated in this Section as applying to custom lot development, the general standards applicable to all development in the Hillside Development Zone shall apply.

C. Landscape Standards

Custom lot development shall implement landscape standards that avoid harsh or abrupt transitions between open space and development while providing a combination of landscape materials that blend into the adjoining natural open space. Landscape setbacks along roads and along flat pads of custom lots shall be required to ensure that suitable transitions from residential development to natural open space are accomplished.

D. Architectural Standards

Individual houses on custom lots shall be visually compatible with the surrounding area, with architecture that complements the adjacent natural environment and any adjoining residential structures and/or neighborhoods.

E. Grading Standards

1. Unless otherwise specified in this section, the landform grading practices set forth in Section 242.01 shall apply.

2. Retaining walls shall be screened from public view to the greatest extent possible.

F. Development Standards

1. The minimum pad size shall be no less than 10,000 square feet unless the site is over 15% average slope in which case smaller padded building sites are allowed to reduce grading impacts as set forth in Section 242.01.

2. Maximum building height, as measured from finished grade to top of building, shall be as follows:
   a. 18 feet – Single-story portion of structure
   b. 28 feet – Two-story portion of structure
   c. 35 feet – Three-story portion of structure

3. Setbacks shall be provided as set forth in Table 244.02.C.

4. No fence or walls shall exceed a height of 6 feet, and all fences and walls shall comply with the regulations set forth in Section 244.07.G.
5. Walls and opaque fencing shall be permitted only on the flat pad of a custom lot.

6. The minimum landscape setback of 20 feet shall be provided between developed pad and natural vegetation.

7. The maximum step in foundation wall shall be no higher than 10 feet to account for homes built in a hillside setting.

8. Where no standard is specifically indicated in this Section 244.04, the development standards set forth in Section 244.01 shall apply.

Section 244.05 Accessory Structures

A. Accessory structures shall either be constructed as an integral part of the main dwelling unit or be within the setbacks set forth in Tables 244.02.C of this Article.

B. The height of any accessory structure shall be limited to 16 feet.

C. Accessory structures shall not be permitted within any front yard area.

D. Accessory structures shall maintain a minimum 5-foot setback from rear and side pad edges. For pads on lots adjacent to a street, a minimum 20-foot setback from any pad edge to the street shall be maintained. A side yard on the street side of a corner lot shall maintain a minimum 20-foot setback from pad edge.

Section 244.06 Other Regulations

A. Exterior Lighting

Exterior lighting shall be provided and properly shielded to avoid glare and the spill of light to surrounding areas. Low-level lighting and the use of multiple low profile fixtures is encouraged, as opposed to the use of fewer, but taller fixtures. Emphasis for exterior lighting shall be on safety and landscape lighting as opposed to building lighting. The applicant shall present descriptions of exterior lighting in the design guideline manual required by Section 241.05.H of this Article.

B. Decks

No portion of the walking surface of a deck with visible underpinnings shall exceed a height of 6 feet above grade. Decks shall be integrated into the architecture of the house and not appear as an add-on to the primary building mass. The applicant shall present illustrations and descriptions of decks in the design guideline manual required by Section 241.05.H of this Article.

C. Utilities

All newly installed utilities shall be placed underground unless, in the determination of the authority responsible for approving the Hillside Development Permit, such requirement would result in unsafe conditions. All existing electric power lines of capacity 66 kilovolts or less shall be relocated underground. All utilities shall be placed underground unless, in the determination of the authority responsible for approving the Hillside Development Permit, such requirement would result in unsafe conditions.

D. Gated Communities Prohibited

Gated communities shall be prohibited.

E. Private Gates at Driveway Prohibited

All gates or other structures or devices, which could obstruct emergency access or otherwise hinder emergency operations, shall be prohibited. Private gates at driveways that do not hinder emergency access or operations shall be setback a minimum of 30 feet (30') from the front property line.
Section 244.07  Architectural Standards

A. Architectural Standards - General

To achieve hillside compatible development, the City recognizes the importance of having architectural design that incorporates rooflines and other building elements that reflect the naturally occurring ridgeline silhouettes and topographical variation.

B. Conformance with Project Design Manual

The applicant shall demonstrate how the architectural criteria of this section are met in the design guideline manual required by Section 241.05.H of this Article.

C. Architectural Themes

1. For subdivisions consisting of production-style development, whereby dwelling units are constructed by a single developer utilizing a limited number of floor plans and building architectural styles, the architectural styles throughout the development shall be thematically consistent with one another. Varying floor plans, colors, materials, and building forms shall be utilized such that within a single development project, a minimum of nine different elevations are available. However, where attached units are provided, a more unified architectural scheme is permitted.

2. For custom lot developments consisting of a subdivision of more than one lot, the requirement for a design guideline manual, as set forth in Section 241.05.H of this Article, shall apply.

3. For a development consisting of one home on an existing lot, such homes shall comply with the requirements of Section 244.04.

D. Required Treatments

1. Architectural treatments on all exterior walls of any building shall be designed to avoid a monotonous or continuous façade of the exterior wall. Under no circumstance shall the front and rear façade of any building be in one continuous vertical or horizontal plane. Architectural features and details shall be located on all exterior walls of the building, including the rear and sides of the building. Buildings shall utilize wall articulation (i.e., insets, pop-outs, etc.) and roof orientation as a means to prevent massing.

2. The apparent size of exterior wall surfaces visible from off the site shall be minimized through the use of single-story elements, building face setbacks, overhangs, landscaping, and/or other means of horizontal and vertical articulation to create changing shadow lines and break up of massive forms.
E. Finish Materials/Color

Building materials and colors shall be compatible with the natural setting. Exterior colors shall be limited to earth tones found in nearby natural vegetation and/or soil, or come from natural sources (e.g., rock, stone, wood), or resemble a natural appearance.

F. Support Structures

1. Support structures (e.g. columns, pilings, etc.) below the lowest floor on the downhill side of a house, if and where permitted as part of the Hillside Development Permit review process, shall be enclosed unless visible structural members are an integral feature of the architectural design.

2. A support structure wall surface shall not exceed 6 feet in height.

Figure 244.07.B
Support structures shall be minimized in height.
G. Fencing and Privacy Walls

1. All fences and masonry walls adjacent to or fronting on public roads or major public spaces shall be of decorative masonry or other approved materials that have a natural appearance (e.g. masonry walls, pre-fabricated modular concrete) and shall be a color that blends with the natural surrounding environment and complements the landscaping. The use of indigenous rock and colors or materials which blend with the surrounding natural landscape shall be preferred. The applicant shall present illustrations and descriptions of fencing and wall materials in the design guideline manual required by Section 241.05.H of this Article.

2. Any fence or privacy wall adjacent to a public road or major public space shall be placed at the top of a slope.

3. All fences and privacy walls, whether or not visible from a public road or major public open space, shall be limited in height to 6 feet, as measured from the grade on which the bottom of the fence or wall is placed to the uppermost extent of such fence or wall.

4. Solid fences and walls in a required front yard area, or within the street side yard on a reverse corner lot shall not exceed a height of 42 inches.

5. Open work fences, whereby the fence is 90 percent open or more, shall not exceed a height of 48 inches within the front setback or within the street side yard on a reverse corner lot, otherwise the height limitations specified in G.3 and G.4 above shall apply.

6. The provisions of Chapter 21, Article III, Section 21-3(f) of the City Code regarding corner rounding areas shall apply.

7. A minimum setback distance of 20 feet shall be provided between any fence or privacy wall adjacent to a public right-of-way, with the distance measured from the fence or privacy wall to the face of curb.

8. Any fence or wall that runs along the top of a landform and silhouettes against the sky shall be transparent to allow views from off-site to be unobstructed.

Figure 244.07.C
Adequate setback shall be provided between curb and privacy wall.
SUBJECT: Consideration of Policy Regarding City-Funded Special Event Liability Insurance Coverage for Historic Parades & Airshow

SOURCE: Administration

COMMENT: At its regular meeting on October 21, 2008, it was the direction of Council to staff to pursue a policy toward providing supplemental special event liability insurance coverage for the city's three annual historic parades and airshow. Staff is working with its broker in completing the necessary application toward securing premium quotes from an underwriter for the 2009 calendar year. Such quotes may be available for review with Council at its next regular meeting of November 18, 2008.

RECOMMENDATION: Information only.

ATTACHMENTS: None
COUNCIL AGENDA: November 4, 2008

SUBJECT: Request to Set Public Hearing for Ordinance Requiring Food Establishments to Post County Health Inspection Results or Scores

SOURCE: Administration

COMMENT: At the regular meeting of the Council on October 21, 2008, a "Council Member Request for an Agenda Item" was considered by the Council, which included a Resolution of support and a draft Ordinance involving the requirement that food establishments be required to publically post their County health inspection results or scores. In the consideration of an Ordinance for such requirement, though not necessarily mandated, it was recommended by the City Attorney that a Public Hearing be scheduled to receive public comment. As an element of the Notice of Public Hearing, it has been recommended that each food establishment within city limits be provided individual notice of the hearing. To provide sufficient time for the refining of the draft Ordinance, as well as the timely notice of Public Hearing, it is the recommendation of staff to schedule a Public Hearing at the regular meeting of the Council on December 16, 2008.

RECOMMENDATION: That the City Council set a Public Hearing for December 16, 2008, to consider the requirement that food establishments post their County health inspection results or scores.

ATTACHMENTS: A Resolution of the City Council of the City of Porterville Providing for the Requirement that Food Establishments Post County Health Inspection Results or Scores
RESOLUTION NO. ____ - 2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE PROVIDING FOR THE REQUIREMENT
THAT FOOD ESTABLISHMENTS POST COUNTY
HEALTH INSPECTION RESULTS OR SCORES

Whereas, the city of Porterville, under Section 4 of the City Charter is empowered to:

“...shall have and may exercise all powers necessary or appropriate to a municipal
corporation and the general welfare of its inhabitants,” and,

Whereas, public safety and health are critical to the general welfare of its inhabitants, and

Whereas, a safe and sanitary food supply is essential for every inhabitant of the city of Porterville, and

Whereas, the County of Tulare, Environmental Health Services regularly inspects all
commercial food preparation facilities to ensure safe and sanitary handling of food and provides
a written report as to compliance with applicable standards for food safety, and

Whereas, every food preparation facility is required by State law to provide such report to
anyone asking to see the report, and

Whereas, not every inhabitant is willing or knowledgeable concerning the availability of
such report, and

Whereas, informing the inhabitants of Porterville as to the safety and sanitation of their
food sources is critical to their general welfare, and

Whereas, the average patron of a food preparation facility has neither the access nor the
skill and training to identify and evaluate a majority of the factors affecting food safety and
sanitation beyond the obvious, and

Whereas, requiring the posting of a “letter grade” corresponding to the rating scale of the
Tulare County Environmental Health Services Food Inspection Report will not impose new
regulations nor significant costs to existing and future food preparation facilities but simply
inform the public as to the results of existing Food Inspection Reports as compiled by the Tulare
County Environmental Heath Services,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville,
that the city of Porterville adopt an ordinance requiring the posting of a “letter grade”
corresponding to the Tulare County Environmental Health Services Food Inspection Report
rating scale of inspection scores and posted immediately upon completion of any Food
Inspection.
BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

ATTEST:

Cameron Hamilton, Mayor

John Longley, City Clerk

Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
PORTERVILLE CHAMBER OF COMMERCE AND ROTARY CLUB OF PORTERVILLE ANNUAL CHILDREN'S CHRISTMAS PARADE - DECEMBER 4, 2008

SOURCE: Administrative Services Department - Purchasing Division

COMMENT: The Porterville Chamber of Commerce and Rotary Club of Porterville are requesting approval to hold the annual Children's Christmas Parade along Main Street on Thursday, December 4, 2008 from 5:00 p.m. to 9:00 p.m. This application is being submitted under the Community Civic Event Ordinance No. 1326, as amended. The following closures are requested:

STREETS (5:00 p.m. - 9:00 p.m.):
- Main Street from Danner Avenue to Olive Avenue;
- Morton Avenue from Hockett Street to Second Street;
- Harrison Avenue from Hockett Street to Second Street;
- Thurman Avenue from Hockett Street to Second Street;
- Putnam Avenue from Hockett Street to Second Street;
- Mill Avenue from Hockett Street to Second Street;
- Cleveland Avenue from Hockett Street to Second Street (no blocking street for fire access.)
- Oak Avenue from Hockett Street to Second Street;
- Garden Avenue from Main Street to Second Street;
- Second Street from Olive Avenue to Oak Avenue;
- Olive Avenue from Hockett Street to Second Street;

School Avenue, Bellevue Avenue and North Avenue from Main Street to 150' on east side; and
Doris Avenue from Main Street to Division Street.

SIDEWALKS (5:00 p.m. - 9:00 p.m.):
- Main Street from Danner Avenue to Olive Avenue; and
- Olive Avenue from Main Street to Second Street.

PARKING SPACES (6:00 a.m. - 9:00 p.m.):
- Main Street in front of Chamber of Commerce
PARKING SPACES (3:00 p.m. - 9:00 p.m.):
- Main Street, north end, in front of City hall

This application has been routed according to the ordinance regulations and has been reviewed by all departments involved. The requirements are listed on the attached copy of the Application, Agreement and Exhibit "A".

DD Appropriated/Funded X/A CM Item No. 14
The closure of Main Street at 5:00 p.m. will require the early closure of the Fixed Route Transit System at 4:30 p.m., instead of the usual 7:00 p.m., on December 4, 2008. Staff is requesting that Council authorize the change in schedule for the Fixed Route system only.

Early closure of the parking spaces in front of City Hall (requested from 3:00 p.m. to 5:00 p.m. for placement of the judges' stand) will adversely affect City Hall patrons. This conflict was resolved last year by placing the judges stand at the north end of City Hall along Main Street.

RECOMMENDATION: That Council:

1. Approve the Community Civic Event application from the Porterville Chamber of Commerce and Rotary Club of Porterville subject to the Restrictions and Requirements contained in the Application, Agreement, and Exhibit “A” of the Community Civic Event Application;

2. Authorize the temporary suspension of the Fixed Route Transit System from 4:30 p.m. to 7:00 p.m. on December 4, 2008;

3. Restrict the closure of parking spaces in front of City Hall from 3:00 p.m. to 5:00 p.m., to those at the north end of City Hall along Main Street.

ATTACHMENTS: Community Civic Event Application and Agreement, Street Map, Exhibit “A”, Outside Amplifier Permit, Map, Certificate of Liability Insurance.
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: October 7, 2008  Event date: December 4, 2008
10-13-08  Event time: 3:00-9:00pm Streets & sidewalks 3:00 pm parking spaces in front of Chamber of Commerce.

Name of Event: Children's Christmas Parade

Sponsoring organization: Rotary Club of Porterville
Address: 93 N. Main St. Porterville, CA 93257
PHONE # 784-7502

Authorized representative: Donnette Silva Carter
Address: 93 N. Main St. Porterville, CA 93257
PHONE #

Event chairperson: Julie Allen

Location of event (location map must be attached): Main St. from Danner to Olive Ave streets for assembly and disbursement.

Type of event: Children's Christmas Parade

Nonprofit status determination: on file

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

Barricades (quantity): [ ] Yes  [ ] No
Police protection: [ ] Yes  [ ] No
Other:
Street sweeping: [ ] Yes  [ ] No
Refuse pickup: [ ] Yes  [ ] No

Parks facility application required: [ ] Yes  [ ] No  [ ] Attached
Assembly permit required: [ ] Yes  [ ] No  [ ] Attached

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

Approve  Deny
Bus Lic Spvr
Pub Works Dir
Comm Dev Dir
Field Svcs Mgr
Fire Chief
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

What constitutes a Community Civic Event?
A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures.

Authorization: This permit must be submitted NO LESS THAN 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." A Certificate of Liability Insurance form sample is enclosed for your convenience. This original certificate shall be submitted prior to the event.

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. To contact the Tulare County Environmental Health Department call 559.788.1199, or fax information to, 559.788.1313.

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, 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.

(Name of organization) [Signature] [10-9-08]

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: Children's Christmas Parade

Sponsoring organization: Rotary Club of Porterville, Porterville Chamber of Commerce, City of Porterville

Location: Main Street  Event date: Dec 4, 2018  Event time: 5pm-9pm

All vendors are required to complete the business license permit form. List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. NO PERMIT WILL BE ISSUED WITHOUT THIS INFORMATION. Vendors with no valid City of Porterville business license are required to pay $1 per day to the City, with the exceptions of non-profit organizations. This form should be completed at the time of application, but must be submitted NO LESS THAN ONE week prior to the event. will be submitted later by the Chamber.

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address/Telephone</th>
<th>Business License required</th>
<th>Type of Activity</th>
</tr>
</thead>
<tbody>
<tr>
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</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: Children's Christmas Parade

Sponsoring organization: Rotary Club of Porterville, Porterville Chamber of Commerce, City of Porterville

Event date: Dec. 4, 2008  Hours: 5:00-9:00 pm street sidewalks

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>Danner Ave</td>
<td>Olive Ave</td>
<td>Parade Route + Assembly</td>
</tr>
<tr>
<td>Olive Ave</td>
<td>Hockett St.</td>
<td>Second St.</td>
<td>Parade Route</td>
</tr>
<tr>
<td>Morton, Harrison, Thurman, Cleveland, Putnam, Miller, Oak</td>
<td>Hockett St.</td>
<td>Second St.</td>
<td>Adjacent to Parade Route</td>
</tr>
<tr>
<td>Garden Ave</td>
<td>Main St.</td>
<td>Second St.</td>
<td>Adjacent to Parade Route</td>
</tr>
<tr>
<td>School Bellavia North  &amp; Doris</td>
<td>Main St.</td>
<td>Second St.</td>
<td>Parade Assembly</td>
</tr>
<tr>
<td>Second St.</td>
<td>Olive Ave</td>
<td>Division St, Oak Ave</td>
<td>Parade Disbursement</td>
</tr>
<tr>
<td>Sidewalks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Main St.</td>
<td>Danner Ave</td>
<td>Olive Ave</td>
<td>View Parade and Assembly Area</td>
</tr>
<tr>
<td>Olive Ave</td>
<td>Main St.</td>
<td>Second St.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parking lots and spaces</th>
<th>Location</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main St (7 spaces)</td>
<td>Chamber of Commerce 931 N. Main</td>
<td>Judges' Stand</td>
</tr>
<tr>
<td>Main St (5 northern spaces)</td>
<td>City Hall 931 N. Main</td>
<td>Announcer's Stand</td>
</tr>
</tbody>
</table>

4 of 4
REQUIREMENTS FOR COMMUNITY CIVIC EVENT
PORTERVILLE CHAMBER OF COMMERCE
AND
ROTARY CLUB OF PORTERVILLE
ANNUAL CHILDREN'S CHRISTMAS PARADE
DECEMBER 4, 2008

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

Public Works Director:  
B. Rodriguez

Community Development Director:  
B. Dunlap  
Include Porterville Redevelopment Agency as additional insured along with the City.

Field Services Manager:  
B. Styles  
City sponsored parade. City will provide street closures, trash cans, cleanup and sweep.

Fire Chief:  
M.G. Garcia  
No comment.

Parks and Leisure Services Director:  
J. Perrine  
Parks Department has no concerns.

Police Captain  
S. Rodriguez  
See list of Conditions/Requirements for Children's Christmas Parade in Attachment A.

Deputy City Manager:  
J.D. Lollis  
See Exhibit "A", page 2.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsors: Porterville Chamber of Commerce, Rotary Club of Porterville
Event: Annual Children’s Christmas Parade
Event Chairman: Julie Allen
Location: Main Street
Date of Event: December 4, 2008
Time of Event: 5:00 p.m. to 9:00 p.m.

RISK MANAGEMENT: Conditions of Approval

That the Porterville Chamber of Commerce and Rotary Club of Porterville provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than $2,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, Porterville Redevelopment Agency, 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.
CITY OF PORTERVILLE
Community Civic Event Application

CHILDREN'S CHRISTMAS PARADE- Dec. 4, 2008

Conditions/Requirements for Children’s Christmas Parade

➢ City Council approval is required for any/all street closures.

➢ Ensure adequate barricades/barriers are used to warn motorists of non-access and prevent vehicle access to those designated areas.

➢ Children’s Christmas Parade Committee should meet with street vendors to coordinate rules regarding their activities, such as:
  • Staying off the parade route and crossing in front of floats or groups
  • Shall not sell silly string, snap caps or party poppers
  • Ensure each vendor has properly obtained a City business license

➢ Food vendors should be situated where they minimally block the sidewalk.

➢ Food vendors should provide inspection certificates from the Tulare County Health Department to members of the Children’s Christmas Parade Committee, to ensure safe food products.

➢ Throwing candy from vehicles, floats, or any parade entry is prohibited. This results in children scampering to catch or find candy in a crowded environment, and causes others to run out into the street. This practice creates significant and unnecessary risk for parade goers. All registered parade entrants should be informed of this prohibition and efforts taken to cease this practice.

Silver Rodriguez, Captain
Police Department

"ATTACHMENT A"
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:
   Rotary Club of Porterville
   Porterville Chamber of Commerce   Phone # 784-7502
   93 N. Main St. Porterville, CA 93257

2. Address where amplification equipment is to be used:
   Main St.   Phone #

3. Names and addresses of all persons who will use or operate the amplification equipment:
   Unknown - different schools and organizations in parade

4. Type of event for which amplification equipment will be used:
   Children's Christmas Parade

5. Dates and hours of operation of amplification equipment:
   6pm - 9pm Dec 4, 2008

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

Applicant  
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 REVOCATION OF THE PERMIT.

cc:  

3/27/01
Parade Assembly Area

Main Street

Belleview

School

Morton

Hackett

Paris

North
**ACORD CERTIFICATE OF LIABILITY INSURANCE**

**PRODUCER**: LOCKTON COMPANIES, LLC
525 W. Monroe, Suite 800
CHICAGO IL 60661
(312) 699-6800

**INSURED**: All Active US Rotary Clubs & Districts
Attn: Risk Management Department
1550 Sherman Ave.
Everton IL 60201-3698

**DATE (MM/DD/YY)**: 12/04/08

**INSCRIBER A**: American Home Assurance Company
**INSURER B**: Illinois National Insurance Company
**INSURER C**: 
**INSURER D**: 
**INSURER E**: 

**COVERAGE**

The policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Aggregate limits shown may have been reduced by paid claims.

<table>
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<tr>
<th>TYPE OF INSURANCE</th>
<th>POLICY NUMBER</th>
<th>POLICY DATE</th>
<th>LIMITS</th>
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<tr>
<td>GENERAL LIABILITY</td>
<td>GL 7218113</td>
<td>7/1/2008</td>
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<tr>
<td>COMMERCIAL GENERAL LIABILITY CLAIMS MADE</td>
<td>GL 7218113</td>
<td>7/1/2008</td>
<td>1,000,000</td>
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<td>OCCUR</td>
<td>7/1/2009</td>
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<td>GENERAL AGGREGATE LIMIT APPLIED PER:</td>
<td>1,000,000</td>
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<td>LIQUOR LIABILITY</td>
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<td>INCLUDED</td>
<td>1,000,000</td>
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| AUTOMOBILE LIABILITY | GL 7218113 | 7/1/2008 | 1,000,000 |
| ANY AUTO |       |
| ALL OWNED AUTOS |       |
| SCHEDULED AUTOS |       |
| HIRED AUTOS |       |
| NON-OWNED AUTOS |       |

| GARAGE LIABILITY | NOT APPLICABLE |       |

| EXCESS LIABILITY | BE 103 01 31 | 7/1/2008 | 5,000,000 |
| OCCUR |       |
| CLAIMS MADE |       |
| X |       |
| OCCUR | 7/1/2009 |       |
| X |       |
| UMBRELLA FORM |       |
| RETENTION |       |
| $ |       |

| WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | NOT APPLICABLE |       |

**DESCRIPTION OF OPERATIONS/Locations/Vehicles/Exclusions Added by Endorsements/Special Provisions**

The certificate holder is included as Additional Insured where required by written contract or permit subject to the terms and conditions of the General Liability policy, but only to the extent bodily injury or property damage is caused in whole or in part by the acts or omissions of the insured.

**CERTIFICATE HOLDER**

City of Porterville

**CANCELLATION**

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the certificate holder named to the left, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.

**AUTHORIZED REPRESENTATIVE**

[Signature]

ACORD 25-S (7/97) © ACORD CORPORATION 1998

[Signature] 10-22-08
COUNCIL AGENDA: November 4, 2008

SUBJECT: Scheduling of Meetings of the City Council, to Include Zoning Ordinance Update, Priority Project Review and Goal Setting, and First Meeting of January 2009

SOURCE: Administration

COMMENT: To assist in the scheduling of meetings of the City Council in consideration of requested accommodations, it is the recommendation of staff to schedule the following meetings of the City Council:

   It is recommended by staff that a significant portion of the Scheduled Matters section of this regular meeting of the Council would be devoted to providing the Council a review of progress to date toward the Zoning Ordinance Update.

2. Priority Project Review & Goal Setting – Wednesday, December 10, 2008; 6:00 P.M.
   It is recommended by staff to schedule this annual special meeting of the Council to include the annual review of the Council’s Priority Projects, as well as the establishment of goals for the 2009 calendar year.

3. First Meeting of January 2009 – Tuesday, January 20, 2009
   It is recommended by staff that, due to the upcoming holiday season, the regular first meeting of the Council scheduled for January 6, 2009 be canceled, making January 20, 2009 the first regular meeting of the Council for that month of January.

RECOMMENDATION: That the City Council accept staff recommendations in the scheduling of meetings of the City Council.

ATTACHMENTS: None
SUBJECT: PROPOSED CHANGE IN THE TABLE OF ORGANIZATION WITHIN THE POLICE DEPARTMENT

SOURCE: Administrative Services

COMMENT: At its regular meeting on October 21, 2008, the City Council approved the staff recommendation to proceed toward taking responsibility for animal control enforcement within the City of Porterville. Accordingly, the Police Department has proposed a change in the Table of Organization, which would create the position of Animal Control Officer and authorize the hire of one (1) full-time individual, which would be accomplished within current budget authorization.

To effect this change, the enclosed draft Resolution has been prepared for the Council's consideration.

RECOMMENDATION: That the City Council:

1. Adopt the attached draft Resolution authorizing a change in the Table of Organization and amending the Position Allocation Schedule and Position Pay Plan of the City's Employee Pay and Benefit Plan;

2. Authorize the establishment of one (1) Animal Control Officer classification at salary range 142 ($2,706 - $3,301), effective November 4, 2008, modify the Classification Plan; and

3. Authorize the Mayor to execute these and other documents necessary to implement the provisions hereof.

ATTACHMENT: Draft Position Description
Draft Resolution

Dir. Appropriated/Funded C/M Item No. 16
RESOLUTION NO. ____ - 2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE PROVIDING FOR THE CHANGE IN THE TABLE OF ORGANIZATION WITHIN THE POLICE DEPARTMENT

Whereas, the City Council has acted to provide for the reorganization and staffing allocation of the Police Department; and

Whereas, the reorganization and change in staffing allocations of City departments is periodically beneficial to enhance the economy and efficiency of City operations; and

Whereas, the City Manager has considered the current organization and staffing levels of the Police Department, and in consultation with the Department Director has defined an organizational structure that will enhance organizational integration and effectiveness; and

Whereas, the 2008-2009 General Fund Budget is amended to reflect changes in the administration budgets for the Police Department; and

Whereas, this organizational structure and budget amendment has been recommended to the City Council for consideration and adoption to be implemented.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville as follows:

Amend Section II, Position Allocation Schedule and Position Pay Plan of the Employee Pay and Benefit Plan to reflect:

1. The creation of the classification of Animal Control Officer and allocation of one (1) position in the Police Department.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

______________________________
Patrice Hildreth, Chief Deputy City Clerk
ANIMAL CONTROL OFFICER

DEFINITION
Under general supervision, performs a variety of duties involved in the enforcement and communication of State and local laws, codes, ordinances, and regulations pertaining to the care, keeping, treatment, and control of animals; to respond to calls and patrol the City for animal control related problems; prepare accurate records and reports pertaining to such activities; and performs related duties as required.

REPRESENTATIVE DUTIES
The duties listed below are examples of the work typically performed by employees in this class. An employee may not be assigned all duties listed and may be assigned duties which are not listed below. Marginal duties (shown in italics) are those which are least likely to be essential functions for any single position in this class.

1. Patrol assigned areas; pursue animals by vehicle and on foot; capture and impound unlicensed, stray, and vicious animals; snare animals using special devices; cage or secure animals in Animal Control vehicles. Examine captured animals for illness or injury; handle and properly transport sick or injured animals to veterinarian for medical treatment; take proper measures to ensure that the animal will receive proper care and treatment.

2. Remove dead animals from roadways and other areas using special devices; properly dispose of dead animals. Investigate reports of complaints of animals creating nuisances and take appropriate actions; investigate reports of violations including inhumane care or neglect of and cruelty to animals, dog bite incidents, and vicious dog attacks; investigate the inhumane care of animals in homes, pet shops, exhibitions, or occult activity.

3. Issue citations and warnings to enforce State laws and City animal regulations. Conduct investigations, interview witnesses, victims and animal owners to determine if violations have occurred. Interact with the public to solve animal related problems.

4. Recognize and impound diseased animals; quarantine animals that are known or suspected of inflicting an animal bite on a person; impose quarantine procedures and provide follow-up contact to ascertain if the animal is showing any signs of sickness or rabies; file report with the Health Department.

5. Prepare reports and maintain accurate records, logs, and files of the animals and activities. Prepare cases and complaints for court action; testify in court.

6. Answer questions and provide public education regarding laws, enforcement procedures, humane animal care and services, and owner responsibilities. Assist Police Officers and other agencies in taking pets into protective custody resulting from a death, arrest, or other emergency. Capture and impound wildlife for relocation or euthanization.

7. Operate computers to input and retrieve data and information.
8. Safely operate and maintain the Animal Control vehicle and specialized equipment used in the capture, transport, and treatment of animals including tranquilizing equipment and traps. Perform related duties as directed.

EMPLOYMENT STANDARDS

Education and/or Experience
High School Diploma or GED; and two years of experience in customer service and animal care and handling are desirable; or an equivalent combination of education, training and experience.

Knowledge of:
Basic methods of animal collection, care, and disposal; occupational hazards and standard safety practices necessary in the area of animal capture and control; principles and procedures of record keeping; principles of basic report preparation; principles and practices used in dealing with the public; modern office practices, methods, and computer equipment; and safe driving principles and practices.

Skill in operating: modern office equipment, including computer equipment; necessary tools and devices to capture and immobilize animals; a radio; and a motor vehicle safely.

Techniques for communicating effectively orally, and through written expression, experience providing information, such as explaining rules and regulations to the public, preferably in the handling, care and control of animals. Applicable State and local laws, regulations and ordinances; the physical and behavioral characteristics of animals; breed identification; the symptoms of rabies and other common animal diseases; the safe and accurate handling of animal control equipment; the various techniques of safe and humane euthanasia of animals.

Ability to:
Learn and apply State and local laws, regulations, and ordinance pertaining to animals; obtain cooperation and compliance from members of the public; analyze a situation and adopt a course of action; exercise tact and independent judgment in dealing with the public; prepare clear and concise reports; present a positive public image; develop and maintain working relationships with co-workers, agencies and organizations; handle sick, injured, dangerous, or dead animals and decomposing animal carcasses in a safe and humane manner; euthanize dangerous, sick, or unwanted animals; understand and follow oral and written instructions; safely drive a vehicle; perform other tasks as assigned; and work independently. Work irregular days and hours and under inclement weather conditions; work standby assignments during off duty hours and be subject to call back.

Special Requirements
Possession of or ability to obtain a valid California Driver’s License;
Must be 18 years of age and be able to pass an extensive background check;
Ability to complete and obtain a certificate of completion of 832 PC Course- Basic laws of arrest

Physical Demands
While performing the essential functions of this job the employee is regularly required to stand, walk, reach with hands and arms, climb or balance, stoop, kneel, crouch, or crawl, and lift and/or move up to 100 pounds. While performing the essential functions of this position, the employee is frequently exposed to fumes, odors, or airborne particles, toxic or caustic
substances, excessive noise, temperature extremes, vehicular traffic, dampness/humidity, confrontational persons, animals, and various forms of wildlife.

**Working Conditions**
Exposure to hostile or dangerous animals. Incumbents are expected to work in the field a majority of the time, and will spend an equal amount of time, standing, walking and sitting. Exposure to conditions such as dust, fumes, odors, and noises. Periodic contact with angry and upset individuals. Incumbents will be required to wear a uniform. Independent travel throughout the area is required. Availability to work a flexible schedule including nights, weekends and/or holidays, and rotational stand-by duty as required.

Date Adopted:
CITY COUNCIL AGENDA: NOVEMBER 4, 2008

PUBLIC HEARING

SUBJECT:  PARKWAY TREE AND LANDSCAPING ORDINANCE

SOURCE:  COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT:

The Parkway Tree and Landscaping Ordinance is an implementation tool of the recently adopted 2030 General Plan to establish landscaped parkways along major streets and in new developments and insure the proper installation, protection, and maintenance of these areas.

BACKGROUND:

In July of 2007, as the 2030 General Plan was being prepared, the City Council considered, and debated at a public meeting, a number of different options for street cross sections to guide new development. At the heart of the debate was whether landscaped parkways should be included along new streets (between the streets and the sidewalks) or whether the sidewalks should be constructed adjacent to the streets with the landscaping contiguous to private property behind the sidewalks. Although it was generally agreed upon that landscaped parkways usually require a greater degree of maintenance, that the value of the parkway areas, both in aesthetic appeal, energy savings from reduction of the “heat island” effect, and in functional separation between pedestrians and motorists, outweighed the cost. Landscaped parkways were subsequently included in the General Plan Circulation Element that was adopted in March earlier this year. In order to implement this plan, additional attention is needed to the Zoning Ordinance to clarify how these parkways are to be installed and maintained.

ANALYSIS:

Composition

The attached draft of the Ordinance (Attachment 2) contains the existing provisions for street tree installation and maintenance along with additional provisions that are underlined for your convenience.

Installation

The adopted street cross sections in the 2030 General Plan indicate which streets are to have landscaped parkways, and what the ideal dimensions are for the improvements (see Attachment 1 to this report). These improvements are intended for new developments, subdivisions, and major streets. It is not staff’s expectation that the City would require a landscaped parkway for an existing project or site where there is currently no landscaped parkway adjacent to the site.

Installation of all street trees would be dependant on approval by the City of Porterville’s Parks and Leisure Services Committee and be required to be planted in a way that would minimize potential damage to sidewalks and other nearby improvements.

[Signatures]

[Appropriated/Funded]  [CM]  [Item No. 17]
Maintenance

The maintenance of the landscaped parkways and street trees includes watering, pruning, and maintaining the trees and landscaping, as well as the repair of damaged improvements caused by trees or otherwise. This would include root damage to curb, gutters, sidewalks and infrastructure. There are really two (2) primary options to pursue in deciding who is responsible for the maintenance of street trees. They are as follows:

1. The City would be responsible for all maintenance and repairs. This option would require significant additional resources and staff.

2. The adjacent property owner would be responsible for all maintenance and repairs. Since the desired parkways are generally targeted for new developments only, the majority of these areas could be maintained by a homeowner’s association or other type of assessment district.

Staff examined successful parkway programs in other communities and consulted with staff from the City of Visalia, who have been administering a successful parkway installation and maintenance program since 2004. Visalia currently requires that adjacent property owners be responsible for the maintenance of parkway trees and repairs to damaged caused by parkway trees to city infrastructure including streets, sidewalks, curbs, gutters, sewer lines, water lines and other utilities. In new neighborhoods, developers install the trees per the installation standards and homeowners are supposed to be notified of their responsibilities to maintain the trees and improvements. According to the staff at the Visalia Public Works Department, there have not been significant problems with the ordinance as it is written.

Staff presented this item to the Parks and Leisure Services Commission on October 2, 2008 to receive comments. Comments from the Commission were mixed, some in support while others were opposed to certain aspects of the ordinance. From this meeting, staff noted the following comments:

1. Instead of requiring Commission approval of trees planted within ten (10) feet of any street right of way line, it should be applied to trees planted within ten (10) feet of any sidewalk or walkway, and not necessarily include the five (5) foot landscaping strips required along sidewalks as part of commercial projects.

2. Porterville does not currently have restrictive tree ordinances and the potential for consistent tree selection and placement will benefit the community.

3. There is a concern with the lack of funding and resources to have the City take on the burden of maintenance of all parkway areas.

4. There is a concern with requiring individual property owners to be responsible for maintenance of trees and improvements.

ENVIRONMENTAL: This proposal qualifies as a Class 8 Categorical Exemption from the California Environmental Quality Act. No further environmental review is needed.
RECOMMENDATION: That the City Council:

1. Approve the proposed Ordinance Amendment and give first reading to the draft ordinance; and

2. Waive further reading of the draft ordinance, approve the Parkway Tree and Landscaping Ordinance, and order to print.

ATTACHMENT: Attachment 1 – Adopted General Plan Street Cross Sections
Attachment 2 – Draft Ordinance
ORDINANCE NO. ____________

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE AMENDING CHAPTER 19 ARTICLE II
OF THE MUNICIPAL CODE REGARDING PARKWAY TREES

WHEREAS: On March 4, 2008 the City Council of the City of Porterville adopted a comprehensive General Plan Update; and

WHEREAS: The Circulation Element of the adopted General Plan includes policies to facilitate the development of landscaped parkways along major streets and in new projects; and

WHEREAS: The City of Porterville Municipal Code currently has standards and regulations for the installation and care of parkway trees; and

WHEREAS: That additional clarification and provisions are needed to amend the Municipal Code to implement and maintain the desired improvements; and

WHEREAS: Significant efforts were made to involve the public in the creation of this ordinance; and

WHEREAS: A public hearing was held before the City Council on November 4, 2008, pursuant to the Planning and Zoning Law of the State of California and the Municipal Code of the City; and

WHEREAS: The project qualifies as a Class 8 Categorical Exemption from the California Environmental Quality Act, therefore no further environmental review is needed.

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does hereby amend the Porterville Municipal Code to include what is attached hereto and incorporated herein by reference as Exhibit A.

This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED APPROVED AND ADOPTED this 4th day of November, 2008.

______________________________          ATTEST:
Cameron Hamilton, Mayor                      John Longley, City Clerk

By ____________________________
Patrice Hildreth, Chief Deputy City Clerk

ATTACHMENT
ITEM NO. 2
Article II. Parkway Trees

19-31: Purpose

The purpose of this chapter is to promote and regulate the planting, long term care, maintenance, and protection of street trees within the city.

19-32: Definitions

For the purposes of this chapter, the words and terms used herein are defined as follows:

“City” means the City of Porterville

“Commission” means the City of Porterville Parks and Leisure Services Commission

“Crown Drip line” means the outer perimeter of a tree’s canopy.

“Director” means the City of Porterville Parks and Leisure Services Director.

“Parkway” means that area of the public right of way that is between the back of curb, or edge of pavement if no curb, and the right of way line that is not covered by sidewalk. A parkway can also mean a tree well that is within a sidewalk.

“Parkway Tree” means any tree or other plant, other than ground cover, located within a parkway.

“Person” means individuals, associations, corporations, public agencies, joint ventures, partnerships, contractors, and other agents or employees.

“Property Owner” means the owner of property directly adjacent to the public right-of-way.

“Public Improvement” means any street paving, curbs, gutters, sidewalks, water pipes and appurtenances, sewer pipes and appurtenances, driveways or any other publicly owned facility located in a publicly owned street right-of-way, easement or on private property.

“Street means any public street, way, place, alley or other public property owned or controlled by the city for the present or future use of pedestrians or vehicles.

“Street Tree” means any tree that is located within the public right of way, or any tree within a street tree easement in or adjacent to the public right-of-way.

“Top” means the severe cutting back of limbs to stubs larger than three (3) inches in diameter within a tree’s crown drip line to such a degree so as to remove the normal canopy and disfigure the tree.
19-33: Street tree guidelines

The City of Porterville is authorized to develop and administer guidelines for the care, preservation, pruning, planting, replanting, removal or disposition of street trees. These guidelines shall be adopted by resolution of the City Council. The Commission’s recommendation shall be considered when adopting the guidelines. The guidelines shall include an authorized species list, spacing guidelines for each authorized species, specifications for street tree planting, and specifications for nursery stock quality of street trees. The guidelines shall be periodically reviewed and updated as needed.

19-34: Tree Planting

A. No parkway tree shall be planted by any person without prior approval in writing of the Director.

B. It is unlawful for any person to plant or maintain any tree within ten (10) feet of any public sidewalk, street, or curb, exclusive of alleys, without approval of the Director or as part of a discretionary permit approval. Any person planting or maintaining trees contrary to this section may be required, after notice and hearing by the Commission, to remove said tree or perform such corrective measures as may be deemed necessary by the commission.

19-35: Protection and maintenance of street trees

No street tree shall be altered, pruned, or removed except in accordance with the provisions of this chapter and the adopted street tree guidelines. No person shall cause any substance or material to be on or near a street tree which shall restrict its natural growth or shall cause it damage. No person, without the approval of the Director, shall place or maintain any stone, cement or other substance so that it shall impede the free access of water or air to the roots of any parkway tree.

Attachment to trees

No person, without the approval of the Director, shall attach or keep attached to any parkway tree, or to the guard or stake intended for the protection thereof, any wire, rope, sign, or any other device whatsoever.

19-36: Topping

Except as necessary to insure public safety or as authorized by the Director, no person shall top any street tree or other tree located on public property. Trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the discretion of the Director.
19-37: Interference prohibited

No person shall interfere with the Director or persons acting under his authority while engaged in planting, mulching, pruning, trimming, spraying, or treating or removing any parkway tree of the city, or in the removing of any stone, cement or other substance from about the trunk of any parkway tree.

19-38: Protection during construction

Street trees shall be protected to the extent possible from damage during construction, sidewalk repair, repair of utility structures and facilities above and below ground, and other similar activities by the person conducting the construction or activity. The zone of protection shall include the ground beneath the crown dripline of the tree. Protection measures shall be included in building permit applications when building permits are required for construction.

19-39: Responsibility for care and maintenance

All watering and trimming of street trees for maintenance and beauty shall be the responsibility of the adjoining property owner, unless these responsibilities are fulfilled by a funding program authorized by the city, such as, but not limited to, a Homeowner’s Association or similar Assessment District.

19-40: Trimming heights

Notwithstanding other provisions of this chapter, property owners shall keep street trees adjoining their property and all private trees trimmed up to a height of not less than twelve (12) feet over a street or alley, and up to a height of not less than ten (10) feet over the parkway and sidewalk.

19-41: Trimming specifications

All street trees shall be pruned in accordance with American National Standards Institute (ANSI) A300 standards, as amended from time to time. A copy of the standards shall be maintained by the Director and made available for review upon request.

19-42: Protection of rights-of-way

Property owners shall keep public rights-of-way adjacent to owner’s property clear of debris.

19-43: Quality of street trees

New plantings of street trees shall be in accordance with the street tree guidelines for nursery stock quality.
19-44: Replacement of street trees

Street trees removed by the Director or by natural causes shall be replaced on-site, on a one-for-one basis. The location and species of any replacement tree shall be determined by the Director.

19-45: Removal of stumps

All stumps of removed street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

19-46: Responsibility for repair of curb, gutter and sidewalk

Repair and/or replacement of curb, gutter, and sidewalk damaged by a tree is the responsibility of the adjoining property owner.

19-47: Responsibility for repair of water services

Repair and/or replacement of water lines and other water infrastructure, between the water meter and the structure, damaged by a tree shall be the responsibility of the adjoining property owner.

19-48: Responsibility for repair of sewer laterals

Repair and/or replacement of sewer laterals damaged by a tree shall be the responsibility of the adjoining property owner.

19-49: Plantings in new developments

In new residential, commercial, and industrial developments, the developer shall plant street trees in the size, number, manner, and type required by the street tree guidelines and the city improvement standards. Funding for long term maintenance and care of the street trees, and repair to infrastructure damaged by the street trees, in new developments shall be provided through a Homeowner’s Association or a similar Assessment District.

19-50: Street trees under utility lines

Street trees planted under utility lines shall be of an approved species specified in the street tree guidelines.

19-51: Public health, safety and welfare

The Director shall have the right to plant, prune, maintain, spray and remove trees, plants and shrubs within public rights-of-way, as may be necessary to insure public safety and pedestrian clearance, and the long term health of the trees.
**19-52: City’s right to remove street trees**

No person shall severely prune, remove, injure or interfere with any parkway tree without a permit therefore from the Director.

A. **The Director may remove parkway trees at city expense for the following reasons:**

1. Trees threatening an immediate hazard to persons or property;
2. Trees directly in the way of the construction of public improvements;
3. Dead trees.

B. **The Director may authorize the removal or alteration of parkway trees at the property owner’s expense or at the expense of other than the city when said removal or alteration is, in the opinion of the Director, necessary to permit the alteration, repair, demolition or moving of any structure.**

C. **The Commission may authorize the removal of parkway trees at city expense for the following reasons:**

1. Dying, decayed or potentially hazardous trees;
2. Trees diseased beyond reclamation;
3. Trees causing a visual hazard to the traveling public;
4. Trees hosting economically undesirable insects or diseases.

D. **The Commission may authorize the removal of parkway trees at the expense of the property owner, or other than the city, for the following reasons:**

1. For property improvement when the Commission finds that a better or more suitable planting may be developed;
2. For thinning to proper spacing;
3. When the removal is for the purpose of repairing public improvements;
4. For a more desirable planting or conformance with the approved tree list.

E. **The Director shall advise the Commission of all removals authorized by the Director under this section.**

F. **It is the intention of the City Council to facilitate the planting of new trees whenever trees are removed, and to bring about the repair of public improvements damaged by parkway trees. In order to effect these purposes the Commission or Director shall, whenever practicable, require the following actions to be performed by the affected person as part of any removal authorization:**

1. Replacement of tree with a new tree of appropriate size;
2. Repair of any public improvements damaged by the tree to be removed.
The said replacement of tree or repair of public improvements specified in
subsections A and B of this section shall be agreed upon in writing by the
affected person prior to any removals hereunder, in a form approved by
the City Attorney.

G. The Director may refer any matter within the scope of subsections A and B of this
section to the commission as he deems appropriate.

H. All authorization for tree removals granted under this section shall be valid for
thirty (30) days following the date of said authorization.

I. As an alternative to the preceding procedures, the Commission may require a fee
equal to the cost of replanting a Parkway tree or trees that have been approved for
removal by the Commission equal to the sum of the cost of materials and labor for
said replacement.

19-53: Unauthorized removal of Parkway trees; procedure for replacement

A. The owners of lots or portions of lots fronting on any portion of a public right of
way or roadway who has removed, or caused to be removed, any Parkway tree
shall, within thirty (30) days following notice to replace, cause said tree to be
replaced with a variety of tree approved by this article.

B. Notice to replace may be given by delivering a written notice personally to the
owner or to the person in possession of the property facing upon the Parkway
where said tree has been removed, or by mailing said written notice, postage
prepaid, to the person in possession of such property, or to the owner thereof, at
his last known address as the same appears on the last equalized assessment
records of the City of Porterville or to the name and address of the person owning
such property as shown in the records of the City Clerk. Said written notice shall
contain a notice to replace said tree and the director shall immediately upon
mailing of the notice cause a copy thereof, printed on a card of not less than eight
inches by ten inches (8" x 10") in size, to be posted in a conspicuous place on the
property.

C. The notice shall particularly specify the types of trees that are permitted for
replacement and in the event any public improvement has been damaged by the
tree removal, the notice shall specify the work of public improvement that is to be
done, how it is to be done and what materials shall be used in the repair; it shall
further specify that if the tree is not replaced and the repair is not commenced
within thirty (30) days after notice is given and diligently and without interruption
prosecuted to completion, the Director shall make such repair and replacement
and the cost of the same shall be a lien on the property.

D. Upon completion of the replacement and repair by the City of Porterville, the
Director shall cause notice of the cost of repair and replacement to be given in the
manner specified in this section for the giving of written notice, which notice shall specify the day, hour and place when the city council will hear and pass upon a report of the Director of the cost of repair and replacement, together with any objections or protests, if any, which may be raised by any property owner liable to be assessed by the provisions of this section or any other interested person.

E. Upon completion of the repair and replacement, the Director shall prepare and file with the City Council a report specifying the trees which have been replaced and the public improvements which have been repaired, the cost of the tree replacement, the cost of the repairs, a description of the real property in front of which the repairs have been made or trees replaced, and the assessment against each lot or parcel of real property to be levied to pay the cost thereof. Any such report may include the cost of repairs or tree replacement of any number of parcels of property whether contiguous to each other or not.

F. Upon the day and hour fixed for the hearing, the City Council shall hear and pass upon the report of the Director together with any objections or protests which may be raised by any of the property owners liable to be assessed for the replacement of a parkway tree and for the work of making such repair and any other interested person. Thereupon the City Council may make revision, correction or modification in the report as it may deem just, after which, by motion or resolution, the report as submitted or as revised, corrected or modified shall be confirmed. The City Council may adjourn the hearing from time to time. The decision of the City Council on all protests and objections that may be made shall be final and conclusive.

G. The cost of tree replacement and the cost of repair, if any, may be assessed by the city council against the parcel of property fronting upon the parkway where such tree has been replaced and repairs made, and cost so assessed, and if not paid within five (5) days after its confirmation by the legislative body, shall constitute a special assessment against that parcel of property and shall be a lien on the property for the amount thereof, which lien shall continue until the assessment and all interest thereon is paid or until it is discharged of record.

H. The Director may file in the Office of the County Recorder of Tulare a certificate giving notice of the lien and a description of the real property so assessed and the amount of the lien.

I. The lien shall be collected at the time and in the manner as ordinary city taxes are collected and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary city taxes. All laws applicable to the levy, collection and enforcement of city taxes and county taxes are hereby made applicable to such special assessment and lien.

19-54: Tree removal; public utilities, and others
Any person maintaining any overhead wires, pipes, or underground conduits or appurtenances along or across any street desiring to have any parkway tree trimmed, pruned or removed in connection with the maintenance of its facilities may file with the director a written request that such work be done. Such request shall describe the work desired to be done, and it shall be within the discretion of the Director to require a written agreement upon the part of the petitioner to pay the cost thereof and to do such work in the way stipulated by the Director before the issuance of any permit hereunder, including the replacement of any trees removed hereunder.

19-55: City’s right to perform maintenance

The Director shall have the right to prune a tree overhanging any street or right-of-way within the city so that branches shall not severely obstruct the light from any street lamp or intersection, and so that there shall be a clear space of twelve (12) feet above street surface or ten (10) feet above the parkway and sidewalk surface. The Director may enter upon and may prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign or sight triangle at intersections.

19-56: Utility company’s right to perform maintenance

Tree limbs growing near overhead lines and utility facilities may be pruned to clear such facilities by the affected utility company in compliance with applicable franchise agreements with the city.

19-57: City right to remove obstructions in right-of-way

If, in the director's opinion, a real and significant vehicular sight line or pedestrian obstruction or hazard is created by shrubs, hedges, and similar vegetation, within the parkway, the adjoining property owner shall be required upon notification, to satisfactorily correct the situation within thirty (30) days. Upon failure of the property owner to comply with written notice, the director will cause such obstructions to be removed and will bill the property owner for all costs involved.

19-58: Street tree removal permits

The director shall establish a permit system to be used to authorize street tree removal. The director shall use his or her discretion with respect to tree removal permits as governed by this chapter and by the street tree guidelines. No person will be authorized to remove trees covered by this chapter without first having received a permit to do such work. Permits shall not be valid for a period longer than thirty (30) days from issuance date. Exceptions, in the discretion of the director, shall be those permits issued to public utilities serving the area, which permits may be valid for a period of one year.

19-59: Abatement of trees causing obstruction
A. Generally: It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be ten feet (10') over sidewalks, and twelve feet (12') over all streets except truck thoroughfares which shall have a clearance of sixteen feet (16').

B. Notice To Prune: Should any person or persons owning real property bordering on any street fail to prune trees as hereinabove provided, the Director shall order such person or persons, within ten (10) working days after receipt of written notice, to so prune such trees.

C. Order Required: The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.

D. Failure To Comply: When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the municipality to prune such trees, and the exact cost thereof shall be assessed to the owner. The Administrative Services Director or designee shall, at the appropriate time each year, cause to be filed with the Tax Assessor of the county a description of the property together with the name of the owner or reputed owner thereof against which such special assessment shall be made, and the installment then due and unpaid with accruing interest, may be assessed as taxes against the owner or reputed owner of the real property, and the amount of money so assessed shall bear the same penalties and interest as taxes regularly assessed on default of payment thereof.

19-60: Appeal to council

Any interested person may appeal, in writing, a decision of the Director regarding a removal permit, setting forth his/her reason(s) for such appeal to the Commission. Such appeal shall be filed with the city clerk within ten (10) business days after the notice of the Director’s decision.

Any interested person may appeal a decision of the Commission to the City Council if a request therefore is filed with the City Clerk within ten (10) days after notice of the Commission’s decision. The appeal shall be placed on the agenda of the Council’s next regular meeting after the appeal is filed. If the appeal is filed within ten (10) business days of the council’s next regular meeting, the appeal shall be placed on the agenda of the council’s second regular meeting following the filing of the appeal. It shall be the duty of the Director to notify the property owner or other affected person of the time and place any appeal will be heard, such notice to be given at least ten (10) days prior to said
hearing. The council shall consider the appeal and uphold, reverse, or modify the
decision of the director. The decision of the council shall be final.

19-61: Liability

Nothing in this chapter shall impose any liability upon the city, or members of the
council, or any of its officials or employees, nor relieve the property owner or occupant
of any private property from the duty to keep his or her private property, sidewalks, and
rights-of-way abutting such private property in a safe condition.
PUBLIC HEARING

SUBJECT:  HIGHWAY WALL AND LANDSCAPING ORDINANCE

SOURCE:   COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT:

The Highway Wall and Landscaping Ordinance is an implementation tool of the recently adopted 2030 General Plan to establish a consistent and attractive series of subdivision walls along Porterville’s highways and insure their continued maintenance. The proposed ordinance is an addition to the existing Zoning Ordinance (Section 2617.B).

BACKGROUND:

The 2030 General Plan was adopted on March 4, 2008 and contained the following pertinent policies that apply to the need for a concerted effort to improve the appearance along our highways as the principal gateways into our community:

- ED-G-7 “Create an image for Porterville that will attract and retain economic activity.”
- ED-I-34 “Adopt an architectural style and set of design guidelines for new development to establish a recognizable physical identity for Porterville.”
- C-G-5 “Improve the scenic character of transportation corridors in the City.”
- C-I-7 “Require street tree planting as part of an urban forestry program”

ANALYSIS:

The attached draft ordinance contains existing Section 2617 with additional provisions added to paragraph C to achieve the following regarding new subdivision walls that front our state highways:

- That walls be constructed of decorative, split face block
- That walls be brown in color as per the approved colors
- That walls include decorative columns, spaced no more than sixty (60) feet apart with stone veneer
- That walls be capped
- That landscaping be provided along the walls to screen and prevent graffiti
- That proper spacing and access be provided to maintain said landscaping
- That maintenance of walls and landscaping be provided by the developer or by an assessment district.

[Signature]

Dated: Appropriaed/Funded: CM: Item No. 18
Existing Walls and Fences along State Highways in Porterville
ORDINANCE NO. ______________

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE AMENDING SECTION 2617
OF TO THE ZONING ORDINANCE REGARDING
HIGHWAY WALLS AND LANDSCAPING

WHEREAS: On March 4, 2008 the City Council of the City of Porterville adopted a comprehensive General Plan Amendment; and

WHEREAS: The Economic Development Element and Circulation Element of the adopted General Plan includes policies encouraging the development of uniform attractive walls and landscaping along state highways in the community; and

WHEREAS: The City of Porterville Municipal Code currently has standards and regulations for the installation of highway walls; and

WHEREAS: That additional clarification and regulation is needed to the Municipal Code to implement and maintain the desired improvements; and

WHEREAS: Significant efforts were made to involve the public in the creation of this ordinance; and

WHEREAS: A public hearing was held before the City Council on November 4, 2008, pursuant to the Planning and Zoning Law of the State of California and the Municipal Code of the City; and

WHEREAS: The project qualifies as a Class 8 Categorical Exemption from the California Environmental Quality Act, therefore no further environmental review is needed.

NOW, THEREFORE, BE IT ORDIANED: That the City Council of the City of Porterville does hereby amend the Porterville Zoning Ordinance to include as follows:

2617: FENCE REQUIREMENTS FOR SEPARATION OF RESIDENTIAL USES FROM NONRESIDENTIAL USES:

A. A masonry block wall six feet (6') in height shall be constructed and maintained on the side and/or rear lot line where a nonresidential use abuts a residential use or zone where there is no alley. If the residential use developed prior to the nonresidential use, a six foot (6') high wood fence may be constructed. The masonry wall footing, when constructed, shall comply with city standard plan B-1b. The narrow offset portion of the masonry wall footing shall abut the existing wood fence posts, or close thereto. The gap between the fence shall be sealed with a top rail approved by the city engineer. A condition of approval may be imposed
upon the developer of the nonresidential use to work with the adjacent property owner to eliminate the abutting and parallel wood fence. Said wall shall be constructed concurrently with the nonresidential development. Those uses subject to a conditional use permit may be evaluated to determine applicability of the wall requirement.

B. In locations where a residential use is being developed adjacent to an existing nonresidential development, the residential development shall construct a wall within the residential development if one does not already exist. The property line between residential and nonresidential use shall be developed with a six foot (6') high masonry block wall. Subject masonry block wall shall step down to forty two inches (42") in height from the side property line intersecting the front property line to a depth equal to the required front or side yard setback of the abutting residential use in order to provide for safe line of sight for vehicular traffic. The design of such improvements shall be approved by the city engineer.

C. Where a residential use abuts state highway rights of way or state highway frontage road rights of way, a masonry block wall at least eight feet (8') in height from finished grade shall be installed along that frontage, unless an acoustical analysis verifies that an appropriate height greater or lesser than the eight feet (8') is warranted, subject to the approval of any conditional use permit, parcel or subdivision map or any applicable development identified in subsection 2619A3 of this article. The design of such improvements shall be approved by the city engineer.

Such masonry block wall shall be constructed of decorative, split-face block and brown in color per the approved colors maintained in the Community Development Department. The wall shall include decorative columns, spaced no more than sixty (60) feet apart, with stone veneer. The entire wall, including the columns, shall be capped on top. Figure 1 below contains an example of how this should look:

Landscaping shall be provided along these walls to include trees, shrubs, and vines in order to improve the aesthetics of the wall and prevent graffiti. Adequate land and access shall be provided to install and maintain such landscaping, to the satisfaction of the Parks and Leisure Services Director. Maintenance of wall landscaping shall be provided by the Developer, or by an assessment district established for said maintenance in perpetuity.
D. Wall height separating residential uses from nonresidential uses and public rights of way may be increased in height to accommodate adequate sound attenuation as required through the findings of an acoustical analysis prepared by an acoustical professional. The design of such improvements shall be approved by the city engineer.

E. Regardless of whether site design allows access to an alley, a block wall may be required based on the site design of the proposed parking lot, service area, or when other noise, light and glare generating uses are oriented toward a residential use. The wall design shall be approved as part of the project by the city engineer to ensure that adequate line of sight distance is provided.

F. The city engineer may approve new wall/fencing materials that become available in the future for use as an alternative to a masonry block wall based on its proven comparable properties for durability, sound, light, and glare attenuation. Topography, berming, and other alternative methods of mitigating the nuisance of noise and light might be considered at time of project review. (Ord. 1198, 5-6-1980; Ord. 1385 § 7, 8-18-1987; Ord. 1442 §§ 2, 3, 9-18-1990; Ord. 1678 § 3, 9-6-2005)
This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED APPROVED AND ADOPTED this 4th day of November, 2008.

_______________________________  ATTEST:
Cameron Hamilton, Mayor          John Longley, City Clerk

By _____________________________
Patrice Hildreth, Chief Deputy City Clerk
CITY COUNCIL AGENDA: NOVEMBER 4, 2008

TITLE: OPTIONS FOR DEALING WITH IMPROPERLY MAINTAINED ABANDONED OR FORECLOSED PROPERTIES

SOURCE: CITY ATTORNEY

COMMENT: State and local governments are facing unprecedented residential foreclosure rates. As a result there is a proliferation of abandoned and unkempt properties, which are having a negative impact on their surrounding neighborhoods and the entire local community in the form of blight, reduced property values, and potential increased health and safety risks. It should be noted that while the agenda item following this matter concerning the formation of a Mosquito Vector Abatement District was initiated long before the foreclosure problem in the California and the U.S. began, concerns have been voiced regarding whether the increase in “green pools” of foreclosed/abandoned properties create increased risks for larvae breeding, as well as the obvious dangers associated with murky pools and child safety.

Local governments throughout the State of California are reviewing and/or utilizing a variety of methods to address these issues. The “responsible party” for the property can vary depending on what stage the property is in terms of the foreclosure process, and each enforcement method has its advantages and disadvantages in this context. While there are many ways to address these problems, this office would like to present three methods that are currently available.

I. PRACTICAL AND AGGRESSIVE APPLICATION OF CURRENTLY AVAILABLE/AUTHORIZED CODE ENFORCEMENT REMEDIES

The City of Porterville currently has a number of remedies grounded in the principles of abatement of public nuisances. Consequently, it can utilize its administrative citation process, it can file a civil action to abate the nuisance, or it can file a criminal action and assess fines against the “property owner.” Furthermore there are state-authorized remedies it can utilize, most notably the use of “Receiverships” authorized pursuant to Health and Safety Code Section 17980.7 et seq. (and discussed in greater detail below). While many of these remedies, particularly civil actions/abatement or the administrative citation process, can be very affective with individual owner-occupants in good economic times, these remedies often have little effect when dealing with bank-owners or corporate trustees/service companies.
However, there is a combination of these remedies that can successfully get these particular "owners" attention – criminal convictions can affect a corporation's credit ratings. Corporate entities must appear in criminal court through an attorney, so defending these actions can get expensive for the corporation, and this can therefore result in compliance and dismissal before the first court date arrives. Furthermore, as part of the action restitution can be requested from prior enforcement including inspection fees, administrative citations issued, and potentially legal fees. If the criminal complaint is ignored, the city could also opt to file for a "Receivership." This involves a civil process wherein all parties with a recorded interest in the property are given notice. A hearing is held, and if granted a receiver (court appointed trustee) is appointed to take any and all action authorized by the court to remedy the substandard conditions on the property. Under this authority the receiver can borrow against the property to make the corrections. This lien takes precedence over any others, and the receiver can redeem the debt or the court authorizes sale at auction.

The most difficult aspect of applying these remedies to foreclosed properties is determining just who the "owner" or responsible party is. The foreclosure process typically begins with missed payments on a loan and the issuance of a Notice of Default. After at least 90 days, the trustee may serve a Notice of Trustee's Sale, but the trustee is not required to sell the property. A Notice of Default may be issued, and the trustee may then wait several years before doing anything. The property can sit vacant and unclaimed until a bank exercises its foreclosure rights. During this time a bank is likely to disclaim any obligation to maintain the property. Because of this ongoing problem, local jurisdictions are beginning to define "owner" or "responsible persons" to include Trustees under a Deed of Trust when a Notice of Default has been recorded and the property is vacant. Regardless of the direction taken by the Council, this office recommends a modification to its regulations to this effect.

There are also additional complications with determining the ownership of the property after a foreclosure. Many properties are held by a trust consisting of a pooled security, and securities are usually managed by a "servicer" which is essentially a company contracted to manage the loan/trust. The SEC maintains information concerning these trust and service companies, but they can still be very difficult to track down. These identification complications are one of the many reasons that many cities have either adopted or are in the process of adopting local registration ordinances (see below).

The other difficult aspect in implementing these remedies is that they can be cost and resource intensive for City staff, as well as the City Attorney’s office. While a substantial portion of the costs may be able to be recovered, there would be up front costs in establishing a more aggressive enforcement program, and a more intensive program directed at foreclosures would likely require a modification with regard to code enforcement staff priorities.
II. ABANDONED RESIDENTIAL PROPERTY REGISTRATION PROGRAMS

The skyrocketing foreclosure rates and complications with identifying the responsible parties in obtaining code enforcement compliance has led some cities (starting with Chula Vista last year) to implement programs that require beneficiaries and trustees (i.e. mortgage lenders) holding a legal interest under a deed of trust to register with the City on an annual basis, inspect defaulted properties to confirm that they are occupied, and if the property is vacant, the lenders must secure and maintain the property to the “neighborhood standard.” This includes keeping the property free of weeds, debris, graffiti, and keeping pools and spas in working order so that water remains clear and free of pollutants and debris or drained and kept dry. It also requires the proper security/fencing requirements for pools/spas. Under the regulations, a local management company must inspect a property on a monthly basis if it is in default but occupied. If it is vacant and owned by an “out of area” beneficiary or trustee it must be inspected weekly. The property must be posted with the name and 24-hour contact number of the company responsible for the inspection.

The point behind these requirements is to keep the city’s code enforcement department from having to spend its limited resources acting as a property manager, increase interaction with the neighborhood to deter the deterioration of the property, and to preserve the neighborhood. Chula Vista charges an annual registration fee of $70. Violations of the ordinance are enforced through the traditional remedies described in Section I., but the City does treat violations as “strict liability offenses,” meaning that no intent to violate is required.

Several area cities have either adopted this approach (e.g. Selma with a $200 annual fee, and Kerman with a $50 annual fee) or are considering it (Fresno is considering a similar option, but with no registration fee). The City of Stockton has adopted a local ordinance modeled after the Chula Vista ordinance, but without the registration requirement. The City of Stockton removed the registration requirement, reportedly due to the increase in city staff it would take to implement such a requirement. The City has instead opted to hire a research company to determine ownership of each property when there is a need to enforce its regulations. Because these ordinances are all relatively new, the extent of their effectiveness remains to be seen.

Due to some interest in this particular remedy, attached is a draft ordinance modeled after Fresno’s proposed regulations. Some additional tailoring would be needed to proceed, including some potential modifications to the City’s current regulations to ensure consistency.

III. NEW LEGISLATION – SB 1137

In July, the Governor signed an urgency bill that immediately implemented a variety of foreclosure reforms. The bills provide for greater communication between
mortgage lenders and borrowers before a Notice of Default can be filed, a requirement that loan restructuring options be explored prior to the initiation of foreclosure, extended time for tenants to move from foreclosed properties, and specifically requires the legal owner (including owners through a foreclosure under a mortgage or deed of trust) to maintain vacant residential property. Failure to do so can result in civil fines of up to $1,000 per day. The legislation requires that the City give notice of the violation and an opportunity to correct the violation at least 14 days prior to imposing the fines and penalties, and the City must provide a hearing for contesting fines and/or penalties. The fines collected must be directed to a local nuisance abatement program. If the City utilizes the remedy per this legislation, it may not impose other fines for the same violations under its regulations.

While this new legislation is helpful, it does not eliminate the ownership identity problem discussed above. This legislation does not require the approval of an additional local ordinance; however additional regulations clarifying the notice and hearing process would be helpful in its implementation.

CONCLUSION

Out of the options discussed above, this office believes that a registration program may be the most effective in the long run, given the difficulties in enforcement when the responsible parties are not identified. However, this recommendation should be considered in light of other practical concerns, such as allocation of staff time and resources. I recommend that any ordinance include (although likely not legally required unless the Council proposes to adopt a registration fee) a public hearing process.

RECOMMENDATION: That the City Council provide additional direction concerning the development of local regulations.

ATTACHMENTS: 1) Sample Draft Ordinance based on Ordinance proposed by City of Fresno 2) Chapter 15.60 of the Chula Vista Municipal Code and Registration Form for Abandoned Residential Property 3) Senate Bill No. 1137

\Julia\unkj\Porterville\general\magnforeclosures.doc
SAMPLE/DRAFT

ORDINANCE NO. _________

AN ORDINANCE OF THE CITY OF PORTERVILLE, CALIFORNIA
ADDING SECTION _________ TO THE PORTERVILLE MUNICIPAL
CODE, RELATING TO REGISTRATION OF VACANT
FORECLOSED PROPERTIES

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

SECTION 1. Section ___ of the Porterville Municipal Code is added to read as follows:
SECTION _____. REGISTRATION OF VACANT FORECLOSED PROPERTIES

(a) Intent and Purpose. The Council of the City of Porterville hereby finds and
declares that the current housing foreclosure crisis facing Porterville is
widespread and national in scope. It is the purpose and intent of the
Council of the City of Porterville, through the adoption of this ordinance, to
establish a vacant foreclosed property registration program as mechanism
to protect residential neighborhoods from becoming blighted through the
lack of adequate maintenance and security of vacant foreclosed
properties.

(b) Scope of Chapter. This Chapter shall apply to all vacant properties in the
City of Porterville that have come within ownership of control of a trustee
or beneficiary as a result of the default of the borrower and/or the
foreclosure process. This chapter shall also apply to properties where the
deed of trust was transferred to the beneficiary of a deed of trust involved
in the foreclosure and any properties transferred under a deed in lieu of
foreclosure/sale.

(c) Registration of Property. Any trustee or beneficiary holding a deed of trust
on a property located within the City of Porterville shall inspect the
property that is the security for the deed of trust, upon default by the
trustor, prior to recording notice of default with the Tulare County
Recorder. If the property is found to be vacant, it is deemed to fall within
the provisions of this chapter and shall be registered with the Planning
Director within ten (10) days of inspection. If the property is occupied at the time of inspection, it shall be inspected on a monthly basis until (a) the default is remedied by the trustor or other party or (b) the property is found to be vacant, at which time it shall be registered within 10 days.

(d) Registration Process. Registration shall be made in writing to the Planning Director. The trustee or beneficiary shall provide the following information to the Planning Director:

(1) Name, address, and telephone number of the trustee/beneficiary,
(2) Address and assessor’s parcel number of the vacant property,
(3) Name, address, and telephone number of the property maintenance company responsible for property, if applicable,
(4) Name, address, and telephone number of all known lienholders and/or individuals with ownership interest or other legal interest in the property,
(5) If no trustee or beneficiary resides within the County of Tulare, the name, address, and phone number of a party, residing within the County of Tulare who shall be designated as the local responsible party or agent for the purposes of notification in the event of an emergency affecting the public health, safety, or welfare and for purposes of service of process or any notices associated with registration of the property.

(6) Provide express authorization for City Employees to enter the property for the purposes of ensuring compliance with this chapter.

(e) Fees and Duration of Registration. A trustee/beneficiary shall be charged an annual fee for registration of the property in the amount of $[xxx]. Registration of a property shall be valid for one (1) year from the date of registering with the Planning Director. The trustee/beneficiary shall renew the registration of the property annually prior to the expiration of the current registration.

(f) Maintenance Requirements. Properties registered pursuant to this chapter shall be maintained according to the following standards:
(1) Landscaping. Maintain all yards and landscaping by watering, cutting, pruning, and mowing all lawns and vegetation. Yards and lawns shall be kept free of weeds.

(2) Trash, Debris, and Graffiti. The property shall be kept free of trash, debris, and graffiti. Trash, debris, and graffiti shall be removed from the property, within 48 hours of placement on the property.

(3) Swimming Pools. Any swimming pool or spa shall be properly maintained and kept in working order so the water remains, clear, free of pollutants and debris, and does not become a breeding place for mosquitoes and other insects. Any pool or spa not maintained in this manner shall be drained and kept dry. Properties with pools or spas shall comply with the minimum security fencing requirements of the State of California.

(4) Security. The property shall be secured against unauthorized entry. This includes, but is not limited to, locking all doors, windows, and gates that would allow access to the interior of the structure or onto the lot where the property is located. Boarding of doors and windows will be allowed only if they may not be secured by other means.

(5) Posting. The property shall be posted with a sign indicating the name and a 24-hour telephone number for the trustee/beneficiary or property management company responsible for maintenance and security of the property. The sign shall read substantially as follows: “This property is managed by [ ] . To report problems or concerns call [ ].” The sign shall be no larger than [ ] and shall be visible from the street to the front of the property. The sign shall be placed on the interior of a window, affixed to the exterior of the structure, or on a stake placed in the front yard. Exterior posting shall be constructed on and printed with weather resistant material.
(g) Enforcement. Notwithstanding any other remedies available by law, failure, to comply with the provisions of this chapter may result in the following enforcement action:

(1) Notice of Violation. The Director may issue a Notice of Violation according to the provisions set forth in Municipal Code section ________;

(2) Notice and order. The Director may issue a Notice and Order according to the provisions set forth in Municipal Code section ________;

(3) Administrative Citation. The Director may issue an Administrative Citation according to the provisions set forth in Municipal Code section ________. The amount of administrative penalties for failure to comply with the provisions of this section shall be as follows: First violation, up to One Thousand Dollars ($1,000), plus any abatement, actual, administrative and enforcement costs and administrative expenses incurred; On a second violation of this article within a rolling 12 month period, up to Ten Thousand Dollars ($10,000), plus any abatement, actual, administrative and enforcement costs and administrative expenses incurred; On a third or subsequent violation of this article within a rolling 12 month period, up to Fifty Thousand Dollars ($50,000), plus any abatement, actual, administrative and enforcement costs and administrative expenses incurred.

(4) The Director may request the City Attorney to institute legal action.

(h) Appeals. A Notice and Order or Administrative Citation issued for failure to comply with the provisions of this chapter shall be appealed pursuant to the provisions of Municipal Code section ________.

SECTION 2. Severability. If any section or portion of this ordinance shall be determined invalid or unconstitutional, that section or portion shall be deemed severable and all remaining sections or portions shall remain in full force and effect.
SECTION 3. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

PASSED, APPROVED AND ADOPTED this _____ day of _____________, 2008

______________________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
Chapter 15.60
ABANDONED RESIDENTIAL PROPERTY REGISTRATION

Sections:
15.60.010 Purpose/scope.
15.60.020 Definitions.
15.60.030 Recordation of transfer of lien/deed of trust/assignment of rents.
15.60.040 Registration.
15.60.050 Maintenance requirements.
15.60.060 Security requirements.
15.60.070 Additional authority.
15.60.080 Fees.
15.60.090 Enforcement.
15.60.100 Appeals.
15.60.110 Violation/penalty.
15.60.120 Severability.

15.60.010 Purpose/scope.
It is the purpose and intent of the Chula Vista City Council, through the adoption of this chapter, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties. (Ord. 3080 § 1, 2007).

15.60.020 Definitions.
For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

"Abandoned" means a property that is vacant and is under a current notice of default and/or notice of trustee's sale, pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

"Accessible property" means a property that is accessible through a compromised/branched gate, fence, wall, etc.

"Accessible structure" means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

"Agreement" means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

"Assignment of rents" means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.

"Beneficiary" means a lender under a note secured by a deed of trust.

"Buyer" means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

"Dangerous building" means any building/structure that is violation of any condition referenced in Chapter 15.18 CVMC.

"Days" means consecutive calendar days.

"Deed of trust" means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. Used in California instead of a mortgage. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed, third trust deed, etc.

"Deed in lieu of foreclosure/sale" means a recorded document that transfers ownership of a property from the trustee to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

"Default" means the failure to fulfill a contractual obligation, monetary or conditional.

"Distressed" means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

"Evidence of vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

"Foreclosure" means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.

"Local" means within 40 road/driving miles distance of the subject property.
15.60.030  Recordation of transfer of loan/deed of trust/assignment of rents.
Within 10 days of the purchase and/or transfer of a loan/deed of trust secured by residential property the new beneficiary/trustee shall record, with the San Diego County Recorder's Office, an assignment of rents, or similar document, that lists the name of the corporation, and/or individual, the mailing address and contact phone number of the new beneficiary/trustee responsible for receiving payments associated with the loan/deed of trust. (Ord. 3080 § 1, 2007).

15.60.040  Registration.
Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Chula Vista, shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, prior to recording a notice of default with the San Diego County Recorder's Office. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary/trustee shall, within 10 days of the inspection, register the property with the Director of Planning and Building or his or her designee on forms provided by the City.

If the property is occupied but remains in default it shall be inspected by the beneficiary/trustee, or his designee, monthly until (1) the trustor other or party remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within 10 days of that inspection, register the property with the Director of Planning and Building or his designee on forms provided by the City.

In either case the registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out-of-area beneficiary/trustee, the local property management company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due.
Chula Vista Municipal Code

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

Any person, firm or corporation that has registered a property under this chapter must report any change of information contained in the registration within 10 days of the change. (Ord. 3080 § 1, 2007).

15.60.050 Maintenance requirements.

Properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required.

Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.

Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscape and removal of all trimmings.

Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners’ association rules and regulations which may apply to the property. (Ord. 3080 § 1, 2007).

15.60.060 Security requirements.

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

Secure manner includes but is not limited to the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s). In the case of broken windows securing means the reglazing or boarding of the window.

If the property is owned by a corporation and/or out-of-area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The property shall be posted with name and 24-hour contact phone number of the local property management company. The posting shall be no less than 18 inches by 24 inches and be of a font that is legible from a distance of 45 feet and shall contain along with the name and 24-hour contact number the words “THIS PROPERTY MANAGED BY” and “TO REPORT PROBLEMS OR CONCERNS CALL.” The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather resistant materials.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter. (Ord. 3080 § 1, 2007).

15.60.070 Additional authority.

In addition to the enforcement remedies established in Chapters 1.20, 1.30 and 1.41 CVMC, the Director of Planning and Building or his or her designee shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any
property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property. (Ord. 3080 § 1, 2007).

15.60.080 Fees.
The fee for registering an abandoned residential property shall be set by resolution of the City Council. (Ord. 3080 § 1, 2007).

15.60.090 Enforcement.
Violations of this chapter may by enforced in any combination as allowed in Chapters 1.20, 1.30 and 1.41 CVMC. (Ord. 3080 § 1, 2007).

15.60.100 Appeals.
Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed under Chapter 1.40 CVMC. (Ord. 3080 § 1, 2007).

15.60.110 Violation/penalty.
Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement under Chapters 1.20 and 1.41 CVMC. (Ord. 3080 § 1, 2007).

15.60.120 Severability.
Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect. (Ord. 3080 § 1, 2007).
DEPARTMENT OF PLANNING AND BUILDING

REGISTRATION FORM FOR ABANDONED RESIDENTIAL PROPERTY

Please fill out the information requested below and deliver this form to the Public Services Building reception desk or mail to Department of Planning and Building, City of Chula Vista, 276 Fourth Ave., MS B200, Chula Vista, CA 91910.

Registered Residence Address: ________________________
Chula Vista CA, zip code: ____________________________
Assessor Parcel Number: _____________________________
Notice of Default Recodner # __________________________ (Please attach copy to this form)

Lender/Lien Holder: ________________________
Contact: ________________________ Contact Phone: (___) ________
Lender/Lien Holder Mailing Address:

______________________________

Property Manager: ________________________ Business license # ________________________
Contact: ________________________ 24 Hour Phone #: (___) ________
Property Management Company Local Mailing Address:

______________________________

Standard Annual Fee of $70.00 Please check one: ☐ New registration ☐ Renewal registration
An annual registration fee shall accompany this registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31 of the year due. Registration fees will not be prorated. [CVMC 15.60.040]

Initiated By:

_________________________ ________________________ ________
Print Name Signature Date

Company Name and Address

276 FOURTH AVENUE, MS B-200 • CHULA VISTA • CALIFORNIA 91910
Back of Registration Form for Abandoned Residential Property

City of Chula Vista Municipal Code, Chapter 1.41, ADMINISTRATIVE COMPLIANCE AND ENFORCEMENT PROCEDURES Section 1.41.010:

A. It is the purpose and intent of the city council to establish administrative procedures for obtaining prompt compliance in the correction of both major and minor violations of the Chula Vista Municipal Code and state law. Conditions in violation of the municipal code or state law which affect conditions upon or uses of real property within the city of Chula Vista are hereby designated nuisances. The procedures authorized or identified by this chapter are the following: notices of violation; administrative citations; administrative fines and penalties; cease and desist orders; abatement of nuisances; recordation of notices of violation; authorization to charge reinspection fees; cost recovery for costs of enforcement; confirmation of costs; and recordation of liens and assessments for cost recovery.

City of Chula Vista Municipal Code, Chapter 15.60, ABANDONED RESIDENTIAL PROPERTY REGISTRATION Section 15.60.010:

It is the purpose and intent of the Chula Vista City Council, through the adoption of this Chapter, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

Owner Responsibility under CVMC 15.60:

- Within ten (10) days of the purchase and/or transfer of a loan/deed of trust secured by residential property the new beneficiary/trustee shall record, with the San Diego County Recorders Office, an Assignment of Rents. [CVMC 15.60.030]

- If the property is vacant or abandoned, the beneficiary/trustee shall register the property with the City using this form within ten days of transfer, vacancy or subsequent vacancy. [CVMC 15.60.040]

- Report to the City any change of address and change of contact information within ten days of said change. [CVMC 15.60.040]

- Maintain the property on a weekly basis. [CVMC 15.60.050 and 15.60.060]

- Secure the property. [CVMC 15.60.060]

- Post the property with the property manager’s name, address and 24-hour contact phone number. [CVMC 15.60.060]

A copy of this or any municipal code of the City of Chula Vista may be downloaded at

http://www.chulavistaca.gov/City_Services/Administrative_Services/City_Clerk/Records/municipal_code.asp

276 FOURTH AVENUE, MS B-200 • CHULA VISTA • CALIFORNIA 91910

186
Senate Bill No. 1137

CHAPTER 69

An act to add and repeal Sections 2923.5, 2923.6, 2924.8, and 2929.3 of the Civil Code, and to add and repeal section 1161b of the Code of Civil Procedure, relating to mortgages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 4, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

(1) Upon a breach of the obligation of a mortgage or transfer of an interest in property, existing law requires the trustee, mortgagee, or beneficiary to record in the office of the county recorder wherein the mortgaged or trust property is situated, a notice of default, and to mail the notice of default to the mortgagor or trustee. Existing law requires the notice to contain specified statements, including, but not limited to, those related to the mortgagor’s or trustee’s legal rights, as specified. Existing law also requires that the notice of sale in the case of default be posted on the property, as specified.

Until January 1, 2013, and as applied to residential mortgage loans made from January 1, 2003, to December 31, 2007, inclusive, that are for owner-occupied residences, this bill would, among other things, require a mortgagee, trustee, beneficiary, or authorized agent to wait 30 days after contact is made with the borrower; 30 days after satisfying due diligence requirements to contact the borrower, as specified, before filing a notice of default. The bill would require contact with the borrower, as defined, in order to assess the borrower’s financial situation and explore options for the borrower to avoid foreclosure. The bill would require the mortgagee, beneficiary, or authorized agent to advise the borrower that he or she has the right to request a subsequent meeting within 14 days, and to provide the borrower the toll-free telephone number made available by the United States Department of Housing and Urban Development (HUD) to find a HUD-certified housing counseling agency. The bill would require the notice of default to include a specified declaration from the mortgagee, beneficiary, or authorized agent regarding its contact with the borrower or that the borrower has surrendered the property. If a notice of default had already been filed prior to the enactment of this act, the bill would instead require the mortgagee, trustee, beneficiary, or authorized agent, as part of the notice of sale, to include a specified declaration regarding contact with the borrower. The bill would authorize a borrower to designate a HUD-certified housing counseling agency, attorney, or other advisor to discuss with the mortgagee, beneficiary, or authorized agent, on the borrower’s behalf,
options for the borrower to avoid foreclosure. The contact and meeting requirements of these provisions would not apply if a borrower has surrendered the property or the borrower has contracted with an organization, as specified. The bill would also require specified mailings to the resident of a property that is the subject of a notice of sale, as specified. In addition, the bill would make it a crime to tear down the notice of sale posted on a property within 72 hours of posting, thereby imposing a state-mandated local program.

Until January 1, 2013, this bill would require a legal owner to maintain vacant residential property purchased at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust. The bill would authorize a governmental entity to impose civil fines and penalties for failure to maintain that property of up to $1,000 per day for a violation. The bill would require a governmental entity that seeks to impose those fines and penalties to give notice of the claimed violation and an opportunity to correct the violation at least 14 days prior to imposing the fines and penalties, and to allow a hearing for contesting those fines and penalties.

(2) Existing law governs the termination of tenancies and generally requires 30 days' notice of the termination thereof, except under specified circumstances. Existing law also establishes the criteria for determining when a tenant is guilty of unlawful detainer.

Until January 1, 2013, this bill would give a tenant or subtenant in possession of a rental housing unit at the time the property is sold in foreclosure, 60 days to remove himself or herself from the property, as specified.

(3) This bill would set forth specified findings and declarations and intent provisions with regard to the above, and would provide that its provisions are severable.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) California is facing an unprecedented threat to its state economy and local economies because of skyrocketing residential property foreclosure rates in California. Residential property foreclosures increased sevenfold from 2,006 to 2007. In 2007, more than 84,375 properties were lost to foreclosure in California, and 254,824 loans went into default, the first step in the foreclosure process.
(b) High foreclosure rates have adversely affected property values in California, and will have even greater adverse consequences as foreclosure rates continue to rise. According to statistics released by the HOPE NOW Alliance, the number of completed California foreclosure sales in 2007 increased almost threefold from 1,902 in the first quarter to 5,574 in the fourth quarter of that year. Those same statistics report that 10,556 foreclosure sales, almost double the number for the prior quarter, were completed just in the month of January 2008. More foreclosures means less money for schools, public safety, and other key services.

(c) Under specified circumstances, mortgage lenders and servicers are authorized under their pooling and servicing agreements to modify mortgage loans when the modification is in the best interest of investors. Generally, that modification may be deemed to be in the best interest of investors when the net present value of the income stream of the modified loan is greater than the amount that would be recovered through the disposition of the real property security through a foreclosure sale.

(d) It is essential to the economic health of California for the state to ameliorate the deleterious effects on the state economy and local economies and the California housing market that will result from the continued foreclosures of residential properties in unprecedented numbers by modifying the foreclosure process to require mortgagees, beneficiaries, or authorized agents to contact borrowers and explore options that could avoid foreclosure. These changes in accessing the state’s foreclosure process are essential to ensure that the process does not exacerbate the current crisis by adding more foreclosures to the glut of foreclosed properties already on the market when a foreclosure could have been avoided. Those additional foreclosures will further destabilize the housing market with significant, corresponding deleterious effects on the local and state economy.

(e) According to a survey released by the Federal Home Loan Mortgage Corporation (Freddie Mac) on January 31, 2008, 57 percent of the nation’s late-paying borrowers do not know their lenders may offer alternatives to help them avoid foreclosure.

(f) As reflected in recent government and industry-led efforts to help troubled borrowers, the mortgage foreclosure crisis impacts borrowers not only in nontraditional loans, but also many borrowers in conventional loans.

SEC. 2. Section 2923.5 is added to the Civil Code, to read:

2923.5. (a) (1) A mortgagee, trustee, beneficiary, or authorized agent may not file a notice of default pursuant to Section 2924 until 30 days after contact is made as required by paragraph (2) or 30 days after satisfying the due diligence requirements as described in subdivision (g).
(2) A mortgagee, beneficiary, or authorized agent shall contact the borrower in person or by telephone in order to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure. During the initial contact, the mortgagee, beneficiary, or authorized agent shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the mortgagee, beneficiary, or authorized agent shall schedule the meeting to occur within 14 days. The assessment of the borrower's financial situation and discussion of options may occur during the first contact, or at the subsequent meeting scheduled for that purpose. In either case, the borrower shall be provided the toll-free telephone number made available by the United States Department of Housing and Urban Development (HUD) to find a HUD-certified housing counseling agency. Any meeting may occur telephonically.

(b) A notice of default filed pursuant to Section 2924 shall include a declaration from the mortgagee, beneficiary, or authorized agent that it has contacted the borrower, tried with due diligence to contact the borrower as required by this section, or the borrower has surrendered the property to the mortgagee, trustee, beneficiary, or authorized agent.

(c) If a mortgagee, trustee, beneficiary, or authorized agent had already filed the notice of default prior to the enactment of this section and did not subsequently file a notice of rescission, then the mortgagee, trustee, beneficiary, or authorized agent shall, as part of the notice of sale filed pursuant to Section 2924, include a declaration that either:

(1) States that the borrower was contacted to assess the borrower's financial situation and to explore options for the borrower to avoid foreclosure.

(2) Lists the efforts made, if any, to contact the borrower in the event no contact was made.

(d) A mortgagee's, beneficiary's, or authorized agent's loss mitigation personnel may participate by telephone during any contact required by this section.

(e) For purposes of this section, a “borrower” shall include a mortgagor or trustor.

(f) A borrower may designate a HUD-certified housing counseling agency, attorney, or other advisor to discuss with the mortgagee, beneficiary, or authorized agent, on the borrower's behalf, options for the borrower to avoid foreclosure. That contact made at the direction of the borrower shall satisfy the contact requirements of paragraph (2) of subdivision (a). Any loan modification or workout plan offered at the meeting by the mortgagee, beneficiary, or authorized agent is subject to approval by the borrower.

(g) A notice of default may be filed pursuant to Section 2924 when a mortgagee, beneficiary, or authorized agent has not contacted a borrower as required by paragraph (2) of subdivision (a) provided that the failure to contact the borrower occurred despite the due diligence of the mortgagee, beneficiary, or authorized agent. For purposes of this section, “due diligence” shall require and mean all of the following:

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(1) A mortgagee, beneficiary, or authorized agent shall first attempt to contact a borrower by sending a first-class letter that includes the toll-free telephone number made available by HUD to find a HUD-certified housing counseling agency.

(2) (A) After the letter has been sent, the mortgagee, beneficiary, or authorized agent shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls shall be made to the primary telephone number on file.

(B) A mortgagee, beneficiary, or authorized agent may attempt to contact a borrower using an automated system to dial borrowers, provided that, if the telephone call is answered, the call is connected to a live representative of the mortgagee, beneficiary, or authorized agent.

(C) A mortgagee, beneficiary, or authorized agent satisfies the telephone contact requirements of this paragraph if it determines, after attempting contact pursuant to this paragraph, that the borrower’s primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected.

(3) If the borrower does not respond within two weeks after the telephone call requirements of paragraph (2) have been satisfied, the mortgagee, beneficiary, or authorized agent shall then send a certified letter, with return receipt requested.

(4) The mortgagee, beneficiary, or authorized agent shall provide a means for the borrower to contact it in a timely manner, including a toll-free telephone number that will provide access to a live representative during business hours.

(5) The mortgagee, beneficiary, or authorized agent has posted a prominent link on the homepage of its Internet Web site, if any, to the following information:

(A) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options.

(B) A list of financial documents borrowers should collect and be prepared to present to the mortgagee, beneficiary, or authorized agent when discussing options for avoiding foreclosure.

(C) A toll-free telephone number for borrowers who wish to discuss options for avoiding foreclosure with their mortgagee, beneficiary, or authorized agent.

(D) The toll-free telephone number made available by HUD to find a HUD-certified housing counseling agency.

(b) Subdivisions (a), (c), and (g) shall not apply if any of the following occurs:

(1) The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the mortgagee, trustee, beneficiary, or authorized agent.

(2) The borrower has contracted with an organization, person, or entity whose primary business is advising people who have decided to leave their
homes on how to extend the foreclosure process and avoid their contractual obligations to mortgagors or beneficiaries.

(3) The borrower has filed for bankruptcy, and the proceedings have not been finalized.

(4) This section shall apply only to loans made from January 1, 2003, to December 31, 2007, inclusive, that are secured by residential real property and are for owner-occupied residences. For purposes of this subdivision, "owner-occupied" means that the residence is the principal residence of the borrower.

(5) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 3. Section 2923.6 is added to the Civil Code, to read:

2923.6. (a) The Legislature finds and declares that any duty servicers may have to maximize net present value under their pooling and servicing agreements is owed to all parties in a loan pool, not to any particular parties, and that a servicer acts in the best interests of all parties if it agrees to or implements a loan modification or workout plan for which both of the following apply:

(1) The loan is in payment default, or payment default is reasonably foreseeable.

(2) Anticipated recovery under the loan modification or workout plan exceeds the anticipated recovery through foreclosure on a net present value basis.

(c) It is the intent of the Legislature that the mortgagor, beneficiary, or authorized agent offer the borrower a loan modification or workout plan if such a modification or plan is consistent with its contractual or other authority.

(2) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 4. Section 2924.8 is added to the Civil Code, to read:

2924.8. (a) Upon posting a notice of sale pursuant to Section 2924f, a trustee or authorized agent shall also post the following notice, in the manner required for posting the notice of sale on the property to be sold, and a mortgagor, trustee, beneficiary, or authorized agent shall mail, at the same time in an envelope addressed to the "Resident of property subject to foreclosure sale" the following notice in English and the languages described in Section 1632: "Foreclosure process has begun on this property, which may affect your right to continue to live in this property. Twenty days or more after the date of this notice, this property may be sold at foreclosure. If you are renting this property, the new property owner may either give you a new lease or rental agreement or provide you with a 60-day eviction notice. However, other laws may prohibit an eviction in this circumstance or provide you with a longer notice before eviction. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights you may have."
(b) It shall be an infraction to tear down the notice described in subdivision (a) within 72 hours of posting. Violators shall be subject to a fine of one hundred dollars ($100).

(c) A state government entity shall make available translations of the notice described in subdivision (a) which may be used by a mortgagee, trustee, beneficiary, or authorized agent to satisfy the requirements of this section.

(d) This section shall only apply to loans secured by residential real property, and if the billing address for the mortgage note is different than the property address.

(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 5. Section 2929.3 is added to the Civil Code, to read:

"2929.3. (a) (1) A legal owner shall maintain vacant residential property purchased by that owner at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust. A governmental entity may impose a civil fine of up to one thousand dollars ($1,000) per day for a violation. If the governmental entity chooses to impose a fine pursuant to this section, it shall give notice of the alleged violation, including a description of the conditions that gave rise to the allegation, and notice of the entity's intent to assess a civil fine if action to correct the violation is not commenced within a period of not less than 14 days and completed within a period of not less than 30 days. The notice shall be mailed to the address provided in the deed or other instrument as specified in subdivision (a) of Section 7721.5 of the Government Code, or, if none, to the return address provided on the deed or other instrument.

(2) The governmental entity shall provide a period of not less than 30 days for the legal owner to remedy the violation prior to imposing a civil fine and shall allow for a hearing and opportunity to contest any fine imposed. In determining the amount of the fine, the governmental entity shall take into consideration any timely and good faith efforts by the legal owner to remedy the violation. The maximum civil fine authorized by this section is one thousand dollars ($1,000) for each day that the owner fails to maintain the property, commencing on the day following the expiration of the period to remedy the violation established by the governmental entity.

(3) Subject to the provisions of this section, a governmental entity may establish different compliance periods for different conditions on the same property in the notice of alleged violation mailed to the legal owner.

(b) For purposes of this section, "failure to maintain" means failure to care for the exterior of the property, including, but not limited to, permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers or squatters from remaining on the property, or failing to take action to prevent mosquito larvae from growing in standing water or other conditions that create a public nuisance.

(c) Notwithstanding subdivisions (a) and (b), a governmental entity may provide less than 30 days' notice to remedy a condition before imposing a..."
civil fine if the entity determines that a specific condition of the property
threatens public health or safety and provided that notice of that
determination and time for compliance is given.
(e) A governmental entity may not impose fines on a legal owner under
both this section and a local ordinance.
(f) These provisions shall not preempt any local ordinance.
(g) This section shall only apply to residential real property.
(h) The rights and remedies provided in this section are cumulative and
in addition to any other rights and remedies provided by law.
(i) This section shall remain in effect only until January 1, 2013, and as
of that date is repealed, unless a later enacted statute, that is enacted before
January 1, 2013, deletes or extends that date.
SEC. 6. Section 1161b is added to the Code of Civil Procedure, to read:
1161b. (a) Notwithstanding Section 1161a, a tenant or subtenant in
possession of a rental housing unit at the time the property is sold in
foreclosure shall be given 60 days' written notice to quit pursuant to Section
1162 before the tenant or subtenant may be removed from the property as
prescribed in this chapter.
(b) This section shall not apply if any party to the note remains in the
property as a tenant, subtenant, or occupant.
(c) This section shall remain in effect only until January 1, 2013, and as
of that date is repealed, unless a later enacted statute, that is enacted before
January 1, 2013, deletes or extends that date.
SEC. 7. Nothing in this act is intended to affect any local just-cause
eviction ordinance. This act does not, and shall not be construed to, affect
the authority of a public entity that otherwise exists to regulate or monitor
the basis for eviction.
SEC. 8. The provisions of this act are severable. If any provision of this
act or its application is held invalid, that invalidity shall not affect other
provisions or applications that can be given effect without the invalid
provision or application.
SEC. 9. No reimbursement is required by this act pursuant to Section 6
of Article XIII B of the California Constitution because the only costs that
may be incurred by a local agency or school district will be incurred because
this act creates a new crime or infraction, eliminates a crime or infraction,
or changes the penalty for a crime or infraction, within the meaning of
Section 17556 of the Government Code, or changes the definition of a crime
within the meaning of Section 6 of Article XIII B of the California
Constitution.
SEC. 10. (a) This act is an urgency statute necessary for the immediate
preservation of the public peace, health, or safety within the meaning of
Article IV of the Constitution and shall go into immediate effect. The facts
constituting the necessity are:
In order to stabilize and protect the state and local economies and housing market at the earliest possible time, it is necessary for this act to take effect immediately.

(b) However, the provisions of Section 2 of this act, which adds Section 2923.5 to the Civil Code, and Section 4 of this act, which adds Section 2924.9 to the Civil Code, shall become operative 60 days after the effective date of this act.
SUBJECT: Consideration of Formation of Mosquito Abatement District in Southeastern Tulare County

SOURCE: Administration

COMMENT: In June 2008, the City was notified by the County that a Mosquito Abatement Study Group was being formed at the request of the County due to a perceived volume of constituent requests for abatement services in the Southeastern Tulare County region. The purpose of the study group would be to consider the formation of a mosquito abatement district in the region, and options available in forming such a district. At the request of the County for a City representative to serve on the study group, Vice Mayor McCracken was designated.

Beginning in August and continuing through October, the study group has met monthly in consideration of the abatement issue. Several fundamental issues have been discussed relative to the formation of an abatement district:

1) Does a sufficient need exist to have a district formed?
   * According to Delta Vector Control District, who have been conducting surveillance and providing limited abatement services in Porterville under a State grant, five (5) mosquitos have tested positive for West Nile Virus during the 2008 calendar year. By comparison, Visalia, which has an existing mosquito abatement district, have had ten (10) mosquitos test positive for the West Nile Virus.

2) In lieu of forming a district, can the issue of abatement be addressed by Agreement with the County, and at what expense?
   * The issue of abatement can be addressed by Agreement with the County, however, a funding mechanism other than a new assessment or tax would need to be identified.

3) If a district is formed, should the district be a new and independent district, or should the district be formed through annexation with an existing district or districts?
   * There would be an economies of scale experienced by annexing into an existing abatement district, avoiding the initial expense in establishing a new district.

C/M

Item No. 20
4) Does the forming of a district require the participation of both the Cities of Lindsay and Porterville, or can one or neither participate and the formation be successful?
   * It would be very difficult to form an abatement district without the participation of one or either of the Cities as the population centers of the region, due to the fact that the greatest area of benefit would be within the cities, as well as the assumed largest proportion of funding for the district. Also, with the participation of the local city, a district could be formed in the north and/or south region of the County exclusive of the other region.

5) Given a variety of abatement services are available, what level of services and at what expense should be considered in the formation of a district?
   * At first glance, to draw a parallel by reference to types of retirement systems, abatement districts function as a defined contribution system instead of a defined benefit. Whatever level of revenue is received will generate a level of service. Given a general yet-to-be defined basis of service, the “average” annual per parcel assessment would be approximately $30, with multi-family parcels being assessed the most and agricultural parcels being assessed the least due to benefit from service. In terms of services provided, there would be no services provided in preventative inspections for standing water either within the city or surrounding areas. The level of services provided are limited to what types of pests are addressed.

6) Given the formation of a district would require voter approval, should the issue be addressed in a general election or by mail ballot?
   * Consistent with Proposition 218, the creation of a special tax would require a 2/3 voter approval, while a benefit assessment would require a simple majority. Assuming a mail ballot initiative, the expense of an election is approximately $80,000, which can be recouped through the assessment should the initiative prove successful. In the tabulation of votes, weight is given to those with more parcels due to them presumably having to pay more in assessments.

It has been the sentiment of the study group that before an election were held, a public outreach program should be undertaken, including a mail survey which would gauge constituent interest and assessment thresholds. It is approximated that a survey of the Southeastern Tulare County region would cost approximately
$30,000, which was proposed to be distributed according to population.

RECOMMENDATION: Action to be determined by Council.

ATTACHMENTS: Map of Tulare County Mosquito Abatement Districts
Kings MAD included within Tulare MAD SOI (Kings MAD SOI adopted by Kings LAFCO) Tulare & Delta Vector SOIs are not coterminous with shared District boundaries.
UPDATE REGARDING E-MAILS TO AND FROM CITY COUNCIL MEMBERS AND STATUS PER THE CALIFORNIA PUBLIC RECORDS ACT

CITY ATTORNEY

Pursuant to City Council direction received on October 7, 2008, this office has researched how other California cities handle Council Member e-mail accounts, various administrative policies concerning this issue, and how cities treat public records requests for Council Member e-mails under the California Public Records Act. I have found in my discussions with several cities throughout the State that how Council Members utilize e-mail, and how City’s treat these e-mails varies greatly.

Some cities view e-mails that Council Members make, when made using their own individual/personal e-mail accounts, as not qualifying as a “City record” because it is not prepared, used, owned or retained by the “City” entity. This was essentially the City of Tracy’s position in the lawsuit it successfully defended in 2007. Under this theory, the ultimate use of the record would determine whether it qualifies as a “public record.” If the e-mail is never transmitted to the City by the Council Member or referenced or otherwise utilized in the Council Member’s decision-making process it would not qualify. However, if the e-mail is “used” then it could qualify as a public record and would need to be preserved.

The City and the League of Cities (in an amicus brief) argued that re-defining “public records” to include records by individual elected officials would have chilling effect on community members free speech rights, including their rights to petition for redress of grievances and a chilling effect on public service.

The difficulty in implementing the Public Records Act under this theory is that it places the responsibility on the individual Council Members to know when they will “use” the e-mail in such a way as to result in the record becoming public (and therefore trigger a responsibility to preserve the record). Individual Council Members could be held individually responsible for deleting e-mails from their personal accounts that were ultimately found to have been used in the decision-making process. This argument is also harder to make if the City Council Members are provided with City computers and equipment and then store the e-mails on the equipment. The City provided in its appellate brief that few would dispute that the following scenarios would result in records being considered public:
a) Council Members using a city-supplied e-mail account, computer or Internet access to send or receive e-mails pertaining to city business, and the e-mails would, if retained, be public records because they are arguably "owned" by the City.

b) Council Members send or receive and e-mail to or from city staff regarding city business and action is taken as a result, even if the communication is sent or received from private residences using only private resources/equipment, because the City "used" the e-mail.

c) Council Members send or receive an e-mail to or from city boards or commissions regarding city business, even if sent/received from a private residence using only private resources

While Tracy was successful at the trial court level with its argument concerning the definition of a "public record," there is at least one other City with a different story. The Town of Woodside was sued concerning similar claims. The Town made arguments similar to that of the City of Tracy, but without success at the preliminary law and motion stages of the case. The Council Members were also sued individually, and were even threatened with individual criminal action for alleged intentional destruction of public records. The Town ultimately settled out of court and the trial court never issued a judgment, but as a result of the case the Town changed its policies providing e-mail accounts on the City server and providing that these accounts should be the only accounts utilized to communicate with the Members concerning Town business. The statement of the website provides that all e-mails sent are public records, subject to disclosure "except as otherwise provided by law" (meaning unless an valid exemption under the Act exists). I've attached the referenced web page for your information.

Many cities apply the above-principles without an explicit policy, with the expectation that the Council Members are simply on the "honor system" (particularly where no official city e-mail addresses are provided). To some extent, Council Members are on the "honor system" anyway, because the City does not ultimately control what e-mails are sent to a Council Member's private account.

Given the murkiness of the issues, several cities have either adopted or are considering adoption of council e-mail policies that provide an official city e-mail address, and deem that communications to and from the address will be considered "public records" under the Act. I have included the City of Pleasanton's policy, and the City of San Jose's policies as examples. These policies incorporate the Council Member e-mail communications into their general policies on electronic communications and public records.
Since the City provides laptop computers to Council Members and is also providing e-mail addresses, I'd recommend the Council should at least consider a policy similar to those proposed in Pleasanton and San Jose. While I believe these go beyond what may be legally required, there are clearly good practical considerations for adopting this approach because it would take the "guess work" out for individual council members. I think it is also good practice to include a statement in the policy, City website and with each e-mail sent by the Council Member that the communications have been deemed to be public records and therefore may be disclosed under the Public Records Act. The City of Porterville is currently working on a comprehensive revision of its electronic records retention policy, and I recommend that any policies specific to Council Members be incorporated in the general policy, which would also include the policies on retention and purging of e-mail.

RECOMMENDATION: That the City Council consider the above information and provide further direction.

ATTACHMENTS: 1) Town of Woodside Town Council Webpage 2) City of Pleasanton Administrative Policy (revised – still in draft) 3) City of San Jose policies related to public records and e-mail communications

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Town Council

- Purpose
- Members
- Schedule of Town Council Meetings

- Town Council Districts
  Residential Lookup Table and Map

- Tuesday, Oct. 28, 2008
- Tuesday, Oct. 14, 2008
- Tuesday, Sept. 23, 2008
- Tuesday, Sept. 9, 2008
- Tuesday, July 22, 2008
- Tuesday, July 8, 2008

- Agenda and Materials
  Item 4 Exhibit A1
  Item 4 Exhibit A2
  Item 4 Exhibit B
  Item 4 Exhibit C
- Agenda (PDF) Tuesday, June 24, 2008
- Agenda (PDF) Monday, June 9, 2008 Special Meeting
- Agenda (PDF) Tuesday, June 10, 2008
- Agenda (PDF) Tuesday, May 27, 2008

Meetings:
Regular Meetings are held on the 2nd and 4th Tuesday of each month, 7:30 p.m., Independence Hall, 2955 Woodside Road.

The Town Council has a policy of taking up no additional business after 11 pm, unless a majority of the council approves an exception.

General Information:
Seven Council members are nominated by district and elected at large to serve four-year terms. The mayor is elected for a one year term by the Council. Agendas for regular meetings are posted not less than three days in advance of the meetings, ten days in advance for Public Hearings. The official posting places for all agendas and legal notices are:

  Town Hall: Bulletin Board, front entry
  Roberts of Woodside: Bulletin Board, right of entry
  Woodside Library: Bulletin Board, left of entry
  U.S. Post Office: Bulletin Board, inside building

Purpose:
The Town Council is the legislative body of the Town of Woodside, with all the regulatory and corporate powers provided under California state law. The Town Council provides the policy direction that guides the operation of the Town, adopts ordinances and resolutions that constitute the legislative intent of the Town, and sets the Town's priorities through the
adoption of an annual budget and the provision of direction to the Town Manager. The Town Council represents the Town's residents through these actions and through the conveyance of constituent requests and concerns to the Town staff. The Town Council also appoints all members to advisory committees, the Planning Commission, and the Architectural and Site Review Board.

The seven members of the Town Council are elected at-large to four-year terms, but must generally be respectively nominated from and elected to one of seven Town Council districts. Elections occur in November of odd-numbered years and the terms are staggered so that no more than four Town Council seats are up for election at any one time. The Council in turn selects one of its members to serve as Mayor for a one-year term. The Mayor presides at the Town Council meetings and represents the Town as the official head of the Council on public and ceremonial occasions, but has no special authority beyond that of the other Council members. Neither the Mayor nor the other members of the Council are paid.

Members of the Town Council may be contacted by email or through Town Hall, located at 2955 Woodside Road at Whiskey Hill, 650-851-8790. For additional information, please see Contact Us.

Members:

<table>
<thead>
<tr>
<th>District/Po.</th>
<th>Name</th>
<th>Term Expires</th>
<th>E-Mail</th>
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<tbody>
<tr>
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<tr>
<td>1</td>
<td>Ron Romines, Mayor</td>
<td>11/11</td>
<td><a href="mailto:r.romines@woodsidetown.org">r.romines@woodsidetown.org</a></td>
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<td>Deborah C. Gordon</td>
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<td>Dave Tanner</td>
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<td><a href="mailto:d.tanner@woodsidetown.org">d.tanner@woodsidetown.org</a></td>
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<td>Carroll Ann Hodges</td>
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<td><a href="mailto:c.a.hodges@woodsidetown.org">c.a.hodges@woodsidetown.org</a></td>
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<td>Peter Mason, Mayor Pro Tem</td>
<td>11/11</td>
<td><a href="mailto:p.mason@woodsidetown.org">p.mason@woodsidetown.org</a></td>
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E-Mail all Council Members: council.members@woodsidetown.org

The members of the Town Council have been provided e-mail accounts on the Town’s server (woodsidetown dot org). These e-mail accounts are the only e-mail accounts that should be used to communicate with the Councilmembers about Town business. All e-mails sent to accounts on the Town’s server are public records, subject to disclosure except as otherwise provided by law.
I. GENERAL COMPUTER USAGE

This policy applies to the use of City computer technology equipment (hereinafter referred to as computer technology equipment) at all times including, but not limited to, personal computers, laptops (including hardware, software and peripherals such as printer, scanners, input devices, etc.), Internet access, email services and telecommunications equipment including Personal Data Assistants and the computer systems supporting computer technology equipment (hereinafter referred to as computer systems) including networks, storage devices and computer software.

The City provides a range of computer technology equipment for the purpose of efficiently meeting the goals, programs and policies of the City. The City is the sole owner of its computer technology equipment and is responsible for determining its usage. The City owns the contents of all files stored on or with its computer technology equipment and computer systems, all information within application files and all messages transmitted over its computer systems and it reserves the right to access them as needed.

City computer technology equipment is provided for the benefit of the City and its use for personal matters is prohibited except that the occasional and incidental use of equipment is permissible provided it is not in conflict with any policies stated herein or State law and provided it is not done on City time.

Prohibited Uses

Using Computer technology equipment for conducting a personal business, promoting political endorsements, soliciting for services or donations for organizations other than the City, conducting personal employment/recruitment activities and/or accessing Internet sites that promote or involve gambling, sexually explicit material, social deviances, crime, drugs and alcohol, violence and hate speech is prohibited. However, employees may post personal announcements, ads, fundraising solicitations, etc., on the "All Employees" bulletin board located under "All Public Folders" in Microsoft Outlook provided these postings do not include the material listed as prohibited in the previous sentence.

Engaging in any prohibited or unauthorized use of computer technology equipment is grounds for disciplinary action.
Equipment Standards

To assure that equipment meets the City's overall needs, the Information Technologies division is responsible for establishing product standards and purchasing all computer technology equipment. In addition, to assure proper licensing requirements and hardware and software compatibility, employees are prohibited from modifying or relocating any computer technology equipment and/or computer systems including, adding/deleting software and/or hardware without prior City approval.

II. PERSONAL COMPUTERS (PCs)

PC Training

The Information Technologies division coordinates employee training for applications residing on personal computers. Training for new and existing employees will be provided in accordance with funding included in the City's operating budget. Employees requiring computer training should contact their immediate supervisor who will process the request. Department Head approval is required prior to scheduling training.

Training for unique applications residing on City servers will be coordinated by user departments in accordance with the City's operating budget. Inform Information Technology prior to coordinating this type of training.

Equipment

New and existing employees will be assigned PC hardware and software based on current City standards as established by the Information Technologies division. Equipment will be changed in accordance with City approved replacement schedules and budgets.

Employees requiring hardware and/or software other than the City standard shall make their request through their immediate supervisor who will process the request with Information Technology.

The City Manager may assign information technology equipment to management employees or elected officials for off site use as deemed necessary to meet work responsibilities. The City Manager will establish guidelines for off site usage.

Passwords

Passwords are used to allow individual employees access to various types of computer technology equipment and computer systems. As a result, passwords must be kept confidential. To protect the right of access, a password should not be "generic" such as "password," employee names or your login name that can be easily deciphered. Since access to some computer technology equipment and computer systems includes access to personnel, accounting, payroll, and other confidential and high security information, employees shall not provide a user's password to any unauthorized person.
Prohibited Uses

The Information Technology division will coordinate the installation of any and all computer technology equipment and computer systems. Information Technology may remove any unauthorized software and/or hardware from any computer technology equipment and computer systems owned by the City at anytime.

- The prohibited uses outlined in Section I, "General Computer Usage" of this policy.
- Knowingly or maliciously introducing any invasive or destructive programs (i.e., viruses, worms, Trojan Horses) into City computer Technology equipment and/or computer systems.
- Installing or using software programs with intent to capture keystrokes (key loggers) or the unauthorized access to data files of servers and PC's participating on the City network system.
- Installing or using software programs to view, or take unauthorized remote control of servers and PC's participating on the City network system.
- Installing or using software with network data packet capturing capabilities.
- Using the City's computer technology equipment to defraud, threaten, libel or harass others.
- Impersonating any person, organization or entity or making any communication under a false or unauthorized name.
- Attempting to circumvent computer system security measures.
- Intentionally copying any software, electronic file (other than personal files), or program using City provided computer technology equipment without a prior, good faith determination that such copying is in fact permissible.
- Intentionally seeking information or security access rights on, obtaining copies of, or modifying files or data without proper authorization. Seeking passwords of others or the exchanging of passwords is prohibited without proper designation and approval by the immediate supervisor.
- Connecting personal technology equipment to the City private network system. To include personal computers, notebooks, wireless access points, printers, and other technology equipment with network connectivity.

Management of File Folders

Employees are responsible for maintaining active files and deleting old data on computer technology equipment and computer systems. Files shall be maintained on the designated user drive as assigned by Information Technology. Files shall not be stored on the computers "C" drive. Duplicate files should be eliminated in a way that conserves disk space and provides for regular back up. Employees needing assistance with establishing adequate file folders systems should contact Information Technology.
III. REMOTE ACCESS AND USE OF MODEMS

In certain situations, the City will provide remote access to required computer sources. Remote access may be via the Internet utilizing the City VPN system, or via Modem access utilizing the City Remote Access Server, and may include further access requiring “remote control.”

All remote access either in or out of the City's network, including standalone modems and remote access software (e.g., PC Anywhere, VNC, Remote Desktop Connection, etc.), must be authorized by the Information Technology division and approved by their City Department Head.

Remote access services will be provided to those users specifically authorized to work at home, away from the office, or at City facilities lacking network communications, with written approval from the employee's Department Head. The City will not be responsible for any damages, licensing issues, hardware of software configuration issues, delays, non-deliveries, or service interruptions that may occur to personal equipment used for remote access services.

IV. INTERNET ACCESS

Connection to the Internet is seen as a significant opportunity to improve communications and access information needed as part of ongoing work responsibilities. Access to the Internet is an informational tool intended to improve work quality and productivity. As a result, only those sites related to work responsibilities should be accessed.

In addition to the prohibited uses outlined in Section II “Prohibited Uses,” above, accessing Internet sites that promote or involve gambling, sexually explicit material, social deviances, crime, drugs and alcohol, violence and hate speech is prohibited. The occasional and brief conducting of personal matters or handling personal e-mail through the Internet is permissible provided it is not in conflict with the above policies, and provided it does not conflict with job responsibilities and work assignments. The City reserves the right, and will, from time to time, monitor Internet usage including identifying the Internet addresses frequented by City employees.

Because different Internet browsers can result in computer configuration issues, use only the browser provided by the City. Downloaded information shall be limited to messages, mail, and data files. No software programs shall be downloaded without prior approval of the Information Technology division due to the threat of acquiring spyware, malware, viruses, software/hardware incompatibilities, and potential licensing issues. Should it occur in error, the program file shall not be run and Information Technology shall be notified immediately.

Internet Use Warning

Employees are warned that while using the Internet, they may encounter information that is objectionable or offensive. The City assumes no responsibility for this type of information. The City recognizes that an employee may receive unsolicited information that the City and the employee finds objectionable. The City will not hold the employee responsible for the receipt of such unsolicited information. Employees are required to report to their manager or supervisor the receipt of any information that the employee knows is inconsistent with City policy.
Internet Applications

Dial-up access to any on-line service poses a security threat. As a result, at no time should an employee be logged into the computer systems and accessing the Internet or any on-line service via dial-up modem.

City employees shall not create new Web sites or obtain Internet services outside of the City without written approval from the employee's Department Head and Information Technology.

V. E-MAIL

All employees, as well as public officials (collectively "user") are responsible for proper use of e-mail. Because electronic mail is a public record subject to public disclosure and the Records Retention Schedule, all electronic-mail messages related to City business, which are prepared, used or maintained by employees or public officials, are the property of the City. The City will not routinely monitor e-mail messages; however, the City reserves the right to review, and access internal and external messages and other electronic data sent over the City's electronic mail system or stored in its files, and to disclose the same whenever there is a legitimate purpose to do so. E-mail in the Outlook system is not intended for permanent storage.

Users are responsible for:

- Responding promptly to e-mail messages.
- Protecting e-mail messages, files, and records from unauthorized release to third parties.
- Removing personal and transitory e-mail messages from personal in-boxes on a regular basis.
- Applying records retention to e-mail messages and related attachments which are considered public records.

Etiquette

Employees are responsible for the content and the dissemination of their messages. This responsibility includes ensuring that their messages are:

- Accurate.
- Courteous
- Proofread.
- Not marked "urgent" when they don't need to be. The over use and misuse of priority mail will cause these notices to become meaningless. It is good customer service to acknowledge that you have received a document or file someone has sent you.

In addition, for good customer service, employees should check their e-mail Inbox daily.
Prohibited Uses

In addition to the prohibited uses outlined Section II “General Computer Usage” and Section IV “Internet Access” of this policy, the City’s electronic mail system shall not be used to:

- Compromise the integrity of the City and its business in any way.
- “Moonlight”, job search, or advertise personal business.
- Send messages or images containing offensive, abusive, threatening, or language inappropriate for the organization.
- Send copies of documents in violation of copyright laws.
- Send chain letters.
- Conduct illegal activities or make slanderous or defamatory remarks.
- Promote political endorsements.
- Solicit for services or donations of money for organizations other than the City.

It is the City’s policy that City e-mail and e-mail systems are intended to be a medium of communication. City e-mail systems are not intended to be and may not be used for the electronic storage or maintenance of City records. The e-mail system, to function as intended, anticipates or requires that users regularly delete communications from the system.

Retention

A. Public Records. E-mail messages and attachments comparable to hard copy documents that are public records which would be retained pursuant to the Records Retention Schedule should be retained as follows:

(i) the e-mail message and attachment(s) must be categorized in the appropriate record series;

(ii) the e-mail message and attachment(s) should be converted to the appropriate electronic format or printed in hard copy as soon as possible, but no later than one year of sending or receipt; and

(iii) retained for the required time period as outlined in the Records Retention Schedule.

No matter what form the record is retained, proper procedures must be followed prior to the destruction of any record.

E-mail regarding City business sent or received from the personal e-mail account of any employee or public official is subject to the Public Records Act and the Records Retention Schedule. The Information Technology division may establish processes to allow employees
City of San José, California

COUNCIL POLICY

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EFFECTIVE DATE: August 19, 1980  REVISION DATE: June 28, 2005

PURPOSE AND SCOPE

In order to best serve the citizens and customers of the City of San José, the elected and appointed officials, and employees of the City must act individually and collectively to create a City government that is responsible, fair, honest and open. City employees and officials are expected to demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees.

As stated in the City Charter, "The citizens of San José expect and must receive the highest standard of ethics from all those in the public service. City officers and employees must be independent, impartial and responsible in the performance of their duties and accountable to the members of the public."

The purpose of this Code of Ethics is to establish policy and guidelines, reflecting expected values and behaviors for use by and applicable to elected and appointed City officials, City officers, including Board and Commission members, and employees. Individuals employed by the City under contractual agreement must also observe the provisions of this policy for the term of their contract or as the contract may stipulate.

For additional regulations regarding ethics please refer to Title 12 of the San José Municipal Code.

POLICY

Elected and appointed officials and employees of the City of San José at all levels are guardians of the public trust. City officials and employees are required to be impartial and responsible in the fulfillment of their duties. The citizens and customers of San José expect and must receive the highest standard of ethics from all those in public service, regardless of personal consideration.

1. Responsibilities of Public Service

City officials and employees are obligated to uphold the Constitution of the United States and the Constitution of the State of California and to comply with Federal, State, and local laws and City policies. Recognizing the special responsibilities of serving the City and its citizens and customers, City officials and employees are required to maintain the highest standards of integrity and honesty, and they are expected to treat all members of the public and fellow City employees with respect, courtesy, concern and responsiveness. The conduct of City officials and employees in both their official and private affairs should be above reproach to assure that their City position is not used for personal gain.

2. General Rule with Respect to Conflicts of Interest

City employees and officials are expected to avoid any conflicts of interest. Further, employees should avoid the appearance of conflicts of interest in order to ensure that City decisions are made in an independent and impartial manner.

All City officials, officers and employees are prohibited from making, participation in making, or attempting in any way to use his or her official position to influence a City decision in which the
employee knows or has reason to know he or she has a financial interest as defined by law. For example, City employees and officials shall not make personal investments nor maintain any direct or indirect interest in enterprises, activities, or entities which they have or have reason to believe may be involved in decisions or recommendations to be made by them or persons under their supervision, or which may create a conflict between their private interests or may impair their independence of judgment in the accomplishment of their official duties. If, however, persons in the public service have financial interests in matters coming before them, or before the department in which they are employed, they shall remove themselves from making, participating in the making, or seeking to influence any decision regarding such matter. Employees who are designated in the City’s Conflict of Interest Code, shall file the appropriate disclosure statements required under State Law.

A conflict of interest may arise when dealing with a current or prospective vendor, supplier, or other business. Please refer to Section 3 below and seek guidance from a supervisor or from the Employee Helpline at 535-8150.

3. Acceptance of Favors, Gratuities and Gifts

City employees and officials shall not accept money or other consideration or favors from anyone other than the City for the performance of an act which they would be required or expected to perform in the regular course of their duties; nor shall such persons accept any gifts as defined in the City’s Gift Ordinance, gratuities or favors of any kind which be perceived or interpreted as an attempt to influence their actions with respect to City business.

This is just a summary of your obligations, for additional information regarding specific regulations on the acceptance of gifts; please refer to policy 2.02, titled Gift Policy in the City Policy Manual. Additionally, if there are any discrepancies between this Gift Policy and Title 12 of the San José Municipal Code, Title 12 of the San José Municipal Code supersedes.

4. Use of Confidential Information

City employees and officials shall not use confidential information acquired by or available to them in the course of their employment with the City for personal gain or for personal, non-City business related reasons. City employees and officials shall uphold the public’s right to know, and in accordance with the Brown Act, uphold the public’s right to know not only the decisions taken, but also the deliberations which shape public policies. Any employee or official, who is aware of a breach of confidentiality, is expected to bring forth that information to the appropriate officials in a timely manner.

5. Use of City Employment and Facilities for Personal Gain

City employees and officials shall not use City time, City funds or City facilities, equipment or supplies for personal use or personal gain or for campaign related political activities, nor shall they use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.

This is just a summary of your obligations, for additional information please refer to policy 1.6.2, titled Personal Use of City Equipment, and 1.7.1, titled Use of E-Mail, Internet Services and Other Electronic Media, in the City Policy Manual.

6. Outside Employment

No employee shall engage in any work, employment or occupation outside City employment, which is detrimental to City service, which prevents or impedes the efficient performance of their duties in City employment, or which is in any way in conflict with their employment with the City. No employee shall engage in any work, employment or occupation outside City employment unless they have notified their department via an Outside Work Permit, and the permit has been approved by the Department Director.

This is just a summary of your obligations, for additional information please refer to policy 1.2.3, titled Outside Employment Policy, in the City Policy Manual.
7. Discussion of Future Employment

All offers or discussions of offers to City employees of future employment outside City service must be reported immediately to the employee's supervisor whenever such discussions occur with, or when such offer is made by, any person, firm or organization presently dealing with the City concerning matters directly within the employee's current areas of decision-making responsibilities. It shall be within the supervisor's discretionary powers to relieve said employee from further decision-making responsibilities in relationship to said person, firm or organization if he or she determines that the offer of employment or discussions of an offer of employment would impair the employee's independence or judgment or could be construed by others as a bid for favorable treatment.

8. Reporting of Improper Activities

The City of San José has a responsibility to conduct its affairs ethically and in compliance with the law. City employees and persons in City service are expected and encouraged to promptly raise questions and concerns regarding possible violations of City policy or local, State or Federal law with his/her immediate supervisor or another management employee within the employee's department. Employees may also call the Employee Helpline at 535-8150 or the Fraud and Audit Hotline at 535-8200.

It is the policy of the City to prohibit the taking of any adverse employment action against those who in good faith report or participate in investigations into complaints of alleged violations of City policy or local, State or Federal law in retaliation for that reporting or participation. No officer or employee of the City shall directly or indirectly use or attempt to use the authority or influence of such officer or employee for the purpose of intimidating, threatening, coercing, directing or influencing any person with the intent of interfering with that person's duty to disclose alleged violations of City policy or local, State or Federal law.

This is just a summary of your obligations, for additional information please refer to Policy 1.1.4, titled Non-Retaliation, in the City Policy Manual.

9. Discrimination and Harassment

City employees and officials shall not, in the performance of their duties, discriminate against any person on the basis of race, color, religion, national origin, ancestry, age, sex, gender, pregnancy, childbirth or related medical condition, sexual orientation, marital status, disability, medical condition and actual or perceived gender identity and they will reinforce the City of San José's commitment to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment.

This is just a summary of your obligations, for additional information please refer to policy 1.1.1, titled Discrimination and Harassment Policy, in the City Policy Manual.

VIOLATIONS OF THE CODE OF ETHICS

In addition to any other penalty as provided by law, employees who violate the Code of Ethics will be subject to disciplinary action, up to and including termination. The violation of this Code of Ethics by a City official, elected or appointed, constitutes official misconduct. For additional information, please refer to Title 12 of the San José Municipal Code and the City Council Censure Policy.
City of San José, California

COUNCIL POLICY

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EFFECTIVE DATE: April 25, 2006

APPROVED BY COUNCIL ACTION: April 25, 2006

PURPOSE

The purpose of this policy is to require the Mayor and Members of the City Council to publicly share substantive information that is relevant to a matter under consideration by the City Council which they have received from sources outside of the public decision-making process.

SCOPE OF APPLICATION

This Policy applies to each Member of the City Council which includes the Mayor.

POLICY

1. Each Member of the City Council has a duty and responsibility to publicly disclose all substantive information and material facts related to an item on the City Council Agenda to the City Council after the information and material facts are obtained or received from sources outside of the public decision-making process.

2. The information shall be disclosed prior to the City Council taking any action on the item. All written information which is required to be disclosed in accordance with this Policy shall be provided to the City Clerk who will make the information publicly available. Oral information shall be communicated to the City Council no later than public discussion of the matter under consideration by the City Council after a good faith determination by the Member of the City Council that the information obtained is required to be disclosed in accordance with this Policy.

3. Substantive information and material facts means important information or important facts that are relevant and necessary for a Member of the City Council to make an informed and knowledgeable decision on a pending legislative matter or an item of business before the City Council.

A fact is "material" if it is one which would likely affect the judgment or decision of a Member of the City Council or likely to influence a Member of the City Council on an item of business on the City Council Agenda. Further, a fact is "material" if its omission or the failure to disclose the fact will substantially mislead any Member of the City Council from making an informed and knowledgeable decision about a pending legislative matter or an item of business before the City Council.
City of San José, California

COUNCIL POLICY

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POLICY STATEMENT

The public's right to access information concerning the conduct of the people's business is a fundamental and necessary right. A record shall not be withheld from disclosure unless it is exempt under applicable laws, or the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. The California Public Records Act permits local agencies to adopt regulations stating the procedures to be followed when making their records available to the public. The San José City Council desires to establish a formal written policy affirming the public's right to access City of San José records and to set forth the procedures by which such records will be made available to the public. The City Council is mindful of the constitutional right of privacy accorded to individuals and it is the intent of the City Council to promulgate a policy that strikes an appropriate balance between the objectives of open government and the individual's right of privacy.

PURPOSE

The purpose of this policy is to affirm the public's right to access City records and to set forth the procedures that will facilitate accessibility of information to members of the public.

ACCESSING CITY RECORDS

Records Available for Inspection and Copying

Records available for inspection and copying include any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by the City, regardless of the physical form and characteristics. The records do not have to be written but may be in another format that contains information such as computer tape or disc or video or audio recording.

"Writing" includes any handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation such as letters, words, pictures, sounds, or symbols, as well as all papers, maps, magnetic or paper tapes, photographic films and prints, and electronic mail.

Locating and Identifying Records

Public records are open to inspection at all times during regular City business hours. The City does not maintain a centralized record keeping system, other than certain documents routinely maintained by the Office of the City Clerk. Each of the City's individual departments maintains and has custody of records and information relating to the responsibilities and work performed by the particular department.

Information identifying the City's Departments and Department contacts is available on the City’s website at www.sanjoseca.gov. Information about City Departments and contacts may also be obtained by contacting the City's Informational Call Center located at City Hall. The telephone number for reaching the Call Center is (408) 277-4000, and the TDD telephone for the hearing impaired is (408) 998-5299.
Each Department shall designate a person or persons, who will be responsible for responding to requests for records and coordinating the response with other City Departments, when appropriate. The Department representative shall also, to the extent reasonably practicable, assist the public in making focused and effective requests for records and information. In order to accomplish this, the representative shall: (1) assist the member of the public with identification of records and information that are responsive to the request or the purpose of the request, if known; (2) describe the information technology and physical location in which the records exist; and (3) provide suggestions for overcoming any practical basis for denying the request.

Making a Request for Records

There is no specific form that must be used to request records, nor is there any language that must be used when making a request. Requests may be made orally or in writing; either in person, through the mail, via e-mail or over the telephone. The request, however, should contain a reasonable description of the desired records in order to expedite processing of the request.

Form of Records Provided

Records shall be made available in their original form or by a true and correct copy. Audio, photographic and computer data, or any other such records, shall be exact replicas unless the Department determines it is impracticable to provide exact replicas. Any reasonably segregable portion of a record shall be provided to the public after deletion of portions that are deemed exempt from disclosure.

Time for Response

Upon receipt of a written or oral request for records, the City shall make the records promptly available to the requestor. In cases where the records are not readily identifiable or accessible, or additional time is needed to determine whether the request in whole or in part seeks copies of disclosable records, the City will have ten (10) calendar days to provide its determination. The ten (10) day time period shall be calculated from the date the request is received.

In unusual circumstances, the City may extend its time to respond by an additional fourteen (14) calendar days. Should this occur, the City will inform the requestor in writing of the extension within the initial ten (10) day period, setting forth the reasons for the extension, along with the estimated date of the City’s further response. Unusual circumstances permitting the extension of time are limited to: (1) the need to search for and collect the requested records from facilities separate from the office processing the request; (2) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that have been asked for in a single request; (3) the need for consultation with another department or another agency that has a substantial interest in the response to the request; and/or (4) the need to compile data, to write programming language or a computer program, or to construct a computer report to extract data. If a written request for information is denied in whole or in part, the denial shall be in writing and shall contain the explicit reasons for denial of access to the subject records, as well as the names and titles or positions of each person responsible for the denial.

Fees and Charges

In most situations, the City will not charge any fees to cover the time and costs incurred in searching for, locating or collecting records. The City, however, may charge for the actual costs of duplicating paper copies of records and postage, consistent with the amounts set forth in City’s Schedule of Fees and Charges. The City may also charge for duplication costs in another medium in accordance with the amounts set forth in the Schedule of Fees and Charges (e.g. copying video or cassette tapes). Requestors of electronic records shall pay for production costs, including the cost to construct the record and the cost of programming and computer services necessary to produce the copy if the request would require the production of a record that is otherwise only
produced at regularly scheduled intervals, or the request would require data compilation, extraction, or programming to produce the record. However, the City will not charge for access to data that is readily accessible without significant cost to the City.

Department Procedures

Each City Department, with the assistance of the City Attorney’s Office, shall establish procedures to be followed when making its records available for public inspection consistent with the provisions set forth in Attachment A. If any question exists as to whether any record, or portion of any record, is exempt from disclosure, it is the responsibility of the head of the Department, or his or her designee, to contact the Office of the City Attorney promptly within the time frame for responding to a public records request for advice.
City of San José, California

Attachment A

CITY OF SAN JOSE PUBLIC RECORDS PROCEDURE

Department Representatives

Each Department shall designate a person or persons, who will be responsible for responding to requests for records and coordinating the response with other City Departments, when appropriate.

Departments that have more than one division within the Department, shall assign a person or persons who will be responsible for coordinating and responding to requests for records and information that overlap different divisions within the Department.

Department Coordination

If a request seeks information from more than one department, the request shall be forwarded to the designated representative in the City Manager's Office and the representative of all other interested departments. The City Manager's representative will coordinate and respond to the request with the assistance of each of the Department representatives.

If a request for records is directed to a department that does not maintain or have custody of the records, then the representative shall promptly attempt to identify the appropriate department and forward the request to the responsible department for preparation of a response. In the event a request is forwarded to another department for a response, the requestor shall be given notice of the referral to another department and contact information for the Department who will be preparing the response.

Coordination with the City Attorney's Office

Requests that are related to pending or potential litigation shall be coordinated with the City Attorney's Office. Questions regarding the Public Records Act or any documents that may not be subject to disclosure shall promptly be forwarded to the City Attorney's Office for review.

Steps for Responding to Requests for Records

Upon receiving a request for records, whether orally or in writing, the Department representative shall promptly respond to the request. For example, if a request is made in person at the City Clerk's Office for a copy of a City Council agenda maintained at the City Clerk's Office, the requested agenda should be made available to the requestor at the time of the request.

If a particular request requires research as to the existence of the requested record and/or its location, then the Department representative shall promptly begin researching the request and shall immediately note his or her calendar (e.g. Outlook), with the last date to respond to the request. This date shall not exceed ten (10) calendar days from the date the request is received.

In unusual circumstances, the City may extend its time to respond by an additional fourteen (14) calendar days. The circumstances permitting an extension of time are limited to:

1. the need to search for and collect the requested records from facilities separate from the office processing the request;
2. the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that have been asked for in a single request;
3. the need for consultation with another department or another agency that has a substantial interest in the response to the request; and/or
4. the need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.
COUNCIL POLICY MANUAL

Should one or more of these circumstances arise, the Department representative will inform the requestor in writing of the extension within the initial ten (10) day period, setting forth the reasons for the extension, along with the expected date of the City's further response. Any questions about extending the initial ten (10) day time to respond to requests should be directed to the City Attorney's Office.

Records shall be available for review and inspection during regular City business hours.

If a request for records seeks the production of records or documents that are not in existence at the time the request is made, the City is not obligated to create a document in order to respond to the request.

Common Exemptions

There are certain categories of documents that are generally not subject to disclosure. These include, but are not limited to: (1) preliminary drafts of certain documents that are not retained by the City in the ordinary course of business; (2) records related to pending litigation; (3) attorney-client communications; (4) personnel records, medical information, or other similar records the disclosure of which would constitute an unwarranted invasion of personal privacy; (5) corporate financial and proprietary information, including trade secrets; and (6) records protected by State or Federal law. If the Department (after consultation with the City Attorney's Office when appropriate), determines that the records sought in a written request for records are not subject to disclosure either in whole or in part, then the Department shall advise the requestor in writing that the records will not be made available and include the reasons why access is being denied, as well as the names and titles or positions of each person responsible for the denial.

Responding to Requests for Particular Documents

The following procedures shall apply when responding to requests for these particular categories of documents:

Disclosure of Preliminary Drafts

Preliminary drafts of documents kept in the ordinary course of business, including drafts of agreements, which are kept and preserved after final action has been taken, shall be disclosed if requested.

Disclosure of Litigation Materials

1. When litigation in which the City is a party is finally adjudicated or otherwise settled, records of communications between the City and the adverse party in the litigation shall be subject to disclosure including the text and terms of any settlement agreement between the parties.

2. Such disclosure shall not apply to records that are otherwise privileged under federal or state law, such as attorney-client communications, or to records sealed by the court or where disclosure is otherwise limited by the court.

Disclosure of Information Relating to Contracts, Bids and Proposals

1. Records of contractors' bids shall be available for inspection immediately following the opening of bids.

2. Responses to Requests for Proposals or Requests for Qualifications/Quotations and similar submittals shall be regarded as public records and are available for inspection after City staff's recommendation has been made public, unless there are elements in the proposal which are defined by the proposer as business or trade secrets and plainly marked as "Confidential," Trade Secret," or "Proprietary." Although trade secret information may be exempt from disclosure, the City typically is not in a position to establish whether the information that a proposer has submitted is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City will provide the proposer who submitted the information with reasonable notice to allow the proposer to seek protection from disclosure by a court or government agency of competent jurisdiction.
3. When an individual, firm or organization is awarded a contract, information including financial information which was submitted to the City during the bid or proposal process from all proposers will be subject to disclosure unless otherwise exempt, following ways: 1) delete or redact those portions of the records that include personal information and make the remaining portion of the record available for inspection if the remaining portion of the record is not otherwise exempt from disclosure; 2) notify the party whose personal information is being sought and provide the party with the opportunity to initiate legal proceedings or other appropriate process to prevent the release of such information; 3) seek a judicial determination as to whether or not the requested personal information should be disclosed; or 4) disclose the information where permitted, allowed or compelled to do so.

Complaints and Complaint Information

Information regarding complaints shall be made available. However, specific information about complainants shall be redacted from any record furnished if necessary in order to protect the privacy rights and safety of individuals making complaints and to protect an individual’s right to petition government for redress of grievances.

Electronic Mail

E-mail shall be treated the same as other written documents. If the e-mail is kept in the ordinary course of business, it is a public record unless it falls within some exception to disclosure under the Public Records Act. Additional information regarding the storage and use of e-mail in the City may also be found in Section 3.01 of the City’s policy manual entitled “Use of E-Mail, Internet Services, and other Electronic Media.”

Records Retention

This procedure does not obligate City departments to retain documents beyond the period of time designated for the department in the City’s record retention policy. In the event a request for records is received prior to its destruction under the City’s record retention policy, the requested records will be provided.
COUNCIL AGENDA: NOVEMBER 4, 2008

SUBJECT: INTERIM FINANCIAL STATUS REPORTS AND GRANTS SUMMARY REPORT

SOURCE: Administrative Services - Finance Division

COMMENT: The City Charter requires financial status reports to be provided to City Council members on a monthly basis. Council Minute Order #13-041602 and #10-011607 established the requirement and parameters for the preparation and presentation of interim financial status reports.

In accordance with Council Minute Order #13-041602 and #10-011607, the interim financial status reports for the 1st fiscal quarter ended September 30, 2008, are submitted.

RECOMMENDATION: That the City Council accept the interim financial status reports and grants summary report as presented.

ATTACHMENTS: Interim financial reports
Grants summary report

D.D. Appropriated/Funded MI C.M. Item No. 22
## CITY OF PORTERVILLE

### REVENUE STATUS REPORT - GENERAL FUND

**FOR THE THREE MONTHS ENDED SEPTEMBER 30, 2008 AND SEPTEMBER 30, 2007**

<table>
<thead>
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</thead>
<tbody>
<tr>
<td></td>
<td>ESTIMATED</td>
<td>YEAR-TO-DATE</td>
<td>% OF</td>
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</tr>
<tr>
<td></td>
<td>REVENUE</td>
<td>REVENUE</td>
<td>ESTIMATE</td>
<td>REVENUE</td>
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<td>$7,070,000</td>
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<td>$7,070,000</td>
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<td>OTHER TAXES:</td>
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<tr>
<td>SALES AND USE TAX</td>
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<td>UTILITY USERS TAX</td>
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<td>761,536</td>
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<td>TRANSIENT OCCUPANCY TAX</td>
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<td>300,000</td>
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<tr>
<td>PROPERTY TRANSFER TAX</td>
<td>100,000</td>
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<tr>
<td>FRANCHISE TAX</td>
<td>1,551,137</td>
<td>1,651,137</td>
<td>16.14%</td>
<td>247,564</td>
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<td>SALES TAX - PUBLIC SAFETY</td>
<td>150,000</td>
<td>150,000</td>
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<td>LICENSES AND PERMITS:</td>
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<tr>
<td>BUSINESS LICENSES</td>
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<td>CONSTRUCTION PERMITS</td>
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<td>480,000</td>
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<td>480,000</td>
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<td>REVENUE FROM AGENCIES-TAXES:</td>
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<tr>
<td>MOTOR VEHICLE IN-LIEU TAX</td>
<td>250,000</td>
<td>230,000</td>
<td>24.36%</td>
<td>230,000</td>
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<td>OTHER TAXES</td>
<td>30,000</td>
<td>30,000</td>
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<tr>
<td>REVENUE FROM AGENCIES-GRANTS</td>
<td>698,052</td>
<td>107,500</td>
<td>4.34%</td>
<td>107,500</td>
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<tr>
<td>USE OF MONEY AND PROPERTY</td>
<td>300,001</td>
<td>380,706</td>
<td>18.99%</td>
<td>300,001</td>
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<tr>
<td>FINES AND FORFEITURES</td>
<td>55,000</td>
<td>57,000</td>
<td>10.89%</td>
<td>55,000</td>
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<td>CHARGES FOR SERVICES:</td>
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<td></td>
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<tr>
<td>PLANNING AND ENGINEERING</td>
<td>160,100</td>
<td>142,100</td>
<td>27.79%</td>
<td>142,100</td>
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<tr>
<td>POLICE</td>
<td>221,200</td>
<td>181,200</td>
<td>16.23%</td>
<td>181,200</td>
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<tr>
<td>FIRE</td>
<td>24,200</td>
<td>17,000</td>
<td>54.74%</td>
<td>17,000</td>
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<tr>
<td>LIBRARY</td>
<td>33,000</td>
<td>30,000</td>
<td>32.09%</td>
<td>30,000</td>
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<tr>
<td>RECREATIONAL</td>
<td>1,245,500</td>
<td>1,161,591</td>
<td>26.89%</td>
<td>1,161,591</td>
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<tr>
<td>INTERDEPARTMENTAL</td>
<td>1,750,000</td>
<td>1,757,000</td>
<td>28.55%</td>
<td>1,757,000</td>
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<tr>
<td>OTHER</td>
<td>2,000</td>
<td>2,500</td>
<td>25.00%</td>
<td>2,500</td>
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<tr>
<td>OTHER REVENUES</td>
<td>90,500</td>
<td>1,017,538</td>
<td>32.65%</td>
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<tr>
<td>SUBTOTALS</td>
<td>$22,638,840</td>
<td>$3,117,633</td>
<td>13.77%</td>
<td>$22,413,422</td>
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<tr>
<td>DEBT SERVICE TRANSFERS</td>
<td>727,500</td>
<td>181,875</td>
<td>25.00%</td>
<td>767,500</td>
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<tr>
<td>TOTALS</td>
<td>$23,366,340</td>
<td>$3,299,508</td>
<td>14.12%</td>
<td>$23,180,922</td>
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</table>
### CITY OF PORTERVILLE

**REVENUE STATUS REPORT - ALL OTHER FUNDS**
**FOR THE THREE MONTHS ENDED**
**SEPTEMBER 30, 2008 AND SEPTEMBER 30, 2007**

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>MEASURE H SALES TAX</td>
<td>$2,850,000</td>
<td>$517,264</td>
<td>18.1%</td>
<td>$2,810,000</td>
<td>$604,600</td>
<td>21.5%</td>
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<tr>
<td>REDEVELOPMENT AGENCY</td>
<td>1,119,090</td>
<td>6,720</td>
<td>0.6%</td>
<td>896,696</td>
<td>5,996</td>
<td>0.7%</td>
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<tr>
<td>SPECIAL GAS TAX</td>
<td>3,284,700</td>
<td>144,393</td>
<td>4.4%</td>
<td>2,014,100</td>
<td>140,720</td>
<td>7.0%</td>
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<tr>
<td>LOCAL TRANSPORTATION FUNDS (LTF)</td>
<td>6,556,181</td>
<td>250,732</td>
<td>3.8%</td>
<td>3,147,886</td>
<td>157,396</td>
<td>5.0%</td>
</tr>
<tr>
<td>TRAFFIC SAFETY FUND</td>
<td>125,100</td>
<td>49</td>
<td>0.0%</td>
<td>125,500</td>
<td>21</td>
<td>0.0%</td>
</tr>
<tr>
<td>ZALUD ESTATE</td>
<td>6,000</td>
<td>628</td>
<td>10.5%</td>
<td>5,000</td>
<td>1,032</td>
<td>20.6%</td>
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<tr>
<td>COMMUNITY DEVELOPMENT BLOCK GRANT</td>
<td>1,982,102</td>
<td>100,296</td>
<td>5.1%</td>
<td>3,317,295</td>
<td>200,028</td>
<td>6.0%</td>
</tr>
<tr>
<td>TRANSIT</td>
<td>3,438,759</td>
<td>378,997</td>
<td>11.0%</td>
<td>4,895,715</td>
<td>734,712</td>
<td>15.0%</td>
</tr>
<tr>
<td>SPECIAL SAFETY GRANTS</td>
<td>92,000</td>
<td>91</td>
<td>0.1%</td>
<td>153,116</td>
<td>273</td>
<td>0.2%</td>
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<tr>
<td>SEWER OPERATING</td>
<td>6,796,950</td>
<td>1,547,788</td>
<td>22.8%</td>
<td>6,539,861</td>
<td>1,602,071</td>
<td>24.5%</td>
</tr>
<tr>
<td>REFUSE REMOVAL</td>
<td>5,610,251</td>
<td>1,271,802</td>
<td>23.1%</td>
<td>5,156,418</td>
<td>1,258,919</td>
<td>24.4%</td>
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<tr>
<td>AIRPORT OPERATIONS</td>
<td>1,177,268</td>
<td>945,233</td>
<td>80.3%</td>
<td>1,094,450</td>
<td>629,588</td>
<td>57.5%</td>
</tr>
<tr>
<td>GOLF COURSE</td>
<td>306,999</td>
<td>89,416</td>
<td>29.1%</td>
<td>322,532</td>
<td>79,661</td>
<td>24.7%</td>
</tr>
<tr>
<td>WATER OPERATING</td>
<td>4,963,610</td>
<td>1,697,464</td>
<td>34.2%</td>
<td>5,165,108</td>
<td>1,625,897</td>
<td>31.5%</td>
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<tr>
<td>RISK MANAGEMENT</td>
<td>3,816,500</td>
<td>1,112,534</td>
<td>29.2%</td>
<td>3,621,850</td>
<td>902,667</td>
<td>24.9%</td>
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<tr>
<td>EQUIPMENT MAINTENANCE</td>
<td>2,359,785</td>
<td>706,103</td>
<td>29.9%</td>
<td>2,047,168</td>
<td>510,447</td>
<td>24.9%</td>
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<tr>
<td>LANDSCAPE MAINTENANCE DISTRICT</td>
<td>238,199</td>
<td></td>
<td></td>
<td>194,000</td>
<td></td>
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<tr>
<td>WATER REPLACEMENT</td>
<td>583,162</td>
<td>116,504</td>
<td>20.0%</td>
<td>714,362</td>
<td>84,262</td>
<td>11.8%</td>
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<tr>
<td>SOLID WASTE RESERVE</td>
<td>540,000</td>
<td>129,562</td>
<td>24.0%</td>
<td>500,250</td>
<td>126,212</td>
<td>25.2%</td>
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<tr>
<td>SEWER REVOLVING</td>
<td>325,000</td>
<td>57,990</td>
<td>17.8%</td>
<td>445,400</td>
<td>42,289</td>
<td>9.5%</td>
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<tr>
<td>TRANSPORTATION DEVELOPMENT</td>
<td>625,000</td>
<td>166,028</td>
<td>26.6%</td>
<td>1,350,000</td>
<td>826,595</td>
<td>61.2%</td>
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<tr>
<td>PARK DEVELOPMENT</td>
<td>81,000</td>
<td>15,606</td>
<td>19.3%</td>
<td>70,000</td>
<td>20,643</td>
<td>29.5%</td>
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<tr>
<td>TREATMENT PLANT RESERVE</td>
<td>882,000</td>
<td>235,219</td>
<td>26.7%</td>
<td>1,025,000</td>
<td>208,316</td>
<td>20.4%</td>
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<td>STORM DRAIN DEVELOPMENT</td>
<td>440,000</td>
<td>100,751</td>
<td>22.9%</td>
<td>417,800</td>
<td>149,386</td>
<td>35.8%</td>
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<td>BUILDING CONSTRUCTION</td>
<td>50,000</td>
<td>4,885</td>
<td>9.8%</td>
<td>50,000</td>
<td>4,967</td>
<td>9.9%</td>
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<tr>
<td><strong>TOTALS</strong></td>
<td><strong>$48,146,656</strong></td>
<td><strong>$9,596,035</strong></td>
<td><strong>19.9%</strong></td>
<td><strong>$46,079,507</strong></td>
<td><strong>$9,917,667</strong></td>
<td><strong>21.5%</strong></td>
</tr>
</tbody>
</table>
CITY OF PORTERVILLE

EXPENDITURE STATUS REPORT - GENERAL FUND
FOR THE THREE MONTHS ENDED
SEPTEMBER 30, 2008 AND SEPTEMBER 30, 2007

<table>
<thead>
<tr>
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<tr>
<td>LEGISLATIVE:</td>
<td></td>
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<tr>
<td>CITY COUNCIL</td>
<td>$ 194,089</td>
<td>$ 19,741</td>
<td>10.2%</td>
<td>$ 214,381</td>
<td>$ 60,982</td>
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<td>COMMUNITY PROMOTION</td>
<td>229,240</td>
<td>104,495</td>
<td>45.6%</td>
<td>234,665</td>
<td>91,854</td>
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<td>CITY MANAGER</td>
<td>267,461</td>
<td>63,904</td>
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<td>272,916</td>
<td>66,416</td>
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<td>CITY CLERK</td>
<td>192,806</td>
<td>39,838</td>
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<td>44,364</td>
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<td>HUMAN RESOURCES</td>
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<td>40,256</td>
<td>16.5%</td>
<td>259,585</td>
<td>40,946</td>
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<td>CITY ATTORNEY</td>
<td>180,000</td>
<td>28,510</td>
<td>15.8%</td>
<td>180,000</td>
<td>34,241</td>
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<td>FINANCE:</td>
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<tr>
<td>FINANCE &amp; ACCOUNTING</td>
<td>722,189</td>
<td>147,189</td>
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<td>132,598</td>
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<td>INFORMATION SERVICES</td>
<td>372,978</td>
<td>95,501</td>
<td>25.6%</td>
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<td>ADMINISTRATIVE SERVICES</td>
<td>413,666</td>
<td>107,786</td>
<td>26.1%</td>
<td>385,162</td>
<td>96,755</td>
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<td>POLICE PROTECTION</td>
<td>7,492,607</td>
<td>1,829,911</td>
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<td>1,687,256</td>
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<td>FIRE PROTECTION</td>
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<td>879,155</td>
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<td>780,342</td>
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<tr>
<td>PLANNING &amp; ZONING</td>
<td>510,060</td>
<td>124,178</td>
<td>24.3%</td>
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<td>ECONOMIC DEVELOPMENT</td>
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<td>34,116</td>
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<td>41,655</td>
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<td></td>
</tr>
<tr>
<td>ENGINEERING &amp; BUILDING</td>
<td>941,702</td>
<td>185,042</td>
<td>19.6%</td>
<td>887,770</td>
<td>179,573</td>
</tr>
<tr>
<td>STREET MAINTENANCE</td>
<td>408,003</td>
<td>97,109</td>
<td>23.8%</td>
<td>404,058</td>
<td>90,184</td>
</tr>
<tr>
<td>SIGNALS, SIGNING &amp; STRIPING</td>
<td>359,714</td>
<td>60,970</td>
<td>16.9%</td>
<td>362,606</td>
<td>63,228</td>
</tr>
<tr>
<td>STREET LIGHTING</td>
<td>390,550</td>
<td>73,548</td>
<td>18.8%</td>
<td>384,222</td>
<td>34,819</td>
</tr>
<tr>
<td>STORM DRAINS</td>
<td>102,400</td>
<td>21,724</td>
<td>21.2%</td>
<td>119,146</td>
<td>12,408</td>
</tr>
<tr>
<td>PARKING lots</td>
<td>47,142</td>
<td>6,973</td>
<td>14.8%</td>
<td>38,537</td>
<td>8,213</td>
</tr>
<tr>
<td>PARKS &amp; LEISURE:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PARK MAINTENANCE &amp; OPERATION</td>
<td>1,877,190</td>
<td>421,090</td>
<td>22.4%</td>
<td>1,752,668</td>
<td>343,838</td>
</tr>
<tr>
<td>STREET TREES &amp; PARKWAYS</td>
<td>256,006</td>
<td>38,390</td>
<td>15.0%</td>
<td>223,750</td>
<td>37,267</td>
</tr>
<tr>
<td>COMMUNITY CENTERS</td>
<td>244,851</td>
<td>58,860</td>
<td>24.0%</td>
<td>243,765</td>
<td>50,207</td>
</tr>
<tr>
<td>LEISURE SERVICES</td>
<td>229,575</td>
<td>66,780</td>
<td>29.1%</td>
<td>240,396</td>
<td>54,283</td>
</tr>
<tr>
<td>LEISURE SERVICES - SPECIAL PROG</td>
<td>1,135,720</td>
<td>219,059</td>
<td>19.3%</td>
<td>1,035,071</td>
<td>146,790</td>
</tr>
<tr>
<td>SWIMMING POOL</td>
<td>158,583</td>
<td>73,518</td>
<td>46.4%</td>
<td>151,268</td>
<td>79,268</td>
</tr>
<tr>
<td>LIBRARY OPERATIONS</td>
<td>613,614</td>
<td>183,896</td>
<td>30.0%</td>
<td>613,254</td>
<td>126,601</td>
</tr>
<tr>
<td>SPECIAL PROJECTS</td>
<td>40,000</td>
<td>8,183</td>
<td>20.5%</td>
<td>60,591</td>
<td>4,857</td>
</tr>
<tr>
<td><strong>SUB TOTALS</strong></td>
<td><strong>$ 21,479,941</strong></td>
<td><strong>$ 5,029,719</strong></td>
<td><strong>23.4%</strong></td>
<td><strong>$ 21,017,515</strong></td>
<td><strong>$ 4,469,179</strong></td>
</tr>
<tr>
<td><strong>DEBT SERVICE</strong></td>
<td><strong>1,823,504</strong></td>
<td><strong>455,876</strong></td>
<td><strong>25.0%</strong></td>
<td><strong>1,831,296</strong></td>
<td><strong>457,824</strong></td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>$ 23,303,445</strong></td>
<td><strong>$ 5,485,595</strong></td>
<td><strong>23.5%</strong></td>
<td><strong>$ 22,848,811</strong></td>
<td><strong>$ 4,927,003</strong></td>
</tr>
</tbody>
</table>
CITY OF PORTERVILLE

EXPENDITURE STATUS REPORT - ALL OTHER FUNDS
FOR THE THREE MONTHS ENDED
SEPTEMBER 30, 2008 AND SEPTEMBER 30, 2007

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>MEASURE H SALES TAX</td>
<td>$ 2,659,949</td>
<td>$ 616,856</td>
<td>23.2%</td>
<td>$ 2,043,050</td>
<td>$ 196,681</td>
</tr>
<tr>
<td>REDEVELOPMENT AGENCY</td>
<td>1,056,076</td>
<td>36,880</td>
<td>3.5%</td>
<td>808,080</td>
<td>38,931</td>
</tr>
<tr>
<td>ZALUD ESTATE</td>
<td>31,292</td>
<td>6,982</td>
<td>22.3%</td>
<td>28,480</td>
<td>6,267</td>
</tr>
<tr>
<td>COMMUNITY DEVELOPMENT BLOCK GRANT</td>
<td>482,841</td>
<td>32,783</td>
<td>6.8%</td>
<td>480,489</td>
<td>34,991</td>
</tr>
<tr>
<td>TRANSIT</td>
<td>2,846,572</td>
<td>476,158</td>
<td>16.7%</td>
<td>3,566,206</td>
<td>830,270</td>
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<tr>
<td>SPECIAL SAFETY GRANTS</td>
<td>90,000</td>
<td>1,359</td>
<td>1.5%</td>
<td>406,782</td>
<td>111,455</td>
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<tr>
<td>SEWER OPERATING</td>
<td>5,924,539</td>
<td>1,284,235</td>
<td>21.7%</td>
<td>5,787,837</td>
<td>1,159,027</td>
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<tr>
<td>REFUSE REMOVAL</td>
<td>5,409,828</td>
<td>1,276,783</td>
<td>23.6%</td>
<td>5,010,353</td>
<td>1,114,065</td>
</tr>
<tr>
<td>AIRPORT</td>
<td>1,261,713</td>
<td>671,089</td>
<td>53.2%</td>
<td>1,460,108</td>
<td>483,364</td>
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<tr>
<td>GOLF COURSE</td>
<td>375,999</td>
<td>86,166</td>
<td>22.9%</td>
<td>381,532</td>
<td>85,814</td>
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<tr>
<td>WATER OPERATING</td>
<td>4,436,156</td>
<td>1,021,806</td>
<td>23.0%</td>
<td>4,709,385</td>
<td>971,816</td>
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<tr>
<td>RISK MANAGEMENT</td>
<td>3,681,150</td>
<td>1,414,515</td>
<td>38.4%</td>
<td>3,621,850</td>
<td>913,137</td>
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<tr>
<td>EQUIPMENT MAINTENANCE</td>
<td>2,316,949</td>
<td>566,562</td>
<td>24.5%</td>
<td>2,026,013</td>
<td>439,186</td>
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<tr>
<td>LANDSCAPE MAINTENANCE DISTRICT</td>
<td>216,020</td>
<td>37,747</td>
<td>17.5%</td>
<td>197,379</td>
<td>24,967</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>$ 30,789,084</strong></td>
<td><strong>$ 7,529,922</strong></td>
<td><strong>24.5%</strong></td>
<td><strong>$ 30,527,544</strong></td>
<td><strong>$ 6,409,969</strong></td>
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</table>
CITY OF PORTERVILLE
INTERIM PERFORMANCE REPORT - ENTERPRISE FUNDS
For the Three Months Ended September 30, 2008 and September 30, 2007

<table>
<thead>
<tr>
<th>FUND</th>
<th>REVENUES &amp; TRANSFERS IN</th>
<th>EXPENSES &amp; TRANSFERS OUT</th>
<th>09/30/2008 NET PROFIT (LOSS)</th>
<th>09/30/2007 NET PROFIT (LOSS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zalud Estate</td>
<td>$</td>
<td>$ (6,982)</td>
<td>$ (6,354)</td>
<td>$ (5,235)</td>
</tr>
<tr>
<td>Sewer Operating</td>
<td>1,547,768</td>
<td>(1,637,586)</td>
<td>(89,818)</td>
<td>443,044</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>1,271,802</td>
<td>(1,276,783)</td>
<td>(4,981)</td>
<td>144,853</td>
</tr>
<tr>
<td>Airport</td>
<td>975,541</td>
<td>(671,089)</td>
<td>304,452</td>
<td>130,652</td>
</tr>
<tr>
<td>Golf</td>
<td>104,163</td>
<td>(86,166)</td>
<td>17,997</td>
<td>8,594</td>
</tr>
<tr>
<td>Water Operating</td>
<td>1,697,464</td>
<td>(1,021,806)</td>
<td>675,659</td>
<td>654,081</td>
</tr>
</tbody>
</table>

NOTE: The Transit Fund is not included as it does not contain any retained earnings.
CITY OF PORTERVILLE
INTERIM PERFORMANCE REPORT - MEASURE H
For the Three Months Ended September 30, 2008 and September 30, 2007

<table>
<thead>
<tr>
<th></th>
<th>FY 2008-09</th>
<th>FY 2007-08</th>
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<tbody>
<tr>
<td>REVENUES</td>
<td>$ 517,264</td>
<td>$ 604,600</td>
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<tr>
<td>EXPENDITURES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police Department</td>
<td>277,745</td>
<td>155,600</td>
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<tr>
<td>Fire Department</td>
<td>253,738</td>
<td>2,374</td>
</tr>
<tr>
<td>Library &amp; Literacy</td>
<td>85,374</td>
<td>38,706</td>
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<tr>
<td>Capital</td>
<td>0</td>
<td>0</td>
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<tr>
<td>TOTAL EXPENDITURES</td>
<td>616,856</td>
<td>196,681</td>
</tr>
<tr>
<td>REVENUE OVER/(UNDER) EXPENDITURES</td>
<td>$ (99,592)</td>
<td>$ 407,919</td>
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<tr>
<td>Grant/Subsidized Loan Description</td>
<td>City</td>
<td>City Capital Project No</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>------</td>
<td>------------------------</td>
</tr>
<tr>
<td>COMMUNITY DEVELOPMENT DEPARTMENT:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2006 CDBG entitlement allocation</td>
<td>B. Dunlap</td>
<td>HUD</td>
</tr>
<tr>
<td>2007 CDBG entitlement allocation</td>
<td>B. Dunlap</td>
<td>HUD</td>
</tr>
<tr>
<td>2006 CDBG entitlement allocation</td>
<td>B. Dunlap</td>
<td>HUD</td>
</tr>
<tr>
<td>HOME 2006 grant - FTTH and HRLP</td>
<td>B. Dunlap</td>
<td>HCD</td>
</tr>
<tr>
<td>Workforce Housing Funds - 05</td>
<td>B. Dunlap</td>
<td>HCD</td>
</tr>
<tr>
<td>Workforce Housing Funds - 06</td>
<td>B. Dunlap</td>
<td>HCD</td>
</tr>
<tr>
<td>Entrepreneurial Analysis</td>
<td>B. Dunlap</td>
<td>Economic Dev Admin</td>
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<tr>
<td>TRANSIT:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transit Operating Assistance</td>
<td>L. Clark</td>
<td>FTA</td>
</tr>
<tr>
<td>CNX bus</td>
<td>L. Clark</td>
<td>FTA</td>
</tr>
<tr>
<td>Bus turn-outs</td>
<td>L. Clark</td>
<td>FTA</td>
</tr>
<tr>
<td>Bus shelters/handshakes</td>
<td>L. Clark</td>
<td>FTA</td>
</tr>
<tr>
<td>Sign/label</td>
<td>L. Clark</td>
<td>FTA</td>
</tr>
<tr>
<td>Electronic fareboxes</td>
<td>L. Clark</td>
<td>FTA</td>
</tr>
<tr>
<td>Bus Maintenance Facility</td>
<td>L. Clark</td>
<td>FTA</td>
</tr>
<tr>
<td>Bus Maintenance Facility</td>
<td>L. Clark</td>
<td>FTA</td>
</tr>
<tr>
<td>Aviation (2)</td>
<td>L. Clark</td>
<td>FTA</td>
</tr>
<tr>
<td>AIRPORT:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Runway Guidance System (Design)</td>
<td>J. Longley</td>
<td>FAA</td>
</tr>
<tr>
<td>ACIP Lighting Construction</td>
<td>J. Longley</td>
<td>FAA</td>
</tr>
<tr>
<td>CAIP grant</td>
<td>J. Longley</td>
<td>DOT-CA-1000/1001</td>
</tr>
<tr>
<td>PARKS AND LEISURE SERVICES DEPARTMENT:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tule River Parkway, Ph III</td>
<td>J. Perine</td>
<td>CA Resources Agency</td>
</tr>
<tr>
<td>Porterville OHV Park - Oper &amp; Maint</td>
<td>J. Perine</td>
<td>CA Dept of Parks &amp; Rec</td>
</tr>
<tr>
<td>Porterville OHV Park - Development</td>
<td>J. Perine</td>
<td>CA Dept of Parks &amp; Rec</td>
</tr>
<tr>
<td>Porterville OHV Park - Law Enforcement</td>
<td>J. Perine</td>
<td>CA Dept of Parks &amp; Rec</td>
</tr>
<tr>
<td>CA Library Literacy and English Acad Svcs Prog</td>
<td>J. Perine</td>
<td>CA State Library</td>
</tr>
<tr>
<td>POLICE DEPARTMENT:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Citizens Option for Public Safety (COPS)</td>
<td>C. McMillan</td>
<td>State of CA, Dept. of Police</td>
</tr>
<tr>
<td>Office of Traffic Safety</td>
<td>C. McMillan</td>
<td>State of CA</td>
</tr>
<tr>
<td>PUBLIC WORKS DEPARTMENT:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Piano St @ Tule River Bridge widening project</td>
<td>B. Rodriguez</td>
<td>CALTRANS - HBOP</td>
</tr>
<tr>
<td>Josey St @ Tule River Bridge widening project</td>
<td>B. Rodriguez</td>
<td>CALTRANS - HBOP</td>
</tr>
<tr>
<td>Core area north, gutter &amp; sidewalk project</td>
<td>B. Rodriguez</td>
<td>CALTRANS - CAOA</td>
</tr>
<tr>
<td>Traffic Signal @ Matthew and Olive</td>
<td>B. Rodriguez</td>
<td>CALTRANS - MAYA</td>
</tr>
<tr>
<td>Newcomb Street shoulder stabilization project</td>
<td>B. Rodriguez</td>
<td>CALTRANS - CAOA</td>
</tr>
<tr>
<td>Main St @ College Ave Roundabout project</td>
<td>B. Rodriguez</td>
<td>CALTRANS - CAOA</td>
</tr>
<tr>
<td>Traffic Signal @ Newcomb and Westfield</td>
<td>B. Rodriguez</td>
<td>CALTRANS - CAOA</td>
</tr>
<tr>
<td>Indiana St sidewalk &amp; shoulder stabilization - North</td>
<td>B. Rodriguez</td>
<td>CALTRANS - CAOA</td>
</tr>
<tr>
<td>Indiana St sidewalk &amp; shoulder stabilization - South</td>
<td>B. Rodriguez</td>
<td>CALTRANS - CAOA</td>
</tr>
<tr>
<td>CNG Facility</td>
<td>B. Rodriguez</td>
<td>CALTRANS - CAOA</td>
</tr>
<tr>
<td>Shop upgrade for CNG Facility</td>
<td>B. Rodriguez</td>
<td>CALTRANS - CAOA</td>
</tr>
<tr>
<td>FINANCING THROUGH C.I.E.D.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sewer system expansion</td>
<td>B. Rodriguez</td>
<td>CIEDS-604-053</td>
</tr>
<tr>
<td>Eastside water system improvements</td>
<td>B. Rodriguez</td>
<td>CIEDS</td>
</tr>
<tr>
<td>TOTAL GRANTS/SUBSIDIZED LOANS AWARDED</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SUBJECT: QUARTERLY PORTFOLIO SUMMARY

SOURCE: Administrative Services - Finance Division

COMMENT: During the 1995 Legislative Session, the State adopted SB 564 and SB 866 which became effective January 1, 1996. These pieces of legislation set formal requirements for annual reaffirmation of the Investment Policy by Council, as well as for quarterly portfolio updates to Council.

Items identified in the summary that are requirements under SB 564 and SB 866 include the fact that all current holdings are in compliance with the current Investment Policy and that all City cash needs will be met. The date of the next update has also been identified.

RECOMMENDATION: That the City Council accept the quarterly Portfolio Summary in accordance with SB 564 and SB 866.

ATTACHMENTS: Quarterly Portfolio Summary

D.D. Appropriated/Funded N/A C.M. Item No. 23
<table>
<thead>
<tr>
<th>INVESTMENT OR CUSIP NUMBER</th>
<th>INSTITUTION</th>
<th>PURCHASE PRICE</th>
<th>PURCHASE VALUE</th>
<th>INTEREST RATE</th>
<th>PURCHASE DATE</th>
<th>MATURITY DATE</th>
<th>DAYS TO MATURITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1006</td>
<td>LOCAL AGENCY INVESTMENT FUND</td>
<td>$12,034,691</td>
<td>$12,034,691</td>
<td>2.770%</td>
<td>DAILY</td>
<td>DAILY</td>
<td>1</td>
</tr>
<tr>
<td>1006</td>
<td>LOCAL AGENCY INVESTMENT FUND</td>
<td>$1,771,536</td>
<td>$1,771,536</td>
<td>2.770%</td>
<td>DAILY</td>
<td>DAILY</td>
<td>1</td>
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<tr>
<td>1007</td>
<td>CISVRA INVESTMENT FUND</td>
<td>$5,593,155</td>
<td>$5,537,444</td>
<td>4.160%</td>
<td>DAILY</td>
<td>DAILY</td>
<td>30</td>
</tr>
<tr>
<td>886</td>
<td>TUJARIE COUNTY INVESTMENT POOL</td>
<td>$7,608,451</td>
<td>$7,608,451</td>
<td>4.230%</td>
<td>DAILY</td>
<td>DAILY</td>
<td>30</td>
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<tr>
<td>312868FR</td>
<td>FEDERAL HOME LOAN MORTGAGE COF</td>
<td>$200,000</td>
<td>$200,000</td>
<td>5.400%</td>
<td>10/02/2007</td>
<td>10/02/2012</td>
<td>1,485</td>
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<tr>
<td>313106DB</td>
<td>FEDERAL HOME LOAN BANK CALL BON</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
<td>4.200%</td>
<td>06/23/2008</td>
<td>06/23/2013</td>
<td>1,701</td>
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<tr>
<td>312877TM</td>
<td>FEDERAL HOME LOAN MORTGAGE COF</td>
<td>$500,000</td>
<td>$500,000</td>
<td>4.500%</td>
<td>03/28/2008</td>
<td>03/28/2013</td>
<td>1,701</td>
</tr>
<tr>
<td>312877XY</td>
<td>FEDERAL HOME LOAN MORTGAGE COF</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
<td>4.000%</td>
<td>06/10/2008</td>
<td>06/10/2013</td>
<td>1,714</td>
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<tr>
<td>312877ZC</td>
<td>FEDERAL FARM CREDIT BANK</td>
<td>$1,000,000</td>
<td>$999,800</td>
<td>4.160%</td>
<td>03/11/2008</td>
<td>03/11/2013</td>
<td>1,660</td>
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<tr>
<td>31313YXH</td>
<td>FEDERAL FARM CREDIT BANK</td>
<td>$1,000,000</td>
<td>$999,800</td>
<td>4.050%</td>
<td>03/31/2008</td>
<td>03/31/2013</td>
<td>1,624</td>
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<tr>
<td>31331Y56</td>
<td>FEDERAL FARM CREDIT BANK</td>
<td>$1,000,000</td>
<td>$999,800</td>
<td>4.000%</td>
<td>04/15/2008</td>
<td>04/15/2013</td>
<td>1,658</td>
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<tr>
<td>313618HM</td>
<td>FEDERAL NATIONAL MORTGAGE ASSN</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
<td>4.250%</td>
<td>06/23/2008</td>
<td>06/23/2013</td>
<td>1,660</td>
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<tr>
<td>312877MD</td>
<td>FEDERAL HOME LOAN MORTGAGE COF</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
<td>4.375%</td>
<td>06/23/2008</td>
<td>06/23/2013</td>
<td>1,679</td>
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<tr>
<td>312877MC</td>
<td>FEDERAL HOME LOAN MORTGAGE COF</td>
<td>$1,000,000</td>
<td>$976,400</td>
<td>3.850%</td>
<td>03/31/2008</td>
<td>03/31/2013</td>
<td>1,634</td>
</tr>
<tr>
<td>31333CLG8</td>
<td>FEDERAL HOME LOAN BANKS</td>
<td>$1,000,000</td>
<td>$999,940</td>
<td>4.000%</td>
<td>04/09/2008</td>
<td>04/09/2013</td>
<td>1,652</td>
</tr>
<tr>
<td>31333C9G9</td>
<td>FEDERAL HOME LOAN BANKS</td>
<td>$1,000,000</td>
<td>$983,810</td>
<td>3.750%</td>
<td>04/22/2008</td>
<td>04/22/2013</td>
<td>1,686</td>
</tr>
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<td>FEDERAL HOME LOAN BANKS</td>
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<td>$999,940</td>
<td>4.000%</td>
<td>03/31/2008</td>
<td>03/31/2013</td>
<td>1,634</td>
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<td>31333RW71</td>
<td>FEDERAL HOME LOAN BANKS</td>
<td>$1,000,000</td>
<td>$1,002,910</td>
<td>4.125%</td>
<td>06/22/2008</td>
<td>06/22/2013</td>
<td>1,631</td>
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<tr>
<td>31333Y56W</td>
<td>FEDERAL FARM CREDIT BANK</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
<td>4.500%</td>
<td>06/22/2008</td>
<td>06/22/2013</td>
<td>1,624</td>
</tr>
</tbody>
</table>

**TOTALS** | $48,822,713 | $48,840,397 |

**WEIGHTED AVERAGE RATE OF EARNINGS**

**% OF LIQUID HOldINGS**

**WEIGHTED AVERAGE MATURITY**

4.945%  4.745%  4.351%  3.928%  3.913%  55.000%  651

Comments:
Portfolio holdings as of September 30, 2008, are in compliance with the current Investment Policy. With 55.00% of the portfolio being held in liquid instruments, the cash needs of the City will be met. As per SB 564 and SB 866, the next portfolio report will be calculated for the fourth calendar quarter ended December 31, 2008, and will be presented during the February 3, 2009 Council meeting.