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 Auxillary, 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.

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

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 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 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 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