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

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

JOINT CITY/PORTERVILLE REDEVELOPMENT AGENCY MINUTES

Roll Call: Agency Member Hamilton (arrived late), Agency Member Pedro Martinez, Agency Member Felipe Martinez, Vice-Chairman Ward, Chairman McCracken

JOINT ORAL COMMUNICATIONS
None

REDEVELOPMENT AGENCY CLOSED SESSION:
A. Closed Session Pursuant to:

   The City Council and Redevelopment Agency adjourned to a meeting of the Porterville City Council.

CLOSED SESSION:
B. Closed Session Pursuant to:
   4- Government Code Section 54957 – Public Employee Performance Evaluation – Title: Golf Course Manager
6- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – One Case.
7- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Three Cases.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL AND/OR REDEVELOPMENT AGENCY ACTION TAKEN IN CLOSED SESSION

Closed Session Item B2 – City Attorney Julia Lew reported that the City Council, on a motion made by Vice Mayor Ward and seconded by Council Member Felipe Martinez, unanimously approved the sale of real property, APNs 261-130-001 and 253-160-032, to the State of California for the amount of $2,140,000; and authorized the mayor to execute the Real Property Acquisition Agreement and Grant Deeds pertaining thereto.

Documentation: Resolutions 74-2009 and 75-2009
M.O. 01-081809
Disposition: Approved.

Pledge of Allegiance Led by Vice Mayor Brian Ward
Invocation – one individual participated.

PROCLAMATIONS
Eagle Scout – Tim Hathaway (Continued to 2nd meeting in September)
Energy Efficiency Month – September 2009 (Added)
Recovery Month – September 2009

PRESENTATIONS
Employee Service Awards
Recognition of City Lifeguards

ORAL COMMUNICATIONS
• Greg Shelton, 888 North Williford Drive, spoke in favor of approval of Item 19, and commented, as a Parks & Leisure Service Commissioner, that he did not feel he had enough information to vote on Item 21 when it was before the Commission.
• Steve Penn, a Strathmore resident and applicant in Item 19, spoke in favor of the Council’s approval of Item 19, and requested that the proposed hours of operation be changed from 8:00 a.m. – 4:00 p.m. to 8:00 a.m. – 6:00 p.m.
• Gerry Guinn, came forward on behalf of the Boys & Girls Club, and invited everyone to a yard sale and drive-thru tri-tip dinner fundraiser to take place at the Club on August 27th.
• Brock Neeley, commented that in the event the Council took action on Item 23, said...
items should be brought back to a public meeting for discussion to meet the requirements of the Brown Act; and suggested that the motivation for Council Member Hamilton adding Item 24 to the Agenda appeared to be fueled by a vendetta against State Senator Leno. Mr. Neeley then voiced opposition to Item 24.

- Dick Eckhoff, 197 N. Main Street, spoke in favor of Item 24 and in opposition of SB 802.
- Sydney Pedraza, spoke regarding Item 23, requesting that opposition to SB 54 be considered. He also suggested that future items like Item 23 be placed at the front of the agenda for the public’s convenience.
- Jessica Mahoney, voiced concern with the sample survey provided in Item 20, noting that it did not pertain to Tulare County.
- Barry Caplan, commended the City Council on its prior action at a previous Council Meeting regarding SB 54; voiced support for the publication of the Council Agenda in the local newspaper; voiced concern with sending a Council Member to Sacramento to discuss legislative issues; and voiced alarm that Council Member Hamilton had an apparent grudge against State Senator Leno.

**CONSENT CALENDAR**

Item Nos. 2 and 11 were removed for further discussion. Item No. 14 was removed from the Agenda pursuant to a request by staff. Council Member Felipe Martinez’s abstention on Item 10 due to a disqualification was also noted.

1. **CITY COUNCIL MINUTES OF MAY 5, 2009**

   Recommendation: That the City Council approve the Minutes of May 5, 2009.

   Documentation: M.O. 02-081809
   Disposition: Approved

3. **AUTHORIZATION TO ADVERTISE FOR BIDS - MICRO SURFACING PROJECT**

   Recommendation: That the City Council:
   1) Approve Staff’s recommended Plans and Project Manual for the Micro-Surfacing Project; and
   2) Authorize staff to advertise for bids on the project.

   Documentation: M.O. 03-081809
   Disposition: Approved

4. **AWARD OF CONTRACT – AIRPORT ELECTRICAL UPGRADE PROJECT**

   Recommendation: That the City Council:
   1) Award the Airport Electrical Upgrade Project to the firm of Royal Electric in the amount of $410,461;
   2) Authorize progress payments up to 90% of the Contract amount;
3) Authorize Public Works to incorporate “extra” or contingency work up to but not more than 10% of the contract amount provided the FAA approves and agrees to supplement the contract to cover the “extra” or contingency work; and
4) Authorize an additional $5,000 to cover construction administration costs.

Documentation: M.O. 04-081809
Disposition: Approved

5. AWARD OF CONTRACT – FAIRWAY TRACT EMERGENCY WATER PROJECT

Recommendation: That the City Council:
1) Award the Fairway Tract Emergency Water Project to 99 Pipeline, Inc. in the amount of $18,401.00;
2) Authorize Progress payments up to 90% of the contract amount; and
3) Authorize 10% contingency to cover unforeseen construction costs.

Documentation: M.O. 05-081809
Disposition: Approved

6. AWARD OF CONTRACT - WELL NO. 31 PROJECT (PUMPING PLANT)

Recommendation: That the City Council:
1) Award the Well no. 31 Project (Pumping Plant) to Valley Pump & Dairy Systems in the amount of $573,108.88;
2) Authorize progress payments up to 90% of the contract amount; and
3) Authorize a 10% contingency to cover unforeseen construction costs.

Documentation: M.O. 06-081809
Disposition: Approved

7. ACCEPTANCE OF PROJECT - MURRY & ZALUD PARK PAVILION REPLACEMENT

Recommendation: That the 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.

Documentation: M.O. 07-081809
Disposition: Approved
8. ACCEPTANCE OF PROJECT - FIRE STATION #2 TRAINING CLASSROOM – HVAC

Recommendation: That the 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.

Documentation: M.O. 08-081809
Disposition: Approved

9. ACCEPTANCE OF QUITCLAIM DEED - PIONEER WATER COMPANY

Recommendation: That the City Council:
1) Accept the Quitclaim Deed relinquishing Pioneer Water Company’s rights to a Waster Water Ditch;
2) Accept the Quitclaim Deed relinquishing specific surface rights to a portion of the Pioneer Ditch – Park Branch; and
3) Authorize the City Clerk to record the Quitclaim Deeds with the County Recorder’s Office.

Documentation: Resolution 76-2009 and 77-2009
Disposition: Approved

10. AUTHORIZATION TO EXECUTE A CONSULTANT SERVICE AGREEMENT FOR SURVEYING SERVICES – HENDERSON AVENUE REHABILITATION PROJECT

Recommendation: That the City Council:
1) Authorize the Mayor to execute the Consultant Service Agreement with Winton and Associates at an agreed fee of $5,600 for the services described herein;
2) Authorize progress payments up to 100% of the fee amount; and
3) Authorize a 10% contingency to cover unforeseen survey requirements that relate to our design efforts.

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

Documentation: M.O. 09-081809
Disposition: Approved
12. REQUEST FOR PROMOTIONAL DISPLAY ON PUBLIC RIGHT-OF-WAY (RELAY FOR LIFE 2009)

Recommendation: That the City Council authorize the non-advertising displays commemorating the “Paint the Town” special event subject to the recommended conditions of approval.

Documentation: M.O. 10-081909
Disposition: Approved

13. PROPOSITION 1A SECURITIZATION PROGRAM

Recommendation: Information only.

Disposition: No action required.

14. CONSIDERATION OF RESOLUTION FOR ENERGY EFFICIENCY MONTH

Disposition: Item removed from Agenda.

15. APPROVAL OF RESTATED HEALTH PLAN DOCUMENT

Recommendation: That the City Council, as Trustees of the Employee Benefit Trust, approve the draft resolution approving the City’s Restated Health Plan Document Dated August 1, 2009.

Documentation: Resolution 78-2009
Disposition: Approved

16. AMENDMENT TO WORKERS COMPENSATION COVERAGE

Recommendation: That the City Council approve the draft resolution amending the City’s workers’ compensation coverage to include non-safety volunteers working for the City.

Documentation: Resolution 79-2009
Disposition: Approved

COUNCIL ACTION: MOVED by Vice Mayor Ward, SECONDED by Council Member Hamilton that the City Council approve Item Nos. 1, 3 through 10, 12, 13, 15, and 16, noting the abstention of Council Member Felipe Martinez from Item No. 10 due to disqualification. The motion carried unanimously.

2. SALE OF SURPLUS VEHICLES TO THE CITY OF MCFARLAND

Recommendation: That the City Council:
1) Approve the sale of the listed Surplus vehicles to the City of McFarland;
and
2) Authorize the Purchasing Agent to transfer title to the City of McFarland.

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

Council Member Hamilton inquired about salvage prices, and the equipment removal. Staff indicated that the monies were minimal, and that equipment removed from vehicles were typically used for parts or surplused.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council approve the sale of the listed surplus vehicles to the City of McFarland; and authorize the Purchasing Agent to transfer title to the City of McFarland. The motion carried unanimously.

Disposition: Approved

11. RULE 8061 COMPLIANCE REQUIREMENTS

Recommendation: That the City Council:
1) Authorize staff to send determinations to the SJVAPCD to satisfy the reporting requirements of Rule 8061 along with a “Statement of Financial Hardship”; and
2) Contingent upon the Boards denial of the “Statement of Financial Hardship”, direct staff to work with SJVAPCD in establishing a reasonable schedule with a focus on realistic financial goals when considering the current economic situation.

City Manager Lollis introduced the item, and the staff report was presented by City Engineer Mike Reed.

Council Member Hamilton inquired about the expectation of staff with regards to the hardship application, and contingencies available to the City if denied. He suggested that a plan be developed to address future requirements, even if the current application was approved.

Council Member Felipe Martinez requested that information pertaining to storm drains also be included in the reporting. Staff indicated that it could be done, but that it would require a more advanced process.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council authorize staff to send determinations to the SJVAPCD to satisfy the reporting requirements of Rule 8061 along with a “Statement of Financial Hardship”; and contingent upon the Boards denial of the “Statement of Financial
Hardship”, direct staff to work with SJVAPCD in establishing a reasonable schedule with a focus on realistic financial goals when considering the current economic situation. The motion carried unanimously.

Disposition: Approved

SECOND READINGS

17. ORDINANCE 1757, PERTAINING TO NOISE

Recommendation: That the City Council give Second Reading to Ordinance No. 1757, waive further reading, and adopt said Ordinance.

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

Council Member Pedro Martinez indicated that he had a previously disclosed conflict of interest, recused himself, and exited the Council Chambers.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council give Second Reading to Ordinance No 1757, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING TO THE MUNICIPAL CODE CHAPTER 18, ARTICLE V PERTAINING TO NOISE.

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

The City Manager read the ordinance by title only.

Disposition: Approved

The Council recessed for ten minutes.

SCHEDULED MATTERS

18. TRANSIT SYSTEM OVERVIEW FOR FISCAL YEAR 2008/2009

Recommendation: Information only.

City Manager Lollis introduced the item, and Administrative Analyst Linda Clark presented the staff report. She then addressed questions from the Council, and elaborated on requirements and rules associated with fares.
The Council directed staff to report back to the City Council on a quarterly basis. A Council Member also requested that staff look into the feasibility of a 1-day pass option.

Disposition: Direction given.

19. REQUEST FOR A TEMPORARY STRUCTURE PERMIT FOR THE STORAGE AND CONSIGNMENT OF EQUIPMENT (952 WEST NORTH GRAND AVENUE)

Recommendation: Provide direction to staff.

City Manager Lollis introduced the item, and Community Development Director Brad Dunlap presented the staff report. During the staff report the following options were presented to the Council:

Option 1. Approve the request as proposed per the submitted plan and conditions contained in the attached resolution.

Option 2. Deny the applicant request and require the full extent of improvements be made prior to allowing any degree of use other than storage.

Option 3. Approve the request with conditions to apply oil or other dust retardant to the customer parking and vehicular travel areas.

Option 4. Approve the request and require the applicant to pave the travel ways per Sections 2206 and 2211 of the Zoning Ordinance.

A discussion ensued regarding a future interchange in the area, and the level of improvements which should be required of the applicant with that in mind.

The applicant spoke briefly about how consignment sales worked, and addressed concerns regarding dust control. He spoke in favor of using a water truck to mitigate dust, and against requiring concrete type improvements.

Council Member Pedro Martinez requested that staff identify significant circumstances or conditions of the site which justified approval of the permit. Community Development Director Dunlap identified the previous non-conforming use and the future interchange construction, which would result in the site being wiped out as two significant factors.

At the Council’s request, the applicant clarified that he would not be doing mechanical work on the site.

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Vice Mayor Ward that the City Council approve the request as proposed in the submitted plans and conditions contained in the draft resolution, as amended to include following conditions: 1) Council to review annually
20. CONSIDERATION OF SAMPLE SURVEY IN THE POTENTIAL FORMATION OF A MOSQUITO ABATEMENT DISTRICT IN SOUTHEASTERN TULARE COUNTY

Recommendation: That the City Council consider the Lake County survey for prospective comments in the creation of the Southeastern Tulare County Survey.

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

Mayor McCracken indicated that Supervisor Ennis had informed him that a survey pertaining to Tulare County would be provided should the item be continued to the 2nd meeting in September.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council continue the item to the 2nd meeting in September. The motion carried unanimously.

Disposition: Item continued.

21. COUNCIL MEMBER REQUESTED AGENDA ITEM – MURRY PARK POOL SLIDE INSTALLATION

Recommendation: Provide appropriate direction to staff.

City Manager Lollis introduced the item, and Community Development Director Dunlap presented the staff report. Following the staff report, Mr. Dunlap addressed questions from the Council regarding costs and timeline for completion.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hamilton that the City Council direct staff bring back a detailed item for action.
AYES: Hamilton, P. Martinez, F. Martinez, McCracken
NOES: Ward
ABSTAIN: None
ABSENT: None

Disposition: Direction given.

22. COUNCIL MEMBER REQUESTED AGENDA ITEM – THE PORTERVILLE RECORDER AGENDA PUBLICATION

Recommendation: None

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

Following a discussion regarding the availability of the agenda packet for public viewing, and means of distribution, staff was directed by the Council to bring back options for expanding publicity.

Disposition: Direction given.

23. COUNCIL MEMBER REQUESTED AGENDA ITEM – SUBJECTS FOR DISCUSSION WITH LOCAL LEGISLATORS IN SACRAMENTO

Recommendation: That the City Council consider potential issues for discussion, and authorize Councilman Martinez to speak on the behalf of Council.

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

City Attorney Lew addressed concerns brought forth during Oral Communications regarding the Brown Act, and advised that the Item was not in violation.

The Council discussed possible issues to be presented, such as: the new courthouse; water, including dam remediation; State budget; Proposition 84; gang suppression; and SB 802.

Council Member Felipe Martinez provided the Council with a report regarding his attendance at a recent meeting of the Water Commission, and subjects of discussion at said meeting.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hamilton that the City Council select Council Member Hamilton to travel to Sacramento as the City Council’s representative and address the following issues with state legislators: Courthouse; water, including dam remediation; State budget/HUTA/RDA take; SB 54 (Council Member P. Martinez’s letter); Prop 84; gang suppression; and SB 802; and direct Staff to draft written documentation of issues for discussion. The motion carried unanimously.
24. COUNCIL MEMBER REQUESTED AGENDA ITEM – CONSIDERATION OF LETTER OF OPPOSITION TO SB 802 (LENO)

Recommendation: None

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

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council approve a letter of opposition to Senate Bill (SB) 802, which is intended to limit retention proceeds to no more than a five percent rate. The motion carried unanimously.

Disposition: Approved

ORAL COMMUNICATIONS

• Jessica Mahoney, requested a status report on the Brickhouse noise issue. City Manager Lollis advised Ms. Mahoney that a public hearing on the item would take place at the next Council Meeting.
• Brock Neeley, provided the Council with some examples of “gut and amend” legislation.
• Steve Penn, thanked the Council for its approval of Item 19.
• Barry Caplan, requested that the Council request a staff report on the status of the City’s new website project; and requested clarification as to the motion on Item 23.

OTHER MATTERS

• Council Member Felipe Martinez: 1) provided a report pursuant to AB 1234 in which he advised of his recent trip to Sacramento and meetings with legislators and the Governor’s staff regarding water issues; and 2) requested an item to consider the formation of a subcommittee comprised of himself and one other Council Member to address local water issues.
• Council Member Pedro Martinez: 1) extended his thoughts and prayers to the families of the Police Officers injured in the automobile accident; 2) acknowledged the City’s firefighters sent to combat the fire incidents throughout the State; 3) elaborated on recent discussions with the County regarding the Step-Up Program and clarified the allegations that Porterville was disinterested in a program were not correct; 4) offered encouragement to the Porterville team in the upcoming Golf Tournament against the City of Tulare; and 5) requested an informational item on the status of various vacant commercial properties like JC Penney’s and Gang Sue’s.
• Council Member Hamilton spoke of the importance of talking with the County Supervisors regarding the County’s General Plan Update; extended his thoughts and prayers to the injured Police Officers and their families; and requested that a thank you letter be sent to the Fresno Police Department for their gracious assistance to the family of Officer Smith.
Council Member Ward extended his thoughts and prayers to the families of the injured Police Officers; and inquired as to the regulations for mailbox placement, noting that in some areas of town, the mailbox encroached on the sidewalk making passage difficult. Public Works Director Rodriguez clarified the regulations and spoke of the U.S. Postal Service’s role in same.

The Council recessed for ten minutes at 10:19 p.m., then convened in Closed Session.

**CLOSED SESSION**

The Council reconvened in Open Session at 10:45 p.m. City Attorney Julia Lew reported on the following Council action:

Closed Session Item B7 – The City Council, on a motion made by Council Member Felipe Martinez and seconded by Council Member Pedro Martinez, unanimously authorized the initiation of eminent domain proceedings for the property APN: 268-120-004.

Documentation: M.O. 17-081809
Disposition: Approved

Closed Session Item B7 – The City Council, on a motion made by Council Member Felipe Martinez and seconded by Council Member Pedro Martinez, unanimously approved the City joining a lawsuit filed under seal.

Documentation: M.O. 18-081809
Disposition: Approved

**ADJOURNMENT**

The Council adjourned at 10:46 p.m. to the meeting of September 1, 2009 at 6:00 p.m.

_____________________________
Luisa Herrera, Deputy City Clerk

SEAL

_____________________________
Pete V. McCracken, Mayor