Car to Order
Roll Call

Pledge of Allegiance led by Council Member Pedro Martinez
Invocation

**ORAL COMMUNICATIONS**
This is the opportunity to address the Council on any matter of interest, whether on the agenda or not.

**CONSENT CALENDAR**
1. Community Clean Up Events
   Re: Considering approval of two clean up events; “Spring Clean Up Day” on April 18, 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 located on North Prospect Street.

**PUBLIC HEARING**
   Re: Considering extension of the Interim Urgency Ordinance to guide development decisions consistent with the 2030 General Plan for a period of one year.

**SCHEDULED MATTER**
3. Authorization to Proceed with an Ordinance to Defer the Collection of Certain Development Impact Fees to Occupancy
   Re: Considering amendments to the City’s impact fee ordinances which would defer certain impact fees to occupancy.

**ORAL COMMUNICATIONS**

**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 at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, during normal business hours.
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 18th, 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 18th, 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.
PUBLIC HEARING

SUBJECT: AN EXTENSION OF TIME FOR AN INTERIM ORDINANCE ADOPTING AN INTERIM ZONING MATRIX AND IMPLEMENTATION PLAN FOR THE PORTERVILLE 2030 GENERAL PLAN – UPDATE REPORT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: On March 4, 2008 the City Council of the City of Porterville adopted a Comprehensive General Plan Update that established a blueprint for city growth and development through the year 2030 which included a long term implementation program for the plan. On April 15, 2008, the City Council adopted an interim urgency ordinance to guide development decisions until a new Zoning Ordinance, consistent with the General Plan, can be adopted. The interim ordinance included a zoning matrix to assist in determining zoning classifications for each General Plan land use designation as well as findings that need to be made when the decision is not clear. On May 20, 2008, the City Council approved a 10 month and 15 day extension of time in order to allow for the completion of the Zoning Ordinance, which is the maximum time allowed by state law for the first extension. It was mentioned in the staff report at that time that it was likely that the new Zoning Ordinance would not be completed during that time frame and that an additional extension of time would be needed. State law allows for a second extension of time not to exceed one year in length.

Significant progress has been made on the Zoning Ordinance update since that time. Numerous meetings and workshops were held with the review committees as well as study sessions with the City Council to review modules and other policy documents that guide the formation of the zoning and subdivision standards. A downtown overlay zone has been included that will result in a form-based code for downtown development. An airport overlay zone has also been included to regulate development in and around the Porterville Airport to deal with development issues in that portion of the community. Extensive study has been conducted in putting together standards and ideas that will allow the City to realize the vision for development contained in the General Plan adopted just over one year ago.

Staff is requesting an additional extension of time in order to complete the process by publicly reviewing a draft document, return comments to the consultant, and have the new Zoning and Subdivision ordinances adopted by the City Council.

A status update report on this matter was submitted to the City Council on March 18, 2009 in the form of a memorandum, consistent with the requirements of state law.

[Signature]

Item No. 2
RECOMMENDATION: That the City Council hold the public hearing, consider any and all public testimony, and extend the Interim Urgency Ordinance for the implementation of the newly adopted 2030 General Plan for a period of one (1) year.

ATTACHMENT: Attachment 1 - Interim Ordinance, Adopted April 15, 2008
Attachment 2 - Draft Extension of Interim Ordinance
ORDINANCE NO. 1738

A INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING AN INTERIM GENERAL PLAN AND ZONING CONSISTENCY PLAN AND MATRIX TO IMPLEMENT THE PORTERVILLE 2030 GENERAL PLAN

BE IT ORDAINED by the City Council of the City of Porterville, as follows, to wit:

SECTION 1: On March 4, 2008 the City of Porterville adopted a Comprehensive General Plan Update that established a blueprint for city growth and development through the year 2030; and

SECTION 2: The City Council made the determination that the adopted General Plan sets out a vision for the future growth of the City to protect and promote the public health, safety and general welfare for the citizens of Porterville; and

SECTION 3: The General Plan was developed through a process of soliciting significant public input process that produced a consensus document that also represents the collective vision of the citizens of Porterville thus creating an expectation that future growth and development will be in alignment with the approved General Plan; and

SECTION 4: The City of Porterville is currently in the process of comprehensively updating the Zoning and Subdivision Ordinances to implement the newly adopted General Plan and be consistent with the information therein; and

SECTION 5: An interim program for administering zoning related actions is provided for in Chapter 10, Section 10.2 – Implementation of the adopted General Plan and is necessary to bridge the gap between adoption of the General Plan and adoption of the Zoning and Subdivision Ordinance updates; and

SECTION 6: A zoning matrix has been prepared, establishing a correlation between the new General Plan land use designations and the existing zoning classifications; and

SECTION 7: The City of Porterville desires to employ the Zoning Matrix attached hereto as Exhibit A, and the findings contained in SECTION 9 of this ordinance in rendering a determination of zoning consistency with the General Plan land use designation on specific properties; and

SECTION 8: The City Council finds that the most effective and efficient administration of the interim ordinance shall be vested in the Zoning Administrator to make necessary findings of consistency with the General Plan, with the understanding that decisions of the Zoning Administrator are reviewable by the City Council or are appealable to the City Council pursuant to Article 30 of the Zoning Ordinance; and

ATTACHMENT ITEM NO. 1
SECTION 9:

In making a determination of consistency with the General Plan the Zoning Administrator will make the following findings in writing within 5 days of the request:

a. That the site of the proposed development is consistent with the adopted General Plan.

b. That the site is suitable in size, shape and access to streets and infrastructure to serve the proposed development in a manner that is sensitive to surrounding land uses.

c. That the development of the site under approved land use designation will be compatible with and not be detrimental to, nor injurious to the adjacent land uses.

d. That the proposed development under the subject land use designation is necessary to maintain or improve the economic vitality of the neighborhood or community in which it is located.

e. That the proposed density and intensity of development is appropriate for the capacity of the site and will be compatible with surrounding land uses.

PASSED, ADOPTED AND APPROVED this 15th day of April, 2008.

[Signature]
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
STATE OF CALIFORNIA  
CITY OF PORTERVILLE  
COUNTY OF TULARE  

I, JOHN LONGLEY, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Ordinance No. 1738, an Interim Urgency Ordinance, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 15th day of April, 2008, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance be in full force and effect on its date of passage, April 15, 2008.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

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JOHN LONGLEY, City Clerk

By: Luisa Herrera, Deputy City Clerk
ORDINANCE NO.

A INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE EXTENDING AN INTERIM ORDINANCE ADOPTING AN INTERIM GENERAL PLAN AND ZONING CONSISTENCY PLAN AND MATRIX TO IMPLEMENT THE PORTERVILLE 2030 GENERAL PLAN AND DECLARING THE URGENCY THEREOF

BE IT ORDAINED by the City Council of the City of Porterville, as follows, to wit:

SECTION 1: The City Council of the City of Porterville has previously enacted Ordinance 1738 as an Urgency Ordinance and said Ordinance shall expire on April 4, 2009.

SECTION 2: On March 4, 2008 the City of Porterville adopted a Comprehensive General Plan Update that established a blueprint for city growth and development through the year 2030; and

SECTION 3: The City Council made the determination that the adopted General Plan sets out a vision for the future growth of the City to protect and promote the public health, safety and general welfare for the citizens of Porterville; and

SECTION 4: The General Plan was developed through a process of soliciting significant public input process that produced a consensus document that also represents the collective vision of the citizens of Porterville thus creating an expectation that future growth and development will be in alignment with the approved General Plan; and

SECTION 5: The City of Porterville is currently in the process of comprehensively updating the Zoning and Subdivision Ordinances to implement the newly adopted General Plan and be consistent with the information therein; and

SECTION 6: Until such time that the comprehensively updated Zoning and Subdivision Ordinances are adopted, there is a current and immediate threat to the public health, safety or welfare in allowing certain land uses if inconsistent with the newly adopted General Plan; and

SECTION 7: An interim program for administering zoning related actions is provided for in Chapter 10, Section 10.2 – Implementation of the adopted General Plan and is necessary to bridge the gap between adoption of the General Plan and adoption of the Zoning and Subdivision Ordinance updates by prohibiting uses inconsistent with the General Plan unless compliance is achieved pursuant to the interim program; and

SECTION 8: A zoning matrix has been prepared, establishing a correlation between the new General Plan land use designations and the existing zoning classifications; and

SECTION 9: The City of Porterville desires to employ the Zoning Matrix attached hereto as Exhibit A, and the findings contained in SECTION 9 of this ordinance in rendering a determination of zoning consistency with the General Plan land use designation on specific properties; and

SECTION 10: The City Council finds that the most effective and efficient administration of the interim ordinance shall be vested in the Zoning Administrator to make necessary findings of consistency
with the General Plan, with the understanding that decisions of the Zoning Administrator are reviewable by the City Council or are appealable to the City Council pursuant to Article 30 of the Zoning Ordinance; and

SECTION 11:

In making a determination of consistency with the General Plan the Zoning Administrator will make the following findings in writing within 5 days of the request:

a. That the site of the proposed development is consistent with the adopted General Plan.

b. That the site is suitable in size, shape and access to streets and infrastructure to serve the proposed development in a manner that is sensitive to surrounding land uses.

c. That the development of the site under approved land use designation will be compatible with and not be detrimental to, nor injurious to the adjacent land uses.

d. That the proposed development under the subject land use designation is necessary to maintain or improve the economic vitality of the neighborhood or community in which it is located.

e. That the proposed density and intensity of development is appropriate for the capacity of the site and will be compatible with surrounding land uses.

SECTION 12: The City Council finds that pursuant to Government Code Section 65858(d), Staff prepared a written report and submitted it to the City Council for consideration describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report was submitted to the City Council on March 18, 2009, at least 10 days prior to the expiration of the Interim Ordinance.

SECTION 13: Work has progressed on the new Zoning Ordinance; however additional time is needed to complete the process of developing the new Ordinance. A duly noticed public hearing concerning this extension was held on March 31, 2009, and any and all public testimony was considered concerning this extension.

SECTION 14: The City Council hereby extends this Interim Ordinance for a period of one (1) year. Said period shall commence March 31, 2009, and shall expire on March 31, 2010, or as soon as a comprehensive zoning and subdivision ordinance is adopted by the City Council

PASSED, ADOPTED AND APPROVED this ___ day of __________, 2009.

BY:

__________________________
Cameron Hamilton, Mayor

ATTEST:

Patrice Hildreth, Chief Deputy City Clerk
CITY COUNCIL AGENDA: MARCH 31, 2009

SUBJECT: AUTHORIZATION TO PROCEED WITH AN ORDINANCE TO DEFER THE COLLECTION OF CERTAIN DEVELOPMENT IMPACT FEES TO OCCUPANCY

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On February 10, 2009, the Home Builders Association of Tulare and Kings County submitted a letter to the City of Porterville requesting consideration of deferring Development Impact Fees up to the close of escrow. The Home Builders Association identifies a number of reasons in support of their request as identified in their attached letter. First and foremost, there is a statutory provision for deferral of impact fees. In response to the letter and as follow up to the discussions between City Staff and the development community, Staff has evaluated the feasibility of modifying the permit process to accommodate a deferral of impact fees.

Staff’s analysis indicates that there is a basis for deferring, primarily the more significant fees to occupancy of a structure; however, deferring to the close of escrow as requested, would be problematic. Attachment No. 2 identifies the fees that are typically paid and the stage of the process the payment occurs. The attachment also identifies the fees proposed to be deferred under the current proposal.

Within the context of Staff’s ongoing conversations with the development community, Staff presented the proposal to the development community that responded favorably to the concept. While Staff is finalizing discussions with the City’s permits software provider, it appears this can be accomplished with limited to no additional cost. In the event the Council is in support of this effort, this issue will be further clarified prior to bringing an ordinance back to the City Council for action.

The enactment of this measure will enable the development of additional new homes that will support the effort to provide clean, decent, and safe housing to all residents in Porterville. This will also apply to multiple family residential and other non-residential development that supports the effort to create new jobs in an already distressed economy.

RECOMMENDATION: That the City Council:

1) Direct Staff to draft amendments to the City’s impact fee ordinances resulting in a deferral of certain impact fees to occupancy; and

2) Direct Staff to bring back an interim urgency ordinance to the April 7, 2009 City Council meeting to effect the implementation of the deferral while a permanent ordinance is developed.

ATTACHMENTS: 1. Letter from Home Builders Association date February 10, 2009
2. Table – Deferral of Impact Fees

[Signature]

Item No. 3
February 10, 2009

City Council
CITY OF PORTERVILLE
291 N. Main Street
Porterville CA 93257

Dear Council Members:

The HBA formally requests that the collection of Development Impact Fees be deferred up to the close of escrow as provided for in Government Code Section 66007 as amended by AB 2604 (08/01/08).

There are several reasons why deferring DIF is the proper thing to do during these economic times:

⇒ The credit crunch has made it difficult for builders to operate in the normal manner.

⇒ When paid at permit, impact fees normally double to the homebuyer. This increases the number of unqualified buyers.

⇒ In Tulare County (Visalia/Porterville/Tulare/MSA), according to the recent Wells Fargo/NAHB study, for every $1,000 added to the cost of a median priced home 133 otherwise qualified buyers are priced out of the market.

⇒ Collection/ Payment of DIFs at final or close of escrow eliminates the multiplier effect which is important when considering that the homebuyer is financing an amount double the impact fee that city collects and paying 5 to 6 percent interest on a 30 year mortgage.

⇒ Deferment of the fees will reduce homebuyer financing needs, maintain a pool of qualified buyers, increase construction, supplier and related employment activity thereby stimulating the local economy.

The HBA would appreciate the council placing this issue on its agenda as soon as possible. However, if you would like to meet and discuss this issue further, please contact the HBA office.

Sincerely,

Robert Keenan
President/CEO

ATTACHMENT
ITEM NO. 1
An act to amend Section 66007 of the Government Code, relating to land use.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2604, Torrico. Developer fees.
Existing law prohibits a local agency that imposes any fees or charges on a residential development for the construction of public improvements or facilities from requiring the payment of those fees or charges until the date of the final inspection or the date the certificate of occupancy is issued, whichever occurs first, with specified exceptions. If the fee or charge is not fully paid prior to issuance of a building permit, existing law authorizes the local agency issuing the building permit to require the property owner, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge within the specified time.

This bill would authorize a local agency to defer the collection of one or more fees up to the close of escrow.

The people of the State of California do enact as follows:

SECTION 1. Section 66007 of the Government Code is amended to read:

66007. (a) Except as otherwise provided in subdivisions (b) and (g), any local agency that imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. However, utility service fees may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.
(b) (1) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (A) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy or (B) the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(2) (A) Paragraph (1) does not apply to units reserved for occupancy by lower income households included in a residential development proposed by a nonprofit housing developer in which at least 49 percent of the total units are reserved for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code. In addition to the contract that may be required under subdivision (c), a city, county, or city and county may require the posting of a performance bond or a letter of credit from a federally insured, recognized depository institution to guarantee payment of any fees or charges that are subject to this paragraph. Fees and charges exempted from paragraph (1) under this paragraph shall become immediately due and payable when the residential development no longer meets the requirements of this paragraph.

(B) The exception provided in subparagraph (A) does not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

(c) (1) If any fee or charge specified in subdivision (a) is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the local agency issuing the building permit may require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in subdivision (a). If the fee or charge is prorated pursuant to subdivision (a), the obligation under the contract shall be similarly prorated.

(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall contain a legal description of the property affected, shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the property owner or lessee as grantor. The local agency shall record a release of the obligation, containing a legal description of the property, in the event the obligation is
paid in full, or a partial release in the event the fee or charge is prorated pursuant to subdivision (a).

(3) The contract may require the property owner or lessee to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(d) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(e) “Final inspection” or “certificate of occupancy,” as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 edition.

(f) Methods of complying with the requirement in subdivision (b) that a proposed construction schedule or plan be adopted, include, but are not limited to, (1) the adoption of the capital improvement plan described in Section 65002, or (2) the submittal of a five-year plan for construction and rehabilitation of school facilities, pursuant to subdivision (c) of Section 17017.5 of the Education Code.

(g) A local agency may defer the collection of one or more fees up to the close of escrow. This subdivision shall not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.