CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
APRIL 6, 2010, 6:00 P.M.

Called to Order at 6:00 p.m.
Roll Call: Council Member Hamilton, 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 CITYCOUNCIL/PORTERVILLE REDEVELOPMENT AGENCY AGENDA

Roll Call: Agency Member Hamilton, Agency Member Pedro Martinez, Agency Member Felipe Martinez, Vice-Chairman Ward, Chairman McCracken

ORAL COMMUNICATIONS
None

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

During Closed Session, the Porterville Redevelopment Agency adjourned to a meeting of the Porterville City Council.

CLOSED SESSION:
B. Closed Session Pursuant to:
   4- Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis. Employee Organizations: Porterville City Employees Association, Porterville Safety Support Unit, Porterville City Firefighters Association, and Porterville
Management and Confidential Series.

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 – Three Cases.
7- Government Code Section 54957 - Public Employee Performance Evaluation - Title: City Manager.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

City Attorney Lew stated that no reportable action had taken place.

Pledge of Allegiance Led by Council Member Pedro Martinez

Invocation – one individual participated.

PROCLAMATIONS

Harmony Magnet Academy Academic Decathlon Team
Granite Hills High School Academic Decathlon Team

PRESENTATIONS

Employee of the Month – Russell Isom
Student Entrepreneur Challenge

ORAL COMMUNICATIONS

- Mac (last name inaudible), a California Hot Springs resident and Military Advisor for the Rotary Spring Ball, spoke of the upcoming event honoring the military and invited the City Council Members to attend.
- K.C., a local resident, voiced displeasure with the federal government, and requested that the City sever any obligations and remove any dependency the City has with it.
- Boyd K. Leavitt, a Porterville resident, spoke against the Council moving forward with establishing a benevolence fund, commenting that the Council Members should instead personally support local charitable organizations if they so desired.
- Brock Neely, spoke regarding Item No. 25, voicing concern with the Council reconsidering an ordinance that was already approved and adopted.
- Eddie Hernandez, 2110 W. Garden Avenue, spoke against the newly adopted Fireworks Ordinance, commenting that it impaired the ability for charitable organizations to raise funds by limiting the number of potential sites.
- Dick Eckhoff, 197 N. Main Street, spoke regarding Item 25, and noted various items that should be addressed in the recently adopted Fireworks Ordinance, such as the language prohibiting storage of fireworks at residential locations.
- Donnette Silva Carter, 93 N. Main Street, Porterville Chamber of Commerce CEO, 1) spoke of the recent Youth Business Conference and the benefits of the event not only for the local youth, but also to the local economy; 2) advised of the Spring kick-off of Music on Main Street with Friday’s upcoming performance by Black Sheep; and 3) spoke against the recently adopted Fireworks Ordinance, and commented on the benefits of holding a season wrap-up meeting to address/troubleshoot any issues.
Greg Shelton, 888 N. Williford Drive, requested the opportunity to speak when the Council/Redevelopment Agency addressed Item No. PRA-01. Mr. Shelton was advised by Council that there was another Oral Communications prior to the Redevelopment items.

Jessica Mahoney, a Terra Bella resident, voiced concern with the D.A.’s report on the Steen investigation and the manner in which Porterville P.D. and the Recorder handled the matter.

Barry Caplan, a Porterville resident, lauded the achievements of the High School students honored that evening, and suggested that the students ought to work with the local non-profit groups to brainstorm other fundraising ideas.

Jo Ann Berra, a Porterville resident, voiced concern with the recently adopted Fireworks Ordinance, citing the negative impact it will have on the PTA’s ability to raise funds.

Jennifer Schnell, on behalf of TNT Fireworks, advised she was available as a resource for information that evening in the event the Council had any questions.

CONSENT CALENDAR

Items 4 and 8 were removed from the agenda.

1. CITY COUNCIL MINUTES OF JANUARY 23, 2010

Recommendation: That the City Council approve the City Council minutes of January 23, 2010.

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

Documentation: M.O. 01-040610
Disposition: Approved

2. CLAIM – SHANE BROCK, A MINOR

Recommendation: That the City Council 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. 02-040610
Disposition: Approved

3. AUTHORIZATION TO ADVERTISE FOR BIDS - INSTALLATION OF MONITOR WELL

Recommendation: That the City Council:

1. Authorize the Public Works Director to enter into a “Professional Services Agreement” with Kenneth D. Schmidt & Associates for
professional consulting services on the City’s Reclamation Area Monitor Well Project;
2. Approve Staff’s recommended plans and project manual;
3. Authorize Public Works to advertise for bids on the Reclamation Area Monitor Well Project; and
4. Direct the Finance Director to initiate a Budget Adjustment to the 2009/2010 Annual budget for $27,000 from the Wastewater Treatment Plant Capital Reserve Fund with the understanding that the actual budget adjustment will be finalized at the time of contract award.

Documentation: M.O. 03-040610
Disposition: Approved

5. ACCEPTANCE OF PROJECT – RECLAMATION ROAD 216 PIPELINE AND WEIR

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. 04-040610
Disposition: Approved

6. ACCEPTANCE OF PUBLIC IMPROVEMENTS – MEADOW BREEZE, PHASE THREE (GARY SMEE – NICHOLSON & SMEE LLC)

Recommendation: That the City Council:
1. Accept the public improvements of Meadow Breeze, Phase Three Subdivision for maintenance;
2. Authorize the filing of the Notice of Completion; and
3. Release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

Documentation: M.O. 05-040610
Disposition: Approved

7. AUTHORIZATION TO PAY SOUTHERN CALIFORNIA EDISON INCOME TAX COMPONENT OF CONTRIBUTION (“ITCC”) CHARGE FOR UTILITY POLE RELOCATIONS AND STREET LIGHT INSTALLATION FOR THE JAYE STREET – MONTGOMERY AVENUE ROUNDABOUT PROJECT

Recommendation: That the City Council:
1. Approve the “ITCC” charges associated with the installation of street lights and existing utility pole relocations; and
2. Authorize the City Engineer to disburse funds to SCE.
9. APPROVAL OF SPORTS COMPLEX CONCESSION LICENSE

Recommendation: That the City Council approve the Concession License with AYSO Region 315 and the Concession License with the Porterville Youth Football League, and authorize direct the Mayor to execute the same.

Documentation: M.O. 07-040610  
Disposition: Approved

10. SEAFOOD CAFÉ/EL REVENTON CONSIDERATION OF MODIFICATION OR REVOCATION OF CUP 5-2007

Recommendation: That the City Council adopt the attached Draft Resolution modifying the Seafood Café/El Reventon hours of operation.

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

Documentation: Resolution 30-2010  
Disposition: Approved

11. PUBLIC TRANSPORTATION CONTRACT WITH SIERRA MANAGEMENT

Recommendation: That the City Council:
1. Approve the revised transportation contract amount submitted by Sierra Management, and
2. Authorize Staff to incorporate the new revenue vehicle hourly rates for Demand Response and Fixed Route, as well the Fixed Cost components, into the Transit Budget for FY 2010/11.

Documentation: M.O. 08-040610  
Disposition: Approved

12. APPROVAL OF MEASURE “R” PROGRAM SUPPLEMENT TO COOPERATIVE AGREEMENT

Recommendation: That the City Council:
1. Approve the attached Resolution in support of the Program Supplement to Cooperative Agreement for the reimbursement of design costs associated with the Transit Center Expansion project and the Bus Maintenance Facility Expansion project;
2. Authorize the Mayor and City Clerk to execute the Programs Supplement; and
3. Authorize staff to forward the executed Program Supplement to TCAG for approval and execution.

Documentation: Resolution 31-2010
Disposition: Approved

13. AIRPORT LEASE RENEWAL – LOT 38

Recommendation: That the City Council approve the extension of the Lease Agreement between the City of Porterville and Roy and Carol Cundiff of Long Beach, CA, for Lot 38 at the Porterville Municipal Airport.

Documentation: M.O. 09-040610
Disposition: Approved


Recommendation: That the City Council:
1. Approve the Community Civic Event Application and Agreement from the Porterville Unified School District, subject to the Restrictions and Requirements contained in Application, Agreement and Exhibit “A”, without closing Olive Avenue; and
2. Approve the use of the parking lot on the South side of Olive Avenue and the bare ground south of that parking lot for this event with sponsor-controlled pedestrian crossing.

Documentation: M.O. 10-040610
Disposition: Approved


Recommendation: That the City Council approves:
1. The Community Civic Event Application and Agreement from the Comision Honorifica Mexicana-Americana, Inc., subject to the restrictions contained in the Application, Agreement and Exhibit “A”; and
2. Authorize the Chief of Police, or his designee, to close Olive Avenue between A Street and Plano Street, if warranted to address public safety concerns.
16. APPROVAL FOR COMMUNITY CIVIC EVENT – ROLLIN’ RELICS CAR CLUB – ROLLIN’ RELICS CAR SHOW – MAY 1, 2010

Recommendation: That the City Council approve the proposed Community Civic Event Application and Agreement submitted by the Rollin’ Relics Car Club, subject to the stated requirements contained in the Application, Agreement and Exhibit “A”.

17. AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN

Recommendation: That the City Council:
1. Approve the draft resolution amending the Employee Pay and Benefit Plan;
2. Approve the draft ordinance authorizing an amendment to the contract between the Board of Administration of the California Public Employees’ Retirement System, give first reading by title only and order the ordinance to print;
3. Approve the draft resolution amending the contract between the Board of Administration of the California Public Employees’ Retirement System and the City; and
4. Authorize the Mayor to execute these and other documents necessary to implement the provisions thereof.

4. AWARD OF CONTRACT – OLIVE AVENUE REHABILITATION PROJECT

Recommendation: That the City Council:
1. Award the Olive Avenue Rehabilitation Project to Dawson-Mauldin Construction, Inc. in the amount of $297,082.00; and
2. Authorize a 10% contingency to cover unforeseen construction costs.
City Manager Lollis introduced the item, and the staff report was waived at the Council’s request.

Vice Mayor Ward expressed concern about the absence of local contractors in the list of responsive bidders, and requested that staff provide him with a list of local contractors so that he may be able to look into the matter further.

**COUNCIL ACTION:** MOVED by Vice Mayor Ward, SECONDED by Council Member Felipe Martinez that the City Council award the Olive Avenue Rehabilitation Project to Dawson-Mauldin Construction, Inc. in the amount of $297,082.00; and authorize a 10% contingency to cover unforeseen construction costs. The motion carried unanimously.

Disposition: Approved

8. AUTHORIZATION TO TRAVEL

Recommendation: That the City Council approve travel to Las Vegas, Nevada, for the purpose of attending the International Council of Shopping Centers conference.

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

At Council Member Hamilton’s request, Community Development Director Dunlap spoke about the public-private partnership which resulted in Kohl’s coming to town.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Vice Mayor Ward that the City Council approve travel to Las Vegas, Nevada, for the purpose of attending the International Council for Shopping Centers conference. The motion carried unanimously.

Disposition: Approved

Mayor McCracken advised that at staff’s request, the Council would consider the Redevelopment Agenda next, followed by Item No. 23.

The City Council adjourned at 8:10 p.m. to a Joint Meeting of the City Council and the Porterville Redevelopment Agency.

**JOINT CITY COUNCIL/REDEVELOPMENT AGENCY MINUTES**

**April 6, 2010**

Roll Call: Agency Member Hamilton, Agency Member Pedro Martinez, Agency Member Felipe Martinez, Vice-Chairman Ward, Chairman McCracken

Mayor/Chair McCracken abstained from Items PRA-01 and PRA-02 due to previously
disclosed conflict of interest and left the Council Chambers.

Vice Mayor/Vice Chair Ward waived the three minute limitation on comments during Oral Communications.

**ORAL COMMUNICATIONS**
- Greg Shelton, 888 N. Williford Drive, spoke against Item PRA-01, warning it would provide the ability for the Agency to misuse eminent domain powers for economic development.

**WRITTEN COMMUNICATIONS**
None

**SCHEDULED MATTERS**

**PRA-01.** AUTHORIZATION TO CONDUCT A JOINT PUBLIC HEARING OF THE CITY OF PORTERVILLE CITY COUNCIL AND THE PORTERVILLE REDEVELOPMENT AGENCY IN CONNECTION WITH THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE ENVIRONMENTAL IMPACT REPORT PREPARED FOR THE PROJECT; AUTHORIZATION TO PROVIDE NOTICE OF THE HEARING; AUTHORIZATION TO TRANSMIT DRAFT AMENDED PLAN TO THE PLANNING COMMISSION

**Recommendation:** That the City Council:

1. Adopt the draft Resolution consenting to a joint public hearing with the Porterville Redevelopment Agency in connection with the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1 and Environmental Impact Report prepared for the Project and directing notification of the same.

That the Porterville Redevelopment Agency:

1. Adopt the draft Resolution consenting to a joint public hearing with the Porterville Redevelopment Agency in connection with the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1 and Environmental Impact Report prepared for the Project and directing notification of the same; and

2. Direct Staff to transmit the proposed amended Redevelopment Plan for the Porterville Redevelopment Project No. 1 to the Porterville Planning Commission to the General Plan.

City Manager Lollis introduced the item, and Community Development Director Dunlap presented the staff report.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council adopt draft Resolution consenting to a joint public hearing with the Porterville Redevelopment Agency in connection with the proposed 2010 Amendment to the
Redevelopment Plan for the Porterville Redevelopment Project No.1 and Environmental Impact Report prepared for the Project and directing notification of the same.

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

AGENCY ACTION: MOVED by Agency Member Hamilton, SECONDED by Agency Member Felipe Martinez that the Redevelopment Agency adopt the draft Resolution consenting to a joint public hearing with the Porterville Redevelopment Agency in connection with the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No.1 and Environmental Impact Report prepared for the Project and directing notification of the same; and direct Staff to transmit the proposed amended Redevelopment Plan for the Porterville Redevelopment Project No. 1 to the Porterville Planning Commission to the General Plan.

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

Disposition: Approved


Recommendation: That the Porterville Redevelopment Agency:

1. Adopt the draft Resolution and, thereby, put into effect for the proposed Added Territory to the Porterville Redevelopment Project No. 1, the existing Participation Rules and Relocation Guidelines for the Project.

City Manager Lollis introduced the item, and Community Development Director Dunlap presented the staff report.

Council Member Pedro Martinez made a motion to deny staff’s recommendation, which died for lack of a second.

AGENCY ACTION: MOVED by Agency Member Hamilton, SECONDED by Agency Member
Felipe Martinez that the Agency the draft Resolution and, thereby, put into effect for the proposed Added Territory to the Porterville Redevelopment Project No. 1, the existing Participation Rules and Relocation Guidelines for the Project.

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

Disposition: Approved

Mayor/Chair McCracken returned to the Chambers. He noted that as of March 29th, 2010, he was no longer conflicted from PRA-03.

PRA-03. ACCEPTANCE OF PROJECT – STOUT BUILDING SPRAYED POLYURETHANE ROOFING PROJECT

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.

City Manager Lollis introduced the item, and Community Development Director Dunlap presented the staff report.

AGENCY ACTION: MOVED by Agency Member Pedro Martinez, SECONDED by Agency Vice Chair Ward that the Agency accept the project as complete; authorizing 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, F. Martinez, Ward, McCracken
NOES: P. Martinez
ABSTAIN: None
ABSENT: None

Disposition: Approved

The Joint Meeting of the City Council and Porterville Redevelopment Agency adjourned at 8:26 p.m. to a meeting of the Porterville City Council.

Mayor McCracken recused himself due to a conflict of interest and left the Chambers.

SCHEDULED MATTERS

FINDING THAT THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1 CONFORMS TO THE PORTERVILLE GENERAL PLAN, CONSIDERING THE DRAFT ENVIRONMENTAL IMPACT REPORT PREPARED FOR THE 2010 AMENDMENT, AND RECOMMENDING APPROVAL AND ADOPTION OF THE 2010 AMENDMENT

Recommendation: That the Planning Commission adopt the Draft Resolution which makes a finding that the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No.1 is in conformance with the City of Porterville General Plan, and after considering the draft Environmental Impact report prepared in connection therewith, recommends to the Porterville Redevelopment Agency and the Porterville City Council that the 2010 Amendment be adopted.

City Manager Lollis introduced the item, and Community Development Director Dunlap presented the staff report.

A discussion ensued with regard to changes of land use designation and the processes such a matter would be subject to. In response to Council’s concern, staff indicated that it was more likely that a request for a change in land use designation would come from a landowner than the City.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Resolution 35-2010 Member Felipe Martinez that the City Council, acting as the Planning Commission adopt the Draft Resolution which makes a finding that the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No.1 is in conformance with the City of General Plan, and after considering the draft Environmental Impact report prepared in connection therewith, recommends to the Porterville Redevelopment Agency and the Porterville City Council that the 2010 Amendment be adopted.

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

Disposition: Approved

Mayor McCracken returned to the Council Chambers.

The Council recessed for ten minutes.

Council Member Hamilton advised that during the recess, it came to light that his business address fell within the proposed amended Redevelopment Area which thereby created a conflict of interest. He advised that upon the City Attorney’s recommendation, he should have abstained from the discussion and vote of Redevelopment Items PRA 01, PRA-02, and Item 23. City Attorney Lew then recommended that the City Council rescind its action on said items, and reconsider them with
Council Member Hamilton abstaining.

The City Council adjourned at 8:45 p.m. to a Joint Meeting of the City Council and the Porterville Redevelopment Agency.

**JOINT CITY COUNCIL/REDEVELOPMENT AGENCY MINUTES**

*April 6, 2010*

Roll Call: Agency Member Hamilton, Agency Member Pedro Martinez, Agency Member Felipe Martinez, Vice-Chairman Ward, Chairman McCracken

Agency Member Hamilton and Chairman McCracken noted conflicts of interest, recused themselves and exited the Council Chambers.

**COUNCIL/AGENCY ACTION:**

*MOVED by Council Member/Agency Member Felipe Martinez, SECONDED by Vice Mayor/Vice-Chairman Ward that the Council/Agency rescind the previous action taken that evening on Items PRA-01, PRA-02 and No. 23.*

**AYES:** P. Martinez, F. Martinez, Ward

**NOES:** None

**ABSTAIN:** Hamilton, McCracken

**ABSENT:** None

Disposition: Approved.

**SCHEDULED MATTERS**

**PRA-01.** AUTHORIZATION TO CONDUCT A JOINT PUBLIC HEARING OF THE CITY OF PORTERVILLE CITY COUNCIL AND THE PORTERVILLE REDEVELOPMENT AGENCY IN CONNECTION WITH THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE ENVIRONMENTAL IMPACT REPORT PREPARED FOR THE PROJECT; AUTHORIZATION TO PROVIDE NOTICE OF THE HEARING; AUTHORIZATION TO TRANSMIT DRAFT AMENDED PLAN TO THE PLANNING COMMISSION

**COUNCIL ACTION:**

*MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council adopt draft Resolution consenting to a joint public hearing with the Porterville Redevelopment Agency in connection with the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1 and Environmental Impact Report prepared for the Project and directing notification of the same.*

**AYES:** P. Martinez, F. Martinez, Ward

**NOES:** None
ABSTAIN: Hamilton, McCracken
ABSENT: None

AGENCY ACTION: MOVED by Agency Member Pedro Martinez, SECONDED by Agency Member Felipe Martinez that the Redevelopment Agency adopt the draft Resolution consenting to a joint public hearing with the Porterville Redevelopment Agency in connection with the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No.1 and Environmental Impact Report prepared for the Project and directing notification of the same; and direct Staff to transmit the proposed amended Redevelopment Plan for the Porterville Redevelopment Project No. 1 to the Porterville Planning Commission to the General Plan.

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

Disposition: Approved


AGENCY ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the Agency adopt the draft Resolution and, thereby, put into effect for the proposed Added Territory to the Porterville Redevelopment Project No. 1, the existing Participation Rules and Relocation Guidelines for the Project.

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

Disposition: Approved

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council, acting as the Planning Commission adopt the Draft Resolution which makes a finding that the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No.1 is in conformance with the City of Porterville General Plan, and after considering the draft Environmental Impact report prepared in connection therewith, recommends to the Porterville Redevelopment Agency and the Porterville City Council that the 2010 Amendment be adopted.

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

Disposition: Approved

The Joint Meeting of the City Council and Porterville Redevelopment Agency adjourned at 8:48 p.m. to a Meeting of the Porterville City Council.

Mayor McCracken and Council Member Hamilton returned to the Council Chambers.

The Council requested that staff introduce Item 19 next so as to accommodate the large number of people in the audience present for that particular item.

PUBLIC HEARINGS

Recommendation: That the Council conduct the continued public hearing and consider the finding of the Transaction and Use Tax Oversight Committee that the 2008-2009 Measure “H” expenditures were “non-consistent” with the adopted 2008-2009 Measure “H” Expenditure Plan.

City Manager Lollis introduced the item, and Administrative Services Manager/Chief Deputy City Clerk Patrice Hildreth presented the staff report. During her staff report presentation she indicated that the City Clerk’s Office had received the final report from the committee and a dissenting opinion from one of its members following agenda book compilation.

The public hearing was opened at 8:52 p.m.

- Gregory Gillett, Chair of TUTOC, spoke of the efforts of committee members; requested that the three minute rule be waived and issues be discussed that evening; and presented the findings of
the committee.

A discussion ensued between Council Member Hamilton and Mr. Gillett regarding the interpretation of the ballot language and Ordinance 1684 as it pertained to the committee’s findings.

- Rick McIntire, 31862 Country Club Drive, TUTOC member, spoke of the committee’s findings and of the charge of the committee.

- Bob Davis, 450 W. Morton Ave., spoke in support of the committee’s finding of “non-consistent”, and cautioned the Council of proceeding down a “slippery slope”.

- Rodney Martin, 146 S. Villa Street, suggested that there was a conflict between the “plain language” on the ballot measure and the “legalese” language of the Ordinance.

- Jonelle Webb, Terra Bella, suggested that voters didn’t fully understand what they voted on, and stated that the Council should not use Measure H monies for a dog kennel.

- Greg Shelton, address on record, TUTOC member, spoke in support of the committee’s finding of “non-consistent”; suggested that voters do not read all the ballot information; and urged the Council to spend tax monies judiciously.

- Barry Caplan, Porterville, addressed Mr. Shelton’s comments about voters not reading the information.

- Case Lok, 1150 Greenfield, requested permission to make a Powerpoint presentation, which was denied.

- Angela Vera, Pearson Drive, Porterville Animal Control Volunteer Group, spoke in favor of the use of Measure H funds for animal control services.

- Nikki Edwards, 13096 Road 208, spoke in support of animal control services and the use of Measure H funds.

- Dick Eckhoff, address on record, TUTOC member, spoke in support of the Council’s ability to amend the spending plan and expenditures as stated in Ordinance 1684; spoke about the charge of the oversight committee; and spoke in favor of the expansion of public safety services.

- Lorna, address not given, indicated that she was a volunteer and spoke in favor of an animal shelter in Porterville.

- Barry Caplan, stated that he was available for questions from the Council.

- Catherine May, Porterville, Library Board member, spoke in support of use of Measure H funds for public safety and literacy, including animal control and the library; and spoke in opposition of the TUTOC’s finding of inconsistency with expenditures relative to library planning.
Eddie Hernandez, 2110 W. Garden Lane, spoke in support of the Council’s ability to amend the spending plan and expenditures.

Gregory Gillett, Chair of TUTOC, reiterated the Committee’s findings, and thanked those individuals that spoke for their comments.

The public hearing closed at 10:16 p.m.

The Council recessed for ten minutes.

The Council first addressed the TUTOC’s finding regarding the Public Safety Building. Council Members Hamilton and Felipe Martinez stated that they did not agree to the findings, and Vice Mayor Ward indicated that he agreed with TUTOC that the Public Safety Building should not be fully funded by Measure H.

Council Member Hamilton made a motion, which was seconded by Council Member Felipe Martinez, to overturn the committee’s findings regarding the Public Safety Building.

Mayor McCracken noted that Measure H was not funding all of police and fire facilities. He added that although Measure H funds had been used to acquire land for the proposed Public Safety Building, the funds had not been used to acquire all land for public safety use.

Vice Mayor Ward requested that the motion be amended to overturn the finding of “non-consistent”, relative to the Public Safety Building, but affirm their finding that 100% of funding should not come from Measure H for the project. The amendment died for lack of a second.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council overturn the TUTOC’s finding of “non-consistent” concerning the Public Safety Building.

<table>
<thead>
<tr>
<th>AYES</th>
<th>Hamilton, P. Martinez, F. Martinez, McCracken</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOES</td>
<td>Ward</td>
</tr>
<tr>
<td>ABSTAIN</td>
<td>None</td>
</tr>
<tr>
<td>ABSENT</td>
<td>None</td>
</tr>
</tbody>
</table>

Council Members Hamilton and Felipe Martinez spoke in favor of the use of funds for animal control as it relates to public safety. Vice Mayor Ward indicated that he had a problem with the use of funds for capital projects.

**COUNCIL ACTION:** MOVED by Council Member Felipe Martinez, SECONDED by Council Member Hamilton that the City Council overturn the TUTOC’s finding of “non-consistent” relative to the Animal Control Facility land purchase and design.

<table>
<thead>
<tr>
<th>AYES</th>
<th>Hamilton, P. Martinez, F. Martinez, McCracken</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOES</td>
<td>Ward</td>
</tr>
</tbody>
</table>
The Council discussed the interpretation of literacy and means of measuring the success and accomplishments of literacy programs and activities. It was suggested by Council Member Felipe Martinez that the city school districts assist in the development of standards or means of measuring improvements in literacy.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Ward that the City Council sustain TUTOC’s finding of “non-consistent” regarding Library Planning/Consultant.

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

The Council clarified that the personnel in question was a fire investigator and not a fire inspector.

TUTOC members, Gillett and McIntire communicated the committee’s recommendation to develop a policy regarding personnel.

TUTOC member Eckhoff spoke in support of the Council’s ability to hire new personnel.

TUTOC member Shelton communicated his concern regarding supplanting through the promotion of current employees to newly created positions.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council overturn TUTOC’s finding of “non-consistent” regarding personnel that serve general purposes.

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

The Council discussed the capital improvements in question.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council overturn the TUTOC’s finding of “non-consistent” with regard to capital remodel improvement expenditures, and that the Council revisit the issue during budget review. The motion carried unanimously.

Council Member Hamilton inquired about the amount of money in Measure H, and suggested that the tax be lowered.
Council Members Hamilton and Felipe Martinez recused themselves due to conflicts of interests relative to Item No. 18, and exited the Chambers.

18. VACATION OF A PORTION OF H STREET AND KESSING STREET BETWEEN OAK AVENUE AND THE PORTER SLOUGH

Recommendation: That City Council:
1. Adopt the Resolution of Vacation, including reservations, for a portion of H Street and Kessing Street between Oak Avenue and the Porter Slough; and
2. Authorize the City Clerk to record the Resolution of Vacation.

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

The public hearing was opened at 11:26 p.m.

- Julie Phillips, Provost & Prichard Consulting, representing Sierra View District Hospital, informed the Council that she was available for questions.
- Michael Nelson, Darden Architects, representing SVDH, presented slides which illustrated the proposed expansion, and stated that he was available for questions.

A discussion ensued regarding pedestrian access, and it was communicated that the hospital would consider a pedestrian gate in addition to the driveway access if the Council desired.

Council Member Pedro Martinez disclosed that his wife’s employer was located across the street from the hospital. City Attorney Lew advised that he was not conflicted out of the item.

- Bruce Peterson, Sierra View District Hospital, read a statement regarding the history and planned growth of SVDH.
- Ian Parks, indicated that he was representing the company who prepared the traffic study and was available for questions.
- Dick Eckhoff, address on record, spoke in support of the vacation and of the expansion of SVDH.
- Ken Lansford, spoke in opposition of the vacation of Kessing Street; added that the vacation would conflict with the City’s General Plan; and presented a petition of residents who were also opposed to the vacation.
Greg Shelton, 888 N. Williford Drive, suggested that the vacation be delayed and a dedication be considered; communicated his concerns regarding traffic; and commented on SVDH’s efforts to “do right” by its neighbors.

The public hearing was closed at 11:53 p.m.

Community Development Director Brad Dunlap addressed Mr. Lansford’s comments, stating that the vacation would not inherently oppose the General Plan.

There was some discussion regarding the effect that growth could have on pedestrian access, and whether provisions or conditions could be added to the resolution to accommodate pedestrians.

Bruce Peterson, SVDH, expressed concern regarding the security of the vehicles within the parking lot, but indicated that they would comply with the conditions set forth by the Council.

The Public Works Director indicated that a condition could be added requiring a pedestrian access from Oak to Putnam, separate from the driveway.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Vice Mayor Ward that the City Council adopt the Resolution of Vacation, including reservations, for a portion of H Street and Kessing Street between Oak Avenue and the Porter Slough, as amended to add language to the Exceptions and Reservations to require pedestrian access from Oak to Putnam, separate from the driveway; and authorize the City Clerk to record the Resolution of Vacation.

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

Disposition: Approved, as amended.

25. COUNCIL MEMBER REQUESTED AGENDA ITEM – DISCUSSION OF FIREWORKS ORDINANCE

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

Joann Berra, 2561 W. Cheryl, spoke against new provisions and of time constraints.

City Attorney Lew advised that the Council have an item scheduled for the next meeting to allow for action.

Chief Garcia and an unidentified individual spoke elaborated on the requirements and steps taken to secure a booth for fireworks sales.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council
M.O. 20-040610 Member Felipe Martinez that the City Council schedule a public hearing at
the next regular scheduled meeting for reconsideration. The motion carried unanimously.

Disposition: Public Hearing scheduled.

20. REVIEW OF DEVELOPMENT IMPACT FEES AND ANNUAL ADJUSTMENTS
Pursuant to Attached Schedules

Recommendation: That the City Council:
1. Hold the public hearing and consider all public testimony;
2. Approve the scheduled adjustments as set forth in the attachments; and
3. Approve that the public hearing process be held in December of each year in conjunction with the City’s annual review of the development related fees.

City Manager Lollis introduced the item, and Public Works Director Baldo Rodriguez presented the staff report.

The public hearing was opened at 12:37 p.m.

Bob Keenan, President of Homebuilders Association, requested that fees not be increased.

The public hearing was closed at 12:42 p.m.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Vice Mayor Ward that the City Council suspend the fee increase for one year, and directed staff to bring back resolutions for approval on Consent Calendar.

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

Disposition: Approved

21. CONDITIONAL USE PERMIT 03-2010 AND DESIGN OVERLAY SITE REVIEW 02-2008, MODIFICATION NO. 1 TO ALLOW FOR THE DEVELOPMENT OF A DRIVE THROUGH CAR WASH WITH SELF SERVE VACUUMS, ON THE SOUTHEAST CORNER OF WEST SPRINGVILLE AVENUE AND SOUTH JAYE STREET

Recommendation: That the City Council:
1. Adopt the draft resolution subject to conditions of approval of Conditional Use Permit 03-2010; and
The City Manager introduced the item, and Assistant Planner Jenni Byers presented the staff report.

The public hearing opened at 12:52 a.m.

- Fred Scott, representing the applicant, stated that he was available for questions from the Council.

The public hearing closed at 12:53 a.m.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Vice Mayor Ward that the City Council adopt the draft resolution subject to conditions of approval of Conditional Use Permit 03-2010; and adopt the draft resolution approving Design “D” Overlay Site Review 02-2008, Modification No. 1. The motion carried unanimously.

Disposition: Approved

22. CONSIDERATION OF INITIATION OF PRELIMINARY PROCEEDINGS FOR ANNEXATION NO. 473, ADOPTION OF A NEGATIVE DECLARATION FOR THE PROJECT AND CONSIDERATION OF TENTATIVE SUBDIVISION MAP 1-2010 (COTTAGE ESTATES)

Recommendation: That the City Council:
1. Adopt the draft resolution approving the Negative Declaration for Annexation 473 and Tentative Subdivision Map 1-2010;
2. Adopt the draft resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo; and
3. Adopt the draft resolution for Tentative Subdivision Map 1-2010 subject to conditions of approval.

City Manager Lollis introduced the item, and Associate Planner Jose Ortiz presented the staff report.

A brief discussion ensued regarding the inclusion of an additional 120 acres, and staff advised that there was a chance that LAFCo may direct them to do so.

The public hearing opened at 1:02 a.m.

- Donna Shamly, Roberts Engineering, spoke in favor of approval, and stated that she was available for questions from the Council.

The public hearing closed at 1:04 a.m.
Council Member Pedro Martinez made a motion to approve staff’s recommendation. Council Member Hamilton offered a friendly amendment to include the additional 120 acres, which was accepted by Council Member Pedro Martinez.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council adopt the draft resolution approving the Negative Declaration for Annexation 473 and Tentative Subdivision Map 1-2010; adopt the draft resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo; and adopt the draft resolution for Tentative Subdivision Map 1-2010, subject to conditions of approval, as amended to modify the island to include the additional 120 acres and 6.6 acres.

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

Disposition: Approved

24. CONSIDERATION OF TRANSACTION AND USE TAX OVERSIGHT COMMITTEE APPOINTMENT

Recommendation: That the City Council:
1. Direct staff to continue consideration of the appointment of an individual to fill the unexpired term of Mr. Josef Guerrero to the next regular meeting; or
2. Appoint an individual to serve the unexpired term of Mr. Josef Guerrero.

City Manager Lollis introduced the item, and Administrative Services Manager/Chief Deputy City Clerk Patrice Hildreth presented the staff report.

The Council directed staff to continue consideration of the appointment to fill the unexpired term with the five additional seats due to expire at the next regular meeting.

Disposition: Item continued.

ORAL COMMUNICATIONS
None

OTHER MATTERS
- Council Member Felipe Martinez invited all to Music on Main Street on Friday.
- Council Member Pedro Martinez tendered his resignation from the City Council, effective immediately, spoke of his appreciation in serving the residents of Porterville, and thanked the Council and staff for their assistance and support.
- Council Member Hamilton lauded Council Member Martinez achievements and
thanked him for his service.

- Council Member Felipe Martinez noted Council Member Martinez’s work with the youth and thanked him for his service.

**ADJOURNMENT**

The Council adjourned at 1:16 a.m. to the meeting of April 20, 2010 at 6:00 p.m.

______________________________
Luisa Herrera, Deputy City Clerk

SEAL

______________________________
Pete V. McCracken, Mayor