CITY COUNCIL MINUTES  
PORTERVILLE, CALIFORNIA  
JULY 21, 2009, 6:00 P.M.

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

ORAL COMMUNICATIONS  
None

CLOSED SESSION:  
A. Closed Session Pursuant to:
4- Government Code Section 54956.9(a) – Conference with Legal Counsel – Existing Litigation – Schnars v. City of Porterville, Tulare County Superior Court Case No. 09-233408.
5- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – One Case
6- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Two Cases

7:00 P.M. RECONVENE OPEN SESSION  
REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION  
Deputy City Attorney Nancy Jenner reported that no action had been taken.

Pledge of Allegiance Led by Council Member Cameron Hamilton  
Invocation – a moment of silence was observed.

PRESENTATIONS  
Southern California Edison’s State of the Utility System – presented by Calvin Rossi, Regional Manager for Public Affairs.

ORAL COMMUNICATIONS  
• Lloyd Winter, 1075 W. Roby, distributed Senior Council budgetary information to
the City Council, and requested the City’s assistance in the continuation of the Senior Center’s lease and operation.

- Vanya Maldonado, spoke of the importance of a spay/neuter program for animal control, and suggested that the City consider either a permanent animal clinic with the animal shelter, or contracting with a local veterinarian to provide spay/neuter services.

**CONSENT CALENDAR**

Item No. 10 was removed for further discussion.

1. **CITY COUNCIL MINUTES OF MARCH 3, 2009**

Recommendation: That the City Council approve the Minutes of March 3, 2009.

Documentation: M.O. 01-072109

Disposition: Approved

2. **CLAIM – BLANCA HERNANDEZ**

Recommendation: After consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City’s insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 02-072109

Disposition: Approved

3. **CLAIM – ACAPULCO CAR WASH**

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. 03-072109

Disposition: Approved

4. **AUTHORIZATION TO AUGMENT CXT PURCHASE ORDER AMOUNT AND ACCEPTANCE OF PROJECT – MURRY PARK RESTROOM BUILDING IMPROVEMENTS**

Recommendation: That City Council:

1. Authorize the City to increase the purchase order total with CXT, Inc. for the Murry Park Restroom project by $2,921.72 to cover the sales tax changes;
2. Send the final payment to CXT to closeout the contract; and
3. Accept the project as complete.
5. AUTHORIZATION TO REJECT BID AND RE-ADVERTISE – CNG PICKUP TRUCKS

Recommendation: That the Council reject the sole bid for the six (6) one-half ton full-size pickup trucks with CNG conversion and authorize staff to re-bid the equipment when the 2010 models are available.

Documentation: M.O. 05-072109
Disposition: Approved

6. AWARD OF SERVICE AGREEMENT - ASPHALT PAVEMENT AND RECYCLING TECHNOLOGIES (APART), INC.

Recommendation: That the City Council
1. Approve a “not to exceed” $20,000 contract with APART, Inc.;
2. Authorize the Mayor to sign the Service Agreement; and
3. Authorize the City Engineer to approve additional work, not to exceed $20,000, for work that may become necessary to appropriately prepare CIPR bidding documents and CIPR design modifications.

Documentation: M.O. 06-072109
Disposition: Approved

7. AMENDMENT TO TRAFFIC RESOLUTION NO. 10-2001 – INTERSECTION SAFETY IMPROVEMENT – INTERSECTION SAFETY IMPROVEMENT – DESIGNATION OF NEWCOMB STREET AND SCRANTON AVENUE AS A 4-WAY STOP INTERSECTION

Recommendation: That City Council:
1. Pass a resolution amending Traffic Resolution No. 10-2001, designating Newcomb Street and Scranton Avenue as a 4-way stop intersection;
2. Authorize the City Engineer to notify the public, by any effective means, of the application of traffic control device, namely a 4-way stop, at the intersection of Newcomb Street and Scranton Avenue; and
3. Authorize the City Engineer to install traffic control devices, namely 4-way stop signs, at the intersection of Newcomb Street and Scranton Avenue.

Documentation: Resolution No. 69-2009
Disposition: Approved
8. AIRPORT LEASE RENEWAL – LOT 36

Recommendation: That the Council approve the extension of the Lease Agreement between the City of Porterville and Mr. Robert Nicolas of Porterville, CA, for Lot 36 at the Porterville Municipal Airport.

Documentation: M.O. 07-072109
Disposition: Approved

9. ROYAL OAKS VESTING SUBDIVISION MAP EXTENSION OF TIME

Recommendation: That the City Council adopt the draft resolution approving a 36 month extension of time for the Royal Oaks Vesting Subdivision Map.

Documentation: Resolution No. 70-2009
Disposition: Approved

11. RESCHEDULING OF PUBLIC HEARING – LANDSCAPE AND LIGHTING DISTRICTS ANNUAL ASSESSMENTS

Recommendation: That the City Council reschedule the public hearing on Landscape and Lighting Districts Annual Assessment to the meeting of August 4, 2009 at 7:00 p.m.

Documentation: M.O. 08-072109
Disposition: Approved

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Vice Mayor Ward that the City Council approve Item Nos. 1 through 9 and 11. The motion carried unanimously.

10. UPDATE STATUS – FAIRWAY TRACT WATER CONNECTION PROJECT

Recommendation: That the City Council:
   1. Affirm its decision to continue with advertisement for construction of Fairway Tract Water Main Project;
   2. Execute an annexation agreement with affected parties describing all pertinent issues and responsibilities regarding these pertinent issues; and
   3. Direct the Public Works Director to bring this matter before the City Council for award of construction contract with bids have been received and the Memorandum of Understanding has been executed.

   City Manager John Lollis introduced the item, and the staff report was waived at the Council’s request.
A discussion then ensued regarding the question of state funding and how similar situations were handled in other cities.

At the Council’s request, Jessie Snyder of Self Help Enterprises in Visalia summarized the situation. She also indicated that the residents of Fairway Tract were very appreciative of the emergency water they received in March.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council affirm its decision to continue with advertisement for construction of Fairway Tract Water Main Project; execute an annexation agreement with affected parties describing all pertinent issues and responsibilities regarding these pertinent issues; and direct the Public Works Director to bring this matter before the City Council for award of construction contract with bids have been received and the Memorandum of Understanding has been executed. The motion carried unanimously.

Disposition: Approved

SCHEDULED MATTERS

12. AUTHORIZE SUBMISSION OF AN ENERGY EFFICIENCY & CONSERVATION BLOCK GRANT FOR CITY FACILITY IMPROVEMENT MEASURES AND NEGOTIATION OF A PERFORMANCE CONTRACT WITH JOHNSON CONTROLS, INC. FOR THE PROJECT IMPLEMENTATION

Recommendation: That the City Council:

1. Authorize negotiation of a performance contract with Johnson Controls, Inc. for facility energy efficiency improvement measures;
2. Authorize the submission of an Energy Efficiency & Conservation Block Grant in the amount of $496,000 for lighting and plumbing retrofits and improvements at City facilities to be applied towards the Johnson Controls, Inc. projects, and
3. Direct that a budget amendment be prepared that will allocate funds as a loan from the Building Construction Fund to this project along with establishment and funding of a Facilities Maintenance & Replacement Fund from utility savings resulting from the implementation of the above.

City Manager Lollis introduced the item, and Parks and Leisure Services Director Jim Perrine presented the staff report.

A discussion ensued with regard to the reduced fiscal costs, and the use of staff for the retrofit projects.
COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Vice Mayor Ward that the City Council authorize negotiation of a performance contract with Johnson Controls, Inc. for facility energy efficiency improvement measures; authorize the submission of an Energy Efficiency & Conservation Block Grant in the amount of $496,000 for lighting and plumbing retrofits and improvements at City facilities to be applied towards the Johnson Controls, Inc. projects; and direct that a budget amendment be prepared that will allocate funds as a loan from the Building Construction Fund to this project along with establishment and funding of a Facilities Maintenance & Replacement Fund from utility savings resulting from the implementation of the above. The motion carried unanimously.

Disposition: Approved

13. PROPOSED CITY ORDINANCE REGARDING MAINTENANCE AND SAFETY OF RAILROAD CROSSINGS

Recommendation: That the City Council consider the Draft Ordinance and provide additional direction or give first reading to the Ordinance, reading by title only and waiving further readings thereof.

City Manager Lollis introduced the item, and Deputy City Attorney Nancy Jenner presented the staff report.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Vice Mayor Ward that the City Council give first reading to the Ordinance being, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING SECTION 20-0.5 TO CHAPTER 20, ARTICLE I, AND AMENDING SECTION 20-7 AND ADDING SECTION 20-38.1 TO CHAPTER 20, ARTICLE II OF THE PORTERVILLE MUNICIPAL CODE REGARDING MAINTENANCE AND SAFETY OF RAILROAD CROSSINGS, reading by title only and waiving further readings thereof. The motion carried unanimously.

The City Manager read the ordinance by title only.

Disposition: Approved

14. COUNCIL MEMBER REQUEST – DISCUSSION AND CONSIDERATION OF WAYS TO IMPROVE COMMUNICATIONS WITH OTHER PUBLIC AGENCIES

Recommendation: None.

City Manager Lollis introduced the item and introduced the staff report.
Council Member Pedro Martinez suggested the scheduling of quarterly meetings between the city, county, and school district staff to improve communication regarding changes in services in Porterville.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council authorize the scheduling of quarterly meetings, to be attended by Council Member Pedro Martinez and another Council Member, appropriate city staff, and county or school district staff, as applicable, regarding changes to services in Porterville.

The motion carried unanimously.

Disposition: Approved

The Council took a brief recess.

**CONSIDERATION OF COUNCIL TO ADD EMERGENCY ITEM ONTO AGENDA**

City Manager Lollis indicated that information regarding the Fairway Tract’s water system had been presented to staff, and it was being requested that the Council consider adding an emergency item onto the agenda for consideration pursuant to Government Code 54955.5.

**COUNCIL ACTION:** MOVED by Council Member Felipe Martinez, SECONDED by Council Member Hamilton that the City Council authorize the addition of an emergency item to the agenda. The motion carried unanimously.

Disposition: Approved

**ADDED ITEM:** REQUEST TO AUTHORIZE TEMPORARY EMERGENCY CONNECTION BY FAIRWAY TRACT TO CITY WATER SYSTEM

Recommendation: Request that the Council approve authorizing the Public Works Director to connect Fairway Tract to City Water on an emergency basis in the event Fairway Tract’s water well or pump fail.

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

**COUNCIL ACTION:** MOVED to Council Member Felipe Martinez, SECONDED by Vice Mayor Ward that the City Council authorize the Public Works Director to connect Fairway Tract to City Water on an emergency basis in the event Fairway Tract’s water well or pump fail. The motion carried unanimously.

Disposition: Approved
15. COUNCIL MEMBER REQUEST – CONSIDERATION OF RESOLUTION IN OPPOSITION TO SB 54

Recommendation: None.

City Manager Lollis introduced the item, and Council Member Hamilton indicated that it was his request that the Council adopt a resolution or a strong letter of opposition to Senate Bill 54.

Mayor McCracken opened up the item to public comment.

City Manager Lollis noted for the record that written comments had been received from Sarah E. Villicana opposing the proposed action.

- Dennis Townsend, 633 N. Westwood, spoke in favor of Proposition 8 and thanked the Council for opposing SB 54.
- John Skinner, 950 N. Plano, voiced support for a resolution opposing SB 54 and agreed with Townsend’s comments.
- Greg Shelton, 888 N. Williford, spoke in favor of a resolution opposing SB 54; and spoke of his disagreement with the actions of Proposition 8 opponents.
- Roland Davis, Springville resident, spoke in favor of a resolution opposing SB 54.
- Brock Neeley, Porterville resident, opposed the proposed City Council action, and spoke in support of SB 54.
- John Coffee, Porterville resident, requested that the City Council table the issue prior to making a decision, to allow them the opportunity to become better informed of the proposed bill,
- Jessica Mahoney, Terra Bella resident, opposed the proposed City Council action, and read a letter by a child with two mothers.
- Joan Plumber, Visalia resident, opposed City Council proposed action, and spoke in favor of equal rights for all.
- Ivan Ball, 18629 Ave 168, spoke against the proposed Council action, and stated that it was not necessary for the Council to take action.
- Dr. Catherine Hall, Lindsay resident, spoke against the proposed City Council action; addressed concerns regarding sexually transmitted diseases; and distributed written communication to the City Council.
- Carla (last name inaudible), 384 N. Hockett, spoke against the proposed City Council action.
- Name inaudible, 1500 N. Prospect, voiced concern with the proposed resolution, and stated that
the Council should speak for all residents of the community.

- Lisa Strong, Visalia resident, spoke about the proposed senate bill, and in opposition to the proposed resolution.

- Jamie Garza, Porterville resident, spoke in favor of SB 54, and read a statement from Kent Lobinski about growing up and living gay in Porterville.

- Dick Eckhoff, 197 N. Main, stated that the City Council should not address the issue, and spoke in favor of SB 54.

- Joan Velasquez, 18650 Road 236, requested that the City Council not pass a resolution opposing SB 54.

Council Member Hamilton addressed public comments and indicated that the issue was not an attack on homosexuality, but against a legislator trying to usurp the vote of the people.

Council Member Felipe Martinez stated that he would not be in favor of a resolution in opposition of SB 54, and noted that each council member had the authority to write letters in support or opposition of different issues.

Council Member Pedro Martinez expressed concern with becoming an activist Council, and urged the members of the community to convey their stance on the senate bill to their legislators.

Vice Mayor Ward stated that he felt the Council was justified in their previous action in opposition of Proposition 8 due to other city council’s doing the same.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Vice Mayor M.O. 14-072109 Ward that the City Council authorize Council Member Hamilton to draft a resolution/proclamation/letter of opposition to SB 54 for the Council’s consideration at a future meeting.

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

Deputy City Attorney Jenner indicated that an abstention without a conflict of interest was considered a yes vote.

Disposition: Approved

16. COUNCIL MEMBER REQUEST – CONSIDERATION OF EXPANDED FAMILY HOURS AT THE CITY POOL

Recommendation: Provide appropriate direction to staff
City Manager Lollis introduced the item, and Parks and Leisure Services Director Perrine presented the staff report.

Leisure Services Superintendant Donnie Moore addressed Council questions regarding lifeguard availability and the hours that the pool was available for rental and family swim times.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hamilton that the City Council direct staff to increase family swim time to 7:00 p.m. to 10:00 p.m.; look into the possibility of expanding party rental times; report to the Council; and bring lifeguards to the Council at season’s end for recognition.

Disposition: Approved

The Council adjourned at 9:27 p.m. to a Joint Meeting of the City Council and the Porterville Redevelopment Agency.

JOINT CITY COUNCIL/PORTERVILLE REDEVELOPMENT AGENCY MINUTES
July 21, 2009

Roll Call: Agency Member Hamilton, Agency Member P. Martinez, Agency Member F. Martinez, Vice Chair Ward, Chair McCracken

WRITTEN COMMUNICATIONS
None

ORAL COMMUNICATIONS
None

SCHEDULED MATTERS
PRA-1. ACCEPTANCE OF PROJECT – HOCKETT/MILL/OAK PARKING LOT RECONSTRUCTION

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

That the Porterville City Council:
1. Accept the project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.
City Manager/Secretary Lollis introduced the item, and the staff report was waived at the Council/Agency’s request.

Mayor/Chair McCracken recused himself due to his business being located within the redevelopment area and exited the Council Chambers.

**AGENCY ACTION:**

MOVED by Agency Member Hamilton, SECONDED by Agency Member Pedro Martinez that the Redevelopment Agency accept the project as complete; authorize the filing of the Notice of Completion; and authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

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

**COUNCIL ACTION:**

MOVED by Council Member Hamilton, SECONDED by Council Member Pedro Martinez that the City Council accept the project as complete; authorize the filing of the Notice of Completion; and authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

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

Disposition: Approved

The Joint Meeting of the City Council and the Porterville Redevelopment Agency adjourned at 9:30 p.m. to a meeting of the Porterville City Council.

**ORAL COMMUNICATIONS**

- Jamie Garza, Porterville resident, spoke in response to comments made regarding the efforts of Proposition 8 opponents regarding video posted on the Porterville Recorder website; and of contact made with Council Member Ward’s employer regarding his stance on Proposition 8.
- Jessica Mahoney, a Terra Bella resident, inquired where Council Member Ward obtained his statistical information, and as to Council Member Hamilton’s affiliation with Proposition 8 proponent organizations.
- An unidentified individual provided the City Council with information regarding the Mormon Church.
- Greg Shelton, address on record, addressed public comments made during
consideration of Item 15, and commented on negative ways in which opponents to Proposition 8 have handled themselves.

- Dennis Townsend, address on record, rebutted commentary and urged the Council to take action regarding SB 54 without delay.
- An unidentified individual, voiced concern with the poor condition of Main Street north of Henderson Avenue.

At the Mayor’s request, City Manager Lollis noted that the City was anticipating a loss of $850,000 in street maintenance funds this fiscal year, and a loss of $640,000 in funds next fiscal year.

- Name inaudible, psychologist at Porterville Developmental Center, commended the City Council for having the courage to discuss SB 54.

OTHER MATTERS

- Council Member Pedro Martinez confirmed that Movies in the Park and the Dive-In Theater would begin this week.
- Council Member Ward spoke of his recent trip to St. George, Utah, and of desert landscaping that might be ideal for the Landscape & Lighting Maintenance Districts.
- Council Member Felipe Martinez made mention of the City of Merced’s efforts with regard to water conservation and their use of children to spread the message.

CLOSED SESSION

The Council recessed for 10 minutes at 9:45 p.m. and reconvened in Closed Session.

The Council reconvened Open Session at 10:14 p.m. during which time it was reported that no action had been taken in Closed Session.

ADJOURNMENT

The Council adjourned at 10:15 p.m. to the meeting of July 28, 2009 at 6:00 p.m.

___________________________
Luisa Herrera, Deputy City Clerk

___________________________
Pete V. McCracken, Mayor