Call to Order
Roll Call

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION AGENDA

Roll Call: Redevelopment Agency Members

ORAL COMMUNICATIONS

This is the opportunity to address the Council or Redevelopment Agency on any matter scheduled for Closed Session.

REDEVELOPMENT AGENCY CLOSED SESSION:

A. Closed Session Pursuant to:

   (During Closed Session, the Redevelopment Agency meeting will adjourn to a meeting of the Porterville City Council.)

CLOSED SESSION:

B. Closed Session Pursuant to:
   3- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – One Case.
   4- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Three Cases.

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY COUNCIL/AGENCY ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Vice Mayor Pete McCracken
Invocation

PRESENTATIONS

City Manager’s Featured Project
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.

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

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY AGENDA
MARCH 17, 2009

Roll Call: Agency Members

ORAL COMMUNICATIONS
This is the opportunity to address the Council and/or Porterville Redevelopment Agency on any matter of interest, whether on the agenda or not.

SCHEDULED MATTER
1. Adoption of the Preliminary Plan and Added Territory Boundaries for the Proposed 2010 Amendment of the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1
   Re: Considering approval of resolutions adopting the Preliminary Plan and Added Territory Boundaries for the proposed 2010 Amendment of the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1.

Adjourn to a meeting of the Porterville City Council.

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. City Council Minutes of February 17, 2009

3. Claim – Vincent and Ruth Galvante
   Re: Considering rejection of a claim in an amount of $2,050.00 for damages to a waterline at 274 E. Springville that the claimant’s allege were sustained due to the roots of a City tree on December 10, 2008.

4. Claim – Vincent and Ruth Galvante
   Re: Considering rejection of a claim in an amount of $425.00 for damages to a waterline at 274 E. Springville that the claimant’s allege were sustained due to the roots of a City tree on September 10, 2008.

5. Authorization for Emergency Purchase / Replacement of Refuse Truck Engine
   Re: Authorizing the purchase and replacement of a refuse truck engine with a Cummins certified remanufactured engine to be installed by E.M. Tharp for an approximate cost of $25,000.

6. Authorization to Advertise for Bids – OHV (Off Highway Vehicle) Park Spectator Awning
Re: Approving staff’s recommended plans and project manual for the project consisting of the installation of ±1,205 square feet of light gauge steel awning and ±625 square feet of new concrete patio area to replace the existing wood structure at the OHV Park.

7. **Award of Contract – Rotary Screw Air Compressors & Refrigerated Compressed Air Dryer for WWTF**
   Re: Awarding contract in an amount of $32,464.18 to Accurate Air Engineering, Inc., of Fresno for the installation of two Rotary Screw Air Compressors and one Refrigerated Compressed Air Dryer for the Wastewater Treatment Facility.

8. **Award of Contract – Fire Station No. 2 Classroom - HVAC (Rebid)**
   Re: Awarding contract in an amount of $28,140.00 to Silver Air, Inc., for the project consisting of all labor, materials, equipment transportation and services for the installation of HVAC Units, ducts and all pertinent appurtenances at the Fire Station No. 2 Classroom.

9. **Acceptance of Improvements - Summit Estates, Phase One (Gary Smee – Nicholson & Smee, LLC)**

10. **Community Clean Up Events**
    Re: Considering approval of two clean up events; “Spring Clean Up Day” on April 25, 2009, and “Fall Clean Up Day” on October 24, 2009, which will offer City residential refuse customers free disposal of general trash, bulky items, wood-waste, and yard clippings at the City’s Corporation Yard.

11. **Rules and Regulations for Issuing Transit User Parking Permits**
    Re: Considering approval of the proposed Rules and Regulations for issuing parking permits at the “Singer” Parking Lot located at the southeast corner of Hockett Street and Oak Avenue (east of the Transit Center).

12. **Approval for Community Civic Event – Mariachi Academy Foundation – Time Marches On – Tri Tip Dinner Drive Thru**
    Re: Considering approval of a civic event to take place on Saturday, April 4, 2009, from 8:00 a.m. to 8:00 p.m. at Centennial Plaza.

13. **Approval for Community Civic Event – Church of the Nazarene Transition Sunday – Procession, April 19, 2009**
    Re: Considering approval of a civic event to take place at 765 W. Henderson Avenue on April 19, 2009 at approximately 11:00 a.m.

14. **Scheduling of Special Joint Meetings of the City Council and City Boards and Commissions**
    Re: Considering approval of the scheduling of special joint meetings between the Council and the City’s Library Board of Trustees and Parks & Leisure Services Commission during the month of April.

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

   Re: Considering request for appointment of one Council member to work with staff to evaluate the consultant qualifications for airport architectural and engineering services.

16. **Update on Water Connection Policy and Request for Waiver of Sewer Connection Requirements at 917 S. Wisconsin**  
   Re: Considering approval of a waiver of sewer connection requirements for the development of one single family residential house at 917 S. Wisconsin.

17. **Update – Options for Dealing with Improperly Maintained Abandoned or Foreclosed Properties**  
   Re: Receipt of an informational report on options for dealing with improperly maintained, abandoned, or foreclosed properties.

18. **Council Member Requested Agenda Item – Requirement for Conditional Use Permit for Card Room Operation**  
   Re: Consideration of a request to establish a requirement that the operations of a card room be conducted under the authority of a Conditional Use Permit.

**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 April 7, 2009 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 Office of City Clerk at (559) 782-7464. 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 during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City’s website at www.ci.porterville.ca.us.
CITY MANAGER’S FEATURED PROJECT
FOR MARCH, 2009

1. Playground Equipment Replacement Project
AGENDA: MARCH 17, 2009

JOINT MEETING OF THE
CITY OF PORTERVILLE CITY COUNCIL
AND
PORTERVILLE REDEVELOPMENT AGENCY

SUBJECT: ADOPTION OF THE PRELIMINARY PLAN AND ADDED TERRITORY
BOUNDARIES FOR THE PROPOSED 2010 AMENDMENT OF THE
REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT
PROJECT AREA NO. 1.

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The City Council of the City of Porterville (the "City Council" and the "City"
respectively) by Ordinance No. 1436, on July 10, 1990, adopted the
Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project Area
No. 1 (the "Project"). The Porterville Redevelopment Agency (the "Agency") and
the City Council are initiating an amendment (the proposed "2010 Amendment"
or "Amendment") to the Plan for the purposes of adding territory (the "Added
Territory") to the area within the Project (the "Project Area"), and making
modifications as appropriate and necessary to the Plan's projects and programs
specific to the Project Area. At a minimum it is expected the Amendment will
help provide: increased economic development assistance, infrastructure and
other public facilities upgrades, and additional affordable housing opportunities
available to the community.

The discussion presented below outlines the steps necessary to move forward with
the redevelopment plan amendment process as currently required under the
California Community Redevelopment Law (the "CCRL"; Health and Safety
Code Section 33000 et seq.) and the California Environmental Quality Act (the
"CEQA"; Public Resources Code Section 21000 et seq.). The process requires an
evaluation of potential Amendment related benefits to the community, as well as
other analyses which will be included within various reports and documents
prepared by Agency staff and its advisors; these reports and documents will be
transmitted to the Agency, City Council, taxing entities, and/or other parties as
required by law.

The tentative schedule for the Amendment provides that all steps for the
Amendment should be completed by the first quarter of the 2010 calendar year
and that the adopting ordinance would become effective prior to August 20, 2010.

The CCRL directs that in order to begin the redevelopment plan amendment
process that provides for inclusion of new territory, a preliminary plan must be
prepared in cooperation with both the authorizing redevelopment agency and the

APPROPRIATED/FUNDED N/A CM

ITEM NO. 1
jurisdiction’s planning commission. The Planning Commission of the City of Porterville (the "Planning Commission"); all references to the Planning Commission herein refer to the City Council acting as the Planning Commission) initiates this directive by cooperating with the Agency in formally selecting the boundaries of the Added Territory from within the limits of an amended\(^1\) redevelopment survey area (the “Survey Area”), and considering approval of a preliminary plan (the "Preliminary Plan") prepared for the Amendment. After the Preliminary Plan for the Amendment is adopted by the Planning Commission, the Agency shall review, and may approve and adopt the Preliminary Plan.

**Added Territory**

The boundaries of the Added Territory are recommended to include those seven sub areas shown on the map included as Appendix A of the Preliminary Plan included herewith. The Added Territory consists of approximately 3,186 acres and is shown in the Appendix A of the Preliminary Plan. The Added Territory includes both City incorporated and County of Tulare (the “County”) unincorporated areas (inclusion of County unincorporated areas is permitted under the CCRL, but will require approval of the County Board of Supervisors). Agency staff and advisors will work with County officials to help the Agency achieve this objective.

The Added Territory will be further evaluated by Urban Futures Inc. (UFI) and Alfred Gobar Associates, real estate analysts, to determine the degree of both physical and economic blight conditions, including the presence of inadequate public improvements, code enforcement and building code violations, infrastructure and utility deficiencies, and other factors relevant to substantiate the inclusion of these areas within the Added Territory. Modification of the Project Area’s projects and program list will also be considered as a possible action of this proposed Amendment.

**The Preliminary Plan**

Preparation of the Preliminary Plan is one element of the overall redevelopment plan amendment process (to add territory) which requires compliance with the CCRL and the CEQA. The process includes preparation of various technical reports, fiscal consultations with the County and other "affected" taxing entities, community awareness, as well as completion of numerous administrative tasks.

Because preparation of the Preliminary Plan occurs early in the redevelopment plan amendment process, the CCRL does not require that it be detailed and concise. In fact, pursuant to CCRL Section 33324, a Preliminary Plan is sufficient if it:

(a) Describes the boundaries of the project area [Added Territory];

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\(^1\) The City Council adopted Resolution No. 77-2008, on August 17, 2008, modifying the “Survey Area” to include additional area of the community including certain portion of unincorporated Tulare County.
(b) Contains a general statement of the land uses, layout of principal streets, population densities and building intensities and standards proposed as the basis for the redevelopment of the project area [Added Territory];

(c) Shows how the purposes of the CCRL would be attained by redevelopment;

(d) Shows that the proposed redevelopment is consistent with the community's [both the City's and County's] general plan; and

(e) Describes, generally, the impact of the project upon the area's residents and upon the surrounding neighborhood.

Once the Preliminary Plan is reviewed and approved by the Planning Commission, it is transmitted to the Agency for its further consideration and action consistent with CCRL Section 33325.

Subsequent Planning Commission Role

The Preliminary Plan and the Planning Commission's recommendation of the preliminary Added Territory boundaries to the Agency provide the basis for a working relationship between the two public bodies with respect to the redevelopment plan amendment process.

At a point later in time, the Planning Commission, will be asked to review the draft Redevelopment Plan, as proposed to be amended by the 2010 Amendment, assess its conformity to the City's² and County's³ General Plan (collectively the "General Plans"), and make its recommendation on approval and adoption of the 2010 Amendment to the Agency and City Council (the Planning Commission will also be provided a copy of the environmental impact report prepared for the 2010 Amendment). The "conformity report" process gives the Planning Commission an opportunity to evaluate the Amendment as well as the Agency's overall redevelopment program relative to the Added Territory and the Project Area, and the program’s relationship to the General Plans. The Planning Commission will participate in the Amendment’s CEQA Compliance process as outlined by City’s CEQA Implementation procedures.

Advisory Committee Role

The Added Territory boundaries were introduced to the City’s Redevelopment Advisory Committee (the “RAC”) on October 2, 2008 and March 5, 2009. As a committee composed chiefly of City business people working to build a better and stronger community, the RAC has an interest in the successful development and redevelopment of the City. At the two meetings, Agency staff and advisors provided informational overviews of preliminary Added Territory boundaries and the redevelopment plan amendment process including discussion of: i) CCRL requirements, ii) actions taken to date to identify conditions of blight (as defined in the CCRL) in the Added Territory and Project Area, and iii) tasks remaining to

² The City of Porterville’s 2030 General Plan was adopted on March 4, 2008 by the City Council’s Resolution No. 22-2008.
³ The Tulare County’s (Draft) 2030 General Plan is currently being revised and updated, and has not been adopted.
complete the Amendment per the project’s schedule of events. After question and answer sessions, RAC members voiced unanimous support to continue the process of the Amendment under procedures currently promulgated by the CCRL.

Agency Role

Pursuant to CCRL Section 33325, the Preliminary Plan, which includes a map of the Added Territory, is being submitted to the Agency by the Planning Commission, which approved and adopted the Added Territory boundaries for the Amendment and the Preliminary Plan on March 17, 2009, by its Resolution. As per Sections 33327 and 33328 of the CCRL, the Agency (or the Agency's representatives), following receipt of the Preliminary Plan, shall transmit to affected taxing entities, certain County officials (e.g., auditor, and tax assessor), and the State Board of Equalization, a legal description and map showing the boundaries of the Added Territory, notice that a plan for the redevelopment of the Added Territory is being prepared, and the proposed base year assessment roll for the Added Territory. The Agency is also authorizing preparation and transmittal of a "preliminary report" and all other required documents, including those required under CCRL Sections 33328, 33328.5(b) and 33451.5, and CEQA, following their completion.

Base Year Selection

The Agency resolution included herewith designates 2009-2010 as the base year assessment roll for the Added Territory (for the allocation of taxes to be received from the Added Territory, pursuant to CCRL Section 33670).

RECOMMENDATION: That the City Council acting as the Planning Commission:

1. Adopt a Resolution Selecting Added Territory Boundaries for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1;
2. Adopt a Preliminary Plan as the Basis for Preparing Said Amendment;
3. Transmit said Preliminary Plan to the Porterville Redevelopment Agency for its Consideration and Action; and
4. Authorize Mayor to Sign All Documents.

That the Porterville Redevelopment Agency:

1. Adopt a Resolution Accepting the Preliminary Plan for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1;
2. Authorize Preparation of the Preliminary Report, other documents, and Directing Transmittal of Certain Documents and Information, and Establishing a Base Year Assessment Roll to be Used for Allocation of Taxes from within the Added Territory; and
3. Authorize Chairman to Sign All Documents.
ATTACHMENT:

1) Draft Planning Commission Resolution
2) Draft Agency Resolution (Attachment A is not included in report; same as Attachment A in Draft Planning Commission Resolution)
RESOLUTION NO.____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACTING AS THE PLANNING COMMISSION OF THE CITY OF PORTERVILLE SELECTING ADDED TERRITORY BOUNDARIES FOR THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT AREA NO. 1, FORMULATING AND ADOPTING A PRELIMINARY PLAN AS THE BASIS FOR PREPARING SAID AMENDMENT, AND TRANSMITTING SAID PRELIMINARY PLAN TO THE PORTERVILLE REDEVELOPMENT AGENCY

WHEREAS, on July 10, 1990, the City Council of the City of Porterville (the "City Council" and "City," respectively), by its Ordinance No. 1436, adopted the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project Area No. 1 (the "Project"); and

WHEREAS, the Porterville Redevelopment Agency (the "Agency") desires to amend the Plan (the proposed "2010 Amendment" or "Amendment"), for the purposes of i) adding territory (the "Added Territory") to the area included within the Project (the "Project Area"), ii) improving existing deleterious physical and economic conditions existing in certain parts of the City and portions of County of Tulare unincorporated territory, and iii) reviewing and possibly modifying the Plan's projects and program list specific to the Project Area, and

WHEREAS, in accordance with California Community Redevelopment Law (the "CCRL"; Health & Safety Code Section 33000 et seq.) Section 33310, the City Council is responsible for designating a redevelopment survey area for the purpose of assessing the feasibility of including some or all of that area within a redevelopment project area; and

WHEREAS, the City Council acts as the Planning Commission of the City of Porterville and references in this resolution to the Planning Commission shall mean the City Council acting as the Planning Commission; and

WHEREAS, by Resolution No. 77-2008 adopted on August 17, 2008, the City Council amended the previously adopted redevelopment survey area (Resolution No. 110-89 adopted on August 22, 1989), designated the boundaries of an amended redevelopment survey area (the "Survey Area"), and directed the Planning Commission to work with the Agency, its staff, and advisors to select the preliminary boundaries of the Added Territory from within the Survey Area, and to formulate a preliminary plan (the "Preliminary Plan") for the Amendment; and

WHEREAS, CCRL Section 33322 authorizes the selection of one or more project areas comprised of all or part of a survey area by a planning commission and further directs that the planning commission shall formulate a preliminary plan for the redevelopment of a selected project area [Added Territory]; and

WHEREAS, CCRL Section 33323 directs that an agency and planning commission shall cooperate in the selection of a project area [Added Territory] and in the preparation of a preliminary plan for the redevelopment of the selected project area [Added Territory]; and
WHEREAS, the City's Redevelopment Advisory Committee has been advised of the proposed Amendment and preliminary Added Territory boundaries by Agency staff and advisors, has approved the Amendment in concept and, at its meetings held on October 2, 2008 and March 5, 2009, supported the continued development of the Amendment pursuant to appropriate provisions of the CCRL; and

WHEREAS, the Planning Commission has reviewed the Preliminary Plan submitted herewith, and based thereon has determined that the boundaries of the Added Territory preliminarily proposed to be included within Project Area No. 1, as hereinafter set forth, are appropriate for inclusion therein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACTING AS THE PLANNING COMMISSION DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The facts set forth above are true and correct and are a substantive part of this resolution.

SECTION 2. Under advisement of Agency staff and advisors the Planning Commission hereby selects and designates the Added Territory shown in Appendix A of the Preliminary Plan for further review and analysis pursuant to applicable provisions of the CCRL.

SECTION 3. In the event that it may be necessary, for clarification purposes, to make minor technical changes to the boundaries described in Appendix A of the Preliminary Plan or to affect other minor technical changes to the Preliminary Plan, the Planning Commission finds and determines that minor, technical changes for clarification purposes do not materially affect the boundaries selected and designated herein, or other substantive aspects of the Preliminary Plan, and such changes, as may be deemed necessary by the Agency Board or the Agency's Executive Director, do not require subsequent Planning Commission review and approval.

SECTION 4. The Planning Commission hereby approves the Preliminary Plan as formulated for all aspects of the Amendment in the form submitted herewith and incorporated herein by this reference.

SECTION 5. The City Clerk is hereby authorized and directed to transmit the Preliminary Plan, including the map (Appendix A) showing the Planning Commission's recommended Added Territory boundaries, to the Agency for its further consideration and subsequent action.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Porterville duly called and held on the 17th day of March 2009, by the following vote:

_________________________
Cameron Hamilton, Mayor

ATTEST:
John Lollis, City Clerk

________________________
Patrice Hildreth, Chief Deputy City Clerk
STATE OF CALIFORNIA  )
CITY OF PORTERVILLE   ) ss.
COUNTY OF TULARE   )

I, JOHN LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify
and declare that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Council
of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 17th
day of March, 2009

THAT said resolution was duly passed, approved, and adopted by the following vote:

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JOHN LOLLIS, City Clerk

By: Luisa Herrera, Deputy City Clerk
ATTACHMENT A

PRELIMINARY PLAN
March 17, 2009

Preliminary Plan for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1

PORTERVILLE REDEVELOPMENT AGENCY
PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT AREA NO. 1

Prepared by:

URBAN FUTURES, INC. / GRC REDEVELOPMENT PLANNING

In Cooperation with the:

CITY COUNCIL OF THE CITY OF PORTERVILLE ACTING AS THE PLANNING COMMISSION OF THE CITY OF PORTERVILLE

and the

PORTERVILLE REDEVELOPMENT AGENCY

MARCH 2009
Preliminary Plan for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1

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APPENDIX

APPENDIX A – Map of the Project Area and Added Territory
1.0 INTRODUCTION

The City Council of the City of Porterville (the "City Council" and "City," respectively) and the Porterville Redevelopment Agency (the "Agency") have initiated processing of the proposed amendment (the "2010 Amendment") to the previously amended1 Redevelopment Plan (the "Plan"; the Plan as proposed to be amended by the 2010 Amendment will be referred to hereinafter as the "Amended Plan") for the Porterville Redevelopment Project Area No. 1 (the "Project"). Purposes of the 2010 Amendment are adding territory (the "Added Territory") to the area included within the Project (the "Project Area"), and reviewing and possibly modifying the Plan's projects and program list specific to the Project Area. Adoption of the 2010 Amendment will help the Agency to improve existing deleterious physical and economic conditions existing in certain parts of the City and portions of County of Tulare (the "County") unincorporated territory2, and to improve the tax base within the community overall.

Pursuant to Section 33322 of the California Community Redevelopment Law (the "CCRL"; Health & Safety Code Section 33000 et seq.), the City Council acting as the Planning Commission of the City of Porterville (the "Planning Commission") will consider selection of preliminary Added Territory boundaries, and formulate a Preliminary Plan for the redevelopment of the Added Territory. The City Council initiated this action by its Resolution No. 77-2008, adopted on August 5, 20083. Pursuant to CCRL Sections 33323 and 33325, the Planning Commission will forward the Preliminary Plan to the Agency for its review and action, and as appropriate and necessary, will further cooperate with the Agency in selection of the Added Territory and preparation of the Preliminary Plan (due to CCRL requirements Amendment processing will proceed as if the Planning Commission and City Council were different bodies).

The Preliminary Plan is an initial framework document which will serve as the basis for each subsequent aspect of the 2010 Amendment. More detailed and specific studies are to be initiated which will identify specific problems and deficiencies, target programs, and projects and implementation actions necessary to effectuate the achievement of redevelopment activities that will be made possible by approval and adoption of the 2010 Amendment. Inclusion of the Added Territory within the Project Area will permit the Agency to fund improvements benefitting both private and public interests. As a part of the redevelopment plan amendment process the Agency will prepare analyses intended to further support the need for redevelopment benefits

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1 On July 10, 1990, the City Council, by its Ordinance No. 1436, adopted the redevelopment plan for the Project. Ordinance No. 1436 was subsequently amended by Ordinance No. 1504, adopted November 15, 1994, to amend Article VIII, Section G of the Plan to incorporate limitations required by the then recently adopted Assembly Bill 1290. The Plan was further amended by Ordinance No. 1655, adopted July 6, 2004 (the "Amendment No. 1") which Amendment No. 1 detached certain territory from the Project Area, and eliminated the time limit on the Agency's establishment of loans, advances, and indebtedness authorized by the then recently adopted Senate Bill 211.

2 Inclusion of County unincorporated territory within the City's Project Area is permissible under the CCRL, but approval will have to be granted by the County Board of Supervisors by adoption of two County ordinances: (1) authorizing inclusion of County territory, and (2) approving the 2009 Amendment.

3 Adoption of Resolution No. 77-2008, on August 5, 2008, also designated a new redevelopment survey area (the "Survey Area"). This resolution replaced and superseded Resolution 110-89, adopted on August 22, 1989 by the City Council. By law, parcels proposed for inclusion within a redevelopment project area (the Added Territory in this case) must first have been included within a redevelopment survey area. All parcels proposed for inclusion within the Added Territory have been included within the Survey Area boundary.
including: the provision for additional affordable housing opportunities within the Added Territory and the larger community, a larger tax base, and economic development assistance.

As an action of the 2010 Amendment, evaluation and possible amendment of the Plan's project and programs list specific to the Project area can be expected to facilitate long-term Agency efforts to implement redevelopment improvements within the Project Area.

1.1 DESCRIPTION OF THE BOUNDARIES OF THE ADDED TERRITORY

The recommended boundaries of the Added Territory are shown on the map included as Appendix "A" of this Preliminary Plan (a legal description of the Added Territory will be completed upon acceptance of the Added Territory boundaries by the Agency).

Boundary recommendations presented herein have been based upon i) a parcel specific field reconnaissance of all incorporated parts of the Survey Area adopted by the City Council on August 5, 2008 (the field reconnaissance focused on identifying the kinds and degree of blight); ii) discussions with Agency staff and legal counsel, Redevelopment Advisory Committee, and senior County administrative and planning department staff; and iii) a review of aerial images. As the Agency works with its staff and advisors to complete the redevelopment plan amendment process, it may be necessary to make minor modification(s) to the Added Territory boundaries based upon new information and analyses including evaluation of Added Territory and larger area economic conditions, surface and sub-grade infrastructure, code enforcement and building violations, public safety services, and other relevant information available in public records.

In addition, Added Territory boundaries and adoption of the Amendment will have to withstand scrutiny by Taxing entities, State reviewing agencies and affected property owners.
2.0 GENERAL STATEMENTS

2.1 PROPOSED LAND USES

As a basis for the redevelopment of the Added Territory, it is proposed that development and redevelopment be in conformance with the adopted 2030 General Plan\(^4\) of the City and the 2030 General Plan\(^5\) of the County as they presently exist or as amended from time to time (both the City's and the County's the General Plan and the Zoning Code are collectively referred to hereafter as the "General Plans"), and all other applicable state and local building codes and guidelines as they presently exist or as amended from time to time.

All development, redevelopment and related construction activities undertaken within the Added Territory will be subject to applicable federal, state and local building codes and guidelines. In addition, it is also subject to all applicable planning, environmental review and other procedural requirements currently in effect as development, redevelopment, and related construction activities are planned and implemented.

2.2. PROPOSED LAYOUT OF PRINCIPAL STREETS

As a basis for the redevelopment of the Added Territory, it is proposed that, in general, the layout of principal streets that will be newly constructed, improved or vacated, be as shown in the General Plans Circulation Elements, as they presently exist or as amended from time to time, and as permitted by future actions of legally authorized public entities such as Caltrans. In accordance with General Plans policies, existing streets within and/or directly adjacent to the Added Territory may be closed, widened or otherwise modified, and additional streets may be created as necessary for proper pedestrian and/or vehicular circulation.

2.3. PROPOSED POPULATION DENSITIES

Within the confines of the General Plans Land Use designations, there will be a permitted range of development within the Added Territory; population densities therein must be in conformance with the General Plans, as they presently exist or as amended from time to time.

2.4 PROPOSED BUILDING INTENSITIES

As a basis for the redevelopment of the Added Territory it is proposed that, in general, the building intensity be controlled by limits on: i) percentage of ground area covered by

\(^4\) The City's of Portville's 2030 General Plan was updated in March 4, 2008 by the City council's Resolution No. 22-2008 with the Housing Element previously updated on June 10, 2004

\(^5\) The Tulare County's (Draft) 2030 General Plan is currently being revised and updated, and has not been adopted.
buildings (lot coverage); ii) building setbacks, parking, landscaping and open space requirements; iii) location of the buildable areas on building sites; and iv) building heights. Land coverage and locations of buildable areas should be appropriately limited so that provisions for open space, landscaping, parking, and a high level of livability are adequate and sustainable.

The limits on building intensity shall be established in accordance with restrictions defined in the General Plans as they presently exist or as amended from time to time.

2.5 PROPOSED BUILDING STANDARDS

It is proposed that, in general, building standards in the Added Territory conform to the building requirements of all applicable federal and State statutes and codes, and all applicable City codes and ordinances.
3.0 ATTAINMENT OF THE PURPOSES OF THE LAW

It is anticipated that over the long-term approval and adopting of the 2010 Amendment and redevelopment of the Added Territory will provide substantial benefits to both public and private interests. In addition to the benefits to be afforded Added Territory property owners, and residents and business tenants, it can also be expected that implementation of redevelopment projects and programs within the Added Territory will benefit property owners, and residents and business tenants in the larger community; these benefits will be particularly helpful to persons in the Project Area.

Enlargement of the Project Area by inclusion of the Added Territory will bring direct benefits to the Project Area due to increased funding that will be available to the Agency for use in the Project Area; by law this is a reciprocal provision. Redevelopment of the Added Territory would be attained through, but not necessarily limited to, the following:

1. Stimulating construction activity and increasing employment opportunities including reuse of lands;

2. Assisting in the development and construction of affordable housing in the community.

3. Community education and consensus building activities with regard to the need for, and long-term use of redevelopment as a financial, planning, and project implementation tool to be effectively used in the Added Territory;

4. As necessary and appropriate, comprehensive planning, redesign, replanning, development, reconstruction or rehabilitation of parts of the Added Territory, which would help to facilitate a higher and better utilization of underutilized parcels, thereby contributing to the public health, safety and welfare, and higher productivity of available land resources;

5. Stimulation of new construction and reconstruction activities and increasing employment opportunities within commercial and industrial segments of the community;

6. Participating in the financing, realignment, reconstruction and/or construction of curbs, gutters, sidewalks, streets, drainage and other necessary public facilities, and the under-grounding of overhead utilities in those parts of the Added Territory where this would be feasible;

7. When and if appropriate, facilitating the redevelopment of existing land uses principally through the aggregation (or subdivision if appropriate) and disposition of designated parcels into larger, more viable and productive land bays consistent with General Plans land uses, development densities and intensities;

8. As necessary and appropriate, assisting in the redevelopment of residential, commercial and industrial areas by helping to finance redevelopment activities, which activities have not and probably will not occur without Agency assistance. Redevelopment and development activities may include, but not necessarily be limited to, construction of infrastructure, land write downs, acquisition and
subsequent disposition of parcels, planning, permit process expediting, and low interest rate loans;

9. As necessary and appropriate, developing and implementing Projects and Programs designed to assist the upgrading and/or growth of new or existing commercial and industrial uses within and adjacent to in the Added Territory consistent with General Plans land use designations;

10. Helping to lessen or eliminate existing deleterious physical and economic conditions that help to degrade the quality of life of residents living in the Added Territory, and that hinder the productivity of commercial and industrial business interests located within and adjacent to the Added Territory, principally through the construction and/or reconstruction of public facilities, utilities and infrastructure, including as necessary and appropriate noise attenuation walls, vehicle and pedestrian oriented street and roadway improvements, increased landscaping in public rights-of-way, parks and recreation facilities, and public safety facilities; and

11. Helping to improve affected residential neighborhoods by supporting and promoting housing projects and programs designed to provide better, and a greater number of housing opportunities for community residents in accordance with state requirements and community housing objectives, principally through the provision of low cost loans and grants, and when appropriate and feasible the assembly, clearance and disposition of suitable parcels, which activities will serve to help provide better quality and safer living environments for affected homeowners and tenants.

3.1 CONFORMANCE TO THE GENERAL PLANS OF BOTH THE CITY AND THE COUNTY

All development activities implemented within the Added Territory must be consistent with the goals and objectives of the General Plans as they presently exist or as amended from time to time. CCRL Section 33346 provides that the planning commission of the community will prepare a report showing the redevelopment plan or its amendment conforms to the General Plans (the "Conformity Report"). Preparation of the Conformity Report will give the Planning Commission the opportunity to evaluate the Amended Plan.

While the Agency has not yet formulated its projects and programs list for the Added Territory it is expected that the Amended Plan will help the Agency to: i) implement the goals and objectives of the General Plans, as they are amended from time to time and facilitate creation of a more cohesive and better functioning community overall, ii) improve existing community services and facilities as necessary, iii) affect additional positive impacts discussed earlier in this Preliminary Plan, within the Added Territory including the lessening of physical and economic blight, and iv) increase the number of affordable housing opportunities available to qualifying residents.
3.2 GENERAL IMPACT OF THE 2010 AMENDMENT UPON THE RESIDENTS AND THE SURROUNDING NEIGHBORHOODS

The potential for negative impacts upon residents of the Added Territory and surrounding neighborhoods caused by adoption and subsequent implementation of the 2010 Amendment can be expected to be minimal. For instance, during the term of the Amended Plan, short-term construction related impacts may affect residents using the circulation system adjacent to the Added Territory, due to roadway and other public works improvements occurring in roadway rights-of-way. On the other hand, it is reasonable to expect that, over the long-term, impacts upon residents living within the Added Territory and the surrounding neighborhoods will be largely positive. For example, long-term Agency redevelopment activities can be expected to help i) fund improvements to public facilities and services both inside the Added Territory and the Project Area, ii) expand economic development activities and increase property values both inside the Added Territory and the Project Area, and iii) increase the number and quality of affordable housing opportunities available to qualifying members of the community among other benefits.

As a part of the redevelopment plan amendment process, the Agency will complete required CEQA compliance to help better evaluate potential impacts to the population and the environment. The Planning Commission will be given the opportunity to participate in the CEQA compliance process as provided under Agency/City CEQA Implementation procedures.

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6 Agency funds may also be used outside of a Project Area under certain circumstances.
4.0 CONCLUSION

This Preliminary Plan, as the initial document produced in the redevelopment plan amendment process, conforms to the requirements of the CCRL. This Preliminary Plan is consistent with requirements codified under CCRL Section 33324 which provide that a preliminary plan need not be detailed and is sufficient if it:

(a) Describes the boundaries of the project area [Added Territory].
(b) Contains a general statement of the land uses, layout of principal streets, population densities and building intensities, and standards proposed as the basis for the redevelopment of the project area [Added Territory].
(c) Shows how the purposes of [the CCRL] would be attained by redevelopment.
(d) Shows that the proposed redevelopment is consistent with the community’s general plan.
(e) Describes, generally, the impact of the project upon the area’s residents and upon the surrounding neighborhood.

Preparation and consideration of the Preliminary Plan provides the Agency the opportunity to work with the Planning Commission to determine the boundaries of the Added Territory and to coordinate other aspects of the 2010 Amendment. At a later date, the Planning Commission will be asked to review the draft Amended Plan and draft EIR prepared for the 2010 Amendment prior to the transmittal of those documents to the Agency and City Council for subsequent action.
APPENDIX A
RESOLUTION NO. ______

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY ACCEPTING THE PRELIMINARY PLAN FOR THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT AREA NO. 1, AUTHORIZING PREPARATION OF THE PRELIMINARY REPORT, DIRECTING TRANSMITTAL OF CERTAIN DOCUMENTS AND INFORMATION, AND ESTABLISHING A BASE YEAR ASSESSMENT ROLL TO BE USED FOR ALLOCATION OF TAXES FROM WITHIN THE ADDED TERRITORY

WHEREAS, on July 10, 1990, the City Council of the City of Porterville (the "City Council" and the "City" respectively), by its Ordinance No. 1436, adopted the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project Area No. 1 (the "Project"); and

WHEREAS, the Porterville Redevelopment Agency (the “Agency”), desires to amend the Plan (the proposed "2010 Amendment" or "Amendment"), for the purposes of i) adding territory (the "Added Territory") to the area currently included within the Project (the "Project Area"), ii) improving existing deleterious physical and economic conditions existing in certain parts of the City and portions of County of Tulare (the “County”) unincorporated territory, and iii) reviewing and possibly modifying the Plan's projects and program list specific to the Project Area, and

WHEREAS, the City Council acts as the Planning Commission of the City of Porterville and references in this resolution to the Planning Commission shall mean the City Council acting as the Planning Commission; and

WHEREAS, California Community Redevelopment Law (the “CCRL”; Health & Safety Code Section 33000 et seq.) Section 33310 authorizes the selection of one or more project areas comprised of all or part of a redevelopment survey area by a planning commission and further directs that the planning commission shall formulate a preliminary plan for the redevelopment of a selected project area [Added Territory]; and

WHEREAS, by Resolution No. 77-2008 adopted on August 17, 2008, the City Council amended the previously adopted redevelopment survey area (Resolution No. 110-89 adopted on August 22, 1989), designated the boundaries of an amended redevelopment survey area (the “Survey Area”), and directed the Planning Commission to work with the Agency, its staff, and advisors to select the preliminary boundaries of the Added Territory from within the Survey Area, and to formulate a preliminary plan (the "Preliminary Plan") for the Amendment; and

WHEREAS, CCRL Section 33322 authorizes the selection of one or more project areas comprised of all or part of a survey area by a planning commission and further directs that the planning commission shall formulate a preliminary plan for the redevelopment of a selected project area [Added Territory]; and

WHEREAS, CCRL Section 33323 directs that an agency and planning commission shall cooperate in the selection of a project area [Added Territory] and in the preparation of a preliminary plan for the redevelopment of the selected project area [Added Territory]; and

WHEREAS, the Planning Commission on March 17, 2009, by its Resolution No. _____, working with Agency staff and advisors, selected and designated the boundaries of the Added Territory, approved a Preliminary Plan which included a map of the Added Territory as an exhibit thereto, and has submitted said Preliminary Plan to the Agency for its consideration and action; and
WHEREAS, the City's Redevelopment Advisory Committee has been advised of the proposed Amendment and preliminary Added Territory boundaries by Agency staff and advisors, has approved the Amendment in concept and, at its meetings held on October 2, 2008 and March 5, 2009, supported the continued development of the Amendment pursuant to appropriate provisions of the CCRL; and

WHEREAS, pursuant to CCRL Section 33344.5, the Agency is required to prepare a Preliminary Report to assess physical and economic conditions within the Added Territory and the fiscal feasibility of the Amendment as part of the proposed redevelopment plan amendment process; and

WHEREAS, upon completion of the Preliminary Report, it must be transmitted by the Agency along with any required attendant notices to all affected taxing entities and others as required by applicable CCRL provisions; and

WHEREAS, pursuant to CCRL Sections 33451.5 and 33333.4 (g) (2), the Agency must, due to the nature and scope of the Amendment, among other analyses, describe and identify the remaining blight within the Project Area, and identify that portion, if any, that is no longer blighted; and

WHEREAS, the Added Territory boundary recommendation forwarded to the Agency by the Planning Commission includes unincorporated County territory, and inclusion of County unincorporated territory within the Added Territory will require approval by the County Board of Supervisors; and

WHEREAS, the Agency must designate a base year assessment roll to be used for the purpose of allocation of property taxes received from the Added Territory, pursuant to CCRL Section 33670.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT THE PORTERVILLE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The above recitals are all true and correct and are a substantive part of this resolution.

Section 2. The Preliminary Plan for the Amendment as approved and forwarded to the Agency by the Planning Commission (copy included herewith as Attachment A) is hereby accepted and approved by the Agency.

Section 3. Agency staff and advisors are hereby authorized and directed to prepare and file, or cause to be prepared and filed, the information required under CCRL Sections 33327 and 33328 including the required legal description and map(s), with the appropriate taxing officials, the State Board of Equalization and other parties as may be required. The Agency also authorizes and directs its staff and advisors to complete all other aspects of the Amendment such as preparation and transmittal of all reports, including the Agency’s Preliminary Report, CEQA compliance, all related notices, and consultations and transmittals with and to respective taxing entities and State officials as required by law.

Section 4. The Agency hereby directs its staff and consultants to obtain approval from the County and its Board of Supervisors to gain approval for inclusion of County unincorporated territory within the Added Territory.

Section 5. The Agency designates the 2009-10 base year to be used for the allocation of taxes derived from taxable properties located within the Added Territory pursuant to CCRL Section 33670.
PASSED, APPROVED AND ADOPTED by the Porterville Redevelopment Agency on the 17th day of March, 2009, by the following roll call vote:

Cameron Hamilton,
Chairman of the Porterville Redevelopment Agency

ATTEST:

Secretary of the Porterville Redevelopment Agency

State of California )
City of Porterville ) ss
County of Tulare )

I, ____________________, Secretary of the Porterville Redevelopment Agency do hereby certify that the foregoing resolution was regularly introduced and adopted by the Porterville Redevelopment Agency at a regular meeting thereof, held on the 17th day of March, 2009, by the following vote of the Redevelopment Agency:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Porterville Redevelopment Agency this 17th day of March, 2009.

Secretary of the
Porterville Redevelopment Agency
ATTACHMENT A

PRELIMINARY PLAN
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
FEBRUARY 17, 2009, 6:00 P.M.

Call to Order at 6:00 p.m.
Roll Call:   Vice Mayor McCracken, Council Member Pedro Martinez, Council Member Felipe Martinez, Council Member Ward, Mayor Hamilton

ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. Closed Session Pursuant to:
   5- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Two Cases.
   6- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Two Cases.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by members of a local Boy Scout Troop
Invocation – a moment of silence was observed.

PROCLAMATIONS
2010 Census Partnership

PRESENTATIONS
Student Entrepreneur Challenge -- postponed
U.S. Census Bureau
City Manager’s Featured Project

ORAL COMMUNICATIONS
Greg Shelton, 888 N. Williford Drive, requested permission to comment during Council’s consideration of Item 14.
Dick Eckhoff, Chairman of Porterville Area City of Hope Auxiliary, spoke about the 47th Annual City of Hope Spectacular on February 28th, and extended an invitation to all in attendance.

**CONSENT CALENDAR**

Item 10 was removed for further discussion.

1. CLAIM – TYRRELL MANAGEMENT COMPANY

   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. 01-021709
   Disposition: Approved

2. POTENTIAL PARTNERSHIP WITH CSET FOR PROPOSITION 84 WATER QUALITY GRANT PROJECT – MURRY PARK POND ISLAND REMOVAL

   Recommendation: Information only.

   Disposition: No action required.

3. AUTHORIZATION TO SUBORDINATE DEVELOPMENT FEE PAYMENT PLAN AGREEMENT – STEPHEN AND SHARON PEARSON

   Recommendation: That the City Council:
   1. Approve the subordination of the Development Fee Payment Plan City-Wide Agreement No. 03-2007 from Stephen R & Sharon A Pearson to Citizens Business Bank; and
   2. Authorize the Mayor to sign all necessary documents.

   Documentation: M.O. 02-021709
   Disposition: Approved

4. ANIMAL SHELTER ENVIRONMENTAL DETERMINATION: APN 251-350-016

   Recommendation: That the City Council determine that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332, Class 32 – Infill Development Projects

   Documentation: M.O. 03-021709
   Disposition: Approved

5. TEA AT THE ZALUD HOUSE
Recommendation: The report was informational only.

Disposition: No action required.

6. ELECTRONIC MESSAGE BOARD

Recommendation: That the City Council:
1. Take under advisement the recommendation of the Parks & Leisure Services Commission; and
2. Approve purchase and installation of the electronic message board at staff’s recommended location within Veteran’s Park.

Documentation: M.O. 04-021709
Disposition: Approved

7. PURCHASE OF POLICE VEHICLES

Recommendation: That the City Council:
1. Authorize the City’s Purchasing Agent to negotiate the purchase and outfitting of five marked police vehicles; and
2. Authorize the City’s Purchasing Agent to negotiate the purchase and outfitting of two Night Watch Commander vehicles.

Documentation: M.O. 05-021709
Disposition: Approved

8. APPROVING A RESOLUTION AUTHORIZING THE SUBMITTAL OF A COUNTY-WIDE STATE ENTERPRISE ZONE APPLICATION

Recommendation: That the City Council:
1. Approve the proposed resolution approving the Enterprise Zone application;
2. Authorized the Mayor to sign the Joint Powers Agreement after review by the City Attorney; and
3. Authorize the Mayor to sign all other necessary documents for the submittal of the Enterprise Zone application.

Documentation: Resolution 13-2009
Disposition: Approved

9. APPOINTMENT TO CDBG CITIZENS’ ADVISORY AND HOUSING OPPORTUNITY COMMITTEE

Recommendation: That the City Council appoint Kelle Jo Lowe to a one year term on the CDBG Citizens’ Advisory and Housing Opportunity Committee.
COUNCIL ACTION: MOVED by Vice Mayor McCracken, SECONDED by Council Member Ward that the City Council approve Items 1 through 9. The motion carried unanimously.

10. APPROVAL FOR COMMUNITY CIVIC EVENT – PORTERVILLE CHAMBER OF COMMERCE IRIS FESTIVAL, APRIL 25, 2009

Recommendation: That the City Council approve the Community Civic Event Application and Agreement from Porterville Chamber of Commerce, subject to the Restrictions and Requirements contained in application, agreement and exhibit “A” of the Community Civic Event forms.

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

Council Member Pedro Martinez briefly spoke in support of the Iris Festival.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council approve the Community Civic Event Application and Agreement from Porterville Chamber of Commerce, subject to the Restrictions and Requirements contained in application, agreement and exhibit “A” of the Community Civic Event forms. The motion carried unanimously.

Disposition: Approved

PUBLIC HEARINGS

11. REQUEST FOR RECONSIDERATION OF CONDITIONAL USE PERMIT 9-2007 (MR. IQBAL SINGH – FRIENDLY LIQUOR AT 809 W. OLIVE AVENUE)

Recommendation: That the City Council direct staff on how to proceed.

City Manager Lollis introduced the item, and Associate Planner Jose Ortiz presented the staff report.

City Attorney Lew advised that the Public Hearing had been noticed, but suggested that a motion be made to reconsider the item. She added that the motion would have to be made by a member of the Council who had previously voted in favor of the item.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Ward that the City Council reconsider Conditional Use Permit 9-2007.
The hearing opened to the public at 7:28 p.m.

- Gary Weaver, 1210 Lotas Way, spoke on behalf of the applicant and inquired about previous instances of deviation from approved plans.

- George Verdugo, contractor, informed the City Council that all the requirements had been fulfilled.

- Martha Alcazar Flores, 249 S. Indiana, spoke against a monetary penalty.

- Greg Shelton, spoke about the extent of the deviations from the approved plans, and spoke in favor of penalizing the applicant for the violation.

- Dick Eckhoff, 197 N. Main, spoke in favor of enforcing Conditional Use Permit requirements.

The public hearing was closed at 7:37 p.m.

A discussion ensued about the amount of time the gas pumps were dormant. Staff indicated that the market was authorized to operate without the use of the gas pumps on January 13, 2009, and the gas pumps were turned on February 5, 2009, after the Council authorized Modification No. 1 to the Conditional Use Permit.

Vice Mayor McCracken made a motion to rescind the Council action of February 3, 2009 and require the applicant to conform to the original Conditional Use Permit. The motion died for lack of a second.

Council Member Martinez spoke of accountability, and explained that his reasoning for requesting the reconsideration was to discuss imposing a penalty for the violations.

Mayor Hamilton indicated that although he was satisfied with the end product, he was not happy with the applicant’s actions during the process. He stressed the importance of consistency, and suggested a moratorium on the gas pumps.

Council Member McCracken stated that he was not in favor of a moratorium or a modification.

The Council discussed possible penalties, stressed the importance of consistency and accountability, and spoke of concerns with setting a precedent.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council approve Conditional Use Resolution 14-2009
Permit 9-2007 as amended to include a 30-day moratorium on the gas pumps effective February 18, 2009.

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

City Attorney Lew requested that language be included in the resolution specifying the effective date of the moratorium. Community Development Director Dunlap indicated that Condition No. 52 would read, “Gas sales shall be prohibited for a period of thirty days commencing on February 18th, 2009.” City Attorney Lew noted for the record that the ‘Whereas’ clause should note both public hearing dates.

Disposition: Approved, as amended.

12. REQUEST TO ALLOW FOR A CONDITIONAL USE PERMIT 4-2008 TO UPGRADE AN EXISTING TYPE 20, BEER AND WINE OFF-SALE LICENSE TO A TYPE 21, BEER, WINE AND DISTILLED SPIRITS OFF-SALE LICENSE AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR AN EXISTING MINI-MART LOCATED AT 809 E. PUTNAM AVENUE

Recommendation: That the Council approve Conditional Use Permit 4-2008 for an alcohol license upgrade from an off-sale Type 20 beer and wine to an off-sale Type 21 beer, wine, and distilled spirits subject to conditions of approval, by adopting the draft resolution.

City Manager Lollis introduced the item, and Association Planner Jose Ortiz presented the staff report.

The hearing opened to the public at 8:31 p.m.

• Dick Eckhoff, address on record, spoke of concerns regarding the accessibility of distilled spirits, and stated that he was not opposed to an additional Type 21 Conditional Use Permit.

The public hearing was closed at 8:34 p.m.

• Mr. Alset, applicant, informed the Council that the store had been remodeled to secure the liquor if permitted, and spoke in support of the item.

Council Member Pedro Martinez expressed concern with the number of permits.

City Manager Lew indicated that the City Council had the ability to revoke a Conditional Use Permit if there were violations.

Community Development Director Dunlap suggested that the Council continue the public
hearing to the next meeting due to the newly discovered changes to the floor plan.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Vice
M.O. 09-021709 Mayor McCracken that the City Council continue the public hearing to the
next meeting. The motion carried unanimously.


SCHEDULED MATTERS

13. PROJECTS AT RISK DUE TO FUNDING SOURCE

Recommendation: None, information only.

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

Disposition: No action required.

14. REQUEST APPROVAL OF LOCATION TO ESTABLISH A CARD ROOM
LOCATED AT 1365 WEST OLIVE AVENUE

Recommendation: That the City Council consider the proposed card room location at 1365 West
Olive Avenue.

City Manager Lollis introduced the item, and Council Member Felipe Martinez recused
himself due to a previously disclosed conflict of interest, or appearance thereof. City Planner Ben
Kimball presented the staff report.

• Greg Shelton, address on record, expressed concerns regarding the ongoing Fair Political
Practices Commission investigation.

• Larry Smotherman, 63 South Atkins, spoke in opposition of the card room at the proposed
location.

• Orville Levins, spoke in favor of approval and of the legality of gambling.

City Attorney Lew provided clarification on the approval process for card room licenses.

The Council discussed the areas proximity to schools and compared the proposed site to
previously considered sites.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Vice
M.O. 10-021709 Mayor McCracken that the City Council approve the site at 1365 West
Olive as acceptable for use as a card room.

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

Disposition: Approved  

15. COUNCIL MEMBER REQUEST – CONSIDERATION OF CITY SPONSORSHIP FOR YOUTH VOICE CONFERENCE

Recommendation: As directed by Council.

City Manager Lollis introduced the item and presented the staff report.

Mayor Hamilton commended Council Member Pedro Martinez efforts to create a youth committee.

COUNCIL ACTION: MOVED by Mayor Hamilton, SECONDED by Vice Mayor McCracken M.O. 11-021709 that the City Council approve sponsorship of the Youth Voice Conference. The motion carried unanimously.

Disposition: Approved  

16. COUNCIL MEMBER REQUEST – CITY’S BIKE AND PEDESTRIAN PLAN

Recommendation: Information provided at Council Member’s request.

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

Council Member Ward thanked staff for taking the time to prepare the information, and requested a timeline be provided.

A discussion ensued with regard to the costs associated with a bike and pedestrian structure that crosses the Tule River, and possible Air Quality Board grant monies available.

Disposition: No action required.

17. COUNCIL MEMBER REQUEST – CONSIDERATION TO MODIFY CITY OF PORTERVILLE MUNICIPAL CODE REGARDING DELINQUENT UTILITY BILLS

Recommendation: None

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request.
Council Member Ward suggested that the City utilize a grace period for payment of utility bills, or including the late payment in a dollar amount as opposed to a percentage for convenience.

Mayor Hamilton expressed concern with accommodating delinquency, and made a motion to adhere to the current payment structure, which was seconded. The motion was then rescinded.

Disposition: No action required.

**ORAL COMMUNICATIONS**
- Greg Shelton, address on record, spoke against approval of a card room license in light of the ongoing investigation; and spoke in favor of a delay in the effective date of the 30-day moratorium for C.U.P. 9-2007.
- Gary Weaver, 1210 Lotas Way, requested a later effective date on the 30-day moratorium for the gas pumps to allow time for the sale of gas currently in the pumps.

11. REQUEST FOR RECONSIDERATION OF CONDITIONAL USE PERMIT 9-2007  
(MR. IQBAL SINGH – FRIENDLY LIQUOR AT 809 W. OLIVE AVENUE)

The Council considered the applicant’s request to delay the effective date. City Attorney Lew indicated that the Council could make a motion to amend the conditional use permit to allow for a later effective date on the moratorium.

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez, SECONDED by Mayor Hamilton that the City Council modify Conditional Use Permit 9-2007 to make the 30-day moratorium on the gas pumps effective on February 24, 2009.

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

Disposition: Approved, as amended.

**OTHER MATTERS**
- Council Member Ward provided an update on his wife’s pregnancy.
- Council Member Felipe Martinez:
  1. Provided a report on his trip to Washington D.C. pursuant to the requirements of AB1234; and
  2. Requested that Council be provided information regarding HR750, and possibly send letter of support.
- Council Member Pedro Martinez:
  1. Requested a website feature which would allow people to subscribe to city updates via e-mail; and
  2. Expressed an interest in establishing a ‘Character Counts’ recognition program for
businesses and individuals in the community.

• Mayor Hamilton:
  1. Reported that three Council Members inadvertently attended a meeting with the Lieutenant Governor which was held to support a medical center at U.C. Merced, and that measures had been taken to avoid future incidents; and
  2. Suggested that the Council send a letter of opposition regarding moving the census out of the Department of Commerce and into the White House.

COUNCIL ACTION: MOVED by Mayor Hamilton, SECONDED by Council Member Felipe Martinez that a letter of opposition to moving the census out of the Department of Commerce and into the White House be drafted and sent to Washington. The motion carried unanimously.

Disposition: Approved

ADJOURNMENT
The Council adjourned at 9:50 p.m. to the meeting of March 3, 2009 at 6:00 p.m.

SEAL

______________________________
Luisa Herrera, Deputy City Clerk

______________________________
Cameron Hamilton, Mayor
COUNCIL AGENDA – MARCH 17, 2009

SUBJECT: CLAIM – VINCENT AND RUTH GALVANTE

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: Mr. Vincent Galvante and Mrs. Ruth Galvante have filed a claim against the City for damages in the amount of $425.00. Claimants allege that a waterline on their property at 274 East Springville sustained damages on September 10, 2008 due to the roots of a City tree.

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. 03
CLAIM AGAINST (Name of Entity: CITY OF PORTERVILLE)

Claimant's Name: Vincent & Ruth Galvante DOB: [redacted]
Claimant's Address: PO BOX 1580 CLORIS CA 93013-1580
Claimant's Telephone No. (Home): (559) 240-1105 (Work): (559) 940-9209

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

Date of incident/accident: 9/10/08
Date injuries, damages, or losses were discovered: 9/10/08
Location of incident or accident: 274 E. Springville St, Porterville
What did entity or employee do to cause this loss, damage, or injury? Tree caused waterline to break/leak.
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known): city tree on property

What specific injuries, damages, or losses did claimant receive? Repairs
(Use back of this form or separate sheet if necessary to answer this question in detail.)

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)].

$ 425.00

How was this amount calculated (please itemize): see invoice attached -

Paul McDonald
(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: 1/29/09 Signature: [redacted]

If signed by representative:
Representative's Name
Telephone:
Address
Relationship to Claimant
<table>
<thead>
<tr>
<th>CITY ORDERED</th>
<th>CITY SHIPPED</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/08</td>
<td></td>
<td>Saw cut + remove concrete</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Driveway and repair</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Water leak - replace concrete</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Driveway - mat + labor</td>
<td></td>
<td>425.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>ART Springville, CT</td>
<td></td>
<td>425.00</td>
</tr>
</tbody>
</table>
COUNCIL AGENDA – MARCH 17, 2009

SUBJECT: CLAIM – VINCENT AND RUTH GALVANTE

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: Mr. Vincent Galvante and Mrs. Ruth Galvante have filed a claim against the City for damages in the amount of $2,050.00. Claimants allege that a waterline on their property at 274 East Springville sustained damages on December 10, 2008 due to the roots of a City tree.

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.
RECEIVED

JAN 29 2009

CITY OF PORTERVILLE
CITY CLERK OFFICE

(Please Type Or Print)

CLAIM AGAINST (Name of Entity: CITY OF PORTERVILLE)

Claimant's Name: Vincent & Ruth Galvante
Claimant's Address: PO Box 1580, Clovis, CA 93613-1580
Claimant's Telephone No. (Home) (559) 240-6005 (Work) (559) 940-9209

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

Date of incident/accident: 12/10/08

Date injuries, damages, or losses were discovered: 12/11/08

Location of incident or accident: 274 E. Springville & Porterville

What did entity or employee do to cause this loss, damage, or injury? Roots of city tree caused water line to break/leak.

(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known): city tree on property

What specific injuries, damages, or losses did claimant receive? Repairs were made to stop leak.

(Use back of this form or separate sheet if necessary to answer this question in detail.)

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)].

$ 2,050.00

How was this amount calculated (please itemize): see invoice attached

(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: 12/9/09 Signature: [Signature]

If signed by representative:
Representative's Name
Telephone:

Address

Relationship to Claimant
INVOICE

SOLD TO:
Tyrrell Management
295 W. Heredearri
Parkaville, CA 93257

INVOICE DATE: 12-15-08

SHIPPED VIA:

DESCRIPTION | QTY. SHIPPED | UNIT | AMOUNT
---|---|---|---
Propane Water Heater Set 374 | 1 | | 2050
C-D Springville CH Rutile | 1 | | 2050

Everything Included
COUNCIL AGENDA: MARCH 17, 2009

SUBJECT: AUTHORIZATION FOR EMERGENCY PURCHASE / REPLACEMENT OF REFUSE TRUCK ENGINE

SOURCE: Public Works - Field Services Division

COMMENT: Vehicle #6649 is a refuse front-end loader that has damage to the engine block which is non-repairable. After researching the options, the best route is to replace the engine with a Cummins certified remanufactured engine. By having the repair completed by a Cummins certified dealer, the engine and labor will be warranted. The nearest Cummins dealer is E.M. Tharp and the repair will be approximately $25,000. Funds are available in the Refuse Replacement Fund.

RECOMMENDATION: That the City Council authorize the purchase and replacement of the refuse truck engine with a Cummins certified remanufactured engine installed by E. M. Tharp.
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – OHV (OFF HIGHWAY VEHICLE) PARK SPECTATOR AWNING

SOURCE: Public Works Department - Engineering Division

COMMENT: Plans and Project Manual have been prepared for the OHV Park Spectator Awning Project. The project includes installation of ±1,205 s.f. of light gauge steel awning and ±625 s.f. of new concrete patio area to replace the existing wood structure.

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 $28,800 with $2,880 required for the construction contingency (10%). An additional $1,440 is required for construction management, quality control and inspection (5%). The total estimated cost associated with the project is $33,120. An Estimate of Probable Cost is attached for Council’s review.

Funding is provided by the OHV Grant and General Fund Carry-over approved in the 08/09 Annual Budget.

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.

ATTACHMENTS: Estimate of Probable Cost Locator Map

P:\pub\world\Engineering\Council Item\Authorization to Advertise for Bids - OHV Park Spectator Awning - 2009-03-17.doc
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>QUANTITY</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Light gauge steel awing structure (12 ga. 6&quot; channels,</td>
<td>SF</td>
<td>1205</td>
<td>$20.00</td>
<td>$24,100.00</td>
</tr>
<tr>
<td></td>
<td>14 ga. 6&quot; Zee purlins, T.S. 4x4x3/16&quot; columns, 26 ga.</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>metallic roofing, break metal flashing and all</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>necessary appurtenances.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Concrete Patio (4&quot; thick) including req'd fill</td>
<td>SF</td>
<td>625</td>
<td>$7.50</td>
<td>$4,687.50</td>
</tr>
</tbody>
</table>

Sub Total: $28,800.00
10% Contingency: $2,880.00
5% Staff and Testing: $1,440.00

Total: $33,120.00
AWARD CONTRACT – ROTARY SCREW AIR COMPRESSORS & REFRIGERATED COMPRESSED AIR DRYER FOR WWTF

Finance Department/Purchasing Division

Staff solicited bids for the purchase and installation of two Rotary Screw Air Compressors and one Refrigerated Compressed Air Dryer for the Wastewater Treatment Facility. In response to solicitation, seven (7) bids were received for this highly specialized equipment. One of the bids did not meet the City’s minimum specifications. The responsive bids are as follows:

<table>
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<tr>
<th>Bidder</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Accurate Air Engineering, Inc., Fresno, CA</td>
<td>$32,464.18</td>
</tr>
<tr>
<td>Engineered Air, Inc., Riverside, CA</td>
<td>$33,511.19</td>
</tr>
<tr>
<td>Associated Compressor &amp; Equipment, Fresno, CA</td>
<td>$33,666.62</td>
</tr>
<tr>
<td>Holt of California, Sacramento, CA</td>
<td>$38,983.33</td>
</tr>
<tr>
<td>Precision Air Systems, Inc., Bakersfield, CA</td>
<td>$40,913.00</td>
</tr>
<tr>
<td>EMCOR/Mesa Energy, Fresno, CA</td>
<td>$48,506.00</td>
</tr>
</tbody>
</table>

Staff has reviewed the low bid and finds it to be responsive to the specifications. Funds for the purchase of the equipment have been appropriated in the Wastewater Treatment Facility’s Capital Reserve Fund.

That Council awards the contract for the Rotary Screw Air Compressor project to Accurate Air Engineering, Inc., of Fresno, CA, in the amount of $32,464.18. Further, that Council authorizes payment upon satisfactory delivery and installation of the equipment.
SUBJECT: AWARD OF CONTRACT – FIRE STATION No. 2 CLASSROOM – HVAC (REBID)

SOURCE: Public Works Department - Engineering Division

COMMENT: On March 5, 2009 staff received three (3) bids for the Fire Station No. 2 Classroom HVAC project (REBID). The project includes all labor, materials, equipment transportation and services for the installation of HVAC Units, ducts and all pertinent appurtenances necessary for proper functioning.

The Engineer’s estimate of probable construction cost for the project is $40,150. The low bid is 30% below the Engineer’s estimate. An additional $2,814 is required for the construction contingency (10%). An additional $1,500 is required for construction management, quality control and inspection. The total estimated cost associated with the project is $32,454.

Funding provided by re-appropriated General Fund carry-over.

The bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Silver Air, Inc. Bakersfield</td>
<td>$28,140.00</td>
</tr>
<tr>
<td>2. Johnson Controls, Inc. Bakersfield</td>
<td>$49,538.00</td>
</tr>
<tr>
<td>3. Air Mechanical HVAC Bakersfield</td>
<td>$49,950.00</td>
</tr>
</tbody>
</table>

RECOMMENDATION: That City Council:

1. Award the Fire Station No. 2 Classroom HVAC project to Silver Air, Inc. in the amount of $28,140; and

2. Authorize progress payments up to 90% of the contract amount; and

3. Authorize a 10% contingency to cover unforeseen construction costs.

ATTACHMENT: LOCATOR MAP
COUNCIL AGENDA: MARCH 17, 2009

SUBJECT: ACCEPTANCE OF IMPROVEMENTS – SUMMIT ESTATES, PHASE ONE (GARY SMEE – NICHOLSON & SMEE, LLC)

SOURCE: Public Works Department - Engineering Division

COMMENT: The subdivider, Gary Smee – Nicholson & Smee, LLC, has requested that the public improvements constructed for their subdivision be accepted by the City for maintenance. All required improvements, including sidewalks, have been completed, inspected by City staff and found to be acceptable.

The subdivider has submitted a one (1) year maintenance guarantee for five percent of the total cost of improvements.

RECOMMENDATION: That the City Council:

1. Accept the public improvements of Summit Estates, Phase One Subdivision for maintenance;

2. Authorize the filing of the Notice of Completion; and

3. Release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

ATTACHMENT: Locator Map

P:\PUBWORKS\ENGINEERING\COUNCIL ITEMS\ACCEPTANCE OF IMPROVEMENTS - SUMMIT ESTATES PHASE ONE - 2009-03-17.DOC

[Signature]

Item No. 9
SUBJECT: COMMUNITY CLEAN UP EVENTS

SOURCE: Public Works Department - Field Services Division

COMMENT: To encourage property maintenance and beautification, the City sponsors two clean up events every year; one in the Spring and one in the Fall. These events offer City residential refuse customers free disposal of general trash, bulky items, wood-waste, and yard clippings at the City's Corporation Yard. Last year's events were well received, with 403 residents participating in the Spring event and 473 in the Fall event. Approximately 109 tons of general refuse were received, and an additional 88 tons of recyclable material were diverted from the landfill. Total cost of both events, including disposal fees and personnel, was approximately $6,200.

Based on the success of prior events, staff recommends the City host two Community Clean Up Events in 2009. Proposed event dates are Saturday, April 25th, and Saturday, October 24th. As in the past, the events are open to all residents receiving City refuse service. Staff estimates City costs for both events to be approximately $6,500 funded through the Solid Waste Operating Budget.

RECOMMENDATION: That City Council:

1. Declare April 25, 2009, "Spring Clean Up Day" and October 24, 2009, "Fall Clean Up Day";

2. Encourage all residents to clean up their properties and take advantage of these special opportunities offered by the City;

3. Authorize the City to accept trash, litter and yard clippings delivered by City residents receiving City refuse service to the Spring and Fall Clean Up Events for free disposal; and

4. Authorize the cost of both events be funded from the Solid Waste Operating budget.
SUBJECT: RULES AND REGULATIONS FOR ISSUING TRANSIT USER PARKING PERMITS

SOURCE: Public Works Department – Engineering Division

COMMENT: City Council approved an amendment to Traffic Ordinance No. 1162, designating reserved transit parking at the newly constructed “Singer” Parking Lot. This action took place at the August 5, 2008 City Council meeting.

The parking lot is located at the southeast corner of Hockett Street and Oak Avenue (east of the Transit Center). The funding source for the parking lot project is “Section 5307” Federal Transit funds programmed by the City and approved by the Federal Transit Authority (FTA). Reservation of eleven (11) parking spaces within said parking lot is a specific condition of this funding source.

In accordance with City Council's direction on August 5, 2008, staff has prepared Rules and Regulations for Council's approval. The City Attorney’s office reviewed the Rules and Regulations and the final draft is attached for Council's consideration.

RECOMMENDATION: That the City Council:

1. Approve the attached Rules and Regulations;

2. Authorize the City Engineer to install Regulatory signs; and

3. Authorize the Police Chief to issue citations in accordance with the latest adopted “Bail Schedule”.

ATTACHMENTS: Locator Map
Proposed Parking Lot Map
Rules and Regulations
Permit Application

P:\pubwork\Engineering\Council Items\Rules and Regulations for Issuing Transit User Parking Permits - 2009-03-17.doc

Dir. Appropriated/Funded CM Item No. 11
TRANSLIT CENTER
PARK AND RIDE LOT
37 W. Oak Avenue
Porterville, CA 93257

RULES AND REGULATIONS

Prior to the issuance of a Transit Center Park and Ride Lot Parking Permit, each applicant shall read and acknowledge receipt of the Rules and Regulations governing the parking of their private vehicle in the public Park and Ride Lot east of the City of Porterville Transit Center. Through the acknowledgement of these Rules and Regulations, each applicant for a Transit Center Park and Ride Lot Parking Permit shall agree to abide by Section 17.11.11(b) of the Porterville Municipal Code. Section 17.11.11(b) refers to “Rules and Regulations” which include:

- Up to 11 no-fee transit parking permits shall be available for issuance each month on a first-come, first-served basis.
- Each permit shall be good only for the calendar month issued, regardless of the day of the month the permit becomes valid.
- All vehicles parking within a designated transit stall will be required to display a special transit parking permit/decal issued at the City of Porterville Transit Center, 61 West Oak Avenue.
- Transit Center users who want to obtain parking permits will be required to provide pertinent information necessary to obtain a permit, such as name, address, driver’s license number, make, model and license plate number of the vehicle, etc.
- Transit Center users shall certify their understanding that the sole purpose of the parking permit is for transit use only during regular transit business hours, Monday through Friday (7 a.m. to 7 p.m.), and Saturday (9 a.m. to 5 p.m.)
- Any vehicle parking in violation of the intent of the parking permit will be cited by the Porterville Police Department.
- Any vehicle found to be illegally parked within the designated transit parking spaces will be subject to a fine, towing, or both.
- Vehicles may be ticketed for multiple violations, including illegal parking and display of unauthorized/expired permit/decal.
TRANSIT CENTER PARKING PERMIT
Park and Ride Lot
37 W. Oak Avenue
Porterville, CA 93257

NAME

Driver’s License No.

Make and Model

License Plate No.

Contact Phone No.

Permit No.

Date Issued

Date Expired

The undersigned agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City of Porterville from and against all claims or demands of every nature on account of injury to or death of persons or damage to or loss of property caused by or resulting in any manner from any acts or omissions of the City of Porterville, its agents or employees, in the direct operation of the parking lot as a “Park and Ride Lot” referred to herein.

I further acknowledge I have been provided with a copy of the Park and Ride Lot Rules and Regulations, understand the same, and agree to abide by said Rules and Regulations.

Signature

Date

-----------------------------------------------

CITY OF PORTERVILLE TRANSIT CENTER PARKING PERMIT

Permit No.

Date Issued

Date Expired
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
MARIACHI ACADEMY FOUNDATION – TIME MARCHES ON –
TRI-TIP DINNER DRIVE THRU

SOURCE: Finance Department

COMMENT: The Mariachi Academy Foundation is requesting approval to hold a tri-tip dinner drive-thru. The event will also include entertainment and music and will be located at Centennial Plaza on Saturday, April 4, 2009, from 8 a.m. to 8 p.m. This application is submitted in accordance with the Community Civic Events Ordinance No. 1326, as amended.

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

RECOMMENDATION: That the Council approve the Community Civic Event Application and Agreement from the Mariachi Academy Foundation, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit “A” of the Community Civic Event Application.

ATTACHMENT: Community Civic Event Application and Agreement, Exhibit “A”, map, outside amplifier permit, and certificate of liability insurance.

D.D. Appropriated/Funded N/A C.M. Item No. 12
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: 3-5-09  Event date: 4-4-09
Event time: 8AM - 8PM

Name of Event: Time Marches On Tri-Tip Dinner Drive Thru

Sponsoring organization: Maricachi Academy Foundation  PHONE # 361-1689
Address: 11645 South Orange Belt Drive

Authorized representative: Johnny Ordonez  PHONE # 361-1689
Address: 11645 South Orange Belt Drive

Event chairperson: Robert Romon  PHONE # 920-6481

Location of event (location map must be attached):
Centennial Plaza

Type of event: Public - Entertainment & Food

Nonprofit status determination: EIN# 91-202719

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

Barricades (quantity):  Street sweeping  Yes  No
Police protection  Yes  No  Refuse pickup  Yes  No
Other: City providing assistance with tables and chairs.

Parks facility application required:  Yes  No  Attached ON FILE
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

1 of 4
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." 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.

Mariachi Academy Foundation

(Name of organization)  

(Signature)  

(Date)
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: Time Marches on Tri Tip Dinner Drive Thru

Sponsoring organization: Mariscal Academy Foundation

Location: Centennial Plaza Event date: 4-4-09 Event time: 8am - 8pm

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.

<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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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: *Time Marches On Tri Tip Dinner Drive Thru*

Sponsoring organization: *Mariachi Academy Foundation*

Event date: *4-4-09*  
Hours: *8pm - 8pm*

**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>Thurman Avenue</td>
<td>Main Street</td>
<td>Alley between</td>
<td>Tri Tip Dinner</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Second Street</td>
<td>Drive Thru</td>
</tr>
<tr>
<td>Sidewalks</td>
<td></td>
<td></td>
<td>Public Event</td>
</tr>
<tr>
<td>Parking lots and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>spaces</td>
<td>Location</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4 of 4
REQUIREMENTS FOR COMMUNITY CIVIC EVENT
TIME MARCHES ON – TRI-TIP DINNER DRIVE THRU
MARIACHI ACADEMY FOUNDATION

APRIL 4, 2009

Business License Supervisor: S. Hartman
If there are no vendors, Business License has no requirements.

Public Works Director: B. Rodriguez

Community Development Director: B. Dunlap
Please be sure the Porterville Redevelopment Agency is included as additional insured.

Field Services Manager: B. Styles
No comments.

Fire Chief: M. G. Garcia
No comment.

Parks and Leisure Services Director: J. Perrine
Provide specifics on city equipment required. Applicant to provide trash receptacles and empty same, police the facility to ensure that litter is collected and disposed of properly.

Police Captain: S. Rodriguez
The Police Department has no special conditions or requirements for this event.

Administrative Services Manager: P. Hildreth
See attached “Exhibit A”, page 2.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Mariachi Academy Foundation
Event: Time Marches On – Tri-Tip Dinner Drive Thru
Event Chairman: Robert Roman
Location: Centennial Plaza, Main Street
Date of Event: April 4, 2009
Time of Event: 8:00 a.m. to 8:00 p.m.

RISK MANAGEMENT: Conditions of Approval

That the Mariachi Academy Foundation provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than $1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, 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.

EXHIBIT “A,” Page 2
CITY OF PORTERVILLE

OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-14 & 18-9)

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:
   
   Robert Roman  
   Phone # 920-6481  
   16331 Palomino Drive, Springville, CA

2. Address where amplification equipment is to be used:
   
   Centennial Plaza  
   Phone # N/A

3. Names and addresses of all persons who will use or operate the amplification equipment:
   
   Robert Roman, Javier Rodriguez, Johnny Ordonez, Frank Chavez  
   846 North Main Street Suite #3, Porterville, CA

4. Type of event for which amplification equipment will be used:
   
   Public Event - Mariachi Group

5. Dates and hours of operation of amplification equipment:
   
   Saturday, April 4, 2009

6. A general description of the sound amplifying equipment to be used:
   
   5 microphones, 2 speakers, 1-2,000 watt amplifiers
I hereby certify that all statements and answers on this registration form are true and correct.

[Signature]
Applicant

3-4-09
Date

[Signature]
Chief of Police

MARCH 10, 2009
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:

[Signature]

3/27/01
ACORD CERTIFICATE OF LIABILITY INSURANCE

PRODUCER
TURNER & ASSOCIATES INS AGENCY - L
246 E. HONOLULU
P.O. BOX 757
LINDSAY, CA 93247

INSURED
MARIACHI ACADEMY FOR PERFORMING ARTS FOUNDATION
P.O. BOX 2011
PORTERVILLE, CA 93257

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.

<table>
<thead>
<tr>
<th>NS/ACCT/LTR/INSR</th>
<th>TYPE OF INSURANCE</th>
<th>POLICY NUMBER</th>
<th>POLICY EFFECTIVE DATE (MM/DD/YYYY)</th>
<th>POLICY EXPIRATION DATE (MM/DD/YYYY)</th>
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CITY OF PORTERVILLE AND CITY OF PORTERVILLE REDEVELOPMENT AGENCY ARE NAMED AS ADDITIONAL INSURED WITH RESPECTS TO THEIR INTEREST IN THE OPERATIONS OF THE NAMED INSURED. *10 DAYS NOTICE OF CANCELLATION DUE TO NON-PAYMENT OF PREMIUM.

CERTIFICATE HOLDER

CITY OF PORTERVILLE AND CITY OF PORTERVILLE REDEVELOPMENT AGENCY
291 N. MAIN ST.
PORTERVILLE, CA 93257

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDORSE 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
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CG 20 11 01 96

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

<table>
<thead>
<tr>
<th>Endorsement effective</th>
<th>Policy No.</th>
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<tbody>
<tr>
<td>03/05/2009 12:01 A.M. standard time</td>
<td>SCP0707462</td>
</tr>
</tbody>
</table>

Named Insured
MARIACHI ACADEMY FOR PERFORMING

Countersigned by

(Authorized Representative)

SCHEDULE

1. Designation of Premises (Part Leased to You):

CENTENNIAL PARK, PORTERVILLE, CA
ON 4/04/09 FOR TRI TIP DINNER DRIVE-THRU

2. Name of Person or Organization (Additional Insured):

CITY OF PORTERVILLE AND CITY OF PORTERVILLE REDEVELOPMENT AGENCY
291 N. MAIN ST.
PORTERVILLE, CA 93257

3. Additional Premium: 50.00

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization shown in the Schedule.
COUNCIL AGENDA: MARCH 17, 2009

SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT - CHURCH OF THE NAZARENE TRANSITION SUNDAY - PROCESSION, APRIL 19, 2009

SOURCE: Finance Department

COMMENT: The Church of the Nazarene is requesting approval to hold Transition Sunday to commemorate the grand opening of their new church with a vehicle procession from their present location to the church’s new location, on April 19, 2009 at approximately 11:00 a.m. They are requesting the usage of the following streets:

- Henderson Avenue from Indiana Street to Olive Avenue (Procession)
- Olive Avenue to Mathew Street (Procession)

This application is being submitted under the Community Civic Events Ordinance No. 1326, as amended. It has been routed according to the ordinance regulations and reviewed by all the departments involved. All requirements are listed on the attached Exhibit “A.”

RECOMMENDATION: That the Council approves the Community Civic Event Application and Agreement from Church of the Nazarene for Transition Sunday with a vehicle procession, on April 19, 2009, subject to the insurance requirements stated therein, and the Restrictions and Requirements contained in Exhibit “A” of the Community Civic Event Application and Agreement.

ATTACHMENT: Community Civic Event Application and Agreement, Exhibit “A,” request for street usage, and a map showing the street usage, certificate of liability insurance

D.D. Appropriated/Funded C.M. Item No. 13
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: 2/24/09  Event date: 4/19/09

Name of Event: Transition Sunday

Sponsoring organization: Church of the Nazarene  PHONE #559 784 3305
Address: 765 W. Henderson Avenue, Porterville

Authorized representative: Cheryl Marsh  PHONE # same
Address: Same

Event chairperson: Pastor Mark Pitcher & Julie Cheney  PHONE # same

Location of event (location map must be attached): Church of the Nazarene:
Begin @ 765 W. Henderson Ave to 2005 W. Olive Avenue, Port

Type of event: Move to new location

Nonprofit status determination: NonProfit Tax Exempt

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

Barricades (quantity): ________ Street sweeping Yes ______ No ______
Police protection Yes ______ No ______ Refuse pickup Yes ______ No ______
Other: ______________________

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

1 of 4
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 City of Porterville Council's approval.

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.

Church of the Nazarene

(Name of Organization)

Chavez

(Signature)

2-24-09

(Date)
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: **Transition Sunday**

Sponsoring organization: **Church of the Nazarene**

765 W. Henderson Ave, PTV to

Location: 2005 W. Olive Ave, PTV Event date: 4/19/09 Event time: 11:00am

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.

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address/Telephone</th>
<th>Business License required</th>
<th>Type of Activity</th>
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<tbody>
<tr>
<td>NONE</td>
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3 of 4
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

CHURCH OF THE NAZARENE

TRANSITION SUNDAY – VEHICLE PROCESSION

APRIL 19, 2009

Business License Supervisor:  
*Susan Hartman*  
No business license requirements.

Public Works Director:  
*B. Rodriguez*  

Community Development Director:  
*B. Dunlap*  
No comments

Field Services Manager:  
*B. Styles*  
No comments.

Fire Chief:  
*M.G. Garcia*  
No comment.

Parks and Leisure Services Director:  
*J. Perrine*  
No requirements from Parks.

Police Captain:  
*S. Rodriguez*  
1) All participants must abide by all rules of the road, unless directed by Police Officer.  
2) Participants shall not unnecessarily use their horn during procession.

Administrative Services Manager:  
*P. Hildreth*  
See Exhibit “A”, Page 2.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Church of the Nazarene
Event: Transition Sunday – Vehicle Procession
Event Chairman: Pastors’ Mark Pitcher & Julie Cheney
Location: Indiana Street and Olive Avenue
Date of Event: April 19, 2009
Time of Event: 11:00 a.m. (approximately)

RISK MANAGEMENT: Conditions of Approval

That the Church of the Nazarene provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than $1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, 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 deductable, if any, shall not be greater than $1,000.

B. 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 than A:VII, and the insurance company must be an “admitted” insurer in the State of California.
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: Transition Sunday

Sponsoring organization: Church of the Nazarene

Event date: 4-19-09

Hours: 11:00 am - 1:00 pm

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED: Map is attached

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<td>Sidewalks</td>
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<td>Parking lots and spaces</td>
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4 of 4
ACORD CERTIFICATE OF LIABILITY INSURANCE

PRODUCER: (626) 795-9595
FAX: (626) 793-7864

Mutual Insurance Agency
CA License # 0574081
30 N. Marengo Ave
Pasadena, CA 91101

INSURED: Porterville Church of the Nazarene
PO Box 1069
Porterville, CA 93258

INsurer A: GuideOne Specialty Mutual Ins
INsurer B:
INsurer C:
INsurer D:
INsurer E:

COVERAGES

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.

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<td>WC STATE LIMIT: $1,000,000</td>
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<td>E.L. EACH ACCIDENT: $1,000,000</td>
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<td>E.L. DISEASE - EA EMPLOYEE: $1,000,000</td>
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<td>E.L. DISEASE - POLICY LIMIT: $1,000,000</td>
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate Holder is Named as Additional Insured as respects on April 19, 2009 the Transition Sunday Congregation procession from present location to new location - Form CG2026 is attached.

CERTIFICATE HOLDER

City of Porterville
291 N. Main Street
Porterville, CA 93257

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO LIMITATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Howard Wooten / WM

©ACORD CORPORATION 1988
IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.
Insured Name: Porterville Church of the Nazarene

POLICY NUMBER: 9622-400-BH

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

City of Porterville
291 N. Main Street
Porterville, Ca. 93257

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your operations or premises owned by or rented to you.
SUBJECT: SCHEDULING OF SPECIAL JOINT MEETINGS OF THE CITY COUNCIL AND CITY BOARDS AND COMMISSIONS

SOURCE: City Manager

COMMENT: At its meeting on February 3, 2009, it was expressed by the City Council its desire to schedule special joint meetings between the Council and the City's Library Board of Trustees and Parks & Leisure Services Commission. During the month of April in coordination with regularly scheduled meetings, a joint meeting of the Council and the Library Board of Trustees could be scheduled for Thursday, April 9th, and a joint meeting of the Council and the Parks & Leisure Services Commission could be scheduled for Thursday, April 2nd. Library Board of Trustees meetings regularly begin at 4:30 p.m., and Parks & Leisure Services Commission meetings regularly begin at 5:30 p.m., however, meeting times can be adjusted to better accommodate scheduling. Meetings of the Council are normally conducted in Council Chambers, however, the Library Community Room could also be utilized.

RECOMMENDATION: That City Council approve the scheduling of special joint meetings between the Council and the City's Library Board of Trustees and Parks & Leisure Services Commission during the month of April, coordinating with the regular meeting dates and times of the Board (Thursday, April 9th, 4:30 p.m.) and Commission (Thursday, April 2nd, 5:30 p.m.).

ATTACHMENT: None

C.M. Item No. 14
CITY COUNCIL AGENDA: MARCH 17, 2009

SUBJECT: REQUEST FOR COUNCIL PARTICIPATION EVALUATING AIRPORT ARCHITECTURAL & ENGINEERING CONSULTANT STATEMENT OF QUALIFICATIONS

SOURCE: FINANCE DEPARTMENT/PURCHASING DIVISION

COMMENT: During the January 6, 2009, City Council meeting, Council directed staff to solicit for "Statement of Qualifications" (SOQ) from qualified individuals and/or firms to act as "Engineer of Record" for all capital improvement projects funded by the Federal Aviation Administration (FAA). A Request for Qualifications was distributed on January 26, 2009, and four (4) SOQ's were received by the February 26 deadline.

A team will be coordinated to evaluate the SOQ's, consisting at minimum of the City Engineer, a neighboring city's airport manager, the City Manager or Deputy City Manager and the City's Airport Area Manager. Staff is requesting that Council appoint one member to assist with evaluation of the SOQ's for architectural and engineering consulting services consistent with the Public Works consultant evaluation process.

RECOMMENDATION: That City Council appoint one Council member to work with staff to evaluate the consultant qualifications for airport architectural and engineering services.
SUBJECT: UPDATE ON WATER CONNECTION POLICY AND REQUEST FOR WAIVER OF SEWER CONNECTION REQUIREMENTS AT 917 S. WISCONSIN

SOURCE: Public Works Department - Engineering Division

COMMENT: The Sewer Connection Policy Committee has met twice to formulate a step by step plan that addresses the eventual elimination of septic tanks within City limits. The Committee feels that its emphasis should be centered on providing sewer connection options for fully developed residential locations and has not focused on solutions for vacant lot owners who wish to construct new homes.

The "Committee" will present its findings and make formal recommendations in the very near future. As stated in this report, the Sewer Connection Committee is not expending staff resources identifying solutions for property owners with vacant lots that are removed from City sewer service. A case in point is Mr. Federico Ramos' situation. Mr. Ramos prepared plans for a single family home in the County at 917 S. Wisconsin. The location is approximately 1,100' from the nearest sewer main.

Mr. Ramos presented his plans to the County but because of the recent annexation of his area, was directed to secure a building permit from the City. The City denied Mr. Ramos his permit because his plans proposed installation of a septic tank. Conditions present in the City's sewer connection policy include:

1. Connect to City sewer if property is within 1,320' of nearest City sewer system. Mr. Ramos' property is 1,100' from nearest sewer main.

2. Property on City water or capable of receiving City water must be 12,500 s.f. or larger. Mr. Ramos' property is 43,560 s.f. (one acre).

3. Septic tanks will not be allowed if area is such that 3 or more homes fall within a 500' radius. At this location, approximately 15 properties are affected.

4. Septic tanks will not be allowed in areas that abut fully developed residential areas with sewer service. At this location, there are no properties with sewer service.

Dir Appropriated/Funded via CM Item No. 160
6. Septic tanks will not be allowed in any area that gives the appearance of a single family residential neighborhood or developed residential area. At this location, it is questionable that the area provides a sense of being a fully developed residential neighborhood.

The property in question satisfies 3 of the 5 basic criteria and therefore, staff recommends that Mr. Ramos receive a waiver from the City Council and be allowed to develop his property and install a septic tank.

RECOMMENDATION: That the City Council:

1. Direct the Public Works Director to issue a “septic tank installation” waiver exclusively to Mr. Federico Ramos for the development of one (1) single family residential house at 917 S. Wisconsin;

2. Direct that Mr. Ramos, his heirs or subsequent owners of the property at 917 S. Wisconsin sign an agreement stating their intention to extend and connect to City sewer when said sewer is within 200' of 917 S. Wisconsin; and

3. Authorize the Public Works Director to evaluate future requests for septic tank installations on a case by case basis and determine if circumstances are such that installation of a septic tank is fair, reasonable and cost effective.
CITY COUNCIL AGENDA: MARCH 17, 2008

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

SOURCE: CITY ATTORNEY

COMMENT: This is provided as a follow up to the November 4, 2008 Agenda Item. As everyone is well aware, 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. Local governments throughout the State of California are reviewing and/or utilizing a variety of methods to address these issues. Code enforcement has been extremely difficult because city officials do not know who is responsible for the property. To combat this problem, many jurisdictions are enacting “registration ordinances,” which require that a responsible party be on record with the city. Many cities have also enacted property maintenance regulations, which require that the owners submit plans for the upkeep of these properties. Some jurisdictions apply the regulations to properties in foreclosure proceedings; others require that all vacant properties (with existing structures) be subject to the requirements.

At the November 4 meeting, additional information as to the practical implications and costs of the current program in Chula Vista was requested. Unfortunately, the city has not been able to get this information. It is our understanding that Chula Vista has been overwhelmed with requests for information concerning its program.

More activity continues to occur since our last discussion. Due to the increase of local property registration ordinances throughout California (many of them with different variations of requirements concerning registration and maintenance), the Mortgage Banking Association is pushing for a statewide registration ordinance. Consequently, a task force has been created, and a draft statewide program is being proposed (the draft, dated January 2009) is attached. The State law would allow banks to register property online on the national MERS (Mortgage Electronic Registration System) in lieu of having to satisfy local requirements and paying local fees. MERS would expand its service so that local governments would have free access to the contact information of the owners of foreclosed properties. Local agencies would be able to assess civil penalties against organizations that do not register. If this legislation were adopted, it would ease the access to the ownership information; however it would be more difficult for cities to know when a property has been foreclosed upon. Furthermore, the proposed legislation contains its own maintenance standards and requirements, but still allows local agencies to enforce for
public nuisance and safety issues. It also appears that this legislation would preempt any local inspection requirements. The proposed legislation has yet to be introduced, and we have been informed that the current draft is at a political standstill due to political fallout over the State budget negotiations. The task force is working hard to get the draft back on track, but it is unknown if or when the legislation will become a reality.

Given the current status, we have continued to review other sample regulations, as cities continue to become more creative in their handling of these issues. Since there are statewide efforts that may affect local efforts, if the City opts to amend its regulations to include registration and/or maintenance requirements, I would recommend providing the MERS system specifically as an alternative to direct registration with the City. I have included the regulations adopted by San Bruno as an example. This Ordinance covers the recent state legislation authorizing greater penalties ($1,000) on foreclosed properties, a vacant property registration requirement allowing for MERS registration in lieu of local registration, and general vacant property regulations. Keep in mind, however, that any State legislation passed will likely contain extensive revisions to the current draft.

The concerns over cost of implementation of any vacant property registration and monitoring program were noted at the last meeting. The City recently opted to participate in a regional grant-funded program (Neighborhood Stabilization Program). Additionally, there has been some interest expressed in the possibility of a regional task force to examine how we might pool resources with other nearby cities to combat this growing problem. A regional program (especially in the absence of a Statewide program) could help streamline registration requirements; this may be a good topic of discussion for the Council of Cities.

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

ATTACHMENTS: 1) Draft California Vacant Property Registration Proposal
2) Staff Reports and Ordinances from the City of San Bruno
California Vacant Property Registration Proposal

DRAFT
01/12/2009

As the housing and foreclosure crisis continues throughout the state of California, there is a common obstacle facing virtually every housing agency, every neighborhood and each and every lender. The ability to quickly and accurately identify the responsible parties for a property is paramount, on every single level.

If this identification can be made early in the wake of an abandoned residential property, it would not only allow for communication between the stakeholders but it could significantly decrease the cost to local communities and to the mortgage holders for costs incurred in securing vacant properties and potential fees and penalties levied against the property.

This bill establishes a process requiring parties with a mortgage lien interest in residential property to inspect the property when a foreclosure action has been initiated, if upon inspection if the property is determined to be abandoned this bill requires registration with either the Mortgage Electronic Registration System MERS or an equivalent statewide database that meets or exceeds MERS, or registered locally following the guidelines of the local ordinance that has jurisdiction over the vacant property. Registration of a property within MERS or an equivalent statewide database will satisfy all local property registration requirements including registration fees.

1. PROPERTY MAINTENANCE.
   1.1. Purpose and Scope.
      1.1.1. The purpose of this section is to establish an abandoned residential property registration program and to regulate the maintenance of abandoned residential properties by parties asserting a collateral or other legal or equitable interest in the property. This section is intended to reduce and prevent neighborhood blight, to ameliorate conditions that threaten the health, safety and welfare of the public, to promote neighborhood stability and residential owner occupancy by preserving the condition and appearance of residential properties, and to maintain residential property values and assessments. Nothing in the section shall be construed as waiving, relieving or otherwise excusing and owner of residential property from compliance with all applicable building codes and ordinances and the owner or owners shall at all times remain responsible and liable therefore.

      1.2. Minimum requirements are hereby established for registrants regarding securing and maintaining abandoned properties. These requirements include but are not limited to, securing structures against entry of unauthorized persons, abatement of hazards and external conditions that contribute to neighborhood blight. These external conditions include, where applicable, by the regulations, instructions and
other requirements of the Federal Housing Administration (FHA) of the United States Department of Housing and Urban Development (HUD) developed for the preservation and protection of residential properties.

1.2.1. The minimum requirements of a registrant, absent a specific order to abate a condition of the premises, shall be consistent with the rules, regulations and other requirements published by the Federal Housing Administration (FHA) of the United States Department of Housing and Urban Development View 2008 HUD General Requirements for Preservation and Protection and/or (Most Recent Supp Update 2008-10) for the preservation and protection of single-family residential properties. These requirements may be amended by FHA mortgagee letters or otherwise, and as applied by the FHA to the state of California. Under these guidelines related to debris removal, debris removal shall be deemed to include snow and ice removal, the elimination of weeds and other plant growth. Local governments may require a registrant, to repay the department the actual costs incurred by the department, including staff time, related to abatement of conditions that are subject to FHA guidelines identified in this paragraph or which are subject to an order and threaten the health, welfare and safety of the public or create a public nuisance.

1.2.2. In addition to the minimum requirements published by the FHA, the code enforcement manager/official of a local agency or his or her designee shall have the authority to require any party asserting a collateral or other legal or equitable interest of any property affected by this legislation, to implement additional maintenance and/or security measures if the minimum requirement published by the FHA are not sufficient in maintaining and securing an abandoned property, the property shall be identified as a Priority Preservation Property by local code enforcement and deemed as such. A Priority Preservation Property would require an increase in the minimum requirements to meet the local required maintenance determined by local laws in an effort to arrest the decline of the property. The goal of this section is to achieve a balance of identifying properties in need of the maximum preservation services available while avoiding a heavy handed property security measures and precautions in stable neighborhoods that require only minimum FHA property requirements to remain blight and nuisance free. This would confirm the power of the local jurisdiction under its existing laws, to increase the minimum requirement on Priority Preservation Properties.

1.2.3. 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 Home Owners Association rules and regulations which may apply to the property.

2. INSPECTION OF RESIDENTIAL PROPERTY

2.1. Initial Inspection

2.1.1. In conjunction with California Civil Code Section 2923.5, once a bank, lender or other financial institution or authorized agent fulfills the due diligence as specified in California Civil Code Section 2923.5 shall directly,
or through an agent or servicing company, initiate a notice of default upon residential real property, the bank, lender or other financial institution, either directly or through its agent or servicing company, shall cause a physical inspection to be made of the property not later than 10 days from the date of recordation of the notice of default in an effort to stabilize surrounding neighborhoods, protect the collateral of interest and to address safety issues. If upon this initial inspection the property is identified as abandoned, registry of the property is to be initiated as per section 3.1. One or more photographs shall be taken of the residential property accurately portraying the condition of the exterior premises. Photographs shall be dated and preserved.

2.2. Regular Inspections.

2.2.1. The registrant shall perform a re-inspection of a residential premises subject to foreclosure proceedings at least once every 15 days following the initial inspection until such time as the default has been resolved with the mortgagor/borrower, is sold at a trustee’s sale to an entity other than the registrant, is legally reoccupied or is otherwise lawfully conveyed to a new owner. One or more photographs shall be taken at each re-inspection and shall be dated and preserved in the same manner as is required upon initial inspection.

3. REGISTRATION OF ABANDONED RESIDENTIAL PROPERTY

3.1. If upon inspection of residential property it should be determined if the property is abandoned, the registrant shall register the property in the name of the lien holder with MERS. If the registrant is unable or unwilling to register the property with MERS, the property must be registered with the local agency following guidelines and requirements set forth by the local ordinance. Local registration of properties should include, but is not limited to, information identifying the location of the property, the lien holder, their name address and direct phone number, the agent or servicer or field servicing company, if any, and their address, and direct phone number. Proof registration in MERS shall fulfill any local ordinance that requires registration, including fees, as long as all basic identifying requirements are met within the criterion of the MERS database. In the absence of a local property registration ordinance, MERS shall fulfill that jurisdictions registry requirement.

3.2. Registration of abandoned property shall be made within 5 working days of inspection.

3.3. In cases where the local registration system is used, the registrant shall, upon sale of the property to a non-beneficial interest or legal reoccupation of the property shall notify the local jurisdiction.

4. REGISTRANT DUTIES

4.1. The property maintenance duties of a registrant are limited to the following:

4.1.1. Assuring that there are no accessible structures on the premises.

4.1.2. Assuring that there are no conditions upon the property presenting an immediate risk to health and safety of the public including removing or abating fire hazards, removing or containing potentially toxic materials and explosives, securing the perimeters of swimming pools, ponds or other bodies of water, and maintaining them against mosquito breeding, and
maintaining public walkways and thoroughfares free from mud, ice, snow
and other debris consistent with the rules, regulations and other requirements
published by the Federal Housing Administration (FHA) of the United States
Department of Housing and Urban Development listed in section 1.2.1.

4.1.3. A registrant shall preserve a statement identifying any action taken or
planned to be taken to comply with the requirements of section 4.1.2., the
statement shall be dated and preserved in the same manner as is required
upon initial inspection. This statement is to be available upon request to
local code enforcement manager/official or his/her designee. A local code
enforcement agency may inspect properties subject to this section and make
a finding that the conditions of the residential premises constitute a threat to
the health, safety and welfare of the public and, upon such finding, may
issue a written order to abate the condition. If the registrant fails to comply
with the order of the code enforcement agency within 10 days, the registrant,
shall be held liable and punished in the same manner and to the same extent
as the owner of the property if the unabated condition is any of the
following:

4.1.3.1.1. Littering, trash, junk and debris
4.1.3.1.2. Blocked or obstructed sidewalk and walkways
4.1.3.1.3. Odors from privy vaults, drains, sewers, septic tanks
4.1.3.1.4. High dry weeds posing a potential fire hazard
4.1.3.1.5. Breeding place for flies or mosquitoes
4.1.3.1.6. Abandoned, inoperable, wrecked or dismantled nuisance
vehicles
4.1.3.1.7. Excessive snow or ice on buildings
4.1.3.1.8. Storing of fuel in a dwelling
4.1.3.1.9. Securing of pressurized gas cylinders
4.1.3.1.10. Securing locks
4.1.3.1.11. Hazardous substance spills
4.1.3.1.12. Unsecured vacant structures
4.1.3.1.13. Graffiti
4.1.3.1.14. Substandard maintenance of premises
4.1.3.1.15. Rat Harborage
4.1.3.1.16. Unsecured and or unmaintained pools, spas or other similar
bodies of water
4.1.3.1.17. Any other condition that threatens the health, welfare and
safety of the public or creates a public nuisance

4.1.4. The property shall be posted with name and 24-hour contact phone
number of the registrant, their agent or field servicer responsible for property
maintenance and security. The posting shall be no less than 18” X 24” and
shall be of a font that is legible from a distance of forty-five (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 visual 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.

4.1.5. 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 MERS and with the local County Recorders Office, a Substitution of Beneficiary of Deed of Trust, 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.

4.1.6. A registrant shall maintain written records, including photographs, of any re-inspection required that identifies any change in condition of the abandoned real property requiring corrections and identifying actions taken or planned to assure compliance. Written record of re-inspection shall be made available to local code enforcement manager/official upon request.

4.1.7. A registrant, or registrant’s agent or servicing company, shall provide notice to MERS, if registered with MERS or the local ordinance registrant if the property has been registered locally, within 15 working days, of any agreement executed by the lawful owner with the party or parties asserting a mortgage lien interest curing or otherwise forgiving default of the mortgage lien, or with 15 days of a sale in foreclosure or other sale of lawful conveyance of the abandoned residential property, and declaring that registrant is no longer responsible for inspection of the registered property or for securing or maintaining the property. Upon receipt of the notice required in this paragraph registrant holder shall dissolve the registration requirements and its requirements.

5. PENALTIES
5.1. Failure to adhere to any or all of the provisions set forth in this section shall be deemed a violation and may be prosecuted as a misdemeanor and or may be subject to a civil penalty of not more than $____ per violation.

5.2. Civil penalties under this section may be accrued retroactive to the date the violations were first discovered, as evidenced by the issuance of a notice and order or at any later date determine by the local code enforcement manager/director or his/her designee. In determining the amount to be imposed on a daily rate, the code enforcement manager/director shall consider the following factors:

5.2.1. Duration of the violation;
5.2.2. Frequency or occurrence of the violation; (including other properties subject to this section)
5.2.3. Frequency or occurrence of other violations during the period of accrual; (including other properties subject to this section)
5.2.4. Seriousness of the violation in relation to its threat or impact upon public health, welfare of safety;
5.2.5. History of violations;
5.2.6. Activity taken by the responsible party to obstruct or interfere with correction of the problem;
5.2.7. Good faith or bad faith efforts by the responsible party to comply;
5.2.8. The impact of the violation on the surrounding property and community;
5.2.9. The financial ability of the responsible party to have corrected the violation in a timely fashion.
6. REGISTRATION OF ABANDONED RESIDENTIAL PROPERTY
6.1. The fee for local agency registration of an abandoned residential property shall be determined by a local ordinance that has established an abandoned residential property database. Proof of MERS registration shall fulfill registration requirement of any local ordinance.
7. DEFINITIONS
7.1. "Abandoned Property" means a property that is abandoned as the result of the relinquishment of possession or control by a mortgager of the mortgager’s assigns whether or not the mortgager or mortgager’s assigns have relinquished equity and title. Property may be deemed abandoned when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was abandoned including, but not limited to, open and accessible structures, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices, accumulation of junk, litter, trash or debris, absence of window treatment such as blinds, curtains or shutters, absence of furnishings and personal items, and statements by neighbors, delivery agents or similarly situated persons that the property is abandoned.
7.2. "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. Openings and or breaches need only be large enough to allow entry by a small child to be considered "accessible".
7.3. "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.
7.4. "Agent" means a person, firm or other entity that, by agreement for payment of services is responsible to a bank, lender, other financial institution or individual, for securing, maintaining, foreclosing upon or selling any residential property as the result of loan default or mortgage foreclosure proceedings whether or not the proceedings are judicial or initiated as the result of a power of sale clause in the mortgage document. In this section, agent does not include a servicing company. Except however, an attorney shall not be deemed to be an agent if that attorney is retained solely to represent a bank, lender or other financial institution in connection with a foreclosure proceeding in a court of competent jurisdiction.
7.5. "Beneficiary" means a lender under a note secured by a deed of trust.
7.6. "Collateral" means property pledged as security against a debt.
7.7. "Days" means consecutive calendar days.
7.8. "Default" means the failure to fulfill a contractual obligation, monetary or conditional.
7.9. "Field Servicing Company" means a company or individual contracted to maintain and secure collateral properties that are abandoned and in the foreclosure process or have been foreclosed on by a beneficial interest.

7.10. "Financial institution" means any individual, firm, corporation or entity other than a lender of duly constituted bond that asserts a collateral interest in residential real property as the result of an assignment, sale or transfer of a mortgage or similar instrument.

7.11. "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.

7.12. "Local" means within forty (40) road/driving miles distance of the subject property.

7.13. "Mortgage" means a written instrument creating a lien on real property whereby the mortgager retains the interest that the mortgager had at the time of mortgage until that interest is divested by some later act.

7.14. "Notice of Default" means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

7.15. "Owner" means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

7.16. "Property" means any unimproved or improved real property or portion thereof, situated in the state of California and includes the buildings or structures located on the property regardless of condition.

7.17. "Reseiptant" means a bank, mortgage lender/servicer or any individual or entity that asserts a collateral interest or a party/entity that holds a beneficial interest in a mortgage, deed of trust or lien that is basis for current default or foreclosure action.

7.18. "Residential building" means any improved real property, or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted and/or zoned for such use.

7.19. "Securing" means such measures taken in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/pad locking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

7.20. "Servicing company" means an individual, firm or entity that, as a regular part of its business, provides services to the owner or holder of one or more mortgage liens which services may include collection of payments, creation and administration of escrow and insurance accounts, assessment of late-payment charges, managing loss mitigation, and securing and managing foreclosed properties on behalf of the holder of a mortgage lien or the holder's attorney or agent.

7.21. "Substitution of Beneficiary of Deed of Trust" means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another
7.22. "Trustee" means the person, firm or corporation holding a Deed of Trust on a property.
7.23. "Trustor" means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.
7.24. "Vacant" means a building/structure that is not legally occupied.
DATE: November 25, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Pamela Thompson, City Attorney


BACKGROUND

On October 14, 2008, the City Council received a report about steps the City could take to address foreclosed properties and vacant properties that fall into disrepair. The City Council directed that staff craft an ordinance to address these property maintenance issues. Although San Bruno has not suffered as much from the foreclosure crisis as other cities, there are some foreclosed properties (particularly residential) that are not being maintained. The trick, when a property is foreclosed, or is in some stage thereof, is to identify who is responsible to maintain the property. The proposed ordinance should close that gap by requiring (primarily) lenders to register properties they are taking over. Maintenance of properties where the ownership is known but the property is deteriorating is addressed in a separate report on this agenda.

DISCUSSION

The proposed ordinance would support code enforcement efforts to address property maintenance by making sure that staff can find the owners of properties that are foreclosed, or in some state of foreclosure, as these properties are likely to deteriorate. Typically, foreclosure involves three phases with varying effects on property maintenance. The first phase occurs when a notice of default is recorded. The owner remains in possession of the property and is responsible to take care of the property. Although the owner may not be motivated to take care of his or her property, the City can at least find the owner and has the means through its nuisance code to achieve compliance with the City's property maintenance standards.

During the second phase, the owner has abandoned the property, waiting for the lender to complete foreclosure. The lender may delay this process for quite some time so the property may be in limbo. The owner is not there to take care of the property and the bank claims it has does not have the right to the property until after foreclosure. Often, the property begins to deteriorate.

The final phase occurs after the lender has completed the foreclosure and holds the property with intent to sell. Ownership at this stage may be difficult to discern because sometimes the property is owned by a trust security or a pooled investment trust. The property may continue to deteriorate until finally sold to an individual. (City Attorney League Paper Fall 2008 by Jolie Houston and Paul Early)
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The purpose of this ordinance is to require the beneficiary/trustee (the lender or bank that loaned the money to purchase the property) to identify itself to the City so that in the second or third phase when the property is vacant and deteriorating, the City can find that bank or lender. The City has authority under its existing nuisance code to hold them accountable.

As proposed, the ordinance applies to a beneficiary or trustee (usually a lender) who holds a deed of trust secured by property located within the City of San Bruno. The beneficiary/trustee must register identifying and contact information with the City within 30 days of purchase and/or transfer of that property. Also, if the property goes into default, the beneficiary/trustee has the job of inspecting the property to see if it is vacant. In that case, the beneficiary/trustee must also register the property with the City.

Registration can be accomplished either by completing and returning a city-approved form or by registering on a city-approved national database that provides the required information at no cost to the city. The City Council sets the registration fee by resolution, but the fee will be waived if registration occurs within the 30-day time frame.

The proposed ordinance would work in conjunction with two other ordinances on this agenda: (1) new section 5.08.380 (on for second reading) which implements state law by requiring owners of foreclosed residential properties to maintain them or suffer fines up to $1,000 a day; and (2) proposed chapter 5.24 (on for first reading), which requires owners of vacant properties (whether or not foreclosed) to file a maintenance plan with the City when they have become distressed, as evidenced by three or more notices to correct within twelve months.

FISCAL IMPACT

None.

ALTERNATIVES

1. Direct staff to make other changes to the proposed ordinance.
2. Do not introduce the proposed ordinance.

RECOMMENDATION


ATTACHMENTS

1. Proposed ordinance

DATE PREPARED

November 14, 2008
DATE: November 25, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Pamela Thompson, City Attorney


BACKGROUND

On October 14, 2008, the City Council received a report about steps the City could take to address foreclosed properties and vacant properties that fall into disrepair. Vacant properties present a particular challenge because the owners tend to not care for them unless they are occupied and making money. These few vacant properties present persistent problems that create a great demand on City resources. The City Council directed that staff draft an ordinance to address this issue. The proposed ordinance would require the owner (or other responsible party) of deteriorating property to plan for maintenance and security of his or her property. Maintenance of foreclosed properties is addressed in a separate report on this agenda.

DISCUSSION

The purpose of the proposed ordinance is to require owners (or other responsible parties) to plan for and provide for maintenance and security of that owner's distressed property in order to protect the City of San Bruno from becoming blighted. Accordingly, any responsible person (i.e., owner or others with a property interest) whose vacant property has been cited three times or more in twelve months for corrective action is required to file a vacant property maintenance plan with the community development director establishing how the property will be maintained and secured during the expected period of vacancy.

The plan must set forth contact information, a copy of notice to adjacent neighbors of a 24-hour contact to report problems, and a plan for how the visible parts of the property will be maintained from things such as weeds, junk, accumulated papers, graffiti, and peeling paint. The property, including spas and pools, must be made secure to prevent trespass and other criminal activity. If the responsible party is located more than 40 miles from the property, a local property manager less than 40 miles from the subject property must be engaged to manage the property; or alternatively, the community development director may approve a management company outside of this radius provided it has a 24/7 contact number and complies with the maintenance standards required by the ordinance. (There are a number of national property management companies that meet this standard.) And, the responsible party may be required to take other steps such as planning for how the property will become occupied. A fee, set by resolution of the City Council, must accompany the plan in order to reimburse the City for...
resources expended in reviewing and monitoring the plan. The plan must be renewed annually. If the responsible party does not file the plan after three notices, the community development director may issue an order that it be done, which order may be appealed to the City Manager. The proposed ordinance would work in conjunction with two other ordinances on this agenda: (1) new section 5.08.380 (on for second reading) which implements state law by requiring owners of foreclosed residential properties to maintain them or suffer fines up to $1,000 a day; and (2) proposed chapter 5.26 (on for first reading), which requires banks and lenders within 30 days of foreclosure to register with the City and also within 30 days of filing a notice of default if the property is abandoned.

FISCAL IMPACT

There is a cost associated with reviewing and monitoring a vacant property maintenance plan and it is recommended the City Council set a fee that reimburses the City for its actual costs.

ALTERNATIVES

1. Direct staff to make other changes to the proposed ordinance.
2. Do not introduce the proposed ordinance.

RECOMMENDATION


ATTACHMENTS

1. Proposed ordinance

DATE PREPARED

November 14, 2008

REVIEWED BY

____ CM
DATE: November 25, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Pamela Thompson, City Attorney

SUBJECT: Waive Second Reading and Adopt An Ordinance Adding Section 5.08.380, “Authorizing Civil Fines for Failure to Maintain Foreclosed Residential Properties” to Chapter 5.08 (Enforcement, Nuisance Abatement, and Cost Recovery) of Title 5 of the San Bruno Municipal Code And Adopt Resolution Setting Civil Fines And Penalties For Violations Of Section 5.08.380

BACKGROUND

The State of California enacted Senate Bill 1137, which promulgates various new requirements intended to lessen the negative effects of the foreclosure crisis. For example, the new law is anticipated to reduce the number of foreclosure sales by requiring lenders to contact borrowers before a notice of default is filed and also provides tenants with more time to move from a foreclosed property. SB 1137 also allows local government agencies to fine owners of foreclosed residential properties if they are not maintaining them. On November 17, 2008, the City Council held a public hearing and introduced the ordinance. The ordinance is on this agenda for second reading and adoption.

DISCUSSION

Pursuant to SB 1137, governmental agencies may impose civil fines and penalties of up $1,000 per day against owners of residential property for failure to maintain residential property, subject to certain specified procedures. The fines and penalties must be directed to local nuisance abatement programs. In order to impose these civil fines, the City must give written notice of the violation and provide a period of at least fourteen (14) days to commence remedying the violation and at least thirty (30) days to complete the remedies. Timely and good faith efforts to remediate the violation must be taken into account when determining the amount of the fine. The City may not impose fines under both SB 1137 and a local ordinance, but this limitation does not prohibit the City from recovering its actual costs in enforcing code enforcement matters.

While the ordinance authorizes fines up to a maximum of $1,000 per day, the ordinance specifies that the City Council sets the exact fine amount by resolution which means that the City Council can change the amount as necessary. Attached for the City Council’s consideration is a resolution setting the civil fine at $1,000 per day, although, as required by state law, a hearing officer may adjust the amount downward if appropriate given the facts. If the City Council is in favor of the proposed ordinance, the resolution would be brought forward for
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consideration at the time of the ordinance's adoption.

SB 1137 does not specify whether the fines must be collected through a court action or through
the administrative procedures set forth in the City's Municipal Code. However enforced, the key
is to provide due process. Accordingly, the proposed ordinance incorporates the notice and
hearing procedures set forth in the City's nuisance code at Chapter 5.08. These civil fines may
be collected as special assessments by means of the procedure detailed in the nuisance code.
The state law sunsets in 2013 so the proposed ordinance provides that the authority to levy
$1,000 fines so long as SB 1137 remains in effect.

FISCAL IMPACT

None.

ALTERNATIVES

Direct staff not to notice an ordinance implementing SB 1137.

RECOMMENDATION

Waive Second Reading and Adopt An Ordinance Adding Section 5.08.380, "Authorizing Civil
Fines for Failure to Maintain Foreclosed Residential Properties" to Chapter 5.08 (Enforcement,
Nuisance Abatement, and Cost Recovery) of Title 5 of the San Bruno Municipal Code And
Adopt Resolution Setting Civil Fines And Penalties For Violations Of Section 5.08.380

ATTACHMENTS

1. Ordinance
2. Resolution

DATE PREPARED

November 18, 2008

REVIEWED BY

CM
ORDINANCE NO. 1766

AN ORDINANCE OF THE CITY COUNCIL OF SAN BRUNO ADDING SECTION 5.08.380, AUTHORIZING “CIVIL FINES FOR FAILURE TO MAINTAIN FORECLOSED RESIDENTIAL PROPERTIES” TO CHAPTER 5.08 (ENFORCEMENT, NUISANCE ABATEMENT, AND COST RECOVERY) OF TITLE 5 OF THE SAN BRUNO MUNICIPAL CODE.

Section 1. The City Council of San Bruno makes the following findings:

1. Senate Bill (SB) 1137 was signed by the Governor on July 8, 2008, and took effect immediately. Senate Bill 1137, in addition to protection for homeowners and tenants, adds section 2929.3 to the California Civil Code to allow cities to impose $1,000 fines on mortgage companies and legal owners who have foreclosed on residential properties but fail to maintain them;

2. In enacting SB 1137, the State Legislature found that California is facing an unprecedented threat to its state economy and local economies because of skyrocketing residential property foreclosure rates in California;

3. Foreclosure rates are continuing and escalating to the continued detriment of property values and property maintenance in the State of California and in the City of San Bruno; and

4. The City Council finds and declares that it wishes to take advantage of the procedures set forth in Section 2929.3 in order to protect the health, welfare, and safety of the neighborhoods of the City of San Bruno.

The City Council of the City of San Bruno Ordains as follows:

Section 2. New Section 5.08.380 is hereby added to Chapter 5.08 of the San Bruno Municipal Code to read as follows:

5.08.380 Civil fines for failure to maintain foreclosed properties.

A. The City may issue civil fines and penalties of up to $1,000 per day pursuant to the procedures set forth in California Civil Code Section 2929.3, against the legal owner of a vacant residential property purchased at a foreclosure sale or acquired by that owner through foreclosure under a mortgage or deed of trust who fails to maintain such vacant residential property so long as California Civil Code Section 2929.3 remains in effect. The City Council shall establish the civil fine amount by resolution.

B. Appeals of Notices of Failure to Maintain Foreclosed Property and Order to Correct Violations or the civil fines and penalties imposed pursuant to this section may be appeal in the same manner and within the same time limitations as administrative citations as fully set forth in Chapter 5.08.010 through 5.08.110. In the event of an inconsistency between this ordinance and California Civil Code Section 2929.3, the requirements of California Civil Code Section 2929.3 shall be followed.

C. Any initial or subsequent fine together with any abatement fees, costs and charges, may become a lien and/or a special assessment on the property collected through the procedures established in Article IV (Recovery of Costs, Expenses, and Fees) of the San Bruno Municipal Code Chapter 5.08.

Section 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the City of San Bruno hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 4. This Ordinance shall take effect and be in force 30 days after its adoption.

Section 5. The City Clerk shall publish this Ordinance according to law.
I hereby certify that foregoing Ordinance No. 1766 was introduced at a regular meeting of the San Bruno City Council on November 17, 2008, and adopted by the San Bruno City Council at a regular meeting on November 25, 2008, by the following vote:

AYES: Councilmembers: Ibarra, Medina, Ruane, O'Connell, Mayor Franzella

NOES: Councilmembers: None

ABSENT: Councilmembers: None
ORDINANCE NO. 1768

AN ORDINANCE ADDING NEW CHAPTER 5.26, ESTABLISHING REGISTRATION REQUIREMENT FOR FORECLOSED AND ABANDONED PROPERTIES, TO TITLE 5 (NUISANCES) OF THE SAN BRUNO MUNICIPAL CODE

Section 1. The City Council of San Bruno finds as follows:

1. Residential property foreclosures increased sevenfold from 2008 to 2007, and in 2008 more than 84,000 properties were lost to foreclosure in California alone. Economic projections are that foreclosures will occur in high numbers for the foreseeable future. A recent check shows that 316 properties in San Bruno are in some stage of foreclosure.

2. Properties that are foreclosed or in some stage of foreclosure are often abandoned. Abandoned properties are marked by overgrown weeds or dead vegetation, become dumping grounds for garbage, junk and debris, create fire hazards and encourage criminal activity such as trespass and graffiti. These properties become retard appreciation of property values and promote blight. Abandoned properties pose a threat to the public’s health, welfare, and safety and therefore are declared to be a public nuisance.

3. Identifying the party responsible for a property in foreclosure, especially an abandoned property, is necessary in order to achieve enforcement of property maintenance standards. Therefore, parties responsible for foreclosed properties or properties in foreclosure, especially corporate entities, should be tasked with making it easier to locate them.

The City Council of the City of San Bruno Ordains as follows:

Section 2. New Chapter 5.26 is hereby added to the San Bruno Municipal Code to read as follows:

Chapter 5.26
Registration of Foreclosed and Abandoned Properties

5.26.010 Purpose.
It is the purpose and intent of this chapter to establish a registration requirement for properties that are foreclosed or that are in the process of foreclosure and abandoned so that the City has a means of readily identifying parties who are responsible to maintain such properties.

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.

"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.

"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 trustor 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.
“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/or 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 or commercial/industrial occupancy as applicable, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

“Foreclosed” or “Foreclosure” means property, or the process by which property, is placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.

“Notice of default” means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee’s sale.

“Property” means any unimproved or improved real property, or portion thereof, situated in the City and includes the buildings or structures located on the property regardless of condition.

“Trustee” means the person, firm or corporation holding a deed of trust on a property.

“Trustor” means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

“Vacant” means a building/structure that is not legally occupied.

5.26.030 Registration of foreclosed vacant properties.
A. Any beneficiary/trustee who holds a deed of trust secured by property located within the City of San Bruno shall register with the Community Development Department when any of the following events occur:
   1. Within thirty (30) days of the purchase and/or transfer of a loan/deed of trust secured by property in San Bruno;
   2. Within thirty (30) days upon default by the trustor if the property is abandoned. The beneficiary/trustee shall perform an inspection of the property that is the security for the deed of trust, within thirty (30) days upon default by the trustor to determine whether the property is abandoned. 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 comply with the registration requirement set forth herein. If the property is occupied but remains in default, it shall be inspected by the beneficiary/trustee, or his designee, monthly until the trustor or other party remedies the default or it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned.
B. The following registration information shall be provided to the City:
   1. The name of the beneficiary/trustee (corporation or individual);
   2. The direct street/office mailing address and contact information (phone, fax, and electronic address) of the beneficiary/trustee (no P.O. boxes) responsible for receiving payments;
   3. The direct street/office mailing address and contact information (phone, fax, and electronic address) for the person or party designated by the beneficiary/trustee as responsible for maintenance of the property.
C. Registration of the required information may be accomplished by any of the following methods:
   1. By completing and returning to the Community Development Department a City-provided registration form; or
   2. By registering with a City-approved national data base that contains the information set forth herein and which service the City may access at no cost. From time to time, the City Manager may approve acceptable national data bases which shall be identified in writing and which shall be posted in the Community Development Department and on the City’s web-site.
D. Registration fee.
   1. A registration fee to reimburse the city for the cost incurred as a result of administering this program shall accompany the registration form and the fee shall be set from time to time by the City Council by resolution.
2. The registration fee shall be waived if the property is registered within the time frame and methods required by this chapter.

E. This chapter 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.

F. Any person, firm or corporation that has registered a property under this chapter must report any change of information contained in the registration within ten (10) days of the change.

5.26.040 Enforcement.

A. Failure to comply with the requirements of this chapter shall constitute a misdemeanor violation punishable at law in accordance with Chapter 1.28 of this code by a fine of not less than five hundred dollars or by imprisonment in county jail of not more than six months, or both.

B. The City may also seek enforcement through any administrative, civil, or criminal remedy available to it at law, which remedies are cumulative and non-exclusive. The city may exercise one or any combination of remedies in its sole discretion at any time.

Section 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the City of San Bruno hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 4. This Ordinance shall take effect and be in force 30 days after its adoption.

Section 5. The City Clerk shall publish this Ordinance according to law.

ATTEST:

[Signature]
Larry Franzella, Mayor

[Signature]
Vicky Hasha, Deputy City Clerk

APPROVED AS TO FORM:

[Signature]
Pamela Thompson, City Attorney

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I hereby certify that foregoing Ordinance No. 1768
was introduced at a regular meeting of the San Bruno City Council on
November 25, 2008, and adopted by the San Bruno City Council at a regular meeting on
December 9, 2008, by the following vote:

AYES: Councilmembers: Ibarra, Medina, Ruane, O'Connell, Mayor Franzella

NOES: Councilmembers: None

ABSENT: Councilmembers: None

[Signature]
Vicky S. Hasha, Deputy City Clerk
ORDINANCE NO. 1767

AN ORDINANCE ADDING NEW CHAPTER 5.24, ESTABLISHING REQUIREMENTS FOR THE MAINTENANCE OF DISTRESSED VACANT PROPERTIES, TO TITLE 5 (NUISANCES) OF THE SAN BRUNO MUNICIPAL CODE

Section 1. The City Council of San Bruno finds as follows:

1. Vacant properties that are not maintained frequently show distress in the form of overgrown weeds, dead vegetation, broken windows, peeling paint, and accumulation of garbage, junk and debris, or standing water. These conditions create risks of fire, health hazards, and encourage criminal activity such as graffiti and trespass. Accordingly, such properties pose a threat to the public's health, welfare, and safety and therefore are declared to be a public nuisance.

2. There are a number of commercial and residential properties in San Bruno that are vacant and that are distressed thus disrupting the stability of the environs, retarding appreciation of property values, and promoting blight. These distressed properties often create a greater demand on limited City resources than occupied properties in order to achieve abatement of these property conditions. The owner (or other responsible party) for a vacant property that has become distressed due to lack of maintenance should be required to plan for and demonstrate how the property will be cared for over time.

The City Council of the City of San Bruno Ordains as follows:

Section 2. New Chapter 5.24 is hereby added to the San Bruno Municipal Code to read as follows:

Chapter 5.24

Maintenance of Distressed Vacant Properties

5.24.010 Purpose.

It is the purpose and intent of this chapter to require owners or other responsible parties to plan for and provide for maintenance and security of distressed properties in order to protect the City of San Bruno from becoming blighted through inadequate maintenance and inadequate security of such properties.

5.24.020 Definitions.

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

"Property" means any unimproved or improved real property, or portion thereof, situated in the City and includes the buildings or structures located on the property regardless of condition.

"Owner" means and includes any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property, or who leases, rents, occupies, or has charge, control or possession of any property in the city, including all persons identified as owning property as shown on the last equalized assessment roll of the San Mateo County Assessor's Office.

"Responsible person" means any person, whether as an owner as defined in this chapter, or otherwise, who allows, causes, creates, maintains, or permits a public nuisance, or any violation of the San Bruno Municipal Code or other law, to exist or continue, by any act or the omission of any act or duty.

"Vacant" means a building/structure that is not legally occupied.

5.24.030 Vacant property as public nuisance.

A. A property is a public nuisance when the property is vacant and the City has within twelve months issued three or more notices to correct or administrative citations set forth in Chapter 5.04 of the San Bruno Municipal Code, or other violations of local, state, or other law, which notices or citations were either not contested or were contested and the hearing officer or hearing body found a violation of law.

B. When a property is deemed a public nuisance under this subsection, the responsible person, as defined herein, shall file with the community development director a vacant property
maintenance plan that meets the requirements established in Section 5.24.040. The responsible person shall file the vacant property maintenance plan no later than ten days after service of order to file vacant property maintenance plan.

C. The order shall be served on a responsible person, on a form approved by the city attorney, in the following manner:

1. Personal Service of Notice Upon an Individual. If the responsible person is an entity, the enforcement officer may personally serve an employee, principal, partner, director, officer or representative on behalf of said entity. The date of personal service shall constitute the issuance date of the order.

2. Service of Notice by Mail. If the responsible person cannot be personally served in the city, the order shall be mailed to the responsible person by certified mail, postage prepaid, return receipt requested. Simultaneously, a copy of the citation shall be sent by first class mail. The issuing officer shall utilize public records to determine a mailing address for the responsible person. The date of mailing shall constitute the issuance date of the order.

3. Service of Notice by Posting. If service cannot be accomplished personally or by mail, the enforcement officer shall post the order on any real property in the city in which the responsible party is known to have a legal interest and possession of said property or portion thereof. The date of posting shall constitute the issuance date of the order.

D. The failure of a responsible person to receive a vacant property maintenance plan shall not invalidate any such order if service was given in a manner stated in this article.

5.24.040 Vacant property maintenance plan.

A. The Community Services Director shall approve a Vacant Property Maintenance Plan if after inspecting the property, the information in the plan is sufficient to meet the requirements of this section. If the Director rejects the plan, it shall be done in writing, providing the basis for the rejection along with a reasonable deadline for submitting a new plan or a time frame for appealing the Director's decision as set forth in this chapter.

B. The Vacant Property Maintenance Plan shall provide the following:

1. The name, address, and contact information (telephone and electronic mail address) of person submitting the vacant property maintenance plan, of all responsible persons of the subject property, and 24-hour contact number for the person designated to manage and maintain the property for the responsible person;

2. A copy of a letter or other notice to properties immediately adjacent to and across from the subject property advising the residents of the name and 24-hour contact number for the person responsible for managing and maintaining the property; and

3. A plan for actively monitoring, maintaining and securing the property for the anticipated or expected period of vacancy that demonstrates how the property will be maintained to achieve the following minimum maintenance and security requirements:

   a. The property shall be 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 vacant.

   b. 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.

   c. Visible front and side yards or accessible areas that are visible from the right of way shall be landscaped and maintained such that grass, ground covers, bushes, shrubs, hedges or similar plantings receive regular watering, irrigation, cutting, pruning, mowing and removal of all trimmings.

   d. The exterior of structures visible to the right of way shall be kept free of obvious peeling paint and delapidated stairs, handrails, or structures.

   e. Pools and spas shall be kept drained and secured or 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 and safety requirements of the State of California.
f. The property shall be secured in a manner so as not to be accessible to unauthorized persons nor creates an attractive nuisance (as defined in Chapter 5.04 of this code), including but not limited to, closing and locking of windows, doors and garage doors, gates and any other opening of such size that it may allow access to the interior of the property and or structure(s). In the case of broken windows, securing means the reglazing or boarding of the window.

4. A plan to make any buildings ready for occupancy that could not be legally occupied under State and local law at the time for submission of the plan.

5. If required by the director, a plan to occupy, sell, lease, or demolish a structure within a reasonable time.

6. Any other information reasonably required by the Director in order to effectuate the purposes of this chapter.

7. Submission of a vacant property maintenance plan fee in accordance with this chapter.

C. If the responsible person is located more than 40 miles from the property, a local property management company within 40 miles shall be contracted to perform monthly inspections to verify that the property is in compliance with the requirements of this chapter. Alternatively, the community development director may approve the owner’s designation of a property management company in excess of the 40-mile radius provided the management company has a 24 hour 7 day a week (24/7) contact number to report problems and complies with the requirements of this chapter as it pertains to the subject property.

D. In addition to the enforcement remedies established by this code, the community development director or designee shall have the authority to require the responsible party 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 a property manager and/or an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

E. Nothing in this chapter relieves any responsible person from the obligation to comply with any other provision of the City’s nuisance code (Chapter 5.04) or any other requirement set forth in this code or at law.

F. Transfer of Vacant Property. The transferee of a vacant property is subject to the requirements of this section and the seller shall provide the transferee with a copy of the vacant property maintenance plan.

5.24.050 Fee.

The annual fee and renewal fee for reviewing, approving and/or monitoring a vacant property maintenance plan by the director shall be established from time to time by the city council by resolution.

5.24.060 Right of Appeal.

A. Any responsible person of the subject party aggrieved by the order of the community development director to file a vacant property maintenance plan may, within ten days of the written notice of the order, appeal such order to the city manager by the filing of a written signed notice of appeal with the city clerk stating the specific grounds for the appeal in such detail to enable the city manager to understand the nature of controversy. If such appeal is not taken within ten days, the decision of the community development director shall be final. For purposes of this section, the ten days shall commence to run from the date of service as set forth in Section 5.24.030(C) herein.

B. Upon appeal to the city manager, the order of the community development director shall be scheduled for review and an evidentiary hearing. A copy of the notice of hearing shall be mailed to the applicant.

C. At the date set for hearing, the city manager shall hear all competent testimony relating to the order to file vacant property maintenance plan and may also continue the hearing to a fixed date. The hearing is informal, and formal rules of evidence and discovery do not apply. The city bears the burden to prove by a preponderance of the evidence the requirement for the filing of the vacant property building plan or other requirements related thereto.

D. The city manager may affirm as written, modify, or reject the order to file a vacant property maintenance plan. The decision of the city manager may be appealed to the city council in accordance with Chapter 1.32 of this code.
5.24.070 Enforcement.
   A. Failure to comply with the requirements of this chapter shall constitute a misdemeanor
      violation punishable at law in accordance with Chapter 1.28 of this code by a fine of not less than five
      hundred dollars or by imprisonment in county jail of not more than six months, or both.
   B. The City may also seek enforcement through any administrative, civil, or criminal
      remedy available to it at law, which remedies are cumulative and non-exclusive. The city may
      exercise one or any combination of remedies in its sole discretion at any time.

Section 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to
be invalid, such decision shall not affect the validity of the remaining portion or sections of the
Ordinance. The City Council of the City of San Bruno hereby declares that it should have adopted the
Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact
that any one or more sections, subsections, sentences, clauses or phrases be declared
unconstitutional.

Section 4. This Ordinance shall take effect and be in force 30 days after its adoption.

Section 5. The City Clerk shall publish this Ordinance according to law.

ATTEST:

[Signature]
Larry Franzella, Mayor

[Signature]
Vicky Hasha, Deputy City Clerk

APPROVED AS TO FORM:

[Signature]
Pamela Thompson, City Attorney

--oOo--

I hereby certify that foregoing Ordinance No. 1767
was introduced at a regular meeting of the San Bruno City Council on
November 25, 2008, and adopted by the San Bruno City Council at a regular meeting on
December 9, 2008, by the following vote:

AYES: Councilmembers: Ibarra, Medina, Ruane, O'Connell, Mayor Franzella

NOES: Councilmembers: None

ABSENT: Councilmembers: None

[Signature]
Vicky Hasha, Deputy City Clerk
SUBJECT: COUNCIL MEMBER REQUESTED AGENDA ITEM – Requirement for Conditional Use Permit for Card Room Operation

SOURCE: City Manager

COMMENT: A member of the City Council requested that the Council consider establishing the requirement that the operations of a card room be conducted under the authority of a Conditional Use Permit. Though no current card rooms are currently operating within the city of Porterville, the authority to do so is by permit issued by the Chief of Police as approved by the City Council.

RECOMMENDATION: As directed by Council.

ATTACHMENT: None