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

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

JOINT CITYCOUNCIL/PORTERVILLE REDEVELOPMENT AGENCY MINUTES
291 N. MAIN STREET, PORTERVILLE, CA
MAY 17, 2011

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

ORAL COMMUNICATIONS
- Rudy Mendoza, Office of U.S. Representative Devin Nunes, introduced himself to the Council as a field representative and provided information regarding the San Joaquin Valley Water Reliability Act proposed by Congressman Nunes. He also requested Council feedback regarding the proposed legislation.

REDEVELOPMENT AGENCY CLOSED SESSION:
A. Closed Session Pursuant to:
   3- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One Case.

CITY COUNCIL CLOSED SESSION:
B. Closed Session Pursuant to:
Terms and Price.


4- Government Code Section 54956.9(a) – Conference with Legal Counsel – One Case: Maria I. Banuelos v. City of Porterville, Tulare County Superior Court Case No. 11-241341.

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


8- Government Code Section 54957 – Public Employment - Golf Course Manager.

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

6:30 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

City Attorney Julia Lew reported that the following reportable action had taken place:

ITEM B6: MOVED by Council Member Ward, SECONDED by Mayor Irish, the Council unanimously rejected the claim filed by Ms. Monica Cervantez, referred the matter to the City’s insurance adjustor, and directed the City Clerk to give the claimant proper notification.

Documentation: M.O. 01-051711
Disposition: Approved.

ITEM B7: MOVED by Council Member Ward, SECONDED by Mayor Irish, the Council unanimously rejected the claim filed by Ms. Janice Leever, referred the matter to the City’s insurance adjustor, and directed the City Clerk to give the claimant proper notification.

Documentation: M.O. 02-051711
Disposition: Approved.

Pledge of Allegiance Led by Council Member Greg Shelton
Invocation – a moment of silence was observed.

On behalf of the City Council, Vice Mayor Hamilton presented Certificates of Recognition to Mikayla Balangue, Sydney Knight and Shawn Serr for heroic acts, which aided in the rescue of Porterville Neptunites teammate Jacob Jordan, on May 2, 2011.
PRESENTATIONS
Outstanding Business – Hoops Preschool
GRID Alternatives – Porterville High School
Downtown Marketing

During presentations, Mayor Irish acknowledged the following individuals in attendance:

- Past Mayor Ted Ensslin
- Past Mayor Joe Faure
- Past Mayor Judy Gibbons
- Past Mayor Steve Tree
- Tribal Council Member Kevin Bonds
- Tribal Public Relations, Dan Hackey
- Sierra View District Hospital CEO Dennis Coleman

REPORTS
- Council Member Ward reported on his attendance at a StepUp follow-up meeting and indicated that the next StepUp meeting would take place on September 15th.
- Council Member Shelton reported on his attendance at the following events: StepUp on May 5th; First Friday Coffee on May 6th; Music on Main Street on May 6th; Rolling Relics Car Show on May 7th; Boys and Girls Club Graduation on May 9th; Peace Officer’s Memorial in Visalia on May 11th; Sesquicentennial Meeting on May 11th; Groundbreaking at Scranton with the Mayor on May 11th; Sesquicentennial Committee Presentation at the Fairgrounds on May 12th; and a Dedication at Happy Trails in Tulare on May 16th.

ORAL COMMUNICATIONS
- Brock Neely, a Porterville resident, informed the Council that he provided them with a newspaper article for their review, and requested the opportunity to speak on Item 19 during its consideration.

CONSENT CALENDAR
- Item Nos. 3, 5, 7, 9 and 10 were pulled for further discussion.

1. CITY COUNCIL MINUTES OF SEPTEMBER 21, 2010
Recommendation: That the City Council approve the draft Minutes of September 10, 2010.

   Documentation: Minute Order 03-051711
   Disposition: Approved.

2. BUDGET ADJUSTMENT FOR THE 2010-11 FISCAL YEAR
Recommendation: That the City Council approve the proposed budget adjustment, and authorize staff to modify the expenditure estimate as described on the schedule provided in the staff report.
4. AUTHORIZATION TO AWARD CONTRACT FOR PREPARATION OF AN ECONOMIC DEVELOPMENT STRATEGIC PLAN

Recommendation: That the City Council:
1. Authorize staff to negotiate and execute a contract with Chabin Concepts, in an amount not to exceed $90,000,000, for the preparation of an Economic Development Strategic Plan;
2. Authorize staff to negotiate with Applied Development Economics for a contract for the preparation of Economic Development Strategic Plan in the event that negotiations with Chabin Concepts be unsuccessful; and
3. Authorize the Mayor to sign all contract documents.

Documentation: M.O. 04-051711
Disposition: Approved.

6. ACCEPTANCE OF PROJECT – DEMOLITION PROJECT – JAYE STREET RESIDENTIAL UNIT

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. 05-051711
Disposition: Approved.

8. ACCEPTANCE OF IRREVOCABLE OFFER TO CONVEY REAL PROPERTY FOR PUBLIC STREET RIGHTS OF WAY RELATED TO PARCEL NO. 1 OF PARCEL MAP NO. 4996, SPRINGVILLE AVENUE AND JAYE STREET – TOLLADAY FAMILY TRUST, CZEM PARTNERS, LLC AND JLH PROPERTIES, LLC

Recommendation: That the City Council:
1. Accept the Irrevocable Offer of Conveyance of Real Property for Public Street Rights of Way related to Parcel No.1 of Parcel Map No. 4996;
2. Authorize the City Clerk to record a Resolution accepting the offer with the County Recorder’s Office; and
3. Approve $75,406.72 reimbursement to Aztec Mustang, LLC per Public Improvement/Reimbursement Agreement, dated November 28, 2009.

Documentation: Resolution 21-2011
Disposition: Approved.

11. COMMUNITY CIVIC EVENT APPLICATION - LANDMARK CHRISTIAN CENTER - UNCENSORED WORSHIP

Recommendation: That the City Council approves the Community Civic Event Application and Agreement submitted by the Landmark Christian Center, subject to the stated requirements contained in Exhibit ‘A.”

Documentation: M.O. 07-051711
Disposition: Approved.

12. AMENDMENT TO EMPLOYEE PAY AND BENEFIT PLAN

Recommendation: That the City Council approve the draft resolution and authorize the City Manager to execute the modifications.

Documentation: Resolution 23-2011
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. 08-051711
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council approve Item Nos. 1, 2, 4, 6, 8, and 11 through 13. The motion carried unanimously.

3. AWARD OF RECYCLING PROCESSING CONTRACT

Recommendation: That the City Council review the staff’s report and authorize the City to enter into a contract with Pena’s Disposal, pursuant to Request for Proposals 10/11-SR1744.
City Manager John Lollis introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton requested clarification regarding his understanding of the numbers presented, and inquired about the location of the facilities and references.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the City Council authorize the City to enter into a contract with Pena’s Disposal, pursuant to Request for Proposals 10/11-SR1744. The motion carried unanimously.

Disposition: Approved.

5. ACCEPTANCE OF PROJECT – POLICE SHOOTING RANGE

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.

The City Manager introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton lauded the project for being under budget, on time, and completed by a local contractor.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council accept the project as complete; authorize the filing of the Notice of Completion; and authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed. The motion carried unanimously.

Disposition: Approved.

7. ACCEPTANCE OF PROJECT – WASTE WATER TREATMENT FACILITY SPRAYED POLYURETHANE ROOFING PROJECT

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.

The City Manager introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton noted that the project came in under budget and was completed on time, and commended staff.
COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the City Council accept the project as complete; authorize the filing of the Notice of Completion; and authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed. The motion carried unanimously.

Disposition: Approved.

9. ADOPTION OF RESOLUTION FOR THE PURCHASE OF PROPERTY LOCATED AT APN 259-050-025 – MOE PROPERTY

Recommendation: That the City Council:

1. Authorize staff to begin escrow with City paying all escrow fees;
2. Adopt Resolution accepting a Grant Deed from Dorothy Jue Moe;
3. Authorize Staff to make payment to Dorothy Jue Moe, in the amount of $83,804 after completion of escrow;
4. Authorize the Mayor to sign all necessary documents; and
5. Authorize staff to record all documents with the County Recorder.

The City Manager introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton commented that he was pleased with the negotiation results.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council authorize staff to begin escrow with the City paying all escrow fees; adopt the draft resolution accepting a Grant Deed from Dorothy Jue Moe; authorize staff to make payment to Dorothy Jue Moe, in the amount of $83,804 after completion of escrow; authorize the Mayor to sign all necessary documents; and authorize staff to record all documents with the County Recorder. The motion carried unanimously.

Disposition: Approved.

10. ZONE CHANGE – SIERRA VIEW DISTRICT HOSPITAL

Recommendation: That the City Council discontinue processing this rezoning application until such time as the applicant requests to resume the process.

The City Manager introduced the item, and the staff report was waived at the Council’s request. Mayor Irish indicated that he had a conflict of interest and exited the Council Chambers. Council Member Shelton lauded staff for their efforts and handling of the situation.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member McCracken that the City Council discontinue processing the rezoning application until such time as the applicant requests to resume the process.
AYES: Ward, Shelton, McCracken, Hamilton
NOES: None
ABSENT: None
ABSTAIN: Irish

Disposition: Approved.

PUBLIC HEARINGS
14. PUBLIC HEARING TO ADOPT REVISED SIGN CODE

Recommendation: That the City Council:
1. Open the public hearing to receive input on the revised Sign Code; and
2. Continue the public hearing to June 7, 2011.

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

The public hearing was opened at 7:21 p.m and continued to June 7, 2011 when nobody came forward.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council continue the public hearing to June 7, 2011. The motion carried unanimously.

Disposition: Public Hearing continued to June 7, 2011.

The Council recessed for ten minutes.

SCHEDULED MATTERS
15. AUTHORIZATION TO PARTICIPATE IN JOINT POWERS AGREEMENT SUCCESS DAM SEISMIC REMEDIATION PROJECT

Recommendation: That City Council authorize the Mayor to execute the proposed Success Dam Seismic Remediation Agreement.

The City Manager introduced the item, and the Public Works Director presented the staff report.

Council Member McCracken commented that the project had changed since the initial Joint Powers Agreement (JPA), and was now a safety issue and an economic issue.

Council Member Ward spoke of the importance of water conservation, and of the economic importance of Success Lake in drawing tourists to the area.
Council Member Shelton spoke in opposition of throwing money at a project that was not going to happen.

Vice Mayor Hamilton spoke in support of participating in the JPA, and encouraged the Mayor to call for a congressional hearing on the matter.

Mayor Irish spoke against participation until a time when the Army Corps of Engineers was serious about remediation.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council authorize the Mayor to execute the proposed Success Dam Seismic Remediation Agreement.

M.O. 14-051711

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

Disposition: Denied.

16. AUTHORIZATION TO ADVERTISE FOR BIDS – POLICE SHOOTING RANGE IRRIGATION WELL PROJECT

Recommendation: That the City Council:
1. Authorize staff to appropriate $50,000 for this project from the Indian Gaming Grant;
2. Approve staff’s recommended Plans and Project Manual for the Police Shooting Range Irrigation well Project; and
3. Authorize staff to advertise for bids on the project.

The City Manager introduced the item, and the staff report was presented by the Public Works Director.

Following the staff report Council Member Shelton lauded the project and the use of grant funds. Council Member Ward inquired about the use of nitrates.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council authorize staff to appropriate $50,000 for this project from the Indian Gaming Grant; approve staff’s recommended Plans and Project Manual for the Police Shooting Range Irrigation Well Project; and authorize staff to advertise for bids on the project. The motion carried unanimously.

Disposition: Approved.
17. CONSIDERATION OF CITY COUNCIL PROCEDURAL HANDBOOK

Recommendation: That the City Council consider its Procedural Handbook, and give direction as to its modification accordingly.

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

Council Member McCracken made a motion to adopt the Procedural Handbook considered September 5, 2006, including any amendments approved by the Council since that time. The motion was seconded by Vice Mayor Hamilton.

Council Member Shelton offered an amendment to the motion, to include the language, “Any code or rule in this handbook that is in direct conflict with the City of Porterville Charter, State Law, Federal Law, a standing court opinion, the Constitution of the United States or a Council Member’s Oath of Office, and his or her moral or ethical sensibilities shall be considered null and void and need not be adhered to.” A brief discussion ensued regarding the need to include this language.

**COUNCIL ACTION**

MOVED by Council Member Shelton, SECONDED by Vice Mayor Hamilton that the City Council amend the original motion by including “Any code or rule in this handbook that is in direct conflict with the City of Porterville Charter, State Law, Federal Law, a standing court opinion, the Constitution of the United States or a Council Member’s Oath of Office, and his or her moral or ethical sensibilities shall be considered null and void and need not be adhered to.”

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

Council Member Shelton proposed amendments to the handbook, which were considered by the Council one at a time. The first of which pertained to Section II. Meeting Procedures, and the inclusion of, “The Mayor nor any other City Council Member shall ever approach a citizen for the purpose of dissuading that citizen from exercising his First Amendment Rights to address the City Council of any matters which concern him.” Council Member Ward expressed concern with the language, which he felt would limit the Council’s right of free speech.

**COUNCIL ACTION**

MOVED by Council Member Shelton, SECONDED by Vice Mayor Hamilton that the City Council amend Section II. Meeting Procedures by adding “The Mayor nor any other City Council Member shall ever approach a citizen for the purpose of dissuading that citizen from exercising his First Amendment rights to address the City Council of any matters which concern him.”

AYES: Shelton
NOES: Ward, McCracken, Hamilton, Irish

Page 10 of 14
ABSTAIN: None
ABSENT: None

The next amendment proposed by Council Member Shelton again pertained to Section II. Meeting Procedures, and included the addition of “A regularly scheduled and noticed City Council meeting cannot be adjourned by the Mayor prior to the completion of all noticed items, without the consent of the majority of the Council”. Council Member McCracken noted that the presiding officer had the ability to adjourn the meeting, but that the Council already had the right to overrule by a 3/5ths vote.

The Council recessed for ten minutes to allow the City Attorney time to review the City’s Charter. Following the break, City Attorney Lew indicated that the adjournment of a meeting was not covered in the Charter, but was addressed in General Law for Cities and Robert’s Rules of Order.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Vice Mayor Hamilton that the City Council amend Section II. Meeting Procedures by adding, “A regularly scheduled and noticed City Council meeting cannot be adjourned by the Mayor prior to the completion of all noticed items, without the consent of the majority of the Council”.

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

Council Member Shelton then proposed an amendment to Section II. Meeting Procedures, Subsection D, to include the addition of “The Mayor or City Manager shall never conspire so as to limit a citizen or council members exercise of his First Amendment Rights at the podium merely because of the contents of his speech, as long as said speech is not disruptive as in defined in Line E of this section.”

A discussion then ensued during which Council Member Shelton alleged unethical behavior and suggested that an investigation take place. City Attorney Lew noted that the alleged conduct communicated by Council Member Shelton was not illegal, and therefore advised against an investigation. The motion died for lack of a second.

The next amendment proposed by Council Member Shelton consisted of the addition of a Subsection D. to IV. Council Member Requests to Staff, to read “No additions to this section shall be applicable should they be in conflict with the City Charter, State Law, Federal Law or the Constitution of the United States.” Members of the Council noted that the language was present in the Oath of Office. There was discussion with regard to the ability of council members to ask questions of department heads, and when it was necessary to go through the City Manager. City Attorney Lew read Section 67 of the Charter for clarification.
Council Member Shelton restated his amendment in the form of a motion. City Attorney Lew stated that he could propose the addition of this language to the beginning of the handbook, as opposed to Section IV. He then withdrew his motion for that purpose.

**COUNCIL ACTION:** MOVED by Council Member Shelton, SECONDED by Council Member Ward that the City Council amend the Procedural Handbook to include the addition of, “Any code or rule in this handbook that is in direct conflict with the City Charter, State Law, Federal Law, the Constitution of the United States, or the Council Member Oath of Office shall be considered null and void, and not be adhered to.”

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

The Council expressed an interest in seeing the inclusion of appendices, minute orders and amendments incorporated into the draft handbook prior to approval.

**COUNCIL ACTION:** MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council continue the item to next meeting for inclusion of Appendices B and C, minute orders, and amendments. The motion carried unanimously.

Disposition: Item continued to June 2, 2011.

The Council recessed for ten minutes.

18. **COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY COUNCIL TO CONSIDER INCREASING THE USER FEES CHARGED FOR THE MUNICIPAL GOLF COURSE AND MURRY PARK POOL**

Recommendation: Councilman Ward motions that City Council consider increasing the fees charged for play on the Municipal Golf Course and use of the Murry Park Pool.

The City Manager introduced the item. Council Member Ward then expressed his interest in increasing the fees to recoup costs, and suggested that a cost analysis be completed. Council Member McCracken proposed that the Council refer the matter to the Parks and Leisure Services Commission for consideration. Without objection, said direction was given.

Disposition: Item referred to the Parked and Leisure Services Commission.
19. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY COUNCIL TO CONSIDER AUTHORIZING THE ATTENDANCE OF A CITY DELEGATION TO THE “PARENTS ON A MISSION” TRAINING SEMINAR

Recommendation: Councilman Ward motions that City Council consider authorizing the attendance of a City delegation to the “Parents on a Mission” training seminar.

The City Manager introduced the item. Council Member Ward indicated that he would like to postpone the item indefinitely. There was no objection by the Council.

Disposition: Continued indefinitely.

20. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY COUNCIL TO CONSIDER AUTHORIZING THE TRAVEL AND ATTENDANCE OF A CITY DELEGATION TO THE 2011 NATIONAL GANG SYMPOSIUM

Recommendation: Councilman Ward motions that City Council consider authorizing the travel and attendance of a City delegation to the 2011 National Gang Symposium.

The City Manager introduced the item. Council Member Ward expressed his belief that the symposium would be benefit the community and assist in addressing the issue of gangs.

Council Member McCracken noted that many of the sessions occurred simultaneously, and that a delegation of staff would be able to attend more sessions than one individual. The Council discussed which staff should attend the symposium, explored the benefit of having a member of the Council attend, and the estimated travel expenses. Council Member McCracken pointed out that there were a number of sessions regarding literacy and suggested that be considered when selecting staff. The Council concurred that the City Manager should select the staff.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward that the City Council authorize the travel and attendance of Council Member Ward and up to four staff members for the 2011 National Gang Symposium; and authorize the use of Measure H funds for the expenditure.

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

Disposition: Approved.
ORAL COMMUNICATIONS

- Joe Faure, 375 N. E Street, thanked the Public Works Department employees who worked on a sewage backup at his residence last Sunday.

OTHER MATTERS

- Council Member Shelton spoke of various upcoming events, including: a fundraiser for the Imagine Community Arts and Porterville Art Association; a sesquicentennial committee meeting; an event at the Porterville Museum with a WWII P.O.W.; a Step-Up meeting in Goshen. Council Member Shelton then requested that the City purchase new microphones for Council Chambers.
- City Attorney Lew clarified that an item regarding fees for the golf course would need to go to the Parks and Leisure Services Commission.
- Council Member McCracken indicated that he would not be able to make the Consolidated Waste Management Authority (CWMA) meeting, and noted that alternate Council Member Ward was also unable to attend.

  City Attorney Lew advised that the appointment of a temporary alternate to attend the meeting would not meet the criteria for an emergency item because the CWMA could still have the meeting in their absence.

- City Manager Lollis announced that there would be a Golden Guardian exercise on Thursday, May 19th; and notified the Council that a sober grad mailing has been mailed out using the City postage meter, with the postage being paid for by the Lions Club.

ADJOURNMENT

The Council adjourned at 9:30 p.m. to the meeting of May 24, 2011 at 5:30 p.m.

__________________________________________
Luisa Herrera, Deputy City Clerk

SEAL

__________________________________________
Ronald L. Irish, Mayor