CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
APRIL 19, 2011, 5:30 P.M.

Call to Order at 5:30 p.m.
Roll Call: Council Member Ward, Vice Mayor Hamilton, Council Member Shelton, Council Member McCracken, Mayor Irish

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

JOINT CITY COUNCIL/PORTERVILLE REDEVELOPMENT AGENCY MINUTES
291 N. MAIN STREET, PORTERVILLE, CA

Roll Call: Agency Member Ward, Vice Chairman Hamilton, Agency Member Shelton, Agency Member McCracken, Chairman Irish

ORAL COMMUNICATIONS
None

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

CITY COUNCIL CLOSED SESSION:
B. Closed Session Pursuant to:
2- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation – Claim filed by Theresa Breckenridge in the amount of $3,000 for personal injuries claimant allegedly sustained while she was a passenger on a City transit bus on March 18, 2011.
3- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation – Claim filed by John Almanza in the amount of $230 for damages to claimant’s vehicle’s rim and tire allegedly sustained when he struck a pothole while driving on West Olive Avenue on March 20, 2011.
4- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation – Claim filed by Mathew Nanamura in the amount of $750.00 for damages claimant’s vehicle allegedly sustained when it was struck by a City refuse truck while it was parked at 700 North Palm Place on March 8, 2011.
5- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated
Litigation – Significant Exposure to Litigation – Claim filed by Engelbert Cabeje in the amount of $1,222.52 for alleged damages to claimant’s vehicle which claimant attributes to repeated travel over poor road conditions near the railroad tracks on North Grand Avenue.

6- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation – Claim filed by Ramon A. Ceballos in the amount of $2,100 for personal injuries allegedly sustained on December 11, 2010 when a City transit bus on which claimant was traveling was involved in an accident at the intersection of Indiana Street and Morton Avenue.

7- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation – One case pertaining to Development Impact Fees associated with property owned by Mary McClure at 821 E. Putnam.

8- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation – One Case.

During Closed Session, the Joint City Council/Porterville Redevelopment Agency Meeting adjourned to a Meeting of the Porterville City Council.

6:30 P.M. RECONVENE OPEN SESSION
REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

Deputy City Attorney Steve Kabot reported on the following action taken by the Council:

Item B2: GOVERNMENT CODE SECTION 54956.9(B) – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – SIGNIFICANT EXPOSURE TO LITIGATION – CLAIM FILED BY THERESA BRECKENRIDGE IN THE AMOUNT OF $3,000 FOR PERSONAL INJURIES CLAIMANT ALLEGEDLY SUSTAINED WHILE SHE WAS A PASSENGER ON A CITY TRANSIT BUS ON MARCH 18, 2011.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton, the Council reject the claim filed by Theresa Breckenridge in the amount of $3,000 for personal injuries claimant allegedly sustained while she was a passenger on a City transit bus on March 18, 2011.

AYES: Shelton, McCracken, Hamilton, Irish
NOES: None
ABSTAIN: None
ABSENT: Ward

Disposition: Approved.

Item B3: GOVERNMENT CODE SECTION 54956.9(B) – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – SIGNIFICANT EXPOSURE TO LITIGATION – CLAIM FILED BY JOHN ALMANZA IN THE AMOUNT OF $230 FOR DAMAGES TO CLAIMANT’S VEHICLE’S RIM AND TIRE ALLEGEDLY SUSTAINED WHEN HE STRUCK A POTHOLE WHILE DRIVING ON WEST OLIVE AVENUE ON MARCH 20, 2011.
COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council reject the claim filed by John Almanza in the amount of $230 for damages to claimant’s vehicle’s rim and tire allegedly sustained when he struck a pothole while driving on West Olive Avenue on March 20, 2011.

AYES: Shelton, McCracken, Hamilton, Irish
NOES: None
ABSTAIN: None
ABSENT: Ward

Disposition: Approved.

Item B4: GOVERNMENT CODE SECTION 54956.9(B) – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – SIGNIFICANT EXPOSURE TO LITIGATION – CLAIM FILED BY MATHEW NANAMURA IN THE AMOUNT OF $750.00 FOR DAMAGES CLAIMANT’S VEHICLE ALLEGEDLY SUSTAINED WHEN IT WAS STRUCK BY A CITY REFUSE TRUCK WHILE IT WAS PARKED AT 700 NORTH PALM PLACE ON MARCH 8, 2011.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council reject the claim filed by Mathew Nanamura in the amount of $750.00 for damages claimant’s vehicle allegedly sustained when it was struck by a City refuse truck while it was parked at 700 North Palm Place on March 8, 2011.

AYES: Shelton, McCracken, Hamilton, Irish
NOES: None
ABSTAIN: None
ABSENT: Ward

Disposition: Approved.

Item B5: GOVERNMENT CODE SECTION 54956.9(B) – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – SIGNIFICANT EXPOSURE TO LITIGATION – CLAIM FILED BY ENGELBERT CABEJE IN THE AMOUNT OF $1,222.52 FOR ALLEGED DAMAGES TO CLAIMANT’S VEHICLE WHICH CLAIMANT ATTRIBUTES TO REPEATED TRAVEL OVER POOR ROAD CONDITIONS NEAR THE RAILROAD TRACKS ON NORTH GRAND AVENUE.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council reject the claim filed by Engelbert Cabeje in the amount of $1,222.52 for alleged damages to claimant’s vehicle which claimant attributes to repeated travel over poor road conditions near the railroad tracks on North Grand Avenue.
AYES: Shelton, McCracken, Hamilton, Irish
NOES: None
ABSTAIN: None
ABSENT: Ward

Disposition: Approved.

Item B6: GOVERNMENT CODE SECTION 54956.9(B) – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – SIGNIFICANT EXPOSURE TO LITIGATION – CLAIM FILED BY RAMON A. CEBALLOS IN THE AMOUNT OF $2,100 FOR PERSONAL INJURIES ALLEGEDLY SUSTAINED ON DECEMBER 11, 2010 WHEN A CITY TRANSIT BUS ON WHICH CLAIMANT WAS TRAVELING WAS INVOLVED IN AN ACCIDENT AT THE INTERSECTION OF INDIANA STREET AND MORTON AVENUE.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council reject the claim filed by Ramon A. Ceballos in the amount of $2,100 for personal injuries allegedly sustained on December 11, 2010 when a City transit bus on which claimant was traveling was involved in an accident at the intersection of Indiana Street and Morton Avenue.

AYES: Shelton, McCracken, Hamilton, Irish
NOES: None
ABSTAIN: None
ABSENT: Ward

Disposition: Approved.

Pledge of Allegiance Led by Council Member Brian Ward
Invocation – a moment of silence was observed.

PROCLAMATIONS
Cinco de Mayo Week, April 28 – May 5, 2011
Arbor Day – April 29, 2011
Letter Carriers Food Drive Day – May 14, 2011

PRESENTATIONS
Fire Station No. 2 Regional Training Facility

REPORTS
- Council Member Ward 1) spoke of his attendance at the recent Step Up meeting and thanked Parks & Leisure Services Director Milt Stowe for his assistance with the flyer; 2) made mention of the recent Sesquicentennial Committee meeting; and 3) lauded the Iris Festival to which he wore Civil War era clothing to promote the Sesquicentennial celebration.
• Council Member Shelton spoke of his attendance at the following events: 1) Indian Gaming Local Community Benefit Committee meeting at which the City was awarded $325,000; 2) PUSD’s Pathways presentation at Nuckols Ranch; 3) Mothers of Preschoolers Dinner; 4) Fishing Derby; 5) Recorder’s Town Talk; 6) Chamber Mixer at Galaxy Theater; 7) Tea Party Rally; 8) Music on Main Street; 9) Gleaners Breakfast; and 10) Iris Festival.

• Vice Mayor Hamilton advised of the City’s award of funds through the Indian Gaming Local Community Benefit Committee; 2) conveyed a challenge made by Jerry Hall to the Council Members to participate in the parade for the Springville Rodeo; and 3) lauded the hard work of Donnette Silva Carter and the Chamber in making this year’s Iris Festival a success.

• Mayor Irish thanked the Chamber for another successful Iris Festival and noted that approximately 30,000 people had attended the event.

ORAL COMMUNICATIONS

• Mary McClure, noted Closed Session Item B7, and voiced concern regarding development fees associated with her property at 821 E. Putnam.

• Nikki Edwards, spoke of the successful dog adoption held at the Iris Festival, and urged the City to continue temperament testing of dogs.

• Amy Graybehl, a 2011 Leadership Porterville Class Member and Sierra View District Hospital employee, introduced herself to the Council, and promoted the upcoming Corporate Games fundraiser.

CONSENT CALENDAR

Items 2, 3, 6, 7, 8, 9, 10 and 11 were removed for further discussion.

1. CITY COUNCIL MINUTES OF JULY 27, 2010


Documentation: M.O. 06-041911
Disposition: Approved.

4. AWARD OF CONTRACT – DEMOLITION PROJECT – JAYE STREET RESIDENTIAL UNIT

Recommendation: That the City Council:
1. Award the Demolition Project – Jaye Street Residential Unit to Housely Demolition Company in the amount of $4,791.65;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs and $2,500.00 for construction management.

Documentation: M.O. 07-041911
Disposition: Approved.
5. ACCEPTANCE OF PROJECT – WASTE WATER TREATMENT FACILITY HVAC REPLACEMENT PROJECT

Recommendation: That the 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. 08-041911
Disposition: Approved.

12. EXTENDED HOURS FOR CITY TRANSIT SERVICE TO ACCOMMODATE STEP UP GANG CONFERENCE

Recommendation: That the City Council allow the extended hours for transit on May 5, 2011 in support of the ‘Step Up Conference.’

Documentation: M.O. 09-041911
Disposition: Approved.

13. REVIEW OF LOCAL EMERGENCY STATUS

Recommendation: That the City Council:
1. Receive the status report and review of the designated local emergency; and
2. Pursuant to the requirements of Article 14, Section 8690 of the California Emergency Services Act, determine that a need exists to continue said local emergency designation.

Documentation: M.O. 10-041911
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council approve Item Nos. 1, 4, 5, 12 and 13. The motion carried unanimously.

2. BUDGET ADJUSTMENT FOR THE 2010/2011 FISCAL YEAR

Recommendation: That the City Council approve the draft budget adjustment, and authorize staff to modify revenue and expenditure estimates as described on the schedule provided.

City Manager Lollis presented the item, which was removed from the Consent Calendar at the request of Council Member Ward.
Mayor Irish noted a financial conflict of interest, in that he does business with the Tule River Tribe, recused himself from the discussion, and exited the Council Chambers.

Council Member Ward voiced concern with using reserves to fund the event, and proposed that carryover from the Fiscal Year 2010/2011 budget be used.

**COUNCIL ACTION:** MOVED by Council Member Ward, SECONDED by Council Member McCracken that the City Council postpone the item.

AYES: McCracken
NOES: Ward, Hamilton, Shelton,
ABSTAIN: Irish
ABSENT: None

M.O. 11-041911 MOVED by Council Member Shelton, SECONDED by Council Member Ward that the Council approve staff’s recommendation.

AYES: Ward, Hamilton, Shelton, McCracken
NOES: None
ABSTAIN: Irish
ABSENT: None

Disposition: Approved.

3. **AUTHORIZATION TO ADVERTISE FOR BIDS – SPORTS COMPLEX & SKATE PARK LIGHTING PROJECT**

Recommendation: That the City Council:
1. Approve staff’s recommended plans and project manual; and
2. Authorize staff to advertise for bids on the project.

City Manager presented the item that was removed from consent calendar at the request of Council Member Ward, who expressed concern regarding the estimated cost for skate park lighting. A discussion ensued during which it was suggested that the number of lights be reduced to save costs. Concerns were raised by staff who noted because of the geometry of the bowl, four lights were required so as to avoid uncovered areas. Potential liability issues were also raised by staff if the recommendations of the lighting engineer were not followed.

**COUNCIL ACTION:** MOVED by Vice Mayor Hamilton, SECONDED by Council Member McCracken that the Council approve staff’s recommended plans and project manual; and authorize staff to advertise for bids on the project. The motion carried unanimously.

Disposition: Approved.
6. ANNUAL ADJUSTMENT OF FEES BY APPLICATION OF THE ENR COST INDEX

Recommendation: That the City Council suspend the Impact Fees ENR auto escalator for FY 2011/2012.

City Manager Lollis presented the item which was removed from consent calendar by Council Member Shelton. Council Member Shelton lauded staff for the item.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Ward that the Council suspend the Impact Fees ENR auto escalator for M.O. 13-041911 FY 2011/2012. The motion carried unanimously.

Disposition: Approved.

7. INTENT TO SET A PUBLIC HEARING FOR CONCRETE IMPROVEMENT CONSTRUCTION BY THE CITY – JAYE STREET IMPROVEMENTS PROJECT – EASTERLY EXTENSION OF BROWN AVENUE TO GIBBONS AVENUE

Recommendation: That the City Council:
1. Set a Public Hearing for May 3, 2011 to discuss the proposed construction of concrete improvements for the subject project; and
2. Authorize staff to publish the public notice and notify all affected property owners of the Public Hearing.

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton proposed that staff contact property owners via telephone. Staff was directed to call affected property owners in addition to mailed and published notification.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member McCracken that the City Council Public Hearing for May 3, M.O. 14-041911 2011, to discuss the proposed construction of concrete improvements for the subject project; authorize staff to publish the public notice and notify all affected property owners of the Public Hearing via mail and phone call. The motion carried unanimously.

Disposition: Approved, and direction given.

8. A RESOLUTION APPROVING THE APPLICATION FOR STATE OFF-HIGHWAY VEHICLE GRANT FUNDS

Recommendation: That the City Council adopt the draft resolution approving the application for State Off-Highway Vehicle Grant Funds.

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request.
Council Member Shelton indicated that he had pulled the item to inquire about the likelihood of receiving the funds.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor Hamilton that the City Council adopt the draft resolution approving the application for State Off-Highway Vehicle Grant Funds. The motion carried unanimously.

Disposition: Approved.

9. TEA AT THE ZALUD HOUSE

Recommendation: Informational report.

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton took a moment to laud the event, and encouraged attendance.

Disposition: No action required.

10. APPROVAL OF COMMUNITY CIVIC EVENT – WILDPLACES PORTERVILLE RIVER CLEAN UP

Recommendation: That the Council approve the Community Civic Event Application and Agreement submitted by the WildPlaces of Springville, subject to the stated requirements contained in Exhibit ‘A’.

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton spoke favorably about the event.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor Hamilton that the City Council approve the Community Civic Event Application and Agreement submitted by the WildPlaces of Springville, subject to the stated requirements contained in Exhibit ‘A’. The motion carried unanimously.

Disposition: Approved.

11. LICENSE AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND FUNTASTIC ATTRACTIONS FOR THE OPERATION OF A TRACKLESS TRAIN

Recommendation: That the City Council approve the License Agreement between the City of Porterville and Funtastic Attractions.

City Manager Lollis introduced the item, and the staff report was waived at the Council’s
request. Council Member Shelton inquired about Funtastic Attractions availability to operate at the Freedom Fest.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward that the City Council approve the License Agreement between the City of Porterville and Funtastic Attractions. The motion carried unanimously.

Disposition: Approved.

SCHEDULED MATTERS
14. AMENDMENT TO ORDINANCE 1397 – FLOODPLAIN MANAGEMENT ORDINANCE

Recommendation: That the City Council approve and adopt the draft Floodplain Ordinance amending Article XIV: Flood Damage Prevention Code of the City of Porterville Municipal Code; give first reading; and order the Ordinance to print.

City Manager Lollis introduced the item, and the staff report was presented by Public Works Director Baldo Rodriguez. Following the staff report staff addressed questions from the Council regarding flood plain maps and the exemption requested for the area near Monache High School.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the City Council adopt the draft ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 7, ARTICLE XIV: FLOOD DAMAGE PREVENTION CODE OF THE CITY OF PORTERVILLE MUNICIPAL CODE; give first reading; and order the Ordinance to print.

The City Manager read the ordinance by title only.

Disposition: Approved.

The Council recessed for ten minutes.

15. APPROVAL FOR COMMUNITY CIVIC EVENT – LEARNING NETWORK FOUNDATION AND PRIMETIME ENTERTAINMENT – COPA BUDWEISER SOCCER TOURNAMENT

Recommendation: That the City Council approve the Community Civic Event Application and Agreement submitted by the Learning Network Foundation and Primetime Entertainment, with the exception of the Beer Garden, and subject to the stated requirements contained in Exhibit ‘A’ and Exhibit ‘B’.

City Manager Lollis introduced the item, and the staff report was presented by Finance
Director Maria Bemis.

Vice Mayor Hamilton MOVED to approve staff’s recommendation, which was SECONDED by Council Member McCracken.

Staff addressed questions regarding the recommended exception of the Beer Garden and it was proposed that police officers be present for security purposes if a beer garden was allowed.

- Louie Luna, Visalia resident, representing Learning Network Foundation, spoke in favor of the event and addressed concerns regarding the request for a beer garden.
- Angelica Figueroa, representing Primetime Entertainment, spoke regarding the proposed event, possible future events, and expressed a willingness to work with the Council.

**COUNCIL ACTION:** MOVED by Council Member Ward, SECONDED by Vice Mayor Hamilton that the Council amend the main motion to include approval of a Beer Garden, subject to the stated requirements contained in Exhibit ‘A’ and Exhibit ‘B’, and including security by two police officers.

**AYES:** Ward, Shelton, Hamilton, Irish

**NOES:** McCracken

**ABSTAIN:** None

**ABSENT:** None

M.O. 17-041911 MOVED by Vice Mayor Hamilton, SECONDED by Council Member McCracken that the City Council approve the Community Civic Event Application and Agreement submitted by the Learning Network Foundation and Primetime Entertainment, subject to the stated requirements contained in Exhibit ‘A’ and Exhibit ‘B’, as amended to include a beer garden and security as detailed in the staff report. The motion carried unanimously.

**Disposition:** Approved, as amended.

16. COUNCIL MEMBER REQUESTED AGENDA ITEM – CITY MANAGER’S PERFORMANCE EVALUATION

**Recommendation:** Council Member Shelton motions that City Council consider the performance of the City Manager.

City Manager Lollis introduced the item. Council Member Shelton moved that the Council discuss the performance of the City Manager, which was seconded by Council Member Ward.
Deputy City Attorney Kabot then advised that the Council as a whole could not engage in discussion regarding a personnel matter in open session. A brief discussion as to whether the proposed discussion could take place ensued.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Mayor Irish that the City Council continue the item to Closed Session of May 3, 2011.

AYES: Ward, McCracken, Hamilton, Irish
NOES: None
ABSTAIN: Shelton
ABSENT: None

Council Member Shelton left the dais and took a seat in the audience during the vote. The Deputy City Attorney advised that in the absence of a conflict of interest an abstention would count as an affirmative vote. Council Member Shelton returned to the dais and indicated that he wished to change his vote to no.

AYES: Ward, McCracken, Hamilton, Irish
NOES: Shelton
ABSTAIN: None
ABSENT: None

Disposition: Item continued to Closed Session of May 3, 2011.

ORAL COMMUNICATIONS
• Brock Neely, commended Fire Chief Mario Garcia and fire personnel for their accomplishments relative to the Regional Training Facility at Fire Station No. 2.

ADJOURNMENT
The Council adjourned at 8:35 p.m. to the meeting of May 3, 2011 at 5:30 p.m.

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Luisa Herrera, Deputy City Clerk
SEAL

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Ronald L. Irish, Mayor