Call to Order
Roll Call

Committee Members: Pete McCracken, Chair
Charles Webber, Member
Maria Bemis, Member
Julia Lew, Member
John Lollis, Member

Staff Members: Luisa Herrera, Committee Secretary

ORAL COMMUNICATIONS

SCHEDULED MATTERS

1. CONSIDERATION OF PROTOCOLS FOR COORDINATION WITH TRANSACTION AND USE TAX OVERSIGHT COMMITTEE AND IMPLEMENTATION OF RESOLUTION NO. 24-2006
   Re: Consideration of draft protocols.

OTHER MATTERS

ADJOURNMENT

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 Audit Committee after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 N. Main Street, Porterville, CA 93257, and on the City’s website at www.ci.porterville.ca.us.
CITY OF PORTERVILLE
PROTOCOLS FOR COORDINATION WITH
TRANSACTION AND USE TAX OVERSIGHT COMMITTEE
AND IMPLEMENTATION OF RESOLUTION NO. 24-2006

Committee Meetings

All Committee meetings are subject to the requirements of the Brown Act. Upon at least 5 business days written notice by the Committee Chairman to the City Clerk prior to the date of the proposed meeting, the City Clerk’s office shall prepare an agenda as directed by the Committee Chairman, shall notice the proposed meeting in accordance with legal requirements (at least 72 hours in advance of the meeting), provide notice to each Committee member via telephone or e-mail at least 72 hours prior to the date and time of the meeting, and shall have copies of the official agenda available at the Clerk’s office for each Committee member. If, at the time the Chairman makes the request for the meeting to the City Clerk, the Chairman also requests specific written public documentation, the City Clerk will make copies and make these available either in accord with the policy set forth below, or at the time the agendas are made available, whichever date is earlier.

Committee Requests for Records

Committee requests for written public records and documentation from the City, if made in writing by the Chairman to the City Clerk, shall be complied with within 5 business days of receipt by the Clerk. The Clerk shall make copies for each Committee member, or less if specified by the Chairman, and shall have the copies available for pick up by the Chairman/Committee members at the Clerk’s office.

Reports

Reports of the Committee concerning its activities and determinations, if filed with the City Clerk’s office by the Chairman by mail, fax, e-mail or personal delivery, shall be posted to the City’s website, at a webpage designated for the Committee, within 3 business days of receipt. With regard to the Committee’s review of the revenue and expenditures of the 3 Measure H budgets (Fire, Police and Literacy) contained in General Fund No. 4, Public Safety Sales Tax, if a written report of a finding of “inconsistent” or “non consistent” is filed with the City’s Clerk’s office in the manner set forth above, the City Clerk shall immediately place a Scheduled Matter on the next Regular Meeting Agenda of the City Council. Said agenda item shall receive the
Committee’s written report and shall call for the setting of a Public Hearing in accordance with Resolution 24-2006.

The City Council shall set the public hearing for the next regularly scheduled City Council meeting that occurs after at least 10 days public notice is given (published at least one time at least 10 days in advance of the hearing). In no case shall the public hearing be held more than 30 days from that date the item was initially brought to the City Council. At the conclusion of the public hearing, the City Council shall consider and take whatever action it believes is necessary and appropriate to correct any issues the Council concurs are inconsistent.
RESOLUTION NO. 24-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ESTABLISHING AN INDEPENDENT CITIZEN'S OVERSIGHT COMMITTEE
CHARGED TO MONITOR THE EXPENDITURE OF GENERAL FUND REVENUES
DERIVED FROM THE TRANSACTIONS AND USE TAX FOR PUBLIC SAFETY,
POLICE AND FIRE PROTECTION.

WHEREAS, the Porterville City Council reaffirmed the adoption of Ordinance No. 1684 on December 6, 2005, imposing a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 and Section 7285.91 of Part 1.7 of Division 2 of the Revenue and Taxation Code that authorizes the City of Porterville to adopt a tax ordinance that shall become operative if at least two-thirds of the electors voting on the measure vote to approve the tax at an election called for that purpose; and

WHEREAS, Ordinance No. 1684 imposes, upon all retailers in the incorporated territory of the City of Porterville, a transactions and use tax at the rate of one half of 1 percent (0.50%) of the gross receipts of any retailer from the sale of all tangible personal property subject to the State sales and use tax; and

WHEREAS, Ordinance No. 1684, hereinafter known as the Transactions and Use Tax for Public Safety, Police and Fire Protection appeared on the November 8, 2005 Special Consolidated Election ballot as Measure H; and

WHEREAS, the tax imposed by Measure H is a special tax, the proceeds of which are to provide a source of revenue to be used to provide additional public safety, police, fire protection services and undertake necessary capital projects to support those services, and to restore and maintain literacy programs and services; and

WHEREAS, revenues generated by Measure H shall be accounted for and paid into a special fund or account designated for use for Public Safety Services only; and

WHEREAS, by Ordinance No. 1684 the City adopted the Program Guidelines and Public Safety Expenditure Plan for the administration and expenditure of the tax proceeds. The Public Safety Expenditure Plan may be amended from time to time by a majority vote of the City Council, so long as the funds are utilized for public safety, police and fire protection services. For the purposes of the Ordinance, "Public Safety Services" means (a) obtaining, furnishing, operating, and/or maintaining police protection equipment or apparatus, paying the salaries and benefits of police protection personnel, and such other police protection service expenses as are deemed necessary by the City Council for the benefit of the residents of the City; (b) obtaining, furnishing, operating, and/or maintaining fire protection equipment or apparatus, paying the salaries and benefits of fire protection personnel, and such other fire protection service expenses, including capital expenses, as are deemed necessary by the City Council for the benefit of the residents of the City; and (c) with the use of no more than 15% of the revenue generated from the special tax, restoration and maintenance of literacy programs due to the established connection between illiteracy and crime; and
WHEREAS, the Porterville City Council declares that public participation is essential to ensuring the effective implementation of priority goals and objectives contained in the Public Safety Expenditure Plan, and the appropriate expenditure of General Fund revenues committed to public safety, police and fire protection services.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville hereby directs formation of an independent citizen’s oversight committee as follows:

A. **Name:** The committee shall be known as the *Transactions and Use Tax Oversight Committee.*

B. **Purpose**

1. To review the revenue and expenditures of the three Measure H budgets (Fire, Police and Literacy) contained in General Fund No. 4, Public Safety Sales Tax, and report to Council their finding as “consistent with the intent of the ballot measure” or “non consistent.”

   Should a determination of “non consistent” be brought forth, the Council shall hold a public hearing on the issue and take whatever action is necessary and appropriate to correct any issues the Council concurs are inconsistent. It is not the intent of the measure nor the direction of the City Council that the committee have any input in the activities of the aforementioned departments, their sole and only purpose is to advise the City Council on whether or not they believe the departments are utilizing the funds in compliance with the intent of Measure “H” and that the City is not under funding the public safety departments based on the approved funding levels.

2. **Oversight:** Provide that certain spending decisions and priorities contained in the Porterville Police, Fire, and Emergency Response 9-1-1 Measure Program Guidelines and Expenditure Plan are subject to direct oversight and review.

C. **Charge of Committee**

1. **Monitoring of expenditures:** To monitor the expenditure of General Fund Revenues derived from the Transactions and Use Tax for Public Safety, Police and Fire Protection, and to keep the public informed about the expenditures.

2. Inform public of failure to expend revenues: To advise the public when General Fund revenues are not expended for certain spending decisions and priorities as set in the *Porterville Police, Fire, and Emergency Response 9-1-1 Measure Program Guidelines and Expenditure Plan.*

   The charge of the committee may be revised from time-to-time by the Porterville *City Council.*
D. **Powers:** The Porterville *City* Council empowers the committee with the following powers:

1. **Oversight:** Oversight responsibility to review expenditures related to certain spending decisions and priorities in the Porterville Police, Fire, and Emergency Response 9-1-1 Measure Program Guidelines and Expenditure Plan.

2. **Review financial statements:** Authority to review independent financial and performance audits of the General Fund No. 4, Public Safety Sales Tax.

3. **Review of General Fund Budgets:** Authority to review the Fire, Police and Literacy Budgets and the General Fund application to Public Safety to assure a continued, base level of support.

The committee shall not have the following authority:

1. **No authority to recommend or advise:** The committee does not have authority to recommend, direct, or advise on any such matters that may fall under its oversight power and authority to review. The committee is not advisory to the City Council and has no power to determine or recommend how General Fund moneys are spent. The City Council retains its authority to make such decisions and determinations and establish separate advisory groups for such purposes. The City Council shall also retain discretion and flexibility in what it asks, directs, or allows the committee to address.

E. **Committee Operations**

1. **Establishing the committee:** The committee shall be established pursuant to voter approval of Measure H in the November 8, 2005 Special Consolidated Election and within 120 days of the effective implementation date of Measure H on April 1, 2006.

2. **First meeting:** The committee shall hold its first meeting within 60 days of adoption of the City’s 2006/2007 Annual Budget.

3. **Open meeting requirements:** Meetings of the committee are subject to the open meeting requirements of the *Ralph M. Brown Act*. Meetings shall be noticed and open to the public.

4. **Annual report:** The committee shall issue an annual report of its conclusions. Minutes and reports of the committee are a matter of public record. Reports and minutes of the committee shall be published on the City of Porterville website.

5. **Meet at least once annually:** The committee shall meet at least once annually after adoption of the City budget.
6. **Quorum:** The committee shall make decisions by a simple majority vote of those members in attendance.

7. **Record:** The committee shall maintain a record of its meetings.

8. **Location of meetings:** The committee shall meet in Mikkabi Conference Room, 291 N. Main Street, Porterville, California, at a time convenient to members and the public or at some other location designated by the committee and available to the public.

9. **Officers:** The committee shall elect a chairperson, vice chairperson, and secretary.

10. **Effective operation of meetings:** The Porterville City Council charges the committee to establish additional operating procedures as necessary for the effective operation of committee meetings.

11. **Administrative staff:** The City Manager or his designee will provide necessary administrative and technical assistance to the committee.

12. **Resources available to the committee:** The committee shall be provided the resources to publicize its conclusions—the minimum level of resource to be a page on the City of Porterville website.

**F. Committee Composition:** The committee shall consist of 10 members as follows:

1. **City Council appointments:** For the establishment of the committee, each member of the Porterville City Council shall appoint two people to the committee. The appointee may be either a resident of Porterville, a business owner or operator. All future appointment to the committee shall be by a majority vote of the Council.

2. **Criteria for appointment:** No member of the City Council, employee of the City, or immediate family member of a City Council Member may serve on the committee.

3. **Length of appointment; rescission of appointment:** For the establishment of the first committee, each Council member shall appoint one person to a two-year term and one to a four-year term. After that, each member of the committee shall be appointed for a four-year term and shall serve until such time that his or her term is completed, or until such time that his or her appointment is rescinded by a simple majority vote of the City Council. It is provided that a member of the committee may resign at his or her discretion.

4. **Recommendation to remove by committee:** Members of the committee, by majority vote, may recommend to the Porterville City Council removal of a committee member for the following reasons: (1) malfeasance; or (2) repeated absence.
5. **Appointment of new members:** At the next regularly scheduled City Council meeting, the Council shall act to replace members of the committee in the event of removal, resignation, disability, or death.

6. **Dissolution of committee:** Dissolution of the committee shall occur in the event the *Transactions and Use Tax for Public Safety, Police and Fire Protection* is revoked or otherwise rendered invalid.

APPROVED AND ADOPTED this 21th day of February, 2006.

[Signature]
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

[Signature]
Georgia Hawley, Chief Deputy City Clerk
Porterville Police, Fire, and Emergency Response 9-1-1 Measure
Program Guidelines and Expenditure Plan

This measure will provide a secure, local revenue stream to the City of Porterville that will be used entirely to provide additional public safety police and fire personnel and services to protect our community. Porterville residents deserve to know how the funds will be spent. Detailed spending plans have been developed so voters can have a clear understanding of how the monies will be spent if the ½ cent sales tax is approved. Program guidelines have also been established to govern how the money can be spent, to specify the accounting, audit and oversight guidelines that will be implemented to make certain that the funds are spent according to the voter’s direction, and to ensure the public is well-informed of the progress and process.

Fiscal Accountability Protections

An Independent Auditor will annually review and audit expenditures of funds specifically derived from the Public Safety Measure, to ensure compliance with the expenditure plans and with prudent, established accounting regulations and practices.

The City will establish an Independent Citizen’s Oversight Committee to annually review revenues and expenditures, providing a second independent verification that all expenditures are being made as promised to Porterville residents. The findings of both the Independent Citizens Oversight Committee and the Independent Auditor will be reviewed by the City Council and made available to the public.

Each May or June, as the City’s budget is adopted following public hearings, the City Manager will re-certify the plan to the City Council, stating what monies have been received, what monies have been spent and what monies are available. The financial consequences of these changes will be reflected in the re-certified plan.

Dedicated Accounting Structure

The Expenditure Plan specifies that all revenues from the Measure are to be utilized for the sole purpose of improving our community’s public safety, with the revenue to be directed to the police and fire departments respectively, and with a small portion (not more than 15%) dedicated to the restoration and maintenance of literacy programs due to the established connection between illiteracy and crime. The funding proportions have been mutually agreed upon by the Police Chief and Fire Chief.

The City will establish separate funds into which these specific monies shall be deposited. These accounts shall be separate for police and fire and shall be the source of their respective expenditures as established in the approved expenditure plans. Any balances in these funds, positive or negative, shall earn or pay interest accordingly.

Based on public safety needs, the City Council may determine to advance funds from the City’s General Fund into the individual Public Safety Sales Tax Fund in order to most effectively accomplish the objectives of the program.

Priorities if additional revenues are available

In the event that the contingency/reserve fund is fully funded and all annual planned expenditures have been implemented, the use of the additional unanticipated sales tax revenues will be used first to accelerate the implementation of the plan and then to provide additional public safety facilities, personnel, and new equipment based on specific needs of the community.

Review and Modification of Expenditure Plan

The proposed Expenditure Plan may be amended from time to time by a majority vote of the City Council.
NOVEMBER 2005 BALLOT MEASURE EXPENDITURE PLAN

Proposed Expenditure Plan for the City of Porterville Public Safety Sales Tax Measure Based on ½ Cent Sales Tax availability

The City Council has evaluated Porterville’s safety needs with input from the public in developing the attached Public Safety Expenditure Plan, which shall be amended from time to time, at the projected/estimated costs shown:

Fiscal Year 2005-06 Sales Tax Revenue available (partial year) $600,000
Additional Supplemental Resources (General Fund) $50,903
Total Resources Available $650,903

Increase Police Sworn by 5 positions to the base and outfit (partial year) $412,803
Increase Fire Sworn by 7 positions to the base and outfit (partial year) $148,100
Restore Literacy Programs/hours (partial year) $90,000
Total 2005-06 Fiscal Year Expenditures $650,903

Fiscal Year 2006-07 Additional Sales Tax Revenues (First full F/Y) $1,792,000

Increase Police Sworn by 1 additional position to the base $85,000
Maintain and Expand Patrol Operations $405,000
Maintain and Expand Gang Suppression and Narcotics Operations $215,000
Maintain 7 additional Sworn Fire personnel $521,156
Purchase additional Fire Rescue Apparatus $140,000
Purchase Rescue Equipment for new Fire Apparatus $25,000
Purchase Personal Safety Equipment for additional Fire Fighters $14,000
Maintain Literacy Program/hours $180,000
Expand Homework Assistance and Creative Expression Program $80,000
Establish Capital Reserve Fund for New Fire Station $126,844
Total 2006-07 Fiscal Year Expenditures $1,792,000

Fiscal Year 2007-08 Additional Sales Tax Revenues (Second full F/Y) $1,863,680

Increase Police Sworn by 1 additional position to the base $87,000
Maintain Expanded Patrol Operations $508,000
Maintain Expanded Gang Suppression and Narcotics Operations $255,250
Maintain 7 additional Sworn Fire personnel $557,637
Hire 1 additional Fire Investigator $74,167
Station and Equipment $20,000
Maintain Literacy Programs/hours $187,200
Expand Homework Assistance and Creative Expression Program $83,200
Increase Established Capital Reserve Fund for New Fire Station $91,226
Total 2007-08 Fiscal Year Expenditures $1,863,680
Fiscal Year 2008-09 Additional Sales Tax Revenues (Third full F/Y) $1,938,227

Additional Supplemental Resources (General Fund) $50,000
Total Resources Available $1,988,227

Increase Police Sworn by 1 additional position to the base $91,000
Maintain Expanded Patrol Operations $566,000
Maintain Expanded Gang Suppression and Narcotics Operations $320,763
Maintain 8 additional Sworn Fire personnel $676,030
Safety Equipment $5,000
Maintain Literacy Programs/hours $194,688
Expand Homework Assistance and Creative Expression Program $86,528
Increase Established Capital Reserve Fund for New Fire Station $48,218
Total 2007-08 Fiscal Year Expenditures $1,988,227

Fiscal Year 2009-10 Additional Sales Tax Revenues (Fourth full F/Y) $2,015,756
Additional Supplemental Resources (General Fund) $75,000
Total Resources Available $2,090,756

Maintain 8 additional Sworn Police personnel
Maintain Expanded Patrol Operations $630,000
Maintain Expanded Gang Suppression and Narcotics Operations $396,651
Maintain 8 additional Sworn Fire personnel $723,352
Maintain Literacy Programs/hours $202,476
Expand Homework Assistance and Creative Expression Program $89,989
Partial Year Debt Service Payment on New Fire Station Financing $48,288
Total 2009-10 Fiscal Year Expenditures $2,090,756

Fiscal Year 2010-11 Additional Sales Tax Revenues (Fifth full F/Y) $2,096,387
Additional Supplemental Resources (General Fund) $150,000
Total Resources Available $2,246,387

Maintain 8 additional Sworn Police personnel
Maintain Expanded Patrol Operations $664,000
Maintain Expanded Gang Suppression and Narcotics Operations $413,983
Maintain 8 additional Sworn Fire personnel $773,352
Maintain Literacy Programs/hours $210,575
Expand Homework Assistance and Creative Expression Program $93,589
Debt Service on New Fire Station Financing $90,889
Total 2010-11 Fiscal Year Expenditures $2,246,387

* Total Reserve Cash Available for Real Property Acquisition for New Fire Station in Fiscal Year 2008/09. $266,288
1. Assumes 4% growth rate in annual sales tax revenue.

2. Current General Fund monies and State and School Subventions provide for 44.5 Sworn Police Officers. Additional grant funding has provided for 2.5 additional Sworn Police Officers. Additional positions funded through this sales tax measure will add positions to the base of 45 Sworn Police Officers.

3. Additional General Fund Utility User's Taxes generated from annexation activity during the course of this expenditure plan will be proposed to be specifically earmarked for additional Police positions. These additional positions will modify the base above the 45 positions as described in Note 2.

4. Literacy programs delivered through the Library will annually receive up to 15% of the new revenue provided by this sales tax measure.

5. The City will use base budget amounts established and approved under the Expenditure Control Budget System in determining additional funding for Police, Fire, and Literacy programs delivered through the Library to prevent erosion of existing General Fund support for these activities.
I, JOHN LONGLEY, 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 21st day of February, 2006.

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

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JOHN LONGLEY, City Clerk

[Signature]

by Patrice Hildreth, Deputy City Clerk
ORDINANCE NO. 1684

AN ORDINANCE ADDING ARTICLE IIA TO CHAPTER 22 OF THE PORTERVILLE MUNICIPAL CODE TO PROVIDE FOR AN ADDITIONAL ONE-HALF OF ONE PERCENT TRANSACTIONS AND USE TAX TO FUND PUBLIC SAFETY, POLICE AND FIRE PROTECTION SERVICES AND RELATED CAPITAL PROJECTS AND TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

THE PEOPLE OF THE CITY OF PORTERVILLE DO ORDAIN AS FOLLOWS:

SECTION I. AMENDMENT OF CODE.

Porterville Municipal Code Chapter 8 is hereby amended by the addition of a new Article to read as follows:

ARTICLE IIA. TRANSACTIONS AND USE TAX FOR PUBLIC SAFETY, POLICE AND FIRE PROTECTION

Sec. 22-8.1 Title/Purpose:

This ordinance shall be known as the Transactions and Use Tax for Public Safety, Police and Fire Protection. The City of Porterville hereinafter shall be called “City.” This ordinance shall be applicable in the incorporated territory of the City. This Ordinance of the Porterville Municipal Code has been adopted for the following (and other) purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if at least two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

(b) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

(c) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practical to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Transactions and Use Taxes;

(d) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will, to the degree possible consistent with the provisions of Parts 1.6 and 1.7 of Division 2 of the said Revenue and Taxation Code, minimize the cost of collecting
City transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

(e) To provide a source of revenue to be used to provide additional public safety, police, fire protection services and undertake necessary capital projects to support those services, and to restore and maintain literacy programs and services. The revenue generated by the tax provided for herein shall be restricted to those uses. The tax is, therefore, a special tax.

Sec. 22-8.2. Operative Date:

“Operative date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance, the date of such adoption being set forth below.

Sec. 22-8.3. Contract with State:

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation hereof. If the City has not contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. The Council may make any technical amendments to this ordinance required by the State Board of Equalization, except for any changes affecting the tax rate, its manner of collection, or the purpose for which the revenue from the tax may be used.

Sec. 22-8.4. Imposition of Transactions Tax:

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half of one percent (0.50%) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City of Porterville on and after the operative date of this Ordinance. The City Council is authorized to establish a tax rate of one-half of one percent by resolution.

Sec. 22-8.5. Presumption as to Place of Sales:

For the purposes of this Ordinance, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the Board of Equalization.
Sec. 22-8.6. Imposition of Use Tax:

An excise tax is hereby imposed on the storage, use, or other consumption in the City of Porterville of tangible personal property purchased from any retailer on or after the operative date of this Ordinance for storage, use or other consumption in said territory, at the rate of one-half of one percent (0.50%) of the sales price of the property subject to the tax. The sales price shall include delivery charges when such charges are subject to State transactions or use tax regardless of the place to which delivery is made. The City Council is authorized to establish a tax rate of one-half of one percent by resolution.

Sec. 22-8.7. Adoption of Certain Sections of California Revenue & Taxation Code by Reference:

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Parts 1.6 and 1.7 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of said Code, as amended and in force and effect on the operative date of this Ordinance, applicable to use taxes are hereby adopted and made a part of this section as though fully set forth herein.

Sec. 22-8.8. Limitations on Adoption of State Law and Collection of Use Taxes:

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(a) Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

(1) The word “State” is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(2) The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

(3) In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

(A) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
(B) Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

(4) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

(b) The word “City” shall be substituted for the word “State” in the phrase “retailer engaged in business in this State” in Section 6203 and in the definition of that phrase in Section 6203.

Sec. 22-8.9. Permit Not Required:

If a seller’s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor’s permit shall not be required by this Ordinance.

Sec. 22-8.10. Exemptions and Exclusions:

(a) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

(b) There are exempted from the computation of the amount of transactions tax the gross receipts from:

(1) Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

(2) Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

(A) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
(B) With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

(4) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Ordinance.

(5) For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(c) There are exempted from the use tax imposed by this Ordinance, the storage, use or other consumption in this City of tangible personal property:

(1) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

(3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contact entered into prior to the operative date of this Ordinance.

(4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Ordinance.

(5) For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(6) Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal
property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

(7) "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

(d) Any person subject to use tax under this Ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Sec. 22-8.11. Amendments to Revenue and Tax Code:

All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Ordinance.

Sec. 22-8.12. Enjoining Collection Prohibited:

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the State or this City, or against any officer of the State or this City, to prevent or enjoin the collection hereunder, or Parts 1.6 and 1.7 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION II: USE OF TAX PROCEEDS AND EXPENDITURE PLAN.

All proceeds of the tax levied and imposed hereunder shall be accounted for and paid into a special fund or account designated for use for Public Safety Services only. The City hereby adopts the Program Guidelines and Public Safety Expenditure Plan for the administration and expenditure of the tax proceeds, attached to this Ordinance as Exhibit "A." The Public Safety Expenditure Plan may be amended from time to time by a majority vote of the City Council, so long as the funds are utilized for public safety, police and fire protection services. For the purposes of this Ordinance, "Public Safety Services" means (a) obtaining, furnishing, operating, and/or maintaining police protection equipment or apparatus, paying the salaries and benefits of police protection personnel, and such other
police protection service expenses as are deemed necessary by the City Council for the benefit of the residents of the City; (b) obtaining, furnishing, operating, and/or maintaining fire protection equipment or apparatus, paying the salaries and benefits of fire protection personnel, and such other fire protection service expenses, including capital expenses, as are deemed necessary by the City Council for the benefit of the residents of the City; and (c) with the use of no more than 15% of the revenue generated from the special tax, restoration and maintenance of literacy programs due to the established connection between illiteracy and crime.

SECTION III: STATUTORY AUTHORITY FOR TAX; SEVERABILITY.

This ordinance is adopted pursuant to Revenue and Taxation Code Section 7285.91. In any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION IV: ELECTION REQUIRED.

This ordinance shall not become operative unless and until at least a two-thirds majority of the electors voting on this measure vote to approve the imposition of the tax at the election to be held on November 8, 2005.

SECTION V: EFFECTIVE DATE.

If this ordinance is approved by two-thirds of the voters voting on the issue at the November 8, 2005 election, pursuant to Elections Code Section 9217, the tax shall become effective ten (10) days after the Council certifies the results of the election.

APPROVED by the following vote of the People of the City of Porterville on November 8, 2005:

Yes — 4362 - 70.28%
No — 1845 - 29.72%

ADOPTED by Declaration of the vote by the City Council of the City of Porterville City on December 6, 2005.

Kelly West, Mayor

ATTEST

Georgia Longley, Chief Deputy City Clerk

John Longley, City Clerk
Porterville Police, Fire, and Emergency Response 9-1-1 Measure
Program Guidelines and Expenditure Plan

This measure will provide a secure, local revenue stream to the City of Porterville that will be used entirely to provide additional public safety police and fire personnel and services to protect our community. Porterville residents deserve to know how the funds will be spent. Detailed spending plans have been developed so voters can have a clear understanding of how the monies will be spent if the ½ cent sales tax is approved. Program guidelines have also been established to govern how the money can be spent, to specify the accounting, audit and oversight guidelines that will be implemented to make certain that the funds are spent according to the voter’s direction, and to ensure the public is well-informed of the progress and process.

Fiscal Accountability Protections

An Independent Auditor will annually review and audit expenditures of funds specifically derived from the Public Safety Measure, to ensure compliance with the expenditure plans and with prudent, established accounting regulations and practices.

The City will establish an Independent Citizen’s Oversight Committee to annually review revenues and expenditures, providing a second independent verification that all expenditures are being made as promised to Porterville residents. The findings of both the Independent Citizens Oversight Committee and the Independent Auditor will be reviewed by the City Council and made available to the public.

Each May or June, as the City’s budget is adopted following public hearings, the City Manager will re-certify the plan to the City Council, stating what monies have been received, what monies have been spent and what monies are available. The financial consequences of these changes will be reflected in the re-certified plan.

Dedicated Accounting Structure

The Expenditure Plan specifies that all revenues from the Measure are to be utilized for the sole purpose of improving our community’s public safety, with the revenue to be directed to the police and fire departments respectively, and with a small portion (not more than 15%) dedicated to the restoration and maintenance of literacy programs due to the established connection between illiteracy and crime. The funding proportions have been mutually agreed upon by the Police Chief and Fire Chief.

The City will establish separate funds into which these specific monies shall be deposited. These accounts shall be separate for police and fire and shall be the source of their respective expenditures as established in the approved expenditure plans. Any balances in these funds, positive or negative, shall earn or pay interest accordingly.

Based on public safety needs, the City Council may determine to advance funds from the City’s General Fund into the individual Public Safety Sales Tax Fund in order to most effectively accomplish the objectives of the program.
Priorities if additional revenues are available

In the event that the contingency/reserve fund is fully funded and all annual planned expenditures have been implemented, the use of the additional unanticipated sales tax revenues will be used first to accelerate the implementation of the plan and then to provide additional public safety facilities, personnel, and new equipment based on specific needs of the community.

Review and Modification of Expenditure Plan

The proposed Expenditure Plan may be amended from time to time by a majority vote of the City Council.
NOVEMBER 2005 BALLOT MEASURE EXPENDITURE PLAN

Proposed Expenditure Plan for the City of Porterville Public Safety Sales Tax Measure Based on ½ Cent Sales Tax availability

The City Council has evaluated Porterville’s safety needs with input from the public in developing the attached Public Safety Expenditure Plan, which shall be amended from time to time, at the projected/estimated costs shown:

Fiscal Year 2005-06 Sales Tax Revenue available (partial year)
$600,000
Additional Supplemental Resources (General Fund) $50,903
Total Resources Available $650,903

Increase Police Sworn by 5 positions to the base and outfit (partial year) $412,803
Increase Fire Sworn by 7 positions to the base and outfit (partial year) $148,100
Restore Literacy Programs/hours (partial year) $90,000
Total 2005-06 Fiscal Year Expenditures $650,903

Fiscal Year 2006-07 Additional Sales Tax Revenues (First full F/Y) $1,792,000

Increase Police Sworn by 1 additional position to the base $85,000
Maintain and Expand Patrol Operations $405,000
Maintain and Expand Gang Suppression and Narcotics Operations $215,000
Maintain 7 additional Sworn Fire personnel $521,156
Purchase additional Fire Rescue Apparatus $140,000
Purchase Rescue Equipment for new Fire Apparatus $25,000
Purchase Personal Safety Equipment for additional Fire Fighters $14,000
Maintain Literacy Program/hours $180,000
Expand Homework Assistance and Creative Expression Program $80,000
Establish Capital Reserve Fund for New Fire Station $126,844
Total 2006-07 Fiscal Year Expenditures $1,792,000

Fiscal Year 2007-08 Additional Sales Tax Revenues (Second full F/Y) $1,863,680

Increase Police Sworn by 1 additional position to the base $87,000
Maintain Expanded Patrol Operations $508,000
Maintain Expanded Gang Suppression and Narcotics Operations $255,250
Maintain 7 additional Sworn Fire personnel
$557,637
Hire 1 additional Fire Investigator
$74,167
Station and Equipment
$20,000
Maintain Literacy Programs/hours
$187,200
Expand Homework Assistance and Creative Expression Program
$83,200
Increase Established Capital Reserve Fund for New Fire Station
$91,226
Total 2007-08 Fiscal Year Expenditures $1,863,680

Fiscal Year 2008-09 Additional Sales Tax Revenues (Third full F/Y) $1,938,227

Additional Supplemental Resources (General Fund) $50,000
Total Resources Available $1,988,227

Increase Police Sworn by 1 additional position to the base
$91,000
Maintain Expanded Patrol Operations $566,000
Maintain Expanded Gang Suppression and Narcotics Operations
$320,763
Maintain 8 additional Sworn Fire personnel
$676,030
Safety Equipment
$5,000
Maintain Literacy Programs/hours
$194,688
Expand Homework Assistance and Creative Expression Program
$86,528
Increase Established Capital Reserve Fund for New Fire Station
$48,218
Total 2007-08 Fiscal Year Expenditures $,988,227

Fiscal Year 2009-10 Additional Sales Tax Revenues (Fourth full F/Y) $2,015,756
Additional Supplemental Resources (General Fund) $75,000
Total Resources Available $2,090,756

Maintain 8 additional Sworn Police personnel
Maintain Expanded Patrol Operations $630,000
Maintain Expanded Gang Suppression and Narcotics Operations $396,651
Maintain 8 additional Sworn Fire personnel $723,352
Maintain Literacy Programs/hours
$202,476
Expand Homework Assistance and Creative Expression Program $89,989
Partial Year Debt Service Payment on New Fire Station Financing $48,288
Total 2009-10 Fiscal Year Expenditures $2,090,756

Fiscal Year 2010-11 Additional Sales Tax Revenues (Fifth full F/Y) $2,096,387
Additional Supplemental Resources (General Fund) $150,000
Total Resources Available $2,246,387

Maintain 8 additional Sworn Police personnel
Maintain Expanded Patrol Operations $664,000
Maintain Expanded Gang Suppression and Narcotics Operations $413,983
Maintain 8 additional Sworn Fire personnel $773,352
Maintain Literacy Programs/hours $210,575
Expand Homework Assistance and Creative Expression Program $93,589
Debt Service on New Fire Station Financing $90,889
Total 2010-11 Fiscal Year Expenditures $2,246,387

* Total Reserve Cash Available for Real Property Acquisition for New Fire Station in Fiscal Year 2008/09. $266,288
1. Assumes 4% growth rate in annual sales tax revenue.

2. Current General Fund monies and State and School Subventions provide for 44.5 Sworn Police Officers. Additional grant funding has provided for 2.5 additional Sworn Police Officers. Additional positions funded through this sales tax measure will add positions to the base of 45 Sworn Police Officers.

3. Additional General Fund Utility User’s Taxes generated from annexation activity during the course of this expenditure plan will be proposed to be specifically earmarked for additional Police positions. These additional positions will modify the base above the 45 positions as described in Note 2.

4. Literacy programs delivered through the Library will annually receive up to 15% of the new revenue provided by this sales tax measure.

5. The City will use base budget amounts established and approved under the Expenditure Control Budget System in determining additional funding for Police, Fire, and Literacy programs delivered through the Library to prevent erosion of existing General Fund support for these activities.
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. 1684, passed and approved by the People of the City of Porterville at a Special Consolidated Statewide Election held on the 8th day of November, 2005, that said ordinance has been deemed operative pursuant to law, and that by the terms and provisions of Ordinance 1684, said ordinance to become effective on the 16th day of December, 2005, at which time said ordinance is deemed to be in full force and effect.

THAT said ordinance was adopted by declaration of the vote by the Council on December 6, 2005, and the same was duly passed and adopted by the following vote:

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JOHN LONGLEY, City Clerk  

by: Patrice Hildreth, Deputy City Clerk