Call to Order
Roll Call

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

JOINT CITY COUNCIL/PORTERVILLE REDEVELOPMENT AGENCY AGENDA
291 N. MAIN STREET, PORTERVILLE, CA
NOVEMBER 15, 2011

Roll Call: Agency Members

ORAL COMMUNICATIONS
This is the opportunity to address the City Council and/or Redevelopment Agency on any matter scheduled for Closed Session. Unless additional time is authorized by the Council/Agency, all commentary shall be limited to three minutes.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION:
A. Closed Session Pursuant to:

2- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One case in which facts are not yet known to potential plaintiff.

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

Adjourn to a meeting of the Porterville City Council.

CITY COUNCIL CLOSED SESSION:
B. Closed Session Pursuant to:
1- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: A 30.57 mile line of railroad between Strathmore, CA milepost 268.60 and Jovista, CA milepost 299.17 in Tulare County, particularly that portion of the railroad line within the limits of the City of Porterville. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Union Pacific Railroad Company. Under Negotiation: Terms and Price.

employees.
3- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One Case.
5- Government Code Section 54957 - Performance Evaluation - Title: City Manager.

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

Pledge of Allegiance Led by Mayor Ronald L. Irish
Invocation

PROCLAMATIONS
America Recycles Week
National Family Caregivers Month

PRESENTATIONS
Recognition of Employees with Military Service
Employee of the Month – Mike Hildreth
Outstanding Business

REPORTS
This is the time for all AB 1234 reports; Committee/Commission/Board Reports; Subcommittee Reports; and Information Items and Reports. (Report attached)

ORAL COMMUNICATIONS
This is the opportunity to address the Council on any matter of interest, whether on the agenda or not. Please address all items not scheduled for public hearing at this time. Unless additional time is authorized by the Council, all commentary shall be limited to three minutes.

CONSENT CALENDAR
All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar.

1. City Council Minutes of May 3, 2011; October 18, 2011; and November 1, 2011
2. Airport Lease Renewal – Airway Café
Re: Considering approval of an extension of the Lease Agreement between the City of Porterville and Richard Chilcutt of Porterville, for the restaurant, known as Airway Café, at the Porterville Municipal Airport.
3. CalHome Program Application
Re: Considering approval of a resolution authorizing the submittal of a CalHome Program Funding Application to the California Department of Housing and Community Development.
4. **Emergency Pipe Repair Work at Reclamation Area**  
   Re: An informational report regarding the emergency repair of an above ground effluent pipe located at the reclamation area.

5. **Setting the Public Hearing for the Zoning Map Update**  
   Re: Consideration of the scheduling of a public hearing on December 6, 2011, to consider amending the Zoning Map using the proposed method of public notification.

6. **Cancellation of January 3, 2012 City Council Meeting**  
   Re: Considering approval of the cancellation of the first regular meeting in January 2012.

7. **Review of Local Emergency Status**  
   Re: Reviewing the City’s status of local emergency pursuant to Article 14, Section 8690 of the California Emergency Services Act.

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**A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible**

**PUBLIC HEARINGS**

8. **Conditional Use Permit PRC-2011-11-C and Variance PRC-2011-11-V to Allow for a 100ft High Telecommunications Tower to Locate at 767 Porter Road for Olson Computer Services**  
   Re: Considering approval of draft resolutions approving a conditional use permit and variance for the construction of a 100 foot high telecommunications tower at 676 Porter Road.

**SCHEDULED MATTERS**

9. **Angela Vera Appeal to Remove Valley Oak Tree at Morton Avenue and Pearson Drive**  
   Re: Consideration of an appeal to remove an oak tree located at Morton Avenue and Pearson Drive.

10. **Award of Contract – Repeater Tower Project**  
    Re: Considering awarding contract for the project consisting of the installation of a 100-foot tall self-supporting tower with appropriate footings, new antennas and all other appurtenances required for a fully functional repeater tower.

11. **Authorization of a Ten-Year Development Fee Payment Plan**  
    Re: Considering approval of a resolution adopting a Ten-Year Development Fee Payment Plan for all commercial and industrial business, and affordable housing plans within the City limits.

12. **Review of Itinerant Vendor Regulations**  
    Re: Informational report regarding the City’s current regulations applicable to itinerant merchants/vendors, street vendors, and peddlers.

Adjourn to a meeting of the Porterville Public Financing Authority.
Roll Call: Public Financing Authority

WRITTEN COMMUNICATION

ORAL COMMUNICATIONS

PUBLIC FINANCING SCHEDULED MATTER

PFA-1. Annual Meeting of the Porterville Public Financing Authority
Re: Annual meeting to report on the progress of the Redevelopment Projects being funded by Bond Issue #1 and the refinance of Tax Allocation Bond Projects pursuant to the Porterville Public Financing Authority By-laws.

Adjourn to a meeting of the Porterville City Council.

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION

Any Closed Session Items not completed prior to 6:30 p.m. will be considered at this time.

ADJOURNMENT - to the meeting of December 6, 2011 at 5:30 p.m.

Pursuant to Ordinance No. 1766, the Council Meeting shall adjourn no later than 9:45 p.m., unless otherwise approved by a majority of the Council Members present.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Office of City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City’s website at www.ci.porterville.ca.us.
SUBJECT: SUMMARY REPORT OF RECENT CITY INTERNAL AUDIT COMMITTEE MEETINGS

COMMENT: Over the past couple of months, the City's Internal Audit Committee has met twice to discuss several matters of interest to the Committee (Meeting Agendas attached).

One particular item of interest to the Committee has been the drafting of a policy (attached) to establish City protocols for coordination with the "Measure H" Transaction and Use Tax Oversight Committee (TUTOC), in support of the TUTOC's efficiency and effectiveness. The draft policy will be considered by the TUTOC for review and comment at its next meeting on November 17, 2011, which will then be considered for adoption by the City Council at its regular meeting on December 6, 2011.

Another particular item of interest to the Committee has been the drafting of an Ordinance to recommend to the City Council regarding the establishment of dedicated or allocated Reserves. Reserve Ordinances or Policies from several other municipalities have been considered. It is anticipated that a draft Reserve Ordinance will be presented for consideration by the City Council at its regular meeting on December 20, 2011.

At its last meeting on November 1, 2011, one of the items considered by the Committee was the City's annual financial audit for the 2010/2011 Fiscal Year, which is currently being conducted by the Council's contracted Auditor, Gallina LLP. Although the Audit Committee found no credible suspicion nor evidence of any impropriety in the administration of the City's Housing Programs, the Committee discussed how the Auditor would be asked to speak specifically to their review of the City's Housing Programs and whether there is any justification for a forensic audit, when they make their presentation to the Council regarding the annual financial audit, which should occur at a regular meeting of the Council in February 2012.

ATTACHMENTS: 1. Audit Committee Meeting Agenda: August 30, 2011
2. Audit Committee Meeting Agenda: November 1, 2011
3. Draft Policy for Protocols for Coordination with TUTOC
INTERNAL CITY AUDIT COMMITTEE MEETING AGENDA
LA BARCA CONFERENCE ROOM, CITY HALL
CITY OF PORTERVILLE, CALIFORNIA
TUESDAY, AUGUST 30, 2011 – 2:00 P.M.

Call to Order
Roll Call

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

ORAL COMMUNICATIONS
This is the opportunity to address the Audit Committee on any scheduled matter. Unless additional time is authorized by the Committee, all commentary shall be limited to three minutes per individual and no more than fifteen minutes total.

REPORTS
1. Carryover Business
2. City Attorney
3. City Manager
4. City Finance Director

SCHEDULED MATTERS
1. Approval of Minutes of February 22, 2010 and March 22, 2010

2. Review Auditor’s Credentials, Selection, and Overview of Audit Assignment


4. Review of Existing City Policies with regard to Performance-based Contracts with Third parties; Inter alia Negotiations of Contracts, Annual Reports or Evaluation Audit Procedures, and Development of Recommendations for City Council Action.

5. Consideration of Recommending Policy to the City Council Regarding the Establishment of Dedicated or Allocated Reserves for Selected Categories of City Assets for Maintenance, Repair, Rehabilitation, or Replacement of Infrastructure

6. Review and Accounting of Expenditures for Community Event Appropriations Approved by the City Council in the 2010-2011 Fiscal Year or Other City Expenditures of Money, Time, or Support for, but not limited to parades and community civic events.
7. Review of Use of Library Community Room for Activities Other than City Activities

8. Future Agenda Items

OTHER MATTERS

ADJOURNMENT

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INTERNAL CITY AUDIT COMMITTEE MEETING AGENDA
LA BARCA CONFERENCE ROOM, CITY HALL
CITY OF PORTERVILLE, CALIFORNIA
TUESDAY, NOVEMBER 1, 2011 – 3:00 P.M.

Call to Order
Roll Call

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

ORAL COMMUNICATIONS
This is the opportunity to address the Audit Committee on any scheduled matter. Unless additional time is authorized by the Committee, all commentary shall be limited to three minutes per individual and no more than fifteen minutes total.

REPORTS
City Attorney
City Manager
City Finance Director

SCHEDULED MATTERS
1. Approval of Minutes of August 30, 2011

Carryover Business
2. Review of Draft Policy for Transactions and Use Tax Oversight Committee

3. Review of Existing City Policies Concerning Tracking, Identifying, and Reporting of Potential Conflicts of Interest of Elected Officials, Appointed Officials, and City Employees and Development of Recommendations for the City Council

4. Review of Existing City Policies with regard to Performance-based Contracts with Third parties; Inter alia Negotiations of Contracts, Annual Reports or Evaluation Audit Procedures, and Development of Recommendations for City Council Action.

5. Consideration of Recommending Policy to the City Council Regarding the Establishment of Dedicated or Allocated Reserves for Selected Categories of City Assets for Maintenance, Repair, Rehabilitation, or Replacement of Infrastructure

New Business
6. Discussion Regarding Housing Programs

7. Future Agenda Items
OTHER MATTERS

ADJOURNMENT

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CITY OF PORTERVILLE

PROTOCOLS FOR COORDINATION WITH

TRANSACTION AND USE TAX OVERSIGHT COMMITTEE

AND IMPLEMENTATION OF RESOLUTION NO. 24-2006

Committee Meetings

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

Committee Requests for Records

Committee requests for written public records and existing documentation from the City, if made in writing by the Chairman to the City Clerk, shall be complied with within 5 business days of receipt by the Clerk. The Clerk shall make copies for each Committee member, or less if specified by the Chairman, and shall have the copies available for pick up by the Chairman/Committee members at the Clerk’s office. If the Committee requests information that requires compilation, data-gathering, or other preparation involving a significant amount of time by the City Clerk or other staff, the City Clerk shall comply with the request within 14 days, or shall forward the request to the City Council for consideration/approval if a longer time period within which to comply is required. Notwithstanding the above, one set of the City’s adopted budget shall be provided to the Committee annually on or before July 1 of each year, and one set of the City’s revenue and expenditure report for the prior fiscal year shall be provided to the Committee annually on or before October 31 of each year. Furthermore, the City will accept and comply with any standing written requests received by the Committee.
Reports

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

The City Council shall set the public hearing for the next regularly scheduled City Council meeting that occurs after at least 10 days public notice is given (published at least one time at least 10 days in advance of the hearing). In no case shall the public hearing be held more than 30 days from that date the item was initially brought to the City Council. At the conclusion of the public hearing, the City Council shall consider and take whatever action it believes is necessary and appropriate to correct any issues the Council concurs are inconsistent.
Call to Order at 5:30 p.m.
Roll Call: Council Member Ward, Vice Mayor Hamilton, Council Member Shelton, Council Member McCracken, Mayor Irish

ORAL COMMUNICATIONS
None

CITY COUNCIL CLOSED SESSION:
A. Closed Session Pursuant to:
   3- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One claim – Tina Burchfield.
   4- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case with facts not yet known to potential plaintiff.
   5- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – One Case.
   6- Government Code Section 54957 - Public Employee Performance Evaluation - Title: City Manager.

6:30 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported on the following action:

Item A3: MOVED by Council Member McCracken, SECONDED by Council Member Shelton, the Council voted unanimously to reject the claim filed by Ms. Tina Burchfield; referred the matter to the City’s transit insurance adjustor; and directed the City Clerk to give the claimant proper notification.

Documentation: M.O. 01-050311
Disposition: Approved.

Pledge of Allegiance Led by Vice Mayor Hamilton
Invocation – a moment of silence was observed.

PROCLAMATIONS
Freedom Days
Water Awareness Month – May, 2011
PRESENTATIONS

Employee of the Month – Shauna Craig
Introduction of New Employees
Youth Commission’s Annual Report

REPORTS

• Council Member Ward advised that a Step Up Committee meeting was scheduled for Wednesday, May 4th at 12:00 p.m. at the Police Department Briefing Room, and would be the last before the event on Thursday.

• Council Member Shelton reported on his attendance at the following events: Sesquicentennial Committee meeting; the Step Up meeting; a mural unveiling at Finance & Thrift; an Easter Egg Hunt at Veterans Park; a meeting at the County pertaining to the 2-1-1 system; Music on Main Street; a book signing at the Tule River Reservation; a tea event at the Zalud House; Lion’s pavilion re-dedication; a School Board meeting regarding district elections; a Courthouse meeting; Leadership Porterville’s Corporate Games; Arbor Day celebration; Cinco de Mayo parade and festivities; Victory Outreach dinner; post-Cinco de Mayo parade activities; and a fundraiser dinner for the Tea Party.

• Mayor Irish spoke of the recent Sesquicentennial Committee meeting; and lauded the committee’s efforts and progress.

Council Member McCracken noted staff’s request to consider adding an emergency item onto the agenda, Approval for Community Civic Event – Annual Porterville Fair, May 11-15, 2011; and requested that the Council consider adding it to the end of Scheduled Matters.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the City Council approve the addition of the proposed Emergency Item to the Agenda as the last Scheduled Matter. The motion carried unanimously.

Disposition: Emergency Item added.

ORAL COMMUNICATIONS

• Russell “Buck” Fletcher, 1662 W. Morton Avenue, admonished the Council for their behavior at the meeting of April 19, 2011 and requested that they behave with honor and respect.

• Brock Neely, a Porterville resident, provided the Council with a CD containing the Brown Act, City Charter, Municipal Code, and Roberts Rules 10th Edition, and stated that the Council need not require the City Attorney to address Items 17 through 22, as the documents provided contained all of the answers. He then voiced pride in the President and military personnel for the actions relative to Osama Bin Laden’s demise.

• Michael Burkey, Burton School District IT Director and Member of the Leadership Porterville Class of 2011, came forward and introduced himself to the City Council.
CONSENT CALENDAR

Item Nos. 2, 4 and 5 were removed for further discussion.

1. CITY COUNCIL MINUTES OF SEPTEMBER 7, 2010

Recommendation: That the City Council approve the Minutes of September 7, 2010.

Documentation: M.O. 03-050311
Disposition: Approved.

2a. APPROVAL TO PURCHASE WEAPONS TRAINING SYSTEM

Recommendation: That the City Council:
1. Authorize the purchase of the Laser Training System;
2. Authorize staff to enter negotiation for the purchase of the specialized equipment; and
3. Authorize payment upon satisfactory delivery of the equipment.

Documentation: M.O. 04-050311
Disposition: Approved.

2b. REQUEST FOR APPROVAL TO PURCHASE SPECIALIZED EQUIPMENT

Recommendation: That the City Council approve the purchase of two (2) Duperon stainless steel barscreen covers at a total cost of $23,050. Funding will be from Wastewater Treatment Facility Reserve.

Documentation: M.O. 05-050311
Disposition: Approved.

3. QUARTERLY PORTFOLIO SUMMARY

Recommendation: That the City Council accept the quarterly Portfolio Summary.

Documentation: M.O. 06-050311
Disposition: Approved.

6. ATTENDANCE RECORDS FOR COMMISSIONS AND COMMITTEES – 3RD QUARTER REPORT

Recommendation: Informational Only.

Documentation: None.
Disposition: None.

7. REPORT ON CHARITABLE CAR WASHES
8. 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. 07-050311
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council 1, 2a, 2b, 3, and 6 through 8. The motion carried unanimously.

2. AUTHORIZATION TO EXECUTE CONSULTANT SERVICE AGREEMENTS – ISLAND ANNEXATION SEWER PROJECT

Recommendation: That the City Council:
1. Authorize the Mayor to execute the Consultant Service Agreements with each firm at the agreed upon fees;
2. Authorize progress payments up to 100% of the fee amounts; and
3. Authorize a 10% contingency to cover unforeseen costs.

City Manager Lollis introduced the item and indicated that Council Member Shelton pulled the item. The staff report was waived at the Council’s request, and Council Member Shelton voiced support for hiring local.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Vice Mayor Hamilton that the City Council authorize the Mayor to execute the Consultant Service Agreements with each firm at the agreed upon fees; authorize progress payments up to 100% of the fee amounts; and authorize a 10% contingency to cover unforeseen costs. The motion carried unanimously.

Disposition: Approved.

4. STREET PERFORMANCE MEASURE – 3RD QUARTER REPORT

Recommendation: Informational Only.
The City Manager introduced the item and indicated that the item had been pulled by Council Member Ward. In response to a question posed by Council Member Ward, Public Works Director Baldo Rodriguez indicated that 10,000 potholes had been repaired.

**COUNCIL ACTION:** MOVED by Council Member Ward, SECONDED by Vice Mayor M.O. 09-050311 Hamilton that the City Council accept the informational report. The motion carried unanimously.

Disposition: Approved.

5. CODE ENFORCEMENT UPDATE

Recommendation: Informational Only.

The City Manager 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 status of weed abatement.

Disposition: None.

PUBLIC HEARINGS

9. CONSTRUCTION OF CONCRETE IMPROVEMENTS – JAYE STREET IMPROVEMENTS PROJECT

Recommendation: That the City Council:

1. Open the Public Hearing; take public comments, concerns and questions;
2. Authorize staff to start the construction of the stated concrete improvements for the stated project; and
3. Authorize staff to schedule a Public Hearing prior to the establishment of a fee for the concrete improvements, in accordance with the Mitigation Fee act, upon completion of each project.

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

The public hearing was opened at 7:26 p.m. Seeing no one, the Mayor closed the public hearing at 7:27 p.m.

**COUNCIL ACTION:** MOVED by Council Member McCracken, SECONDED by Vice Mayor M.O. 10-050311 Hamilton that the City Council authorize staff to start the construction of the stated concrete improvements for the stated project; and authorize staff to schedule a Public Hearing prior to the establishment of a fee for the concrete improvements, in accordance with the Mitigation Fee act, upon completion of each project. The motion carried unanimously.

Disposition: Approved.
10. PUBLIC HEARING – CDBG 2011/2012 ACTION PLAN

Recommendation: That the City Council:
1. Conduct a public hearing to solicit comments on the 2011/2012 Action Plan;
2. Adopt the 2011/2012 Action Plan resolution of approval; and
3. Authorize the City Manager to execute all necessary documents.

The City Manager introduced the item, and the staff report was presented by Development Associate Denise Marchant.

The public hearing was opened at 7:36 p.m. Seeing no one, the Mayor closed the public hearing at 7:37 p.m.

Staff addressed questions regarding the possibility of the numbers changing and options available to the Council should that occur.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council adopt the 2011/2012 Action Plan resolution of approval; and authorize the City Manager to execute all necessary documents. The motion carried unanimously.

Disposition: Approved.

The Council recessed for ten minutes at 7:40 p.m.

11. 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 May 17, 2011.

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

The public hearing was opened at 7:50 p.m., and continued to the next meeting. No comments were made.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the City Council continue the public hearing to May 17, 2011. The motion carried unanimously.

Disposition: Public hearing continued to May 17, 2011.

12. ZONE CHANGE – SIERRA VIEW DISTRICT HOSPITAL

Recommendation: That the City Council:
1. Conduct a Public Hearing to receive input regarding the proposed zone change; and
2. Adopt the attached Ordinance, give first reading and order the Ordinance to print.

The City Manager introduced the item. Mayor Irish noted that he had a Conflict of Interest, recused himself, and exited the chambers. The Community Development Director verified that Vice Mayor Hamilton and Council Member Shelton did not own property within 500 feet of site. The staff report was then presented by City Planner Bill Nebeker.

The public hearing was opened at 7:57 p.m.

- Timothy and Janet Baker, 155 Carmelita; Joyce Freeman, 102 Carmelita; Diana Sturgeson, 128 Carmelita; Marvin (inaudible), 168 North Carmelita; Ken Lansford, 60 N. Carmelita; spoke in opposition of hospital expansion, provided a petition signed by the residents of Carmelita, and requested that the Council deny the zone change.

- Julie Philips, representing Sierra View District Hospital, spoke in favor of approval and indicated that she was available for questions.

- Babette Sako, Director of Project Planning and Management for Sierra View District Hospital, stated that she was available for questions.

There was discussion amongst the Council regarding whether there were Conditions, Covenants, and Restrictions (CCRs) placed on the property, and alleged promises made to the residents by representatives from Sierra View relative to expansion. Sierra View District Hospital representatives in attendance indicated that they had no knowledge of any previous promises, or CCRs on the title report.

Council Member Shelton requested additional time to investigate the matter further, and requested that the Public Hearing be re-opened. Without objection, the Vice Mayor re-opened the public hearing at 8:24 p.m.

- Ted Ensslin, Carmelita resident, voiced concern with lack of the transparency in Sierra View District Hospital’s purchase of the property.

- Ken Lansford, spoke about the deed restrictions.

- Babette Sako, indicated that the property owner approached the hospital regarding the sale, and added that it was the hospitals intention to keep the residential look to the property if approved by the Council.

- Valerie Simonich, 1986 W. Orange, expressed concern with the proposed re-zoning and spoke against Council approval.

- Unidentified Individual, spoke against Council approval.
• Babette Sako, stated that the hospital had no intention of pursuing more homes on Carmelita.

• Timothy Baker, proposed that Sierra View expand to the north along Pearson.

The public hearing was closed at 8:32 p.m.

Council Member Shelton spoke in support of the hospital’s freedom to purchase property from willing sellers, but did express an interest in researching the alleged existence of CCRs on the title report.

**COUNCIL ACTION:** MOVED by Council Member Shelton, SECONDED by Vice Mayor Hamilton that the City Council continue the item, and direct staff to provide more information relative to potential deed restrictions.

AYES: Ward, Shelton, Hamilton

NOES: McCracken

ABSTAIN: Irish

ABSENT: None

City Attorney Lew advised that the Council action did not indicate when the item was to return for consideration. Council Member Shelton clarified with a second motion.

**COUNCIL ACTION:** MOVED by Council Member Shelton, SECONDED by Council Member Ward that the City Council postpone the item to the next regular meeting; and direct staff to provide more information relative to potential deed restrictions.

AYES: Ward, Shelton, McCracken, Hamilton

NOES: None

ABSTAIN: Irish

ABSENT: None

Disposition: Public hearing continued to May 17, 2011.

**SECOND READINGS**

13. ORDINANCE 1777, FLOODPLAIN MANAGEMENT

Recommendation: That the City Council give Second Reading to Ordinance No. 1777, waive further reading, and adopt said Ordinance.

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

**COUNCIL ACTION:** MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward that the City Council give Second Reading to Ordinance No. 1777, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE APPROVING ZONE CHANGE (#PRC 2011-6-Z) FROM RS-2 (LOW DENSITY RESIDENTIAL) TO PS (PUBLIC/SEMI-PUBLIC) FOR THAT .62± ACRE SITE LOCATED AT 515 W. PUTNAM AVENUE AND 182 N. CARMELITA STREET. The motion carried unanimously.

The City Manager read the ordinance by title only.

Disposition: Approved.

The Council recessed for ten minutes.

SCHEDULED MATTERS

14. FISCAL YEAR 2010-2011 BUDGET REVIEW

Recommendation: That the City Council accept the Interim Revenue and Expenditure Budget Status Reports.

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

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor M.O. 14-050311 Hamilton that the City Council accept the Interim Revenue and Expenditure Budget Status Reports. The motion carried unanimously.

Disposition: Approved.

EMERGENCY ITEM – APPROVAL FOR COMMUNITY CIVIC EVENT – PORTERVILLE FAIR, MAY 11-15, 2011

Recommendation: That the City Council approve the Community Civic Event Application and Agreement from the Porterville Community Fair Board, subject to the Restrictions and Requirements contained in Application, Agreement and Exhibit ‘A’ and Exhibit ‘B’.

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

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member McCracken that the City Council approve the Community Civic Event Application and Agreement from the Porterville Community Fair Board, subject to the Restrictions and Requirements contained in Application, Agreement and Exhibit ‘A’ and Exhibit ‘B’. The motion carried unanimously.

Disposition: Approved.
15. REVIEW OF LOCAL AUTOMOBILE DEALER SALES

Recommendation: That the City Council accept staff’s report.

The City Manager introduced the item and stated that Mr. Sidley was unable to attend to present his report.

Council Member McCracken made a motion to postpone to the next meeting, which died for lack of a second.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Ward that the City Council accept the report as presented. The motion carried unanimously.

Disposition: Approved.

16. SUBSCRIPTION-BASED ALERT/NOTIFICATION SYSTEMS

Recommendation: That the City Council receive the information presented and provide additional direction accordingly.

The City Manager introduced the item, and Management Information Systems Manager Gus Beatty presented the staff report.

Council Member Ward voiced support for the Constant Contact option. Staff addressed questions regarding similarities and differences between the systems proposed.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor Hamilton that the City Council approve the implementation of the Constant Contact system; and direct staff to provide a six month review. The motion carried unanimously.

Disposition: Approved.

17. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY ATTORNEY TO PROVIDE LEGAL DETERMINATION OF THE USE OF ROBERTS RULES OF ORDER IN CONDUCTING CITY COUNCIL MEETINGS

Recommendation: Councilman Shelton motioned that the City Council direct the City Attorney to provide a legal determination of the used of Roberts Rules of Order in conducting Council meetings.

The City Manager introduced the item, and the staff report was waived at the Council’s request.
Council Member Shelton expressed his discontent with the current procedures, and requested that the Council consider reverting to previous procedures. Council Member Ward agreed that he too preferred the past practice of discussion, motion, second, discussion, vote.

Council Member McCracken spoke about the effectiveness of Robert’s Rules of Order when used properly. Vice Mayor Hamilton indicated that he could see the good in both methods, and noted that the Mayor was appointed by the Council to run the meetings.

City Attorney Lew advised of the authority of the presiding officer relative to the procedural aspects of the meeting.

Mayor Irish commented that his use of Robert’s Rules was intended to keep control of the meetings, which had at times become disruptive; and spoke in favor of reviewing the Council handbook.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Ward that the City Council revert to procedure in which an item is discussed prior to a motion and second.

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

Council Member Shelton then made a MOTION to allow the ability of a Council Member to rescind his/her own motion. After it was clarified that the procedure was allowed by Robert’s Rules of Order he rescinded his motion.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward that the City Council direct staff to bring back the Council Handbook for Council consideration.

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

Disposition: Approved.

18. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY ATTORNEY TO PROVIDE LEGAL DETERMINATION OF CITY COUNCIL MEMBER VOTES BY ABSTENTION

Recommendation: Councilman Shelton motions that the City Council direct the City Attorney to provide a legal determination of a Councilmember votes by abstention.
At the request of Council Member Shelton, City Attorney Lew addressed questions regarding legal requirements and interpretations associated with conflicts and abstentions.

Disposition:  No action required.

The Council recessed for five minutes. Following which, the Mayor noted the time and without objection the Mayor continued the meeting.

19. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY ATTORNEY TO PROVIDE LEGAL DETERMINATION OF THE BROWN ACT RELATIVE TO MULTIPLE CITY COUNCIL MEMBERS ATTENDING COMMUNITY AND/OR NON-CITY BUSINESS-RELATED MEETINGS

Recommendation: Councilman Shelton motions that the City Council direct the City Attorney to provide a legal determination of the Brown Act as it relates to multiple Council members attending community and/or non-City business-related meetings.

City Attorney Lew advised of appearance issues, and it was clarified that three Council Members could not attend a Council subcommittee meeting. The City Attorney elaborated on the differences between social functions and subcommittee meetings.

Disposition: No action required.

20. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY ATTORNEY TO PROVIDE LEGAL DETERMINATION OF THE DUTIES AND POWERS OF THE MAYOR/PRESIDENT OF THE CITY COUNCIL

Recommendation: Councilman Shelton motioned that the City Council direct the City Attorney to provide a legal determination of the duties and powers of the Mayor/president of the Council.

City Attorney Lew advised that the presiding officer had the authority to adjourn the meeting at any time, and noted that the Council could change the procedures by considering the Council Handbook.

Disposition: No action required.

21. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY ATTORNEY TO PROVIDE LEGAL DETERMINATION AS TO THE CONSEQUENCES OF THE CITY COUNCIL NOT COMPLETING ITS POSTED MEETING AGENDA

Recommendation: Councilman Shelton motioned that the City Council direct the City Attorney to provide a legal determination as to the consequences of the City Council not completing its posted Meeting Agenda.

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City Attorney Lew stated that there were no legal ramifications associated with the early adjournment of the Council Meeting.

Disposition: No action required.

22. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY ATTORNEY TO PROVIDE LEGAL DETERMINATION OF THE FIRST AMENDMENT RIGHTS OF CITY COUNCIL MEMBERS AND THE PUBLIC DURING COUNCIL MEETINGS

Recommendation: Councilman Shelton motioned that the City Council direct the City Attorney to provide a legal determination of the First Amendment Rights of Council Members and the public during Council meetings.

Council Member Shelton spoke of a hypothetical situation in which a Mayor pressured a citizen not to speak at a Council meeting, and requested that the City Attorney comment. City Attorney Lew stated that she would not answer open ended questions, or comment on any Closed Session material.

Vice Mayor Hamilton stated that he did not see any credit to the line of questioning, and added that if the Council had a problem with the actions of the Mayor that they could vote to appoint another Mayor. The Mayor requested that the consideration of Mayor be placed on a future Agenda.

Disposition: No action required.

ORAL COMMUNICATIONS

- Barry Caplan, commented that he witnessed more than two Council Members present at a Sesquicentennial Committee meeting and suggested that the Brown Act had been violated.
- Lyle Arthur, 230 E. Gibbons, inquired how citizens might find out about their rights at City Council Meetings.
- Dick Eckhoff, a Springville resident, invited everyone to the County’s Redistricting Committee meeting scheduled for Wednesday, May 4th, and suggested that the Council Members had personal responsibility in familiarizing themselves with the parliamentary procedures set forth in Roberts Rules of Order.

OTHER MATTERS

- Council Member Ward invited everyone to attend the Step Up Conference and the Chamber Mixer for the Porterville Fair, both scheduled to take place on Thursday.
- Council Member Shelton invited everyone to attend both the Step Up Conference and the Chamber Mixer; and commented that the Mayor will not squelch his right to speak.
- Vice Mayor Hamilton thanked the Council for the proclamation for Ted Rafanan.
- City Manager Lollis thanked the Porterville Police Department for all of their hard work, particularly in the Investigations Unit.

ADJOURNMENT
The City Council Meeting adjourned at 11:08 p.m. to the meeting of May 10, 2011 at 5:30 p.m.

____________________________
Luisa Herrera, Deputy City Clerk

SEAL

____________________________
Ronald L. Irish, Mayor
Call 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 at 5:31 p.m. to a Joint Meeting of the City Council and the Porterville Redevelopment Agency.

JOINT CITY COUNCIL/PORTERVILLE REDEVELOPMENT AGENCY MINUTES
291 N. MAIN STREET, PORTERVILLE, CA
OCTOBER 18, 2011

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:
   2- 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:
   1- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: A 30.57 mile line of railroad between Strathmore, CA milepost 268.60 and Jovista, CA milepost 299.17 in Tulare County, particularly that portion of the railroad line within the limits of the City of Porterville. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Union Pacific Railroad Company. Under Negotiation: Terms and Price.
   4- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated
Litigation – Significant Exposure to Litigation: One Case in which facts are not yet known to potential plaintiff.
5- Government Code Section 54956.9(c) – Conference with Legal Counsel – Initiation of Litigation – Anticipated Litigation – Initiation of Litigation: Two Cases.
7- Government Code Section 54957 - Performance Evaluation - Title: City Manager.

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

6:30 P.M. RECONVENE OPEN SESSION
REPORT ON ANY COUNCIL AND/OR AGENCY ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that no reportable action took place.

Pledge of Allegiance Led by Council Member Pete V. McCracken
Invocation – a moment of silence was observed.

PROCLAMATIONS
National Friends of the Library Week

PRESENTATIONS
Employee of the Month – Jenni Byers

REPORTS
- Council Member McCracken advised that the Consolidated Waste Management Authority (CWMA) would be discussing a change in the authority’s fee structure, pursuant to the City’s request, at its upcoming meeting scheduled for October 20th.
- Council Member Shelton spoke of various community events he recently attended, including: a meeting held regarding the status of the South County Justice Center; First Friday Coffee hosted by the Imagine Arts Center; a 4H breakfast; the Homeless Connect event; Buzzardfest event at the Barn Theatre; a tour of the City’s Shooting Range; brunch at Sierra Hills Retirement Facility during which he met former Mayor and Council Member Mac Williams; a Setco dinner at Don Vino’s; and Music on Main Street.

ORAL COMMUNICATIONS
- Rick Elkins and Wendi Taylor of the Sesquicentennial Committee spoke of the upcoming Royal Porter Putnam Day event, and a dinner theater event sponsored by the Porterville Museum to be held on October 29th at the Elks Lodge.
- John Coffee requested that the Council remove Item 11 from consideration, adding that the matter was a federal issue and the City should not get involved.
- Brock Neeley, provided a brochure to the Council regarding H.R. 1183, The Suzanne Gonzales Suicide Prevention Act, and requested that the Council Members, as private citizens, consider supporting the legislation.
• Juan Rodriguez, came forward on behalf of the Porterville Softball Association, and requested that the Council consider approving the lighting of the softball fields as proposed in Item 15.
• An unidentified individual came forward and voiced concern over the manner in which the City provides public notice.

CONSENT CALENDAR
Items 2, 3, 5, 11 and 12 were removed for further discussion.

1. CITY COUNCIL MINUTES OF JUNE 21, 2011
Recommendation: That the City Council approve the draft Minutes of June 21, 2011.
Documentation: M.O. 01-101811
Disposition: Approved.

4. ANNUAL LIBRARY FOOD FOR FINES CAMPAIGN
Recommendation: That the City Council authorize the fifth Annual Food for Fines Campaign to run October 24 through December 19, 2011.
Documentation: M.O. 02-101811
Disposition: Approved.

6. APPROVAL FOR COMMUNITY CIVIC EVENT – NEW HOPE CHRISTIAN FELLOWSHIP SKATEBOARD DEMO – OCTOBER 29, 2011
Recommendation: That the City Council approve the Community Civic Event Application and Agreement from the New Hope Christian Fellowship, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit A of the Community Civic Event Application.
Documentation: M.O. 03-101811
Disposition: Approved.

7. APPROVAL FOR COMMUNITY CIVIC EVENT – VETERANS’ HOMECOMING COMMITTEE VETERANS’ DAY PARADE – NOVEMBER 11, 2011
Recommendation: That the City Council approve the Community Civic Event Application and Agreement from the Veterans’ Homecoming Committee, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit A and Exhibit B of the Community Civic Event Application.
Documentation: M.O. 04-101811
Disposition: Approved.
8. APPROVAL FOR COMMUNITY CIVIC EVENT – PORTERVILLE CHAMBER OF COMMERCE AND ROTARY CLUB OF PORTERVILLE – ANNUAL CHILDREN’S CHRISTMAS PARADE – DECEMBER 1, 2011

Recommendation: That the City Council:
1. Approve the Community Civic Event Application and Agreement from the Porterville Chamber of Commerce and Rotary Club of Porterville, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit A and Exhibit B of the Community Civic Event Application;
2. Authorize the temporary suspension of the Fixed Route Transit System from 4:30 p.m. to 7:00 p.m. on December 1, 2011; and
3. Restrict the closure of parking spaces in front of City Hall from 3:00 p.m. to 5:00 p.m., to those at the north end of City Hall along Main Street.

Documentation: M.O. 05-101811
Disposition: Approved.

9. AMENDMENT TO EMPLOYEE PAY & BENEFIT PLAN – PORTERVILLE POLICE OFFICERS ASSOCIATION

Recommendation: That the City Council approve the draft resolution amending the Employee Pay and Benefit Plan.

Documentation: Resolution 63-2011
Disposition: Approved.

10. 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. 06-101811
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Mayor Irish that the City Council approve Items 1, 4, and 6 through 10. The motion carried unanimously.

2. AWARD OF CONSULTANT SERVICE AGREEMENT CONTRACT FOR ARCHITECTURAL & ENGINEERING SERVICES FOR THE PUBLIC SAFETY BUILDING PROJECT
Recommendation: That the City Council:

1. Authorize the Mayor to execute the Consultant Service Agreement with Taylor-Teter Partnership at an agreed fee of $342,870 for the services described in the staff report;
2. Authorize a 5% contingency to cover unforeseen design issues that may arise once the design effort begins; and
3. Authorize progress payments up to 100% of the fee amount.

City Manager introduced the item and indicated it had been removed from Consent Calendar by Council Member Shelton. Council Member Shelton voiced concern with the timing, expense, and use of Measure H funds for the project.

A brief discussion ensued as to whether an agreement had been reached with the Fire Association relative to staffing the station with current staff and the organization’s commitment to vacation restrictions due to meeting the minimum required staffing levels.

- Nick Purdue, President of the Porterville City Firefighters Association (PCFA), came forward and advised the Council that the Association was in agreement with the proposal and was awaiting receipt of a written agreement for signature.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor Hamilton that the Council, contingent upon a fully executed agreement between the City and the applicable fire labor organizations relative to staffing, authorize the Mayor to execute the Consultant Service Agreement with Taylor-Teter Partnership at an agreed fee of $342,870 for the services described in the staff report; authorize a 5% contingency to cover unforeseen design issues that may arise once the design effort begins; and authorize progress payments up to 100% of the fee amount.

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

Disposition: Approved.

3. AUTHORIZATION TO TRAVEL – OUT OF STATE TRAINING

Recommendation: That the City Council approve of staff’s travel to Las Vegas, Nevada and attendance at the “Improving Public Works Construction Inspection Skills.”

City Manager Lollis presented the item, and indicated the item had been removed from Consent Calendar at the request of Council Member Shelton. Council Member Shelton voiced concern with the location and questioned the necessity of such training. A brief discussion ensued relative to the difference between building inspectors and public works inspectors, the workshop’s curriculum, and the necessity for staff to stay current with new regulations and issues impacting public works.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member
McCracken that the Council authorize staff’s travel to Las Vegas, Nevada and attendance at the “Improving Public Works Construction Inspection Skills.”

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

Disposition: Approved.

5. ANNUAL CALIFORNIA LIBRARY ASSOCIATION CONFERENCE

Recommendation: That the City Council authorize the estimated travel expenditure of $1,317 from the Library Division’s general fund to send three members of the Library and Literacy Commission to the 2011 California Library Association Conference.

City Manager Lollis presented the item and indicated that it had been removed from Consent Calendar at the request of Council Member Shelton. Council Member Shelton lauded the proactive approach of the Commission.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Mayor Irish that the Council authorize the estimated travel expenditure of $1,317 from the Library Division’s general fund to send three members of the Library and Literacy Commission to the 2011 California Library Association Conference. The motion carried unanimously.

Disposition: Approved.

11. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY COUNCIL TO SCHEDULE THE CONSIDERATION OF AUTHORIZING A RESOLUTION OF SUPPORT FOR H.R. 1837 (NUNES), “SAN JOAQUIN VALLEY WATER RELIABILITY ACT”

Recommendation: Vice Mayor Hamilton makes the motion that the City Council authorize the scheduling on the November 1st Council Agenda the consideration of authorizing a resolution of support for H.R. 1837 (Nunes), know as the “San Joaquin Valley Water Reliability Act.”

City Manager Lollis presented the item, and indicated that it had been removed from Consent Calendar by Vice Mayor Hamilton. In response to Mr. Coffee’s comments, Vice Mayor Hamilton clarified that the Council was not considering the resolution of support that evening, but rather considering whether to add the item onto the next agenda.
COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Shelton that the Council authorize the scheduling on the November 1st Council Agenda the consideration of authorizing a resolution of support for H.R. 1837 (Nunes), know as the “San Joaquin Valley Water Reliability Act.” The motion carried unanimously.

Disposition: Approved.

12. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY COUNCIL TO SCHEDULE THE CONSIDERATION OF AUTHORIZING AN AUDIT OF THE CITY’S HOUSING PROGRAMS

Recommendation: Council Member Shelton makes the motion that the City Council authorize the scheduling on the November 1st Council Agenda the consideration of authorizing an audit of the City’s housing programs.

City Manager Lollis presented the item, and advised that it had been removed from the Consent Calendar by Council Member McCracken. Council Member McCracken inquired, and staff confirmed, that the City’s housing programs are audited during the normal course of the City’s annual audits conducted by the auditing firm.

Council Member McCracken moved that the Council deny authorizing an item being placed on the next agenda to consider an audit of the City’s housing programs, noting that an audit would already take place.

Following concern being voiced and comments being made by Council Member Shelton, a brief discussion took place relative to what extent the item could legally be discussed that evening. It was noted that the information on the programs was readily available at anytime upon request. Vice Mayor Hamilton requested that the Porterville Recorder request the information and publish their findings.

Council Member Ward requested that the Council consider amending the motion to include providing direction to the auditor relative to the audit of the housing programs and a presentation thereof to Council.

Council Member McCracken amended his motion to include direction to the Audit Committee to direct the auditor to be prepared to make a special presentation relative to the City’s housing programs during their annual presentation to the Council of the completed audit.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council deny authorizing an item being placed on the next agenda to consider an audit of the City’s housing programs; and direct the Internal City Audit Committee to direct the City’s auditor to make a special presentation on the City’s housing programs during its annual presentation to the Council of the completed audit.
AYES: Ward, Hamilton, McCracken, Irish
NOES: Shelton
ABSTAIN: None
ABSENT: None

Disposition: Item Denied.

SCHEDULED MATTERS
13. CONSIDERATION OF APPOINTMENTS TO THE PARKS & LEISURE SERVICES COMMISSION

Recommendation: That the City Council appoint two individuals to fill the seats vacated by Mr. Charles Webber and Mr. Donald Beardsley, with four-year terms to expire in October 2015.

City Manager Lollis presented the item, and Administrative Services Manager Patrice Hildreth presented the staff report. Mrs. Hildreth advised that subsequent to the distribution of the agenda packets, staff received one additional Request for Appointment, from Mr. Shannon Bennett, and indicated that copies had been distributed to the Council for its consideration and were also available for the public.

- Mr. James Carson came forward and requested the Council’s consideration for his appointment to the Commission.

Utilizing a written ballot, the Council then cast their votes which were read and tallied by Administrative Services Manager Hildreth as follows:

Round One:
Council Member Ward: James Carson
Shannon Bennett
Vice Mayor Hamilton: Carroll Land
James Carson
Mayor Irish: Carroll Land
James Carson
Council Member Shelton: James Carson
Council Member McCracken Carroll Land
Shannon Bennett

The votes were tallied as follows: James Carson – four votes; Carroll Land – three votes; Shannon Bennett – two votes; Eric Mendoza – no votes.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council appoint Mr. James Carson and Mr. Carroll Land to the seats vacated by Mr. Charles Webber and Mr. Donald Beardsley, with four-year terms to expire in October 2015. The motion carried unanimously.

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14. SPORTS COMPLEX LIGHTING OPTIONS

Recommendation: That the City Council accept staff’s report and provide direction on the appropriate lighting option or options.

City Manager Lollis presented the item, and Public Works Director Baldo Rodriguez presented the staff report, which included the following options:

Option 1: Light the existing softball fields (2) - $300,000.

Option 2: Light the soccer field located adjacent to and immediately north of the new football field using same lighting criteria as was used on the football field - $150,000. This amount includes the cost of a new complete lighting system.

Option 3: Install perimeter lighting along the fence line immediately south of the existing softball fields. Lighting of this area will allow the adjacent open space area to be used as lighted soccer practice fields. Open field lighting for this purpose is less intense as would be expected for competitive football or soccer use - $50,000.

Option 4: Light two additional softball fields adjacent and immediately east of the existing softball fields - $515,000. This figure includes lighting of the softball fields plus softball related improvements such as but not limited to backstops, dugouts, benches, chain link fence, relocation of irrigation, etc. This figure is in addition to the cost to light the softball fields described in Option 1.

A lengthy discussion ensued as to the various options available, budgetary constraints, the electrical capacities for the different scenarios, and the need for lighted ball fields and soccer fields.

At the request of the Council, Juan Rodriguez of the Porterville Softball Association came forward and stated that 600 amps should be sufficient for lighting three softball fields, and commented that softball and soccer could co-exist as discussed.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward that the Council approve Option Nos. 1 and 3.

M.O. 13-101811

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

Disposition: Approved.
15. CONSIDERATION OF SUPPORT FOR APPOINTMENT TO THE GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

Recommendation: That the City Council:

1. Determine if there is interest in supporting one of the candidates to serve on the Governing Board of the San Joaquin Valley Air Pollution Control District; and

2. In the event there is Council interest, support one candidate for appointment, approve the draft resolution nominating said candidate; and direct the City’s member or alternate member to vote in accordance with the Council’s selection at the appropriate San Joaquin Valley Special City Selection Committee Meeting.

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

Utilizing a written ballot, the Council then cast their votes which were read and tallied by Administrative Services Manager Patrice Hildreth as follows:

**Round One:**
- Council Member Ward: Francis S. Ortiz
- Vice Mayor Hamilton: Melvin “Skip” Barwick
- Mayor Irish: Francis S. Ortiz
- Council Member Shelton: Francis S. Ortiz
- Council Member McCracken: Melvin “Skip” Barwick

**COUNCIL ACTION:** MOVED by Council Member McCracken, SECONDED by Mayor Irish that that Council nominate Francis S. Ortiz and approve the draft resolution nominating said candidate; and direct the City’s member or alternate member to vote in accordance with the Council’s selection at the appropriate San Joaquin Valley Special City Selection Committee Meeting. The motion carried unanimously.

Disposition: Francis S. Ortiz nominated.

**ORAL COMMUNICATIONS**
- John Coffee, voiced concern with vehicles speeding on North Grand, and commented that the signage and curb striping/painting was in need of work in the vicinity of Lotus and Reed.

**OTHER MATTERS**
- Council Member Shelton, spoke of various upcoming events, including a showing of the Rocky Horror Picture Show in Lindsay; a Haunted House sponsored by the Kiwanis Club; a murder mystery dinner at the Elks Lodge; and an event to fight homelessness. Council Member Shelton then read a letter from an individual who lauded a recent road project.
- Council Member McCracken advised of the upcoming meeting of the Consolidated
Waste Management Authority scheduled to take place Thursday, October 20th.

- Council Member Ward wished everyone a Happy Halloween, and thanked Fire Department personnel for their prompt response over the weekend.
- Vice Mayor Hamilton spoke of his presentation to the outgoing Homecoming Queen, his attendance at a recent 4H Pancake Breakfast, and voiced his confidence in Porterville’s youth.

**ADJOURNMENT**

The City Council Meeting adjourned at 8:09 p.m. to the meeting of October 25, 2011 at 6:00 p.m.

_______________________________
Patrice Hildreth, Chief Deputy City Clerk

SEAL

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

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

JOINT CITY COUNCIL/PORTERVILLE REDEVELOPMENT AGENCY MINUTES
291 N. MAIN STREET, PORTERVILLE, CA
NOVEMBER 1, 2011

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

ORAL COMMUNICATIONS
None

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION:
A. Closed Session Pursuant to:
   1- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One case in which facts are not yet known to potential plaintiff.

The Council adjourned to a meeting of the Porterville City Council.

CITY COUNCIL CLOSED SESSION:
B. Closed Session Pursuant to:
   1- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: A 30.57 mile line of railroad between Strathmore, CA milepost 268.60 and Jovista, CA milepost 299.17 in Tulare County, particularly that portion of the railroad line within the limits of the City of Porterville. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Union Pacific Railroad Company. Under Negotiation: Terms and Price.
   3- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Two Cases.
   4- Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiators: John Lollis, Steve Kabot and Patrice Hildreth. Employee Organizations: Porterville City Employees Association, Public Safety Support Unit, Porterville City Firefighters
Association, Management and Confidential Series, Fire Officers Series, and all unrepresented management employees.


6- Government Code Section 54957 - Performance Evaluation - Title: City Manager.

6:30 P.M. RECONVENE OPEN SESSION
REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that the Council took the following reportable action:

Item B2: MOVED by Vice Mayor Hamilton, SECONDED by Council Member McCracken, the Council authorized the cancellation of the escrow to purchase the property at 81 Heatherwood Court.

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

Documentation: M.O. 01-110111
Disposition: Approved.

Pledge of Allegiance Led by Vice Mayor Hamilton. In recognition of Veterans’ Day, those with military service were asked to participate with a military salute.

Invocation – one individual participated.

REPORTS
Council Member McCracken referred everyone to his written report on the action recently taken by the Consolidated Waste Management Authority relative to adopting a new fee structure.

Council Member Shelton spoke of various events he recently attended, including an event with Congressman Nunes in Tulare; a Joint City/School Committee Meeting during which the new school in the Burton School District was discussed; and Halloween events at the Zalud House and St. Anne’s School.

ORAL COMMUNICATIONS

• John Coffee, spoke against the resolution supporting H.R. 1837 (Nunes) as proposed in Item 16, and cited a recent article in the Fresno Bee on the subject.

• Angela Berra, a Porterville resident, requested that the Council consider placing an item on the agenda to consider the removal of an oak tree at the corner of Morton Avenue and Pearson Street. Mayor Irish requested copies of the Parks & Leisure Services Commission’s Minutes containing the discussion of same.

• Brock Neely, requested that the City not spend any money on a company that harbors and protects perverts and child molesters, and provided the Council with copies of media articles pertaining to allegations of abuse and cover up within the Boy Scouts organization.

CONSENT CALENDAR
Items 4, 7, and 12 were removed for further discussion.


   Recommendation: That the City Council approve the draft City Council Minutes of May 17, 2011; August 2, 2011; October 4, 2011; and October 25, 2011.

   Documentation: M.O. 02-110111
   Disposition: Approved.

2. **AUTHORIZATION TO ISSUE A ‘REQUEST FOR PROPOSALS’ FOR PASSENGER INFORMATION SYSTEM**

   Recommendation: That the City Council authorize staff to issue a Request for Proposals for the Passenger Information System project.

   Documentation: M.O. 03-110111
   Disposition: Approved.

3. **INTERIM FINANCIAL STATUS REPORTS**

   Recommendation: That the City Council accept the interim financial status reports as presented.

   Documentation: M.O. 04-110111
   Disposition: Approved.

5. **STREET PERFORMANCE MEASURE – 1ST QUARTER REPORT**

   Recommendation: Informational report only.

   Documentation: None
   Disposition: Report received.

6. **CODE ENFORCEMENT UPDATE**

   Recommendation: Informational report only.

   Documentation: None
   Disposition: Report received.

8. **REPORT ON CHARITABLE CAR WASHES**

   Recommendation: Informational report only.

   Documentation: None
   Disposition: Report received.
9. AUTHORIZE PARKS AND LEISURE SERVICES DIRECTOR TO APPLY FOR U.S. SOCCER GRANT

Recommendation: That the City Council authorize the Parks and Leisure Services Director to proceed with the grant process.

Documentation: M.O. 05-110111
Disposition: Approved.

10. AGREEMENT WITH TIME MARCHES ON MURAL COMMITTEE

Recommendation: That the City Council approve the Agreement and authorize the Mayor to execute same.

Documentation: M.O. 06-110111
Disposition: Approved.

11. 2011 MICRO SURFACING PROJECT UPDATE

Recommendation: Informational report only.

Documentation: None
Disposition: Report received.


Recommendation: That the City Council approve the Community Civic Event Application and Agreement from the City of Porterville, subject to the Restrictions and Requirements contained in the Application; Agreement; and Exhibits A and B of the Community Civic Event forms.

Documentation: M.O. 07-110111
Disposition: Approved.

14. 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.
COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council approve Item Nos. 1 through 3, 5, 6, 8 through 11, 13 and 14.

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

4. QUARTERLY PORTFOLIO SUMMARY

Recommendation: That the City Council accept the quarterly Portfolio Summary.

City Manager Lollis presented the item, and indicated that it had been removed from Consent Calendar by Council Member Shelton. In response to Council Member Shelton’s inquiry, Finance Director Maria Bemis elaborated on the City’s investment portfolio.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Vice Mayor Hamilton that the Council accept the quarterly Portfolio Summary.

M.O. 09-110111

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

Disposition: Approved.

7. ATTENDANCE REPORT FOR CITY COMMISSIONS AND COMMITTEES – 1ST QUARTER REPORT

Recommendation: Informational report only.

City Manager Lollis presented the item, and advised it had been removed from Consent Calendar by Council Member Shelton. Council Member Shelton noted absences of one Transactions and Use Tax Oversight Committee member, and one CDBG Advisory Committee member, Mr. Roman, and proposed that said members be contacted by staff to confirm their continued interest and commitment in serving. Direction was provided to staff as proposed.

Disposition: Report received, and direction given to staff.

12. CONSOLIDATED WASTE MANAGEMENT AUTHORITY (CWMA) MEMBERSHIP REPORT

Recommendation: Informational report only.
City Manager Lollis presented the item, and indicated that it had been removed from Consent Calendar at the request of Council Member Shelton. Council Member Shelton lauded the efforts of Council Member McCracken, who elaborated on the action taken by the CWMA. Council Member Shelton then voiced concern with the life span of the local landfill, and suggested that the City should look at hauling to landfills outside of Tulare County.

Disposition: Report received.

PUBLIC HEARINGS

15. CONDITIONAL USE PERMIT/VARIANCE PRC-2011-11-CV TO ALLOW FOR A 100FT HIGH COMMUNICATIONS TOWER TO LOCATE AT 767 PORTER ROAD FOR OLSON COMPUTER SERVICES

Recommendation: That the City Council:
1. Open the public hearing and take testimony regarding the Variance and Conditional Use Permit requests for the subject project;
2. Close the public hearing; and
3. Adopt the draft resolution approving the Variance for PRC-2011-11-V, subject to the conditions for approval.

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

The public hearing opened at 7:02 p.m.

- Bill Roberts, Roberts Engineering, came forward on behalf of the applicant, requested the Council’s approval of the item, and advised that he was available for any questions that the Council might have.

The public hearing closed at 7:04 p.m.

A discussion ensued during which concern was raised that the tower was not proposed to be camouflaged, particularly in light of its prominent location along Highway 65.

- Bill Roberts came forward and voiced his dislike of camouflaging. He confirmed that the tower could be disguised yet spoke against doing so, and elaborated on the differences between microwave towers and cellular towers.

In response to the Mayor’s concern with ensuring equal treatment of all applicants, staff elaborated on other active applications pertaining to communications towers and the planned camouflaging of same. In consideration of the information provided by staff, the Council directed staff to work with the applicant and bring back to the Council at the next meeting options available relative to camouflaging the proposed tower.

The public hearing was re-opened at 7:16 p.m. and continued to November 15, 2011.
Disposition: Continued to November 15, 2011.

SCHEDULED MATTERS
16. CONSIDERATION OF AUTHORIZING A RESOLUTION OF SUPPORT FOR H.R. 1837 (NUNES), THE “SAN JOAQUIN VALLEY WATER RELIABILITY ACT”

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

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Mayor Irish that the Council approve the draft resolution of support for H.R. 1837 (Nunes), the “San Joaquin Valley Water Reliability Act.”

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

Disposition: Approved.

ORAL COMMUNICATIONS
None

OTHER MATTERS
• Council Member Shelton thanked Police Department staff for their assistance related to a break-in and theft on his property; and spoke of various upcoming events in the community, including: Comision Honorifica’s Day of the Dead event; a Homeless Outreach event; two mini-Step Up meetings; First Friday Coffee; the Sesquicentennial Committee’s Day of the Dead event; the Porterville/Monache game at Granite Hills; and the Veterans Day Parade.
• Vice Mayor Hamilton spoke of the upcoming Veterans Day Parade and encouraged everyone to watch for a special float.

ADJOURNMENT
The City Council adjourned at 7:27 p.m. to the meeting of November 15, 2011.

Patrice Hildreth, Chief Deputy City Clerk

SEAL

Ronald L. Irish, Mayor
COUNCIL AGENDA: NOVEMBER 15, 2011

SUBJECT: AIRPORT LEASE RENEWAL – AIRWAY CAFE

SOURCE: FINANCE DEPARTMENT/PURCHASING DIVISION

COMMENT: Richard Chilcutt is the current leaseholder of the restaurant at the Porterville Municipal Airport, the Airway Café. The lease will expire on January 8, 2012; however, the lease terms allow for an option to extend the lease for an additional five (5) years, provided the City receives a request to exercise the option 120 days prior to expiration. We received a request from Mr. Chilcutt dated October 20, 2011, asking to continue the restaurant lease. Mr. Chilcutt has made substantial improvements to the restaurant including a new, updated bar, aviation themed light fixtures, window treatments and amenities. The original bar has been converted to a small meeting room where service clubs can gather and enjoy a meal. It is, therefore, in the best interests of the airport and the City of Porterville to encourage its continued operation. Staff recommends that Council waive the 120-day notice requirement and grant the five-year option to extend the lease to 2017.

RECOMMENDATION: That the Council approve the extension of the Lease Agreement between the City of Porterville and Richard Chilcutt of Porterville, CA, for the restaurant, known as Airway Café, at the Porterville Municipal Airport.

ATTACHMENT: Locator Map
Letter from Mr. Chilcutt requesting renewal
Paragraph 2 of original Lease Agreement

[Signatures]

D.D. ☑ Appropriated/Funded ☑ C.M. ☑ Item No. 2
October 20, 2011

To: The City of Porterville

Re: Airway Café
    1893 S. Newcomb, Porterville, CA 93257 (559) 784-8208

We would like to exercise our lease extension offer.

Thank-you.

Cordially,

[Signature]

Richard A. Chilcutt
Owner, Airway Cafe
1. **TERM:** The term of this agreement shall commence when both parties have executed same and shall terminate on January 8, 2012. Provided OPERATOR/LESSEE is not in default with respect to any of the conditions or covenants of this lease, OPERATOR/LESSEE shall have an option to request an extension of the terms hereof for additional periods of five (5) years each by giving written notice thereof to the LESSOR not less than 120 days prior to expiration of this agreement or any five year extension thereof. LESSOR is not obligated to grant any extension.

2. **LOSS OF BUSINESS:** It is anticipated that there may be some portion of the lease period that the premises must be closed due to building expansion and/or remodel by the Lessor. Lessee hereby agrees that he shall not be compensated for any loss of business, profits or other monetary damages arising out of said closure, regardless of length of time. Rent shall be prorated for that period of closure, which Lessee specifically acknowledges shall be the only financial recourse arising out of said closure.

3. **CANCELLATION OF AGREEMENT:** LESSOR may terminate this agreement at any time, with cause, by notifying, in writing, OPERATOR/LESSEE 120 days in advance of such termination. Said termination notice shall include reasons for such action. Any termination pursuant to this paragraph shall not be subject to any rights to cure a default or breach found in Paragraphs 10, 13 and 28 herein.

   OPERATOR/LESSEE may terminate this agreement at any time by notifying, in writing, LESSOR 180 days in advance of such termination.

4. **RENTAL UNDERSTANDING:** OPERATOR/LESSEE AGREES TO PAY to LESSOR an amount equal to one percent (1%) of the value of the facilities and equipment described in Exhibit “B” herein leased as rent each month. Both parties agree that the value of the facilities and equipment are
SUBJECT: CALHOME PROGRAM APPLICATION

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The California Department of Housing and Community Development (HCD) has issued a Notice of Funding Availability (NOFA) for funds under the CalHome Program with funding provided by Proposition 1c, the Housing and Emergency Shelter Trust Fund Act of 2006. The program NOFA is designed to make funds available to cities, counties, and nonprofit corporations to support existing homeownership programs aimed at low and very low-income households and operated by the local public agency or the nonprofit corporation. The City has previously received two CalHome grants of $500,000 each for funding the First Time Low Income Homebuyer Program.

Eligible activities for CalHome program funding include: 1) First-Time Homebuyer Mortgage Assistance (FTHB) and 2) Owner-Occupied Rehabilitation (OOR). The intent of the legislation governing the CalHome Program is to “… increase homeownership, encourage neighborhood revitalization and sustainable development, and maximize use of existing homes.”

Since the City received a $1,000,000 2010 HOME grant to provide funding for the continuation of the City-wide FTHB Program for the next several years, staff is proposing to apply for $600,000 from CalHome for the continuation of the OOR Program. These funds will assist approximately fifteen (15) homeowners to rehabilitate their homes within a target area that encompasses the Federally defined Qualified Census Tracts 38.02 and 41.01 or the Redevelopment Project Area No. 1 as amended (Attachment 1). Unlike other assistance programs, CalHome allows OOR funds to also be used for mobile home repair or replacement if the home is in a mobile home park, is owner occupied and is not on a permanent foundation. This would be the first time that the City would be able to assist this type of homeowner.

The application to HCD is due December 7, 2011. Award of funds is expected to be made in the Spring 2012, with the execution of a Standard Agreement with HCD several months later. The term of the Standard Agreement shall be for 36 months from the date of the award letter.

The CalHome Program requires that the loans to the homeowners through this program must have principal and interest payments deferred for the term of the loan. However, financial assistance may be provided in the form of a secured forgivable loan to an individual household to rehabilitate, repair, or replace manufactured housing located in a mobile home park and not permanently affixed

Appropriated/Funded  [Signature]  CM  [Signature]  Item No. 3
to a foundation.

A governing board resolution granting authority to make application to HCD for a funding commitment from the CalHome Program is a requirement of the application. No match is required besides the cost of administration of the program. Certain activity delivery costs are reimbursable through the grant.

In applying for these CalHome Program funds, the City is once again taking measures to implement programs outlined in the City's Housing Element, 2010 Five Year Consolidated Plan, and the Redevelopment Implementation Plan.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the submittal of a CalHome Program Funding Application to the California Department of Housing and Community Development;

2. Authorize the Mayor to execute all documents pertaining to the CalHome Program; and

3. Authorize the Community Development Director to execute, in the name of the City of Porterville, project drawdown requests, and all other administrative documents required by the California Department of Housing and Community Development for administration of the CalHome Program.

ATTACHMENTS:

1. Census Tract Maps (3) and Redevelopment Project Area Map
2. Draft Resolution
RESOLUTION NO.____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING
THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF
HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE CALHOME
PROGRAM; THE EXECUTION OF A STANDARD AGREEMENT IF SELECTED FOR SUCH
FUNDING AND ANY AMENDMENTS THERETO; AND ANY RELATED DOCUMENTS
NECESSARY TO PARTICIPATE IN THE CALHOME PROGRAM

WHEREAS: The City of Porterville, a political subdivision of the State of California, wishes
to apply for and receive an allocation of funds through the CalHome Program; and

WHEREAS: The California Department of Housing and Community Development
(hereinafter referred to as “HCD”) has issued a Notice of Funding Availability (“NOFA”) for the
CalHome Program established by Chapter 84, Statutes of 2000 (SB 1656 Alarcon), and codified in
Chapter 6 (commencing with Section 50650) of Part 2 of Division 31 of the Health and Safety Code
(the “statute”). Pursuant to the statute, HCD is authorized to approve funding allocations utilizing
monies made available by the State Legislature to the CalHome Program, subject to the terms and
conditions of the statute and the CalHome Program Guidelines adopted by HCD in April 2004; and

WHEREAS: The City of Porterville wishes to submit an application to obtain from HCD an
allocation of CalHome funds in the amount of $600,000.

NOW, THEREFORE BE IT RESOLVED: That the City Council of the City of Porterville,
State of California, hereby approves the submittal to HCD of an application to participate in the
CalHome Program in response to the NOFA issued on August 19, 2011, to request $600,000 for the
Owner-Occupied Rehabilitation Program to be used within the qualified census tracts 38.02 and
41.01 within the city limits of Porterville or the Redevelopment Project Area No. 1 as amended. If
the application for funding is approved, the City of Porterville hereby agrees to use the CalHome
funds for eligible activities in the manner presented in the application as approved by HCD and in
accordance with program guidelines cited above. It also may execute any and all other instruments
necessary or required by HCD for participation in the CalHome Program.

BE IT FURTHER RESOLVED: The City of Porterville authorizes the Mayor to execute in
the name of the City of Porterville, the application, the Standard Agreement and all other documents
required by HCD for participation in the CalHome Program, and any amendments thereto, and that
the City of Porterville authorizes the Community Development Director to execute in the name of the
City of Porterville project drawdown requests, and all other administrative documents required by the
California Department of Housing and Community Development for administration of the CalHome
Program.

________________________________________
Ronald L Irish, Mayor

ATTEST:
John D. Lollis, City Clerk

________________________________________
By Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: EMERGENCY PIPE REPAIR WORK AT RECLAMATION AREA

SOURCE: Public Works Department - Engineering Division

COMMENT: On October 2, 2011, a section of above ground effluent pipe located at the reclamation area disconnected forcing staff to stop effluent flows to the farm area. Staff is of the firm opinion that the pressure coupling connecting the two sections of pipe failed. Repairs and improvements to the effluent transmission main is the City’s responsibility. Staff considered the pipe disconnect and disruption of effluent flow to the farm area as an emergency and contacted Halopoff & Sons to make the necessary repairs. Halopoff & Sons began repair of the 24” diameter pipeline on October 3, 2011.

While repairs were underway, staff diverted effluent flows to the City’s emergency storage ponds with the full support of the Regional Water Quality Control Board. Halopoff & Sons excavated sufficient pipe to allow the disconnected sections of pipe to be rejoined, corrected the misalignment in the pipe, re-settled the concrete support blocks and fabricated an “all-thread” bolted connection to tie the pipe sections together.

Halopoff & Sons completed all emergency work to the satisfaction of the Public Works Department. Halopoff & Sons bill for the emergency repair work is $5,170.25. Funding to cover all costs associated with this emergency repair work will come from the Wastewater Facility Operating Fund.

RECOMMENDATION: Informational Report
COMMENT: On October 25, 2011, the City Council held a study session to review an update to the zoning map. At the meeting, the Council was informed that about 542 parcels owned by about 350 owners have proposed changes to the current zoning classification. The meeting provided the opportunity for the Council and the public to review the existing zoning maps and see the proposed zoning for affected parcels. The next step is to set the date for a public hearing to give the opportunity for Council to consider the proposed amendments and the public comment on the matter. Staff is recommending that the Council consider setting the public hearing for December 6, 2011, which will allow adequate time for the public notice since there is an extra week in November.

Government Code Section 65091 sets forth the regulations for notification for a public hearing. There are several options for notice but the Code requires, at a minimum, one of the following two. The first is to mail notice of the public hearing to all of the property owners whose zoning is being changed and to all properties within 300 feet of those changes. A public hearing notice in the legal section of the newspaper is also required at least 10 days before the hearing. The second option allowed by the Government Code allows for alternative notification to the public when the number of required notices exceed 1,000. This alternative would be to publish a display advertisement of at least one-eighth page in the newspaper, in addition to the public hearing notice published in the paper. Due to the fact that a number of people own multiple properties, there are about 350 owners to notify by mail. Staff also estimates that there are well over 3,000 owners within 300 feet of the affected properties.

In order to achieve effective notification and balance the requirement for mass notification, staff is recommending a combination of the two requirements, which exceeds the legal requirements. This would entail notifying the public of the hearing by publishing the public notice and display advertisement in the newspaper, as well as sending individual notice to every property owner whose property is proposed to be changed.

RECOMMENDATION: That the City Council set December 6, 2011, as the date for the public hearing to consider amending the Zoning Map using the proposed method of public notification.
SUBJECT: CANCELLATION OF JANUARY 3, 2012 CITY COUNCIL MEETING

SOURCE: ADMINISTRATION

COMMENT: The City Council has cancelled the first Council meeting in January for the past eight years due to staff workloads and efforts to conform to the vacation and administrative leave policies by relevant management and support personnel. As the January 3, 2012 regularly scheduled Council meeting falls immediately after the holiday season, this item is again being presented should the Council wish to consider canceling the first meeting in January 2012.

If the January 3rd meeting is not held, the next regularly scheduled meeting would be January 17, 2012. However, should a necessity arise, a special meeting could be conducted to expedite any item which might require immediate action.

RECOMMENDATION: That the City Council cancel the January 3, 2012 Council Meeting.
SUBJECT: REVIEW OF LOCAL EMERGENCY STATUS

SOURCE: Administration

COMMENT: In accordance with the City Council's Resolution of Local Emergency adopted on December 21, 2010, and pursuant to Article 14, Section 8690 of the California Emergency Services Act, the Council must review the status of its local emergency at every regularly scheduled meeting and make a determination whether to continue or terminate the local emergency declaration.

Since its last review on November 1, 2011, City staff has continued its coordination with both State and Federal representatives in having made claims for reimbursement for public areas reported as suffering flood damage. An estimated total of $361,750 in damage repair projects were defined and accepted by both State (CEMA) and Federal (FEMA) emergency agencies, which after final FEMA administrative review, a total of approximately $270,000 was approved. All repair projects are to be completed by no later than July 2012.

As was previously reported, staff made application for almost $2 million in State Office of Emergency Services (OES) grant funds, which would provide financial assistance for mitigating repetitive flooding conditions. Considering the preliminary flood prevention measures previously presented to the Council, staff evaluated the grant application criteria, and made application for mitigation projects, specifically focusing on Downtown, Murry Park, and Zalud Park projects. Staff is pleased to report that its proposed grant-funded projects successfully passed initial screening, with staff having also attended several days of required training in preparation for administering the grant funds.

RECOMMENDATION: That the 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.

ATTACHMENT: None

Item No. 7
SUBJECT: CONDITIONAL USE PERMIT PRC-2011-11-C AND VARIANCE PRC-2011-11-V TO ALLOW FOR A 100 FT HIGH TELECOMMUNICATIONS TOWER TO BE LOCATED AT 767 PORTER ROAD FOR OLSON COMPUTER SERVICES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant, Olson Computer Services, requests a conditional use permit (CUP) and a variance to construct a 100 ft. high telecommunications tower at 676 Porter Road to support their internet service and serve as the focal point of their system. A CUP is required for all non-camouflaged telecommunication towers and also for towers located within 1000 ft. of an existing tower. A variance is requested to allow for a lattice-type design instead of the required monopole type design and to reduce the front yard landscaping area from 5 ft. to 2-3 ft.

The public hearing for this project was continued from the November 1, 2011 City Council meeting to allow time for staff and the applicant to explore options for camouflaging the lattice tower being proposed by the applicant. Staff has found that there are options to provide some level of camouflaging in a lattice type structure that could simulate objects such as a water tower, a windmill, a clock tower or some other accessory structure or architectural feature. There are also numerous applications for a mono-pole type design, such as a tree, a flag pole, a light pole or a sign. Examples of the lattice type designs are included for Council's consideration. How effective these structures would be in this particular application has not been determined. The dimension of the lattice structure footprint is 10 x 10 x 10 feet which is about the maximum that can be accommodated in the proposed location due to the irregular shape of the site, the location of existing buildings and a utility easement paralleling SR 65.

The attached staff report details the specifics of the proposal and detailed findings. Staff seeks direction from the Council on how to proceed with this application.

RECOMMENDATION: That the City Council:

Provide direction to staff and the applicant regarding a revised application; or

1. Open the continued Public Hearing and take testimony regarding the variance and conditional use permit requests for this project;

2. Close the public hearing;

APPROPRIATED/FUNDED N/A CM ITEM NO. 8
3. Adopt the Draft Resolution approving the variance for PRC-2011-11-V, subject to conditions of approval;

4. Adopt the Draft Resolution approving the conditional use permit for PRC-2011-11-C, subject to conditions of approval.

ATTACHMENTS:

1. Full Staff Report
2. Site Plan, Locator Map, Tower Layout and Elevation Plan (Exhibit “A”)
3. Map of Telecommunication Facilities in the Porterville Area
4. Applicant’s Letter of Request for Variance
5. Draft Resolution Approving Variances
6. Draft Resolution Approving Conditional Use Permits
7. Conditions of Approval (Exhibit “B”)
8. Chapter 306 Telecommunication Facilities
9. Examples of Camouflage Telecommunication Facilities
CITY COUNCIL AGENDA: NOVEMBER 1, 2011

DETAILED STAFF REPORT

SUBJECT: CONDITIONAL USE PERMIT/VARIANCE PRC-2011-11-CV TO ALLOW THE CONSTRUCTION OF A 100FT HIGH COMMUNICATIONS TOWER AT 767 PORTER ROAD FOR OLSON COMPUTER SERVICES

APPLICANT: Olson Computer Services
AGENT: Donna Shamley, Roberts Engineering
767 Porter Road
Porterville, CA 93257
342 N. Second Street
Porterville, CA 93257

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

BACKGROUND/HISTORY: In recent years, telecommunication towers have become a sensitive issue in the city. Due to the nature of design, the concern has been primarily for height, aesthetics, and proximity to residential uses. In 2005, a moratorium was placed on towers until an Ordinance could be adopted to better provide guidance and standards to protect and minimize impacts primarily in and around residential districts. In 2006, the City adopted a Telecommunication Facility Ordinance and then in 2010 the ordinance was again revised with the update to the Development Code. Staff is working through the latest ordinance and may bring some minor revisions before the Council when the Development Code is updated in early 2012. However, as it stands today, the ordinance provides much better protection for residential properties and provides clear provisions that assist in preventing an overconcentration of towers throughout the city. The proposed Olson Computer Services Tower is one of three that staff is working with developers to construct, but the only one that will come before the City Council due to the required Conditional Use Permit and Variance. The other two telecommunication facilities meet the Development Ordinance to develop by-right due to their camouflage design. To date, neither of the other facilities has submitted for building permits.

COMMENT: Olson Computer Services is a local computer services and internet provider that proposes to improve and expand services to the community. Current infrastructure capacities need to be upgraded to meet client demand. The company proposes to construct a ground-mounted 100 ft. high telecommunications tower at the southern edge of their site, located at 767 N. Porter Road, in a CMX (Commercial Mixed-Use) Zone.

SPECIFIC REQUEST: To construct this tower the following conditional use permits and variances are necessary:

1- A conditional use permit is requested to construct a non-camouflaged-type tower. Section 306.03(a)(3) allows non-camouflaged facilities only with a conditional use permit.

2. A conditional use permit is requested to construct a non-camouflaged-type tower within 1000 ft. of another telecommunications facility. Section 306.05(d)(2) requires a minimum 1000 ft. separation between towers unless camouflaged facilities are used.

ATTACHMENT
ITEM NO.
3- A variance is requested to construct a lattice-type tower rather than a monopole. Section 306.06(c)(3) requires that all telecommunication towers be monopole type.

4- A variance is requested to reduce the front yard landscaped setback from 5 ft. to 2 ft –3 ft. Section 303.05(a) requires a 5ft. front yard landscaped setback.

GENERAL PLAN AND ZONING: The General Plan designates the site as Commercial Mixed Use. The subject site is zoned Commercial Mixed Use (CMX).

SURROUNDING ZONING AND LAND USE:

North: PD (CR) – Planned Development Retail Commercial Zone uses (restaurants, bank, and retail services)
South: PD (CR) – Planned Development Retail Commercial Zone uses (restaurants, retail uses)
East: PD (CR) – Planned Development Retail Commercial Zone uses (restaurants, gas station, bank, retail uses)
West: State Route 65 (Retail and office uses beyond)

PROJECT DETAILS: Olson Computer Service’s existing facility sits on a triangular shaped lot sandwiched between Porter Road and SR 65. The site narrows along the south end, which is the location for the proposed tower. The overall site is developed with two buildings and a parking lot. The main office building has an existing 16ft. tower constructed on the roof resulting in an overall height of 31ft. The second building is an equipment and storage building that houses supplies, utilities and equipment for the business. Between and behind the two buildings are 15 parking spaces. The applicant proposes to construct the 100ft. high lattice type telecommunication facility in the extreme southern portion of the fenced site. This is an optimal location for the tower because it does not conflict with normal operations of the site and it is located adjacent to an existing building that can house the necessary appurtenant facilities for the tower.

Due to the proximity to State Route 65, staff made a request to receive comment on the proposed telecommunication tower from the Department of Transportation (Caltrans). Caltrans Planner, David Deel, responded with “no comment” on the project expressing appreciation for the opportunity to comment and that Caltrans would appreciate reviewing any similar future structures or projects.

STAFF ANALYSIS: Chapter 306 of the Development Ordinance provides provisions and guidance for development of Telecommunication Facilities. Camouflage facilities are permitted by right in all districts. In many cases camouflage technology can be used by integrating the design of the tower into an existing structure or designing the tower to resemble a tall tree, light pole, flag pole, church steeple or other architectural feature. Section 306.05 (b) states, “... facilities shall be located where existing topography, vegetation, building or other structures provide the greatest amount of screening...or as otherwise required through the approval of a Conditional Use Permit.” The code also requires that all non-camouflage type towers use monopole type design. However in the case of this request, camouflage or monopole type design is not feasible due to the need to locate dish antennae on the structure.
The lack of existing trees and other tall structures in the area, negates the possibility to construct a camouflaged facility at this location. Also the lattice type tower is required for structural reasons. Due to the engineering design constraints, a lattice design is required. In order to meet building code and safety standards and ensure the structural integrity of the tower, the proposed open lattice tower was selected to reduce the angular deflection due to wind loading on the microwave dishes to be used on the site. The focus on the distant microwave dishes will be easier to maintain which will mean more reliable service. Initially proposed were three (3) and four (4) dishes, three (3) and four (4) ft. in diameter mounted tight against the tower. A standard or heavy-duty monopole type tower would not support this many dishes of this size. The new tower will also provide unused antenna locations which would be available for co-location by future service providers.

The lattice tower and all associated antennas shall be non-reflective, with a treatment color designed to diminish the visual impact on the skyline. All the connecting wires and hardware shall be located within the lattice tower feeding down and into the adjacent equipment building, which will also house electrical cabinets and other utilities.

Additionally, the existing 16 ft. tower located on the roof of the main building will remain on the site to continue the downlinks to the remote tower sites. These additional redundant links ensure continuous service to all sites during outages and provide a complete circle of coverage. A conditional use permit is required for a tower to locate within 1000 ft. of another tower, regardless of it size, but in this case the shorter tower is barely visible from Henderson Avenue. Also the overall height of 31 ft. of this smaller tower does not exceed the maximum height of 50 ft. allowed in the CMX zone district.

Additionally, a variance is requested to reduce the required front yard landscape area from 5 ft to between 2 and 3 ft. in width. Currently there exists a similar size landscape strip in front of the adjacent building that fronts Porter Road. This landscaped strip will continue in front of the tower base, but will be located behind an existing 6 ft. high wrought iron fence. If a full five (5) ft landscaped setback is required it will cause removal of the fence and the landscape buffer would be very close to the footings of the proposed tower that could compromise its footings. Vines are to be planted on the surrounding fence, so the base of the tower will not be visible to the public. The triangular shape of the lot precludes placement of the tower in an alternate location without impacting vehicular circulation or the more desirable and accessible parking spaces.

ENVIRONMENTAL: The project is exempt from Environmental Review under CEQA Guidelines Section 15301 Class 1 (Existing Facilities).

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: April 6, 2011

DATE ACCEPTED AS COMPLETE: September 20, 2011
Telecommunication Facilities in the Porterville Area

Legend

- Telecommunication facility within City Limits, Co-location uncertain.
- Proposed Telecommunication facility within City Limits. Potential for future Co-location.
- Proposed Telecommunication facility within City Limits. No potential for future Co-location.
- Telecommunication facility not within City Limits. Co-location uncertain.

State Route 65
HWY 190
Henderson Ave
Olive Ave
Main St
City Limits
September 20, 2011

City Council  
City of Porterville  
291 North Main Street  
Porterville, CA  93257

Re:  Communication Tower  
for OACYS

Honorable Council Members:

We wish to request a variance to the requirements with regard to the above referenced project as follows:

1. Landscape area reduction - Due to the existing lot configuration and the proposed location of the communications tower, a 5-foot landscaping strip would be very close to the footings of the proposed tower. We would appreciate the City approving a 2 to 3 foot strip for landscape in this area;

2. Front setback distance - There is an existing wrought iron fence within the Porter Road front setback area. We request that the City approve leaving the existing fence in its present location;

3. Front setback distance - The proposed tower has been located as shown within the front setback area due to the fact that there is an existing 20-foot wide easement along the west property line which has sewer, water, and underground utilities. This easement minimizes the area available for the tower footings;

4. Use of open lattice tower rather than monopole - The proposed open lattice tower was selected to reduce the angular deflection due to wind loading on the microwave dishes to be used at this site. The focus on the distant microwave dishes and antenna will be easier to maintain which will mean more reliable service. The proposed dishes will be 3 to 4 feet across and mounted tight against the tower. This type of tower is easier and safer to climb to install dishes and to service. There will be initially 4 dishes mounted with a possible total of 10 dishes as needed. A standard or heavy-duty monopole type tower would not support this many dishes of this size. It is felt that the open lattice type tower will be less visually obtrusive in this area; and,
5. Existing roof mounted tower to remain - The existing tower on the roof of the north building needs to remain to continue the downlinks to the remote tower sites. When the proposed 100-foot tower goes up, the applicant will move some of the links from the north to the south tower and add some additional redundant links to ensure continuous service to all sites during an outage at any given local tower or remote tower site. The links will be arranged so that if one building/tower has a power problem, core equipment failure or some other type of issue, the other tower would be able to maintain connectivity to all remote sites.

The applicants provide internet service to Porterville and surrounding areas. The need for the proposed tower will give better service to their customers and allow for links to different remote tower locations that do not have line of sight from the lower height of the existing tower. It will also provide a line of sight to City Hall. The tower will provide a more reliable signal which does not have to be delayed by being relayed off of a remote tower site which in turn means faster service to many of the users. The proposed tower will also allow the applicant to serve more customers in the surrounding communities and within the general vicinity of the City of Porterville.

We would appreciate your support and approval of this variance which will help an existing local business to improve their services to local businesses and residences. If you have any questions, please contact our office.

Very truly yours,

Donna Shamley

Donna Shamley
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF A VARIANCE (PRC-2011-11-V) TO ALLOW THE CONSTRUCTION OF A 100 FT. HIGH TELECOMMUNICATIONS TOWER FOR OLSON COMPUTER SERVICES LOCATED AT 767 PORTER ROAD

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of November 1, 2011, conducted a public hearing to consider a request by Olson Computer Services to construct a 100 ft. high telecommunications tower (#PRC-2011-11-V) for increased service to its customer base in the CMX Zone for that site located at 767 N. Porter Road; 150± ft. south of Henderson Avenue, and

WHEREAS: The applicant requested a Variance to allow the construction of a lattice-type communications tower, instead of the required monopole-type tower and a reduced landscape area from 5 ft to 2-3 ft at the site, as required by the Porterville Development Ordinance, and

WHEREAS: The City Council made the following findings with respect to the request for the Variance per Section 607.03:

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district:

The special circumstances applicable to this property to allow a lattice type design is the topography, location and surroundings of the site. The site is flat and is located adjacent to SR 65 to the west, which has an elevated design with an overpass over Henderson Avenue. A taller tower is necessary at this location to serve the community on the west side of the freeway, as well as to provide necessary service over trees and other structural impediments to the relay station on the surrounding mountains. The taller tower necessitates a lattice type design in order to meet building code and safety standards and ensure the structural integrity of the tower. The proposed open lattice tower will reduce the angular deflection due to wind loading on the microwave dishes to be used on the site. The focus on the distant microwave dishes will be easier to maintain which will mean more reliable service. A standard or heavy-duty monopole type tower would not support the number and sizes of dishes which are required to be located at this site.

The special circumstances applicable to this property to allow a reduction in the landscaped setback are the size, shape, and location of the parcel. The growth in the cellular/internet communication industry requires a more sophisticated facility to be located at this business site, which provides internet services to the public. This built-out site is located on a parcel that is triangular in shape and narrows to a point at the southern end which is the only feasible location for the tower that does not conflict

ATTACHMENT ITEM NO. 5
with existing buildings, usable parking spaces or utility easements. The reduced landscaped setback is necessary due to the narrowness of the site at this location and to prevent interference with the footings of the tower. The landscape strip is consistent in width with existing frontage landscaping at the site.

2. Such special circumstances were not created by the owner or applicants:

The shape of the lot where it narrows to a point at the south end was created by the construction of SR 65 and not by the applicant. The variance circumstances for alternative tower design are a result of increased client and service demand and the need for improved, expanded and direct reception which is dependent upon the services staying in the existing location. The Olson Computer Services telecommunications system is based on the hub being located in this geographic location.

3. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

Olson Computer Services is a cellular and internet services provider. The tower to be constructed on the site requires the mounting of extra equipment not normally found on typical cellular telecommunication facilities. The lattice type tower is a necessary design to provide efficient services from this site that are not typical of other sites which are individually selected to provide a narrower array of telecommunication facilities. The variance is a result of the limitations of monopole type engineering design based on the need to locate microwave dish antennae on the structure.

The proposed landscape will be in an area that currently has no landscape and will be consistent in dimensions with the adjacent existing landscaping already in place.

4. The authorization of the variance will substantially meet the intent and purpose of the zoning district in which the subject property is located and will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

A 16 ft. tower already exists atop the single story existing main office building. The overall height from ground level to the top is 31 ft. The placement or construction of the additional lattice tower will not create or increase any substantial impact to the developed urban area.

The tower will not be lighted and all connections and extensions will be within the lattice structure feeding down into the equipment building immediately adjacent to the proposed tower location. Building permits will be required to ensure the structural integrity and applicable standards of the structure are met.
NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the aforementioned variances contained within application #PRC 2011-11-V, subject to the following condition:

1. The development of the proposed antenna and related improvements shall conform with the conditions imposed in the conditional use permit application for this request.

________________________________________
Ronald L. Irish, Mayor

ATTEST:

________________________________________
John D. Lollis, City Clerk
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF A CONDITIONAL USE PERMIT (PRC-2011-11-C) TO ALLOW THE CONSTRUCTION OF A 100 FT. HIGH TELECOMMUNICATIONS TOWER FOR OLSON COMPUTER SERVICES LOCATED AT 767 PORTER ROAD

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of November 1, 2011, conducted a public hearing to consider a request by Olson Computer Services to construct a 100 ft. high telecommunications tower (#PRC-2011-11-C) for increased service to its customer base in the CMX Zone for that site located at 767 N. Porter Road; 150± ft. south of Henderson Avenue, and

WHEREAS: The applicant requested a Conditional User Permit to allow for the construction of a non-camouflaged type communications tower, in lieu of a camouflaged tower and to construct the tower within 1000 ft of an existing tower, as required by the Porterville Development Ordinance, and

WHEREAS: The City Council made the following findings for the Conditional Use Permit per Section 605.4:

1. Approval of the proposed project will advance the goals and objectives of and is consistent with the General Plan and any other applicable plan that the City has adopted.

   The local social, economic, and residential community rely heavily on technology, wireless communication, and internet connectivity. The proposed project provides the opportunity for improving these services and meeting the following General Plan policies and guidelines:

   • General Plan 1.1 – “Support sustainable development...development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”
   • General Plan 1.1 - “Plan in a manner that improves the quality of life for the whole community and meets land needs based on the projected population and job growth.”
   • LU-G-1 – “Promote a sustainable, balanced land use pattern that responds to existing needs and future needs of the City.”
   • ED-G-2 – “Retain, improve, and promote existing business in Porterville...”
   • General Plan Chapter 3 Economic Development – “Retain, improve and promote existing businesses in Porterville...”

2. The location, size, design and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conforms in all
significant respects with the General Plan and with any other applicable plan adopted by the City Council:

The Commercial Mixed Use General Plan land use designation and corresponding CMX zone district where this tower is located provides a mix of uses that the facilities on this tower will service. The operation of the tower will be consistent with the operating characteristics of the existing facility but will improve the services provided to clients and the community. Proximity to the freeway also will promote better cellular and internet service for the traveling public.

The Conditional Use Permits are required due to the non-camouflage design of the tower and proximity to another tower within 1,000 ft. The lack of existing trees and other tall structures in the area, coupled with the need for a lattice type tower, negates the possibility of constructing a camouflaged facility at this location. The mixed use nature of the surrounding area and its distance from residential areas lessens the requirement for a camouflage facility at this location.

WHEREAS: The City Council made the following findings with respect to a request for a Telecommunication Facilities per Section 306.07:

1. The proposed telecommunication facility will comply with all applicable State and Federal standards and requirements.

   According to the information submitted by the applicant, the facility will comply with applicable Federal and State standards and requirements. A valid FCC license will be issued by the applicable regulating authority following completion of the construction of the tower.

2. The proposed telecommunication facility will conform with the specific purposes of this chapter and any special standards applicable to the proposed facility.

   The antenna structure as proposed conforms to the standards of this code as follows:

   • Since the antenna is not camouflaged, the use is permitted with a conditional use permit. (306.05(b)).

   • The tower shall meet or exceed current standards and regulations of the FCC, the FAA and other applicable agencies. (306.03(b)).

   • A City of Porterville building permit will be required before construction of the tower is allowed. (306.03(c)).

   • The height of the tower is at 100 feet. (306.06(a))
• The tower and auxiliary equipment cabinets on the site are setback at least five feet from the adjacent property line and are not located in the front yard setback (306.06(b) & 306.06(c)(8)).

• The support structure is a lattice design tower and necessitates a variance. Section 306.06(c)(3) requires that all telecommunication towers be monopole type unless a variance is approved. In this case the variance is warranted based on the findings from Section 607.

• The tower is constructed in a manner to allow for co-location of future facilities by alternate carriers. (306.03(c)(8)).

3. The applicant has made good faith and reasonable efforts to locate a telecommunication facility on a support structure other than a new monopole or lattice tower or to accomplish co-location:

No other like facility exists within a mile. Due to the engineering design constraints, a lattice design is required. In order to meet building code and safety standards and ensure the structural integrity of the tower, the proposed open lattice tower was selected to reduce the angular deflection due to wind loading on the microwave dishes to be used on the site.

4. To locate a telecommunication facility where it is readily visible from the habitable area of a dwelling unit within three hundred (300) feet or at any location where it is visible from a public right-of-way, public park, or other public recreation or cultural facility, the decision-making authority shall find that:

(a) It is not feasible to provide the service at another location or to incorporate additional measures such as a decrease in height, increase in setback, change in design, relocation relative to other structures or natural features, that would further reduce its visibility.

The need for a lattice design, lack of existing trees and other tall structures in the area, negates the possibility of constructing a camouflaged facility at this location.

(b) The proposed telecommunication facility provides an important link in the applicant's service area build-out and is necessary to provide personal wireless services to City residents.

The focus on the distant microwave dishes will be easier to maintain which will mean improved and more reliable service.

(c) It is not feasible to incorporate additional measures that would make the telecommunication facility not readily visible, meaning that a person with normal vision can see the facility and distinguish it as an antenna or other component of a telecommunication facility.

The proposed open lattice tower was selected to reduce the angular deflection due to wind loading on the microwave dishes to be used on the site. The lattice
tower has been conditioned so that all associated antennas shall be non-reflective, with a treatment color designed to diminish the visual impact on the skyline.

(d) The Zoning Administrator may waive or modify requirements of this chapter upon finding that strict compliance would result in noncompliance with applicable Federal or State law.

Not Applicable

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the aforementioned conditional use permits contained within application #PRC 2011-11-C, subject to the conditions found in attached Exhibit B.

________________________
Ronald L. Irish, Mayor

ATTEST:

________________________
John D. Lollis, City Clerk
EXHIBIT B  
PRC-2011-11-C  

The following comments and conditions are applicable to the proposed project:

1. The Conditional Use Permit is contingent upon approval of Variance No. PRC-2011-11-V.

2. The Conditional Use Permit shall become null and void if not undertaken and actively and continuously pursued within two (2) years.

3. That the telecommunication facility shall provide space and make available co-location opportunities to future service providers on the proposed tower and not require approval by the City Council.

4. Due to the fact that the facility is not proposed to be camouflaged or screened, all mounted equipment and panel antennas shall be mounted closely to the tower.

5. The tower must remain a minimum of five (5) ft. from any property line.

6. That the lattice tower and all associated antennas shall be non-reflective, with a treatment color designed to diminish the visual impact on the skyline. The facility and support structures shall be painted a non-glossy color so as to minimize visual impacts from surrounding properties. All facilities shall be designed and located to minimize their visibility to the greatest extent feasible. The proposed location presents a location readily visible from the public right-of-way and so shall incorporate appropriate color or paint techniques to disguise the facility and/or blend in the surrounding environment, to the maximum extent feasible.

7. The tower shall not be artificially lighted unless required by the FAA or other applicable authority. If required, two (2) sets of energy calculations shall be submitted with the building permit.

8. A permanent sign, approx. 16" x 32" shall be placed on the gate of fence surrounding the facility with appropriate information to contact the operator to facilitate emergency services.

9. Any back-up generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between 8am and 7pm.

10. The developer/applicant shall comply with the City standard for "backflow" prevention pursuant to Resolution No. 9615.

11. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to
include two (2) sets of structural calculations.

12. Compliance with access laws (both State and Federal) is required.

13. Compliance with all applicable codes is required.

14. All construction offices, storage containers, etc. for temporary use must receive Chief Building Official approval.

15. Signs, if any, shall require separate permits.

16. The developer/applicant shall pay all fees according to the Municipal Code and State Law. Plan check fees may be required at time of building permit submittal.

17. The development of the proposed antenna and related improvements, including landscaping, shall conform to the plans attached as Exhibit A.
Chapter 306  Telecommunications Facilities

Sections:

306.01  Purpose
306.02  Applicability
306.03  General Requirements
306.04  Minimum Application Requirements
306.05  Location and Siting
306.06  General Development Requirements
306.07  Required Findings

306.01  Purpose

The specific purposes of this chapter are to:

(a) To permit the siting, construction, operation and maintenance of wireless telecommunications towers and antennas within the City’s boundaries;

(b) To protect and promote the public health, safety, general welfare and quality of life within the City by regulating the siting of wireless telecommunications towers and antennas, while preserving the rights of wireless telecommunications providers;

(c) To establish guidelines for the governance of wireless telecommunications facilities which recognize the unique land use distribution, topography, and aesthetics of the community;

(d) Protect residential areas and land uses from visual blight, safety impacts associated with attractive nuisance, and degradation of residential character;

(e) Promote the location of towers in non-residential areas;

(f) Minimize the total number of towers throughout the community;

(g) Establish the joint use of new and existing tower sites as a primary option rather than construction of single-use towers;

(h) Locate towers and antennas in areas where the overall impact on the community is minimal, now and in the future; to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

(i) Enhance the ability of providers of wireless telecommunications services to provide such services to the community quickly, effectively and efficiently;

(j) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures;

(k) Create and preserve telecommunication facilities that will serve as an important and effective part of the City’s emergency response network; and

ATTACHMENT
ITEM NO. 239
Promote fair and effective wireless telecommunication services and ensure that a broad range of competitive telecommunications services with high quality telecommunications infrastructure are available to serve the community.

306.02 Applicability

Towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities. This chapter shall apply, to the fullest extent allowed by and consistent with applicable Federal, State, and California Public Utility laws and regulations, to all new wireless towers and facilities, including towers and antennas proposed to be located on private or public property, except for the following:

(a) **Amateur Radio Station Operators.** Any tower, or the installation of any antenna, that is under the height limitation of the relevant district and is owned and operated by a federally-licensed amateur radio station operator.

(b) **Receive Only Antennas.** A single ground or building-mounted receive-only radio or television antenna not exceeding the maximum height permitted by this Ordinance, including any mast, or a receive-only radio or television satellite dish antenna, subject to the following restrictions:

1) **Residential Districts.**

   a. **Satellite Dish One (1) Meter or Less.** A satellite dish that does not exceed one (1) meter in diameter or the height of the ridgeline of the primary structure on the same parcel, and is for the sole use of a resident occupying the parcel.

   b. **Satellite Dish Greater than One (1) Meter.** A satellite dish that is greater than one (1) meter in diameter, is not located within a required front or street side yard, and is screened from view from any public right-of-way and adjoining property.

   c. **Antennas.** An antenna that is mounted on any existing building or other structure that does not exceed twenty-five (25) feet in height, and is for the sole use of a resident occupying the parcel.

2) **Commercial and Employment Districts.**

   a. **Satellite Dish Two (2) Meters or Less.** A satellite dish that does not exceed two (2) meters in diameter so long as the location does not reduce required parking, diminish pedestrian or vehicular access, or require removal of landscaping maintained as a condition of project approval.

   b. **Satellite Dish Greater than Two (2) Meters.** A satellite dish that is greater than two (2) meters in diameter that is not located within a required front yard or street side yard and is screened from view from any public right-of-way and adjoining property.

   c. **Mounted Antennas.** An antenna that is mounted on any existing building or other structure when the overall height of the antenna and
its supporting tower, pole or mast does not exceed a height of thirty (30) feet or twenty-five (25) feet if located within twenty (20) feet of a Residential district.

d. **Free-Standing Antennas.** A free standing antenna and its supporting tower, pole, or mast that complies with all applicable setbacks when the overall height of the antenna and its supporting structure does not exceed a height of thirty (30) feet or twenty-five (25) feet if located within twenty (20) feet of a Residential district.

e. **Undergrounding Required.** All wires and/or cables necessary for operation of an antenna shall be placed underground or attached flush with the surface of the building or the structure of the antenna.

(c) **Pre-existing Towers or Antennas.** Pre-existing towers and pre-existing antennas in full compliance with applicable regulations in effect at the time of construction shall not be required to meet the requirements of this chapter.

306.03 **General Requirements**

(a) **Permit Requirements.**

(1) **Camouflage Facilities:** Permitted by right in all districts.

(2) **Co-located Facilities:** Permitted by right when proposed to be co-located on a facility that was subject to a discretionary permit issued on or after January 1, 2007 and that contemplated co-location.

(3) **Non-Camouflage Facilities:** Allowed subject to Conditional Use Permit approval when located at least three hundred (300) feet from any R District.

(b) **State or Federal Requirements.** All towers and antennas shall meet or exceed current standards and regulations of the FCC, the FAA, and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner’s expense.

(c) **Building Codes and Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitute a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards.
Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner’s expense.

(d) **Multiple Antenna/Tower Plan.** The City encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for multiple sites shall be given priority in the review process, in compliance with the Permit Streamlining Act.

### 306.04 Minimum Application Requirements

In addition to meeting the standard application submittal requirements for permits specified in Chapter 601, Common Procedures, applications for wireless telecommunications facilities pursuant to this chapter shall include the following:

(a) **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the City limits or urban area boundary (UAB), including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or Conditional Use Permits under this chapter or other organizations seeking to locate antennas within the jurisdiction of the City, provided, however, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(b) Copies of all applicable licenses or other approvals required by the Federal Communications Commission (FCC), the California Public Utilities Commission (PUC), and any other Federal or State government with authority to regulate telecommunications facilities including documentation of compliance with all conditions imposed in conjunction with such licenses or approvals.

(c) Written certification of compliance with all applicable FCC requirements and standards.

(d) Site plan and elevations drawn to scale. Elevations shall include all structures on which facilities are proposed to be located.

(e) Description of proposed approach for screening all facilities from public view including plans for installation and maintenance of landscaping and sample exterior materials and colors.

(f) Written authorization from the landowner in the event the applicant does not own the subject property.

(g) Any other information the Zoning Administrator deems necessary in order to process the application in compliance with the requirements of this chapter. This may include, but is not limited to, a visual analysis of the proposed project.
306.05 Location and Siting

(a) Wireless telecommunication facilities shall be located in the following order of preference:

(1) Integrated into building/structure design (camouflage sites).
(2) Co-located with other major wireless telecommunication facilities.
(3) On existing structures such as buildings, communication towers, or utility facilities not subject to the City’s franchise agreements.
(4) On existing signal, power, light or similar kinds of permanent poles.
(5) In Employment Districts.
(6) In Commercial Districts.

(b) Wireless telecommunication facilities shall be located where the existing topography, vegetation, building or other structures provide the greatest amount of screening. Where insufficient screening exists, applicants shall provide screening satisfactory to the Zoning Administrator, or as otherwise required through the approval of a Conditional Use Permit.

(c) Ground-mounted wireless telecommunication facilities shall be located only in close proximity to existing above-ground utilities, such as permanent electrical towers, light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.

(d) Required Separation. For the purposes of this section, all distances shall be measured in a straight line without regard to intervening structures, from the nearest point of the proposed major wireless telecommunication facility to the nearest point of another major wireless telecommunication facility. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of municipal and County jurisdictional boundaries.

(1) Residential Districts. A facility shall not be located within a three hundred (300) foot radius of any R District unless designed as a camouflage facility (i.e. penthouse, attached accessory building).

(2) Other Telecommunications Facilities. A facility shall not be located within a one thousand (1,000) foot radius of another facility, unless appropriate camouflage techniques have been used to minimize the visual impact of the facility to the extent feasible and mounting on a building or co-location on an existing facility is not feasible.

(3) Reduction in Required Separation. A reduction in the required separation between telecommunications facilities may be granted as a part of the Conditional Use Permit approval where technical evidence has been provided to substantiate the following findings:

a. The granting of the reduction will not substantially impair the intent and purpose of this title or the goals, policies, and objectives of the adopted General Plan;
b. The reduction is not requested exclusively on the basis of economic hardship to the applicant;

c. The reduction is necessary and essential to providing the applicant’s wireless service based on the technical constraints and the lack of other available appropriately zoned land outside the radius; and

d. Evidence has been submitted to the satisfaction of the City demonstrating that co-location on existing tower structures is not available or is not technically feasible. Evidence may include a written statement from the service provider with the existing facility that collocation is not feasible.

306.06 General Development Requirements

The following standards apply to all telecommunications facilities:

(a) **Maximum Height.** No antenna shall exceed one hundred (100) feet in height except for camouflage facilities on or within a structure such as a steeple or flag pole, otherwise allowed to exceed one hundred (100) feet in height. Such antenna shall not exceed the height of the structure.

(b) **Setbacks.** Telecommunications facilities and accessory structures shall comply with the required building setbacks for the zoning district in which the facility is located, however, in no instance shall the facility (including antennae and equipment) be located closer than five (5) feet of any property line.

(c) **Design Standards.** All facilities shall be designed to minimize their visibility, prevent visual clutter, and reduce conflicts with surrounding land uses. A visual analysis may be required as part of the Conditional Use Permit review. All telecommunications facilities shall:

1. Utilize state of the art camouflage technology as appropriate to the site and type of facility. Where no camouflage technology is proposed for the site, a detailed analysis as to why camouflage technology is physically and technically infeasible for the project shall be submitted with the application.

2. Facilities that are not camouflage shall close mount all panel antennas.

3. Antennae and support structures, where utilized, shall be monopole type.

4. Monopole support structures shall not exceed four (4) feet in diameter unless technical evidence is provided showing that a larger diameter is necessary to attain the proposed tower height and that the proposed tower height is necessary.

5. Wireless telecommunications facility support structures and antennae shall be painted a non-glossy color so as to minimize visual impacts from surrounding properties.

6. All facilities shall be designed and located to minimize their visibility to the greatest extent feasible. All wireless telecommunications facilities proposed for locations where they would be readily visible from the public right-of-way or from a residential district shall incorporate appropriate techniques to
disguise the facility and/or blend into the surrounding environment, to the extent feasible. Facilities shall be compatible in scale and integrated architecturally with the design of surrounding buildings or the natural setting.

(7) No telecommunications antenna or ancillary support equipment shall be located within the front setback except for facilities that are completely subterranean.

(8) Support structures and site area for wireless telecommunications antennae shall be designed and of adequate size to allow at least one (1) additional wireless service provider to co-locate on the structure.

(9) Towers shall not be artificially lighted unless required by the FAA or other applicable authority. All objects affecting navigable airspace shall comply with Federal Aviation Regulation Section 77 and shall be in conformance with the current land use designations for land within one (1) mile of the runway.

(10) For the protection of emergency response personnel, each telecommunications facility shall have an on-site emergency "kill switch" to de-energize all RF-related circuitry/componency at the site. For collocation facilities, a single "kill switch" shall be installed that will de-energize all carriers at the facility in the event of an emergency.

(11) All proposed fencing shall be decorative and compatible with the adjacent buildings and properties within the surrounding area and shall be designed to limit graffiti.

(d) **Signage.** A permanent, weather-proof identification sign, approximately sixteen (16) inches by thirty-two (32) inches in size, shall be placed on the gate of the fence surrounding the facility or, if there is no fence, on the facility itself. The sign shall identify the facility operator(s), provide the operator’s address, and specify a twenty-four (24) hour telephone number at which the operator can be reached so as to facilitate emergency services.

(e) **Landscaping.** Each applicant for an antenna and/or tower shall provide a landscaping plan that covers as much as the parcel and lease area as necessary to achieve the following:

(1) Landscaping shall be provided to screen the facility from surrounding properties or right-of-ways.

(2) All landscaping shall be installed with an irrigation system equipped with an automatic timer.

(3) Street trees and other landscaping may be required for telecommunications facilities proposed on parcels lacking street frontage landscaping.

(4) Landscaping shall include re-vegetation of any cut or fill slopes.

(5) Where possible, existing plants and trees shall be used to the full extent possible for screening of the facility.
(f) **Noise and Traffic.**

1. Backup generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:00 a.m. and 7:00 p.m.

2. Traffic shall be limited to no more than one (1) round-trip per day on an average annual basis once construction is complete, except for emergency maintenance.

**306.07 Required Findings**

The City Council may approve or approve with conditions any Conditional Use Permit required under this chapter only after making the following findings:

(a) The proposed telecommunication facility will comply with all applicable state and Federal standards and requirements;

(b) The proposed telecommunication facility will conform with the specific purposes of this chapter and any special standards applicable to the proposed facility;

(c) The applicant has made good faith and reasonable efforts to locate a telecommunication facility on a support structure other than a new monopole or lattice tower or to accomplish co-location.

(d) To locate a telecommunication facility where it is readily visible from the habitable area of a dwelling unit within three hundred (300) feet or at any location where it is visible from a public right-of-way, public park, or other public recreation or cultural facility, the decision-making authority shall find that:

1. It is not feasible to provide the service at another location or to incorporate additional measures such as a decrease in height, increase in setback, change in design, relocation relative to other structures or natural features, that would further reduce its visibility; and

2. The proposed telecommunication facility provides an important link in applicant's service area build-out and is necessary to provide personal wireless services to City residents.

3. It is not feasible to incorporate additional measures that would make the telecommunication facility not readily visible, meaning that a person with normal vision can see the facility and distinguish it as an antenna or other component of a telecommunication facility;

(e) The City Council may waive or modify requirements of this chapter upon finding that strict compliance would result in noncompliance with applicable federal or state law.
COUNCIL AGENDA: NOVEMBER 15, 2011

SUBJECT: ANGELA VERA APPEAL TO REMOVE VALLEY OAK TREE AT MORTON AVENUE AND PEARSON DRIVE

SOURCE: Parks and Leisure Services Department

COMMENT: At the October 6, 2011, Parks and Leisure Services Commission meeting, Ms. Angela Vera, representing Papillion Holdings, LLC, submitted an application to remove a Valley Oak (Quercus lobata). The tree is located on the southeast corner of Morton Avenue and Pearson Drive, on the Morton Avenue side. The tree is 50" diameter breast height (4 ½’ above grade), 55-60’ in height. The drip line spreads 62 feet wide east/west and 41 feet north/south. The tree is approximately 100-150 years old based on information from California Oak Foundation publication, stating that trees in the 4-5’ diameter breast height are usually in this range. A large portion of the roots were removed on the south side of the tree for the foundation of the nearby building. The trunk has cuts and scars that healed over with no visual signs of decay.

At the same meeting, the Commission denied Ms. Vera’s request for removal. As per the Municipal Code 19-60, Ms. Vera is officially appealing the Commission’s decision. Ms. Vera has applied for the tree to be removed on a previous occasion, December 6, 2007, and filed a formal Service Request/Complaint, October 8, 2007.

In November 2007, staff received a report from a Certified Arborist, stating that the tree is a valuable asset to the City of Porterville and should be preserved for future generations to enjoy. At that time, the tree harbored termites and a variety of insects at the top. However with the removal of these branches completed and monitoring of the tree annually along with necessary pruning, it should thrive for many years to come.

Ms. Vera’s primary concerns are leaves and limbs, falling on the roof top of her property causing damage, creating leakage to the roof; and roots uplifting the sidewalk, which could possibly result in trip and falls by citizens walking in this location. She also feels limbs could potentially fall on passengers waiting for the City’s transit buses.

One of the conditions of approval attached during the permit process prior to construction of the nearby building was for the contractor to construct the sidewalk around the tree, in order to preserve the majestic Oak.
RECOMMENDATION: That the City Council accepts staff’s report and determine the status of the appeal.

ATTACHMENT:  
1) Letter of Appeal from Ms. Vera
2) November 2007 Arborist report
3) January 2008 Follow Up Arborist Report
4) Minutes for December 6, 2007 Commission Meeting
5) Minutes from October 7, 2011 Commission Meeting
6) List of Oak Trees Maintained by the City
7) Requests for Service, Complaints Received
November 1, 2011

From: Angela Vera, Managing Member
Papillon Holdings, LLC

To: City Council Members
City of Porterville, CA

Subject: Oak tree removal 390 – 394 N. Pearson & Morton St., Porterville

The following is to respectfully request to put the following item on the City Council agenda. The removal of oak tree on the location of Morton St and Pearson. This issue has been addressed in several occasions to the Parks and Leisure Department of the City of Porterville. Our first request was made on December 5, 2007 creating awareness of the large limbs that were falling on the roof top of the building we perform our business. In that same request the tenants for that building also addressed the fact that someone could get injured because of that tree. The sidewalk was raised because of the roots that could cause someone to trip and fall or a rotten limb could fall on the head of someone while waiting for the bus. While the tree was trimmed and somewhat addressed the danger was still there and it was just a matter of time for the City to have to pay, that time was on September 9, 2009 when the City was sued when a small child fell because of that sidewalk and the City had to pay an undisclosed amount because of that tree. As I do this request I will gladly offer to pay for the expense of the tree removal and the replacement with five oak trees in a location where not only will they be beautiful to enjoy but also the citizens of the City will have to worry about and/or pay for any maintenance expenses. If this is not something that can be done I will be open to suggestions to further action. Thank you for your consideration.

Respectfully,

Angela Vera
Managing Member
Papillon Holdings, LLC
November 13, 2007

David Zorn
Parks Department
City of Porterville
291 N. Main Street
Porterville, CA 93257

PROJECT LOCATION
The project is an inspection of a Quercus lobata (Valley Oak — Steve Oak). The tree is located on the southeast corner of Morton Avenue and Pearson Drive, on Morton Avenue side.

SITE HISTORY
This oak tree had been cut back heavily in the past, some of the cuts were in the 6-10” range. There was a new building to the south of this tree less than one (1) year old. This building is approximately seventeen (17) feet south from the base of the tree.
The sidewalk was curved around the base of the tree trunk on the south side of the tree.
The street is a four (4) lane roadway located within four (4) feet of the trunk on the north side. It was noted that leaves and debris has been currently falling on the roof.

INSPECTION
A preliminary inspection was completed on 11/6/07 to collect data about size, location and conditions around the tree. The residents of the building were present during this inspection. They showed me a piece of wood that had fallen onto the roof of the building. It was approximately 4” in diameter and was riddled with holes from termites.

The inspection on the tree was completed with the following results:

- **Size**: 50” diameter breast height (4 1/2’ above grade)
- **Spread**: 55-60’ in height
- **Age**: 62’ wide east/west
- **Age**: 41’ wide north/south
- **Age**: 100-150 years old based on information from California Oak Foundation publication that trees in the 4-5’ dbh are usually in this range.
- **Roots**: A large portion of the roots were removed on the south side of the tree for foundation for the new building.
- **Trunk**: Most cuts on the trunk had healed over and no visual signs of decay along the trunk.
- **Scaffold**: Branch attachments were good no splits or included bark were identified
Branches: There were quite a few dead branches identified on the south side of the tree where roots were cut and most of the February pruning took place.

Foliage: Most of the leaves looked to be fairly healthy, except they are getting ready to fall due to season change. Mildew was visible on some of the newer sprouts.

During this inspection there was some old pruning cuts were identified that needed to be examined further.

On 11/10/07, Steve Hunt from West Coast Arborists met me at the location with a 55' aerial device to enable an inspection of the cuts from the previous pruning. The prior severe previous pruning had resulting in decay and die back on the areas where large cuts were taken. The location of the 4" branch failure (noted by resident) was from a stub from an old pruning cut. The top of the tree on the south side had a large dead branch and decay with termites in the wood.

In a tree this size and this age, there is a wide variety of insects that exists in the tree. Most of them are not fatal or will do long term damage to the tree. Over pruning of oaks is probably the biggest and most detrimental. This tree was over pruned again this past February to reduce the over hang of the new building.

RECOMMENDATIONS
Remove the portion of the top that is dead and has termite damage. This will probably determine the fate of the tree. If the tree is full of decay in the top, we will need to analyze this for remove. If we are able to cut out the decay, there needs to be a maintenance program that safe guard the tree.

This tree should be placed on an annual pruning cycle that allows no more that ten percent (10%) live tissue to be removed. Pruning should be done during the dormant period (winter months).

With a regular maintenance program, the City and the residents should have program that everyone can live with. This will not stop all the leaves from getting on the roof but there is only one small branch that is over the roof line. There should be no more 4" branches falling on the roof.

This tree is a valuable asset to the City of Porterville and should, if possible, be kept for generations to come. It was there when the owners decided to build there. In doing so, they assumed some responsibility that the leaves would be falling and be getting into drains and gutters.

Respectfully submitted,

Al Epperson
Certified Arborist WE-0719AU
January 15, 2008

David Zorn
Parks Department
City of Porterville
291 N. Main St.
Porterville, CA 93257

RE: Project location: 390 Pearson Drive – Valley Oak

Dear Mr. Zorn,

The portion of the above tree that was dead was removed down to solid wood by our crew. This tree should continue to be evaluated as recommended in our Arborist report of 11/13/07. If you have any questions of comments, please don’t hesitate to call me.

Sincerely,

[Signature]

Steve Zautner
STAFF COMMENTS ON
AGENDA ITEMS
DECEMBER 6, 2007
REGULAR MEETING

Commission Reorganization

Annually the Commission elects a Chairperson and a Vice Chairperson to lead the Commission. It would be appropriate for the Chairperson to open nominations for the position of Chairperson during the next twelve months. Upon closing of the nominations an open vote should be conducted if there is more than one nomination. It would then be appropriate for the Chairperson to open nominations for the position of Vice Chairperson for the next twelve months. Upon closing of the nominations an open vote should be conducted if there is more than one nomination. If nominations are singular for both positions then one vote should be conducted to ratify the selection.

Action: Election of Chair and Vice Chair

Consent Calendar

1. Monthly Reports

Project status report on the department's major projects and monthly operations summary for November 2007 are provided for the Commission's acknowledgement of receipt. Staff wishes to also make the Commission aware that the City Council will be conducting a study session on Saturday, December 8, 2007 for the purpose of obtaining information related to projects as a precursor of setting annual priorities for 2008.

Action: Acknowledge Receipt of Information

Scheduled Matters

1. Tree Removal Request, 272 South B Street

A request to remove a tree has been submitted by the Public Works Department. They have indicated that the property owner raised concerns that the tree has caused damage to the curb, gutter and sidewalk, and that street drainage is impaired. Parks staff have reviewed the situation and found a mature Modesto Ash which has been pruned for mistletoe removal in the past. The tree is planted in a somewhat narrow parkway for this type of tree and the roots are lifting the concrete street improvements. The resident has several other trees within the front yard. A small to medium variety deep rooted species replacement tree
could be planted with root barriers installed in conjunction with the concrete street improvement replacement. The cooperation of the resident would be needed in care and watering of a replacement tree.

**Action:** Approve tree removal request subject to a replacement tree

2. **Tree Removal Request, South end of Rio Bonito Street**

A request to remove a tree has been submitted by neighborhood resident(s) through a member of the City Council. The residents have indicated that the tree limbs are subject to breaking and that seed material from the tree is a nuisance. Parks Staff have reviewed the situation and found a mature Cottonwood which has been pruned several times as the result of limb breaks. The tree is within the open space property of the City along the north embankment of the Tule River and in close proximity to the developed project property boundary fence. The location makes pruning difficult and raises prospects of root intrusion/damage within resident yards. Staff has concerns that removal of the tree could jeopardize the stability of the river embankment and also note that Cottonwoods are abundant within the river channel. There is no irrigation system and the land area is subject to vandalism, both making the likelihood very slim for establishing a replacement tree. Staff believes this tree does not have value for preservation as high as an Oak or Sycamore, but that monitoring and pruning of the existing tree could be continued.

**Action:** Deny tree removal request

3. **Tree Removal Request, South side of Morton, 50 feet east of Pearson**

A request to remove a tree has been submitted by Angela Vera, a tenant in an office building near the tree. The tenant has indicated that leaves and branch debris from the tree fall onto the roof of the building and that some termites have been noticed. The tenant also reported that the roof drainage has malfunctioned causing leaks that damaged interior materials and the tenant has attributed the cause of the drainage problem to the collection of leaves. Parks staff have reviewed the situation and found that the tree is a mature Valley Oak which has been pruned during each of the last two years since the new office building was erected. Staff retained the services of West Coast Arborist to provide an arborist report on the tree, which is an attachment within the agenda materials. West Coast Arborist advised that the tree has been damaged by root removal during the building construction and has been over-pruned recently. With proper care they believe that the tree should survive for several more generations. Staff intends to work with West Coast Arborist to schedule the recommended care to the best of budget capabilities.

**Action:** Deny tree removal request
4. Heritage Ballfield Project

Bids were received on October 30, 2007. A time extension for the funding was received on November 16, 2007. Public Works is evaluating the bids and will be providing a recommendation to the City Council. The information will be forwarded as it becomes available to Parks & Leisure staff.

Action: Information & Discussion

5. Bicycle Storage Locker Regulations

Commission Member Capone has volunteered to assemble information and suggestions regarding possible regulations on the purpose and use of the various public bicycle storage lockers located within the community. Information may be distributed at the meeting and the matter will be carried over to the next meeting of the Commission for further discussion.

Action: Information & Discussion

6. Commission Training

The City Council has authorized the office of the City Attorney to schedule a special training session on the 'Brown Act' for the City Council and all their advisory bodies. Commission Members will be expected to make themselves available for this training session. Staff will provide information on when and where the training will be held as soon as the information becomes available.

Action: Information & Discussion

7. Signs for Murry Park Pond

A concern has been raised at the City Council meeting regarding the quality of the water within Murry Park Pond. Water samples will be taken for analysis and the results will be provided when available. Staff is certain that the test results will indicate that there are elevated levels of bacteria within the water as the result of accumulated fowl feces sediment in the pond bottom. Signs have been placed in the past to alert the public that the water is not safe for bathing or swimming, but the signs seem to disappear in time. Staff is requesting Commission authorization to install new signs and have provided a few suggestions for the message.

Action: Consider Sign Message
8. Leisure Activities/Program Report

In order to keep Commission members abreast of current "happenings" within the Leisure Services Division, staff will take this opportunity to highlight programs and upcoming events.

Action: Information & Discussion

9. Schedule Items for Future Meetings

This is an opportunity for the Commission to request the inclusion of items of interest for future meeting agendas. Staff wishes to bring information for the Commission knowledge and discussion related to the Tree City USA Program to the next Commission meeting. The City has been an annual recipient of the recognition award for the past 14 years, but there are requirements and obligations for annual recognition which the Commission should be updated upon.

Action: Information & Discussion

10. Other Matters of Information

At the Commission’s discretion other matters of information within the realm of charge of the Commission may be shared.

Action: Information-Only
MEMORANDUM

DATE: October 22, 2007

TO: Jim Perrine, Director, Parks and Leisure Services

FROM: David Zorn, Parks Superintendent

SUBJECT: Oak Tree at Pearson and Morton

A request for removal has been received by the tenants of the building located on the southeast corner of the above mentioned intersection. The subject tree has proved to be a menace to the building's drainage (causing leakage), has been determined to be infested with bugs (likely termites) and is causing some sidewalk damage.

We have had the tree pruned; however this has not corrected problems associated with this tree.

Tenant has called the Parks Division for the last two (2) years off and on with intentions of keeping the tree, however sees no other way to proceed with this matter.

DZ/gs
CITY OF PORTERVILLE
PARKS & LEISURE SERVICES DEPARTMENT
291 N. MAIN STREET, PORTERVILLE, CA 93257
PHONE (559) 782-7461 FAX (559) 782-4053
REQUEST FOR SERVICES
TO REMOVE, PRUNE OR REPLACE TREE(S)

Owner of Property  Angela Vera
Address of Owner  392/394 N. Pearson Dr.  Phone (559) 786 9730
Location of Tree(s)  Pearson and Morton (Tree behind 392/394 N. Pearson)
Number of Trees  ONE  Variety
Reason  Tree & branches falling down, hurt stop under tree (danger to individuals) tree has termites??
facing also on top of building and causing dents that
in their caused leaks. Thanks.
I, THE UNDERSIGNED, DO AGREE TO REPLACE ANY TREE(S) REMOVED FROM THE CITY PARKWAY ABUTTING MY
PROPERTY WITH TREES FROM THE PARKS AND LEISURE SERVICES COMMISSION APPROVED TREE LIST TO BE
PLANTED WITHIN THIRTY (30) DAYS OF SAID TREE REMOVAL.

APPLICANT'S SIGNATURE

DATE

FOR OFFICE USE ONLY

PERMISSION IS HEREBY:

GRANTED ☐ DENIED ☐

SUBJECT TO THE FOLLOWING CONDITIONS:

PARKS & LEISURE SERVICES COMMISSIONER

DATE

REPLACEMENT TREE(S)

NO.  SIZE  Gallon  VARIETY  @ $  DATE PAID

[15 gal - $_________]

THE TERMS OF THIS AGREEMENT ☐ HAVE ☐ HAVE NOT BEEN MET.

COMMENTS:

PARKS SUPERINTENDENT

DATE
PARKS AND LEISURE COMMISSION
MINUTES
October 7, 2011

Chairman Calantone called the meeting of the Parks and Leisure Services Commission to order at 5:30 p.m. and asked Director Stowe to lead in the Pledge of Allegiance.

Roll Call of Parks & Leisure Services Commission

Present: Rocco Calantone, Chair
         Case Lok, Member
         Leticia Lupio, Member

         Monte Moore, Member
         Richard Rankin, Member
         Charles Webber, Member

Absent: Donald Beardsley, Member - A
        Rick Vafeades, Vice Chair - E

At this time, Director Stowe introduced Richard Rankin as the Porterville Unified School District designee on the Commission. Commissioner Rankin is the Athletic Director for Porterville Unified School District.

Oral Communication   - None

Correspondence       - None

Approval of Minutes  -
Member Webber noted that on page 2 of the Minutes he was incorrectly identified as Vice Chair. Also on page two, Chair Calantone noted a motion made by Commissioner Webber and seconded by Commissioner Lok to increase Open Gym Adult Volleyball fees from $1.00 to $2.00 per evening, was not documented in the Minutes as unanimously approved. Chair Calantone moved to approve the amended Minutes and Commissioner Webber seconded it.

Consent Calendar

1) Monthly Reports
Members received reports in their agenda.

2) Report on Council Actions
Commissioner Webber gave a report on the October 4th Council meeting. He commented on the item presented at the City Council meeting, giving a status report on Sports Field Lighting Options. He stated that there were a couple of citizens from the community that took the podium to inquire about additional lighting at the Sports Complex. They were referred to the City Manager. A gentleman approached the podium to voice concern about the leash ordinance not being enforced at the Sports Complex. His wife was bitten
by a dog at the Sports Complex, and requested that the City enforce the ordinance. He
was referred to the Public Works Director. Director Stowe informed Chair Calantone
that action needed to be taken on the consent calendar for approval. Commissioner
Webber motioned to approve the consent calendar, Commissioner Lupio seconded it.

Scheduled Matters

1) Street Tree Removal Request at 392/394 N. Pearson
   Director Stowe presented staff comments on a requested tree removal. The property
   owner Angela Vera of Papillon Holding, LLC has made a request for removal of an oak
   tree. The request stated that the oak tree has caused persistent damage and it poses a fire
   hazard to the structure. Dave Zorn, Parks Superintendent has assessed the situation and
does not recommend removal. Ms. Vera stated her address as 392/394 N. Pearson Drive,
and approached the podium to speak to the Commission. Ms. Vera stated that in 2007
she went before the City Council with regard to the same issue. She stated at that time
she and the other business owners in the building were requesting the tree removal
because they considered it a liability for the City and themselves. As a result of that
request, according to Ms. Vera, action taken by the City was to trim the tree. Ms. Vera
also stated that in September 2009, as a result of lifting sidewalk caused by the tree
root, a youth fell and sustained an injury. According to Ms. Vera, the City settled that
matter with the family. Ms. Vera then distributed photos of the tree and stated she has
discussed her concerns about the tree with an attorney. Commissioner Lok asked Ms.
Vera how often she cleans up after the tree to which she stated that from fall through
April they clean every week. From April to the beginning of fall they do not clean, except
to remove leaves from the air conditioning unit. She also stated that debris from the tree
falls on the roof causing damage. Commissioner Lok asked Director Stowe about any
program Tulare County has with regard to Valley Oaks. Director Stowe stated that
currently there is no specific program on record; and the City of Porterville has a partial
program, yet there is no ordinance that protects the oaks. Director Stowe continued on to
say the Valley Oak is a very valuable tree, especially the tree in question and they are
rarely cut down, unless the tree is rotten, diseased or damaged. Additionally, Director
Stowe stated that if the tree were going to die it would have already done so due to the
construction around it. According to a professional arborist who examined the tree, it has
many more years of viability. Director Stowe then stated that the recommendation in
2007 was to not remove the tree. Chair Calantone stated that he has looked at the tree and
acknowledged that the sidewalk is raised; he also said as far as the rest of the tree, with
the appropriate maintenance, he did not see a problem with the tree’s impact on the
building as it is approximately five feet away. He then asked if there was any way to
eliminate the sidewalk lift. Superintendent Zorn stated that the sidewalk could be
removed extracting the root then replacing the sidewalk. Chair Calantone asked which
department would be responsible and Superintendent Zorn informed him that it would be
referred to the Public Works Department or contracted out. Commissioner Lok stated
that he too had seen the tree and in his opinion there was no need to remove the tree.
Chair Calantone motioned to accept staff’s recommendation to not remove the tree as
well as request that the Public Works Department assess the situation and offer solutions
to the sidewalk lifting. Commissioner Lok seconded. Ms. Vera asked whom would she
contact with regard to damage to her structure, where upon Director Stowe told her she would have to file a claim with the City.

Action: Motion passed unanimously

2) Henry House Update
Commissioner Lok requested an update on the City owned house at 604 N. Henry Street across from Murray Park. Director Stowe stated that in December 2010, the City Council gave direction for staff, in conjunction with CSET, to pursue grant funding. The City was informed a couple of weeks ago that the grant was not successful. There was $23,000,000 in funding available and $213,000,000 requested.

Commissioner Lok asked about the purpose of the recently purchased water shares by the City of Porterville. Director Stowe informed the Commission that the shares were purchased for groundwater recharge.

Action: Information Only

3) Zalud House Hours
Director Stowe presented the staff report. The museum curator has stated that the current hours of operation are not drawing many visitors. She has noticed that during the evening when the lights are on, people seem to be interested in visiting during that time. The current hours of operation are Thursday & Friday 10am – 2pm, Saturday 11am – 4pm. The curator is proposing the following fall operating hours: Thursdays & Fridays 4pm-8pm and Saturdays 2pm-7pm. Chair Calantone made a motion to approve the change for the fall hours and Commissioner Lok seconded.

Action: Motion passed unanimously

4) Parks Maintenance Report
Superintendent Zorn reported general standard operating procedures for the month of September. He highlighted the rehabilitation on Olive Avenue with the medians reverting to turf from grass. He stated the Landscape Maintenance Districts transition is approximately one month old and is moving forward. One of the biggest changes is Sierra Meadows expansion into 29,000 sq. ft. of landscaping located at Gibbons and Jaye Street. The area has been newly asphalted and will be a nice addition to the City. The golf course has been sprayed twice with fungicide. Commissioner Lok asked Superintendent Zorn if the sprinklers at Veterans Park would be moved back to their location around the perimeter of the park instead of their current location. Superintendent Zorn stated that the sprinklers were moved to keep water off the sidewalk. Currently there are no plans to move the sprinklers back.

Action: Information and Discussion
CITY OF PORTERVILLE
PARKS & LEISURE SERVICES DEPARTMENT
291 N. MAIN STREET, PORTERVILLE, CA 93257
PHONE (559) 782-7461 FAX (559) 782-4053
REQUEST FOR SERVICES
TO REMOVE, PRUNE OR REPLACE TREE(S)

Owner of Property: Capilano Holdings, LLC - Angela Vera
Address of Owner: 3921 394 N. Pederson Porterville
Phone: (559) 786-9730
Location of Tree(s): Morton

Number of Trees: 1
Variety: Tree has caused persistent and increase damage to AC unit
Reason: lots of expenses and fire hazard to structure

I, THE UNDERSIGNED, DO AGREE TO REPLACE ANY TREE(S) REMOVED FROM THE CITY PARKWAY ABUTTING MY PROPERTY WITH TREES FROM THE PARKS AND LEISURE SERVICES COMMISSION APPROVED TREE LIST TO BE PLANTED WITHIN THIRTY (30) DAYS OF SAID TREE REMOVAL.

APPLICANT'S SIGNATURE: ____________________________ DATE: 6/29/11

FOR OFFICE USE ONLY:

PERMISSION IS HEREBY: GRANTED □ DENIED □

SUBJECT TO THE FOLLOWING CONDITIONS:


PARKS & LEISURE SERVICES COMMISSIONER

REPLACEMENT TREE(S) NO. SIZE VARIETY

[15 gal - $______]

THE TERMS OF THIS AGREEMENT □ HAVE □ HAVE NOT BEEN MET

COMMENTS:


PARKS SUPERINTENDENT: ____________________________ DATE: ____________________________
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http://porterville.wcainc.com/Inventory/SearchHistoryPrint.asp?FromDate=07/01/2007&ToDate=06/30/2011

8/30/2011
City of Porterville
Service Request/Complaint Report

Received From: Angela Vera
Received By: B. Martinez
Address: 394 N Pearson
Phone Number: 783-8838

Department: F/S
Date: 10/8/07 8:32 am

How report was received: In Person

Explanation of Service Request/Complaint:
Spoke to Parks: Leisure City Hall.
Last year city trimmed tree next to building; leaves, seeds clogged gutter caused leak in offices.
Again needs to be trimmed. Can they put net on tree to avoid this from happening again? Parks

Department referred to: Assigned to:

Action taken:

City problem Private problem No problem

Completed by: Radio # Date Dept./Division

Customer notified of service rendered: Yes No

Comments:

Signed: 10/19/01

CC:

She proposed to go to phone call.

Flat roof was leaking, need to replace.
SUBJECT: AWARD OF CONTRACT – REPEATER TOWER PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Porterville Fire Department was successful in securing a Department of Homeland Security Grant in the amount of $60,000 to fabricate and erect a 100' high lattice or monopole repeater tower. The State Office of Emergency Services (OES) will administer the grant. The proposed tower will replace the existing 75' high lattice tower currently located off Highland Drive adjacent to the Scenic Drive 3-Million Gallon Reservoir.

The new tower will improve communications between safety personnel within the city limits. The Repeater Tower Project also includes the installation of footings, new antennas and all other appurtenances required for a fully functional repeater tower. Staff included an alternate bid to camouflage the proposed monopole tower in the event Council wishes to consider this option.

It should be noted that one of the contractors raised a concern regarding the camouflaging of a Public Safety Communication tower. In addition, current City Code does not require the camouflaging of a "replacement" tower. Nevertheless, should the Council elect to camouflage the tower the cost will be borne by local funds.

A camouflage option that Council may consider is painting the tower to blend with the 3-million gallon reservoir. This option can be implemented within the scope of the contract as a change order or may be implemented as a separate project. Photos showing the current 75' tower relative to its immediate surroundings along with enhanced photos depicting the new 100' tower relative to its surroundings will be provided at the Council meeting.

State OES conditions stipulate that all funds must be expended and all project documentation completed by April 30, 2012. The Tulare County OES is asking that funds be expended and all documentation completed by March 30, 2012. The extra month will allow County OES time to review and certify all documentation.

Staff will open sealed bids at 2:30 pm on Monday, November 14, 2011. When the bids are evaluated and the lowest responsible bidder is determined, staff will provide the supplemental information to the City Council no later than Tuesday afternoon on November 15, 2011.

Dir Appropriated/Funded CM Item No. 10
Because of the time constraints described above, it is necessary that the City Council hear and act on the award of the project at the regularly scheduled Council meeting on November 15, 2011. Should Council decide not to award a contract and direct staff to relinquish the Homeland Security Grant, the existing 75' tower can be re-guyed at a cost of approximately $5,000. Obviously, re-guying the existing tower will not improve the communication capabilities of the tower.

The Engineer's Estimate of Probable Cost is $121,000. As indicated above, funding for this project will be provided through a Department of Homeland Security Grant and General Fund Carryover as approved in the 2011/2012 Annual Budget.

RECOMMENDATION: 
That the City Council:

1. Consider the camouflaging of the tower;

2. Award the contract to the lowest responsible bidder, provided the lowest responsible bid is within 10% of the Engineer's estimate;

3. Authorize a 10% construction contingency and a 5% construction management & inspection contingency; and

4. Authorize payments to the Contractor up to 90% of the contract amount.

ATTACHMENT: Locator Map

P:\pubwork\General\Council\Award of Contract - Repeater Tower Project 1st Report - 2011-11-15.doc
CITY OF PORTERVILLE
ENGINEERING DIVISION
291 NORTH MAIN STREET
PORTERVILLE, CA 93257
(559) 782-7162

LOCATION FOR THE PROPOSED
SELF SUPPORTING TOWER
ANTENNA LOCATED AT THE 3
MILLION GALLON TANK NEAR
HIGHLAND DRIVE

SCALE 1" = 200'

OWNER:  
APN:  
AREA:  
ACRES:  
SCALE: 1" = 200'
DATE: 09/29/2011
DRAWN BY: DC
CHECKED BY: MRR
SUBJECT: AUTHORIZATION OF A TEN-YEAR DEVELOPMENT FEE PAYMENT PLAN

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: In 1986, as a part of the Porterville Enterprise Zone designation, City Council (Council) authorized the offering of a Development Fee Payment Plan for all businesses located within the Porterville Enterprise Zone. The Development Fee Payment Plan (Payment Plan) assists existing and new businesses by reducing the burden of initial start up costs by allowing businesses to pay their development fees over five (5) years without interest or administrative fees.

Since the original approval of the Payment Plan, Council has authorized the following Plans to extend the benefits to other businesses:

1988 – Business Incentive Zone Development Fee Payment Plan
2001 – City-wide Business Development Fee Payment Plan
2001 – Enterprise Zone Ten-Year Development Fee Payment Plan
(Note: this plan ended upon the sunset of the Porterville Enterprise Zone)
2002 – Affordable Housing Development Fee Payment Plan.

Since 1986, 35 Payment Plans have been executed for businesses to spread impact fees over a five or ten year period. This number does not include Affordable Housing Plans. Of the 35 Payment Plans executed, only two (2) are in default. It should be noted that the Plans are tied to real property and are recorded as a lien against the property.

In anticipation of the Sequoia Valley Enterprise Zone’s final designation, staff would like to initiate a ten (10) year Development Fee Payment Plan to spur development during these difficult economic times. Staff is also requesting that the ten (10) year Development Fee Payment Plan replace the Business Incentive Zone, City-Wide Business, and Multi-Family Housing Plans.

RECOMMENDATION: That the City Council:

1) Authorize a ten (10) year Development Fee Payment Plan for all commercial and industrial business and affordable housing plans within the City limits; and


ATTACHMENTS: Draft Resolution
RESOLUTION NO. ______________

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE
APPROVING A TEN (10) YEAR
DEVELOPMENT FEE PAYMENT PLAN

WHEREAS: The City of Porterville aims to support development within the City limits and encourage entrepreneurs by removing obstacles and establishing a climate that fosters growth and the entrepreneurial spirit; and

WHEREAS: It has been determined that a reduction in the burden of initial development costs to new and expanding industries will assist in the establishment of these businesses; and

WHEREAS: It has been further determined that the reduction in the burden of initial development costs will assist in the establishment of multi-unit housing development for low and moderate income families; and

WHEREAS: The Development Fee Payment Plan will generate significant savings to expanding and newly locating businesses and establishment of additional multi-unit housing developments for low and moderate income families.

NOW THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve a Development Fee Payment Plan in accordance with the following:

a. All businesses within the City limits of Porterville shall be eligible to participate in the City’s Development Fee Payment Plan;

b. All multi-unit housing developments for low and moderate income families within the City limits of Porterville shall be eligible to participate in the City’s Development Fee Payment Plan;

c. Building permit, sewer, water, storm drainage, wastewater treatment facility, and transportation impact fees, as calculated by the City Engineering and Building staff, shall be eligible for payment under this plan;

d. Prior to the commencement of on-site construction there shall be on file with the City Finance Department an agreement signed by the owner of the property and the Mayor. This agreement shall set forth the payment schedule in accordance with the fees determined by the City’s schedule of charges and fees in effect on the date of the signed agreement; and

e. The Development Fee Payment Plan shall be recorded as a lien against the property being developed; and
f. The Development Fee Payment Plan shall allow the property owner to pay their development fees over a period up to ten (10) years without interest or administrative fees, with the first installment due at time of permit issuance and annual installments thereafter.

APPROVED AND ADOPTED this ___ day of November, 2011.

__________________________________________
Ronald L. Irish, Mayor

ATTEST:

__________________________________________
John D. Lollis, City Clerk
CITY COUNCIL AGENDA: November 15, 2011

TITLE: REVIEW OF ITINERANT VENDOR REGULATIONS

SOURCE: CITY ATTORNEY AND COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Per Council direction at an earlier City Council meeting in April, and as noted in the staff report for October 4, 2011, City staff is recommending that the Council consider potential modifications/clarifications to the street vending regulations. At the April 12, 2011 Council meeting, Council Members expressed concerns regarding activities of itinerant vendors, particularly around certain holidays, such as Valentine’s Day and Mother’s Day, and the effect on the permanent “brick and mortar” businesses in the community. At the meeting, Council Members raised the possibilities of additional regulations, fees, and/or enforcement and requested legal parameters. Consequently, the City Attorney’s office has been working with the Community Development Department to review the City’s existing regulations, current practices and explore regulatory alternatives.

The City has broad powers (under its police powers authority) to restrict and, in many cases, even prohibit itinerant businesses. However, given the current classifications of the various types of these businesses, the Council will need to consider the extent to which it wishes to regulate the forms these businesses take, in light of the City’s current regulatory scheme.

The following is a summary of the City’s current regulations applicable to itinerant merchants/vendors, street vendors, and peddlers.

DEFINITIONS (Muni Code Sec. 15-1)

“Itinerant Merchants/Vendors” are defined as persons who engage in a temporary or transient business (intending to conduct business for 90 (ninety) days or less), who occupy a room, doorway, vacant lot, building or other place, for the exhibition of their goods or wares for purchase.

“Peddlers” are defined as persons who go from house to house, place to place, or in or along streets to sell their wares/goods.

“Street Vendors/Push Cart Vendors” are defined as peddlers who use a wagon, cart or other conveyance for the purposes of selling their goods/wares.

“Temporary/Outdoor Sales” (per the recently adopted Development Code) are defined in Section 301.19 as a sale/use that is ancillary to the principal use permitted on a lot, but intended to operate only for a limited period of time.
LICENSING/PERMIT REQUIREMENTS (Muni Code Ch. 8, and Sec. 15-8, 15-20, 15-24)

Pursuant to Chapter 8, peddlers are required to obtain a permit and abide by certain restrictions. Pursuant to Sec. 15-1, all three classifications require the obtaining of a business license and license holders must follow the applicable business license regulations. Commercial travelers or selling agents who sell exclusively to merchants, dealers, or traders are exempt from these regulations, as are persons selling produce or dairy products from their own farm or dairy.

With regard to license fees, per Sec. 15-24(A)(20), Itinerant Merchants/Vendors are required to pay $15/day/person, with a minimum fee of $25.00. Peddlers are required to pay $10.00/day/person with a minimum fee of $25.00. Street vendors are required to pay $25.00 semi-annually for each vehicle, cart, conveyance utilized.

There are additional restrictions imposed during community civic events and parades. All permits for the above listed classifications are suspended for the duration of the civic event/parade in the designated area for the event, unless the vendor has an agreement with the civic event sponsor, and the sponsor must provide the same opportunities to participate as provided to other vendors by the sponsor. Sponsors are required to abide by certain regulations in the selection and operation of the vending services during the event, such as nondiscrimination in selection of vendors and requiring all vendors to comply with all laws. Parades are only allowed in conjunction with a community civic event, and there are further regulations applicable to vendors designed to minimize nuisance and interference on sidewalks and walkways.

RESTRICTIONS ON VEHICLE VENDORS; PUSHCARTS ON PUBLIC RIGHT-OF-WAY (Muni Code Ch. 17-10.12.2)

Vendors that use the public right-of-way to push a cart or drive a vehicle from which goods are sold to the public cannot stay in one location longer than ten (10) minutes. Then the vehicle or pushcart must move to a new location at least three hundred (300) feet away and cannot return to a previously used location for two (2) hours. Pushcarts are restricted to sidewalks, and riding carts and vehicles are restricted from using sidewalks. Allowable hours of operation are 9:00 AM to 8:00 PM, and business can only be conducted on minor residential streets.

ZONING RESTRICTIONS

Current Standards:

The Development Code currently addresses temporary and seasonal outdoor sales in Section 301.19(e). The overarching definition of temporary uses at Section 301.19(a) only defines “temporary uses” as those that are ancillary to the principal use already permitted on a particular lot. No temporary use permit is currently required for sales that occur for less than 3 (three) consecutive days; however, it is not clear whether
sales that do not require a permit must follow the other requirements of the section. Generally, temporary sales must be part of an existing business on the same lot/site and are limited to 4 (four) consecutive days and no more than 6 (six) times per year, and no site can be used for such activity more than 10 (ten) times in any calendar month. The hours for such a sale are also limited when adjacent to a residential district. There are additional regulations related to paving and parking. Longer term events/sales (more than 7 (seven) consecutive days but not exceeding 3 (three) months) may be permitted in nonresidential districts if they occur no more than twice a year and are part of an existing business on the same site.

Other than the above outlined provisions, there are no other provisions in the Development Code regulating street cart vendors or other peddlers.

Below are the provisions that were previously contained in the Zoning Ordinance.

**Previous Standards:**

Pursuant to Section 2103(A)(14) of the Zoning Ordinance, street vendors were not permitted to stop, stand, or park, for the purpose of vending or exhibiting merchandise, at or on any publicly owned property in any C-1, C-2, C-3, C-H, M-1, or O-A Zone. A vendor could stop/stand/park for vending purposes on privately owned property in those Zones if they have first obtained a Conditional Use Permit. Promotional events occurring on private property for businesses licensed under Chapter 15 were allowed, so long as the event was limited to not more than any 5 (five) calendar days within any 30 (thirty) calendar day period. Caterers licensed per Sec. 15-23 were exempt from the Zoning requirements.

**CURRENT PRACTICE**

In preparing this report, staff found that current practice of itinerant vendors, operating on private property, in particular, does not conform to current regulations. However, itinerant vending on private property has been allowed with permission of the property owner, as long as the business is licensed, pays the permit fee and does not conduct business longer than 90 (ninety) days. This practice is a carry over from the prior zoning code, but without approval of a conditional use permit. The new code provisions that require temporary sales to be part of an existing business on the same lot/site have not been implemented consistently. Itinerant vending in the public right-of-way follows current code more closely, with the exception that these vendors have been allowed to sell in public parks (outside of minor residential streets) as long as the 10 (ten) minute rule is adhered to.

**ENFORCEMENT**

One of the primary practical issues associated with current practices, and any future practices, is enforcement of regulations. It is clear that current practice needs to be changed to either conform to current regulations or to modify regulations to allow more flexibility for itinerant vendors. Currently, there are a large number of regular
itinerant vendors that sell their wares with no license or permits whatsoever. With only one code enforcement officer it is difficult to control illegal vending that occurs throughout the city. Also, the officer needs effective tools to discourage or eradicate illegal uses, such as confiscation of product or enforceable fines. Until enforcement issues are resolved, any changes to the code may only discourage or penalize the law abiding vendors.

CONCLUSION

As noted above, the City Council has broad authority to regulate itinerant vendors and street/push cart vendors. However, an election would be required to increase business license fees, as business licenses are regulated as a tax pursuant to Proposition 218. Revising a permit fee would be subject to the Mitigation Fee Act, provided it only covers costs associated with issuance of the permit and reasonable enforcement/monitoring costs.

That stated, the Council can restrict and even prohibit itinerant uses on private property. One option, as provided for in the Development Code, is to ensure that only outdoor sales that are ancillary to the existing lot owner/tenant’s use are allowed on the lot. This would be a marked change from current practice. Under these modifications, the temporary use would need to be consistent with the use currently allowed on the property, and would need to occur directly through the current business owner. Exceptions would be allowed for the seasonal sale of items, such as pumpkins and Christmas trees.

RECOMMENDATION: That the City Council consider the staff report, attachments and provide direction as it deems appropriate.

ATTACHMENTS: Current Regulations
Current Regulations

15-1 DEFINITIONS:

ITINERANT VENDOR OR ITINERANT MERCHANT: All persons, both principal and agent, who engage in a temporary or transient business in the city, selling or offering to sell goods, wares or merchandise or any other thing of value, with the intention of conducting such business for a period of less than ninety (90) days, and who for the purpose of such business hires, leases or occupies any room, doorway, vacant lot, building or other place, for the exhibition for sale of goods, wares, merchandise or other thing of value. If any such place, occupied or used for such business, is rented or leased for a period of less than ninety (90) days, such fact shall be presumptive evidence that the business carried on therein is a transient business; and any person so engaged shall not be relieved from the provisions of this section or from payment of the license taxes herein provided for such business, by reason of any temporary association with local dealer, trader, merchant or auctioneer.

The provisions of this definition shall not apply to commercial travelers or selling agents, selling their goods exclusively to merchants, dealers or traders, whether selling for present or future delivery, by sample or otherwise, nor to peddlers, as the same is defined in this chapter, nor to persons selling fruit, vegetables, eggs, butter or other farm or ranch products of their own farm or dairy, exclusively.

PEDDLER: Any person who goes from house to house, place to place, or in or along the streets, within the city selling or offering to sell, barter or exchange, and making or offering to make immediate delivery of any goods, wares, merchandise or anything of value, in the possession of the peddler to persons other than manufacturers, wholesalers, jobbers or retailers of such commodities; provided, that a producer who furnishes directly and delivers any poultry, eggs, butter, fruit, vegetables or meat being exclusively the produce of his own garden, farm, ranch, or dairy to persons within the city, shall not be deemed a peddler within the meaning of this definition.

STREET VENDORS/PUSH CART VENDORS: Every person conducting, carrying on or managing the selling or offering for sale any food, beverages, goods, wares, merchandise of any type including, but not limited to, plants, flowers, toys, paintings, furniture, or rugs, or articles of personal property, in his/her possession, if the offer for sale occurs from a basket, box or any other type of receptacle, stand, wagon, motor vehicle, push cart, or any other type of vehicle. (Ord. 1324, 12-18-1984; Ord. 1531 § A1, 6-18-1996; Ord. 1586 § A1, 5-16-2000)
15-8: LICENSE ISSUANCE:

A. General Business License: The collector shall issue a business license to any person applying therefore when he is satisfied that the business will not conflict with any law, ordinance or regulation of the city.

C. Street Vendors/Peddlers Business License: The following information will be collected prior to the issuance of a street vendor/peddler license:

1. A description of the type of food/merchandise to be sold.

2. A description of the type of conveyance or vehicle and proposed locations.

3. Evidence of Tulare County health department certificate.

4. Evidence of general liability insurance, automobile liability, and workers compensation (when applicable).

a. General liability insurance, including public liability, property damage insurance, and products liability, the form of which shall be subject to the approval of the city risk manager, indemnifying the city from any liability whatsoever arising out of the carrying on of any business authorized by such permit. Such insurance shall name the city, its officers, employees, agents and volunteers as additional insured, shall provide for cross liability between insured and provide that the applicant's insurance is primary to any insurance coverage administered or owned by the city. The amounts of insurance coverage shall be in the form of a one hundred thousand dollar ($100,000.00) umbrella policy aggregate per incident;

b. Workers' compensation insurance as required by state statutes, when operators are employees and not owners; and

c. Automobile liability coverage as required by state statutes.

5. Evidence of payment of the city's business license fee of twenty five dollars ($25.00) semiannually per vehicle, cart or any other type of conveyance.

6. Photo identification cards to be carried by vendor.

7. Evidence of state sales tax identification number or certificate of state sales tax exemption.

8. Evidence of sound registration statement approval by city police department in accordance with section 3-12 of this code for those street vendors with sound systems.

9. This requirement shall not apply to caterers licensed under section 15-23, gross receipts, classification B, of this code. (Ord. 1324, 12-18-1984; Ord. 1531 § A2, 6-18-1996)
E. Community Civic Events:

1. City Council Findings: The city council finds and declares that it has historically closed city streets in portions of the downtown area, for the purpose of assisting certain community and regional events benefitting the city, the community at large, and nonprofit organizations operating in the city. Control over the operation of these community civic events has traditionally been turned over to the entity sponsoring the event. The city council finds and declares that there is a need to provide written guidelines and regulations on how these community civic events shall operate.

2. Purpose: The purpose of this subsection is to establish a legal framework for the operation of community civic events, to set forth minimal requirements for sponsors of these events, to meet the need for order and control during these events, and to ensure that the theme or character of the event is maintained, and that use of public property is compatible with the event.

3. Definition: "Community civic event" (hereafter referred to as "CCE") shall mean the sponsoring and conducting by a nonprofit organization of a civic, artistic, cultural, charitable, educational, veteran or benevolent activity of community interest. The council shall require reasonable proof of the nonprofit status of the sponsoring organization.

4. Participation: Participation in a CCE and use of public right of way shall be limited to those members of the sponsoring organization, in good standing with the organization, and those persons and vendors as may be approved by the sponsoring organization.

5. Permit Required: The CCE sponsor shall obtain a CCE permit from the city not less than thirty (30) nor more than one hundred eighty (180) days before the commencement date of the proposed permit activities; provided, that the council may waive these time requirements if it determines such a waiver to be in the public interest. Upon receipt of an application, the business license clerk shall circulate the application to the following departments for comments and approval: police department, fire department, finance department, department of community development, public works department, parks and recreation department, and risk management department. These departments may impose terms and conditions upon the CCE permit and issuance and approval of the permit is conditioned upon compliance with the required conditions. At a minimum, the permit shall include conditions for holding the city harmless, maintaining minimum limits of liability insurance in accordance with city standards, providing security and traffic control, providing adequate restroom and sanitation facilities, and paying for the cost of city services. The nonprofit sponsor of the CCE shall be exempt from a license fee. Said permit shall be valid for a maximum of four (4) consecutive days. If an event runs for four (4) consecutive days, one of those days must include a Saturday, Sunday or national holiday. No person or sponsoring organization shall fail to keep the permit, at all times, at the place where the activities are being conducted, nor fail upon demand therefor to exhibit such permit to any public officer. The permit may be revoked for noncompliance with the conditions of the permit and the provisions of this subsection. Revocation may be made by the council, city manager, chief of police, or their designees. If the grounds for revocation occur during the CCE, the council, city
manager, chief of police or their designee shall first advise the CCE sponsor of the grounds for revocation and provide an opportunity to correct the same. The permit may also be revoked during the CCE if fire or another emergency requires the CCE to be terminated to protect the public safety. When the permit is revoked for this reason, all CCE participants must immediately comply with instructions from any city police officer or fire department personnel.

6. Application: The application for the CCE permit shall contain:

a. The name of the applicant, the sponsoring organization, the CCE chairperson, and the addresses and telephone numbers of each.

b. The location and outside perimeter of the CCE area, indicated upon a map of the area.

c. The date and times at which the CCE activities are to take place.

d. A description of the CCE activities which will be conducted.

A preliminary list of persons who will be engaging in the CCE, and a preliminary list of persons engaging in temporary selling activities at any time during the dates and times for which a temporary selling permit has been granted shall be furnished to the city no later than one week before the CCE is to take place. An amended list of all participants is required to be submitted in conjunction with the payment of business license fees per subsection E16 of this section.

The council shall cause such application to be investigated and shall grant the permit if it determines that the proposed CCE activities will not disrupt to an unreasonable extent the movement of vehicular or pedestrian traffic or create a hazard to the public; that the proposed CCE activities are not of a size or nature that requires the diversion of so great a number of police personnel to regulate such CCE activities that it prevents reasonable police protection for the city; that the concentration of persons, equipment and materials is not so great in the CCE areas that it would prevent proper fire, police and ambulance protection; and that the CCE permit applicant agrees to be responsible for cleanup necessitated by the proposed activities. The council may, in its discretion, require a cleanup deposit to guarantee that cleanup takes place. The council shall condition the granting of permits upon compliance with the provisions of this subsection and also with such other conditions as the council may deem necessary to impose for the proper protection of persons and property.

7. Responsible Party: The sponsoring organization shall be responsible for the CCE and for all necessary planning, physical facilities, equipment, fire lanes, and removal, cleanup, and staffing. The sponsoring organization shall be responsible for any necessary permits and code requirements for the conduct of such CCE as may be required by county and state agencies and coordination with appropriate city departments, such as police and fire. All necessary certificates and approvals by any health or other governmental organization shall be in possession of the person representing the sponsoring entity in such CCE.

8. Management: Subject to the minimum requirements imposed by this subsection, the CCE sponsor shall:
a. Promulgate rules and regulations for the CCE, including rules and regulations to maintain the theme or character of the CCE. A copy of the rules and regulations shall be submitted to the business license clerk prior to the CCE.

b. Have control over the terms and conditions under which persons chosen to provide vending services will operate at a CCE including, but not limited to, products sold, hours of sale, fees, vendor locations and issuance of seller permits.

c. Take any other actions which are necessary for the efficient management and operation of the CCE.

9. Minimum Requirements: The CCE sponsor shall abide by the following minimum requirements. These minimum requirements shall be deemed a part of the permit conditions and may be supplemented by resolution of the city council.

a. Maintain openings between vendor booths or sizes, and at locations and distances, required by the city. The required openings shall be identified on the CCE sponsor's street plan.

b. Not use any permanent or semipermanent paint or other markers to delineate or mark the location or other direction on any public street, sidewalk, alley or parking lot.

c. Not discriminate in the selection of any vendor on the basis of race, color, religion, sex, national origin, or familial status, or violate any law with respect to the selection of any vendor.

d. Require that all vendors obtain and display all appropriate permits, licenses, and certificates, and comply with all applicable federal, state and local laws, ordinances, and regulations.

e. Require that all vendors maintain their spaces in a clean and sanitary condition, including the removal of containers, waste and trimmings before leaving the area.

f. Require that vendors take sufficient measures to keep the city storm drain system free from contamination, and require that food vendors take special precaution to keep grease and other waste products off all public streets, sidewalks, alleys and parking lots.

g. Provide on site personnel who can be contacted by appropriate city officials for immediate corrective action either for noncompliance with this subsection or the permit conditions, for emergencies, or for actions deemed necessary by the city official. Such personnel shall be equipped with appropriate means of communication to be made known to the city by the CCE sponsor prior to the CCE.

h. Distribute the rules and regulations to each person participating in the CCE.

10. Cost Of CCE: The CCE sponsor will be responsible for the costs associated with the CCE, including, but not limited to, the cost of city services related to the CCE, and the cost of repair of any damage caused to any public property and rights of way, including landscaping. The CCE
sponsor may apply to the city council for cooperation in presenting a CCE and request financial assistance for some or all of the costs of city services related to the CCE.

11. Permit To Sell: No person shall sell or offer to sell any item at the CCE except under the authority of a valid permit approved by the CCE sponsor. The CCE sponsor shall designate a person or persons responsible for issuing permits to sell. A seller's permit shall not be required for existing businesses selling merchandise from their stores. Whenever the CCE sponsor in good faith believes that a vendor has violated the conditions of the seller's permit, the CCE sponsor may immediately suspend the seller's permit. Vendors shall have an opportunity to appeal the denial or suspension of a seller's permit as set forth in subsection E20 of this section. Permits to sell shall give a seller (including vendors, peddlers and other sellers) the privilege of selling at the CCE only if the following conditions are met:

a. The seller properly files an application for a permit to sell at the CCE with the CCE sponsor.

b. The seller complies with all federal, state and local laws and regulations relating to the CCE, including the rules and regulations of the CCE sponsor.

c. The seller obtains all required permits, licenses and certificates.

d. The seller pays all required fees to the appropriate authorities, including any fees due the sponsor.

e. The seller grants permission to the CCE sponsor, or an authorized representative, to enter the seller's premises for the reasonable inspection of land, facilities, and records, in order to determine whether the seller is in compliance with the permit conditions, the rules and regulations of the CCE sponsor, and the terms of this subsection.

12. Peddlers and Itinerant Vendors: All peddler and itinerant vendor permits and licenses issued by the city shall be deemed suspended for the duration of any CCE. All permit and license holders shall be notified of this provision. No person holding a peddler or itinerant vendor permit or license shall sell merchandise within the designated CCE area for the duration of any declared CCE unless the holder of the peddler or itinerant vendor permit or license has a written agreement with the CCE sponsor to participate in the CCE, or otherwise has a seller's permit from the CCE sponsor. The CCE sponsor shall allow peddler and itinerant vendor permit and license holders with suspended city permits and licenses under this subsection the same opportunity to participate in a declared CCE as the CCE sponsor offers to other vendors.

13. Sidewalks: The city shall not approve vendor or sidewalk sales or other activities within the closure area for a CCE. The sponsoring entity may allow such sales or events, however selling activity during a parade must take place in conformity with subsection G of this section.

14. Parades: Any person or organization desiring to have a parade as a CCE or in connection with a CCE, and all vendors, peddlers, solicitors, or merchants not located inside a commercial location, shall comply with subsection G of this section in addition to the provisions of this subsection.
15. Interference: It shall be unlawful for any person to interfere with, disrupt or impede a permitted CCE. It shall also be unlawful for a person to put up any booth, table, chair, stool, structure, vehicle or piece of equipment in any public area located within a designated CCE area for which a CCE sponsor has been issued a permit without consent of the CCE sponsor. This subsection E15 shall not apply to persons acting under the direction or control of the city.

16. Business License Fees: Any individual, company, firm, concessionaire, fair operator, carnival operator, etc., who engages in, conducts, organizes, or promotes business for profit shall pay a business license fee of one dollar ($1.00) per day per amusement, entertainment, exhibit, ride or per booth, space, stall, stand or other unenclosed location used for the purpose of advertising, promoting, or sale of, or taking orders for, goods or services; except that no individual, company, firm concessionaire, fair operator, carnival operator, etc., who possesses a valid city business license shall be subject to separate licensing pursuant to this subsection E16.

The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the CCE. Said remittance shall be accompanied by a complete list of participants and consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California seller's permit number. Said receipts shall be furnished by the city. One copy of the receipt shall be furnished to the licensee, one copy filed with the finance department of the city, and one copy retained by the CCE sponsor for a period of three (3) years for audit purposes.

17. Charges And Exhibit Fees: The sponsoring entity may impose a reasonable charge or exhibit fee on each participating seller or exhibitor and shall be responsible for enforcing all requirements of this subsection and regulations imposed by the sponsoring entity. Any net profit received by the sponsoring organization shall be utilized for the civic, artistic, cultural, charitable, educational, veteran or benevolent activities of the organization within the city of Porterville.

18. Insurance: The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars ($1,000,000.00) per occurrence of bodily injury and property damage, combined single limit.

19. Violations: Any person who violates the provisions of this subsection E shall be deemed guilty of either a misdemeanor or an infraction, in accordance with section 15-21 of this article. In addition, civil penalties of one hundred dollars ($100.00) for a first violation and up to one thousand dollars ($1,000.00) for subsequent violations may be imposed. Every day that any such violation continues shall constitute a separate offense. In addition, the CCE sponsor is authorized to take civil action to enforce the requirements of this subsection, and the rules and regulations established by the CCE sponsor. The remedies provided herein shall not be exclusive, and the
violation of any provision of this subsection E shall be subject to other remedies as may be provided by law.

20. Appeal Of The Denial Or Suspension Of A Seller Permit: After the denial or suspension of a seller's permit, the CCE sponsor shall allow the vendor an opportunity for an appeal hearing before the CCE sponsor's governing board, or if no governing board, the person with the highest decision making authority, to determine if the permit shall be issued, further suspended, reinstated, or revoked for repeated violations. The hearing shall be held within a reasonable time, depending on the date and duration of the CCE, no later than thirty five (35) days. The CCE sponsor shall establish procedures for the conduct of the hearing.

21. Other Rules And Regulations; Applicability: The CCE sponsor shall comply with all other applicable city ordinances, resolutions, policies, rules and regulations.

22. Compatibility With State And Federal Laws And Constitutions: It is the intention of the city council and the people of the city of Porterville that these subsections shall be interpreted in a manner compatible with the state of California constitution and the United States constitution and the laws of the state of California and the United States.

23. Severability: If any paragraph, sentence, clause or phrase of this subsection are for any reason held to be unconstitutional or invalid, that holding shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed these subsections, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases might be declared unconstitutional or invalid.

15-24 OTHER THAN GROSS RECEIPTS

A. Every person who engages in a business within the city as specified below shall pay a license tax of the amount and frequency indicated:

20. Itinerant vendor, itinerant merchant, the sum of fifteen dollars ($15.00) per day per person for each person so employed, with a minimum fee of twenty five dollars ($25.00).

28. Peddler, the sum of ten dollars ($10.00) per day per person so employed, with a minimum fee of twenty five dollars ($25.00).

17-10.12.2: RESTRICTIONS ON VEHICLE VENDORS; PUSHCARTS ON PUBLIC RIGHT OF WAY:

A. Except as otherwise provided in this section, no person shall stand or park any vehicle, wagon, or pushcart from which goods, wares, merchandise, fruits, vegetables or foodstuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch wagon or eating cart or vehicle, on any portion of any street, parking lot, or public right of way
within this city except that such vehicles, wagons, or pushcarts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten (10) minutes at any one place.

B. No person shall vend at any location for more than ten (10) minutes without moving to a new location at least three hundred feet (300') removed therefrom and may not return to a location where the vendor has stopped to vend within the previous two (2) hours.

C. Routes of vendors shall be restricted to minor residential streets:

1. Pushcarts (walking type) shall be restricted to walkways, sidewalks and other areas appropriate to accommodate pedestrian traffic.

2. Pushcarts (riding type) shall be restricted to vehicular travel areas and shall be prohibited from utilizing pedestrian walkways.

D. Hours of operation shall be restricted to nine o'clock (9:00) A.M. to eight o'clock (8:00) P.M.

E. Sounds produced in association with vending shall be restricted as follows:

1. Pushcarts of any type shall be limited to bells only.

2. Vehicles shall be in compliance with chapter 3, article III of this code.

F. Vending in connection with any special event as permitted by the city council shall be exempt from the provisions of this section. (Ord. 1531 § C1, 6-18-1996)

PORTERVILLE DEVELOPMENT ORDINANCE

301.19 TEMPORARY USES

Temporary uses shall be located, developed, and operated in compliance with the standards of this section.

(a) **General.** A temporary use is ancillary to the principal Use Permitted on a lot, but is intended to operate only for a limited period of time. Unless otherwise specified, temporary uses shall require a Temporary Use Permit issued in accord with Chapter 606, Temporary Use Permits.

(e) **Temporary and Seasonal Outdoor Sales.** Temporary and Seasonal Outdoor Sales may be permitted in accordance with the following standards. No permit is necessary for seasonal sales or sales occurring less than three (3) consecutive days.

(1) **General Requirements.** Temporary outdoor sales—including but not limited to grand opening events, temporary automobile sales, and other special sales events—on private property in non-residential districts shall be subject to the following standards:
a. Temporary outdoor sales shall be part of an existing business on the same site. Temporary automobile sales are limited to the CR district and shall be in connection with an existing commercial use.

b. Sales events shall be conducted solely on private property and not encroach within the public right-of-way.

c. Temporary outdoor sales are limited to four (4) consecutive days six (6) times a year. No site shall be used for such an activity for more than ten (10) days in any calendar month. A more limited duration may be established through the Temporary Use Permit process in order to prevent the use from becoming a nuisance with regard to the surrounding neighborhood or the city as a whole.

d. When located adjacent to an R district, the hours of operation shall be limited to 8:00 a.m. to 9:00 p.m.

e. The entire area used for temporary outdoor sales, including display, sales, circulation, parking, etc. shall be paved per City standards.

f. Location of the displayed merchandise shall not disrupt the normal circulation of the site, nor encroach upon driveways, pedestrian walkways, or required landscaped areas, or obstruct sight distances or otherwise create hazards for vehicle or pedestrian traffic.

g. Where such a use is proposed within a developed parking lot, the available parking shall not be reduced to less than seventy-five (75) percent of the minimum number of spaces required by Chapter 304, On-Site Parking and Loading.

(2) **Seasonal Sales.** The annual sale of holiday related items such as Christmas trees, pumpkins and similar items is permitted in accordance with the following standards:

a. **Time Period.** Seasonal sales associated with holidays are permitted up to a month preceding and one (1) week following the holiday. Christmas tree sales are permitted from Thanksgiving Day through December 31st.

b. **Goods, Signs and Temporary Structures.** All items for sale, as well as signs and temporary structures, shall be removed within ten (10) days after the end of sales, and the appearance of the site shall be returned to its original state.

(3) **Non-Profit Fund Raising.** Fund raising sales by a non-profit organization are limited to seven (7) consecutive days twelve (12) times a year.

(f) **Long Term Special Events and Sales.** Other special events, outdoor sales, and displays that exceed seven (7) consecutive days but not more than three (3) months, may be permitted in accordance with the following standards:

(1) **Location.** Events are limited to non-residential district.

(2) **Number of Events.** Long term special events and sales are limited to no more than two (2) per year.
(3) **Existing Business.** Temporary outdoor sales shall be part of an existing business on the same site.

(4) **Signs.** Outdoor uses may include the addition of one (1) nonpermanent sign up to a maximum size of four (4) square feet in area, subject to Chapter 305, Signs.
AGENDA: NOVEMBER 15, 2011

PORTERVILLE PUBLIC FINANCING AUTHORITY

SUBJECT: ANNUAL MEETING OF THE PORTERVILLE PUBLIC FINANCING AUTHORITY

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - REDEVELOPMENT

COMMENT: In 1992, the Porterville Public Financing Authority was formed designating the City Council members as directors. According to the Authority's By-laws, an annual meeting is to be held each year to report on the progress of the Redevelopment Projects being funded by Bond Issue #1 issued in December 1992. In September 2008, the Redevelopment Agency refinanced the Tax Allocation Bonds for the purpose of financing the Porterville Hotel Project and related housing project. The same reporting requirements are necessary.

A status report for these projects is provided as an attachment to this agenda item.

RECOMMENDATION: That the City Council, sitting as the Porterville Public Financing Authority, hold a public meeting in accordance with the Authority's By-laws, accept public comment, and approve the 2011 Status Report for the Redevelopment Bond Issue #1 and refinance of Tax Allocation Bond Projects.

ATTACHMENT: 2011 Status Report for Redevelopment Bond Issue #1 and Refinance of the Tax Allocation Bond Projects

DD B8 Appropriated/Funded MB CM

Item No. PFA - 1
PORTERVILLE REDEVELOPMENT AGENCY  
Bond Issue No. 1 and  
Refinance of Tax Allocation Bonds  
Status Report  
As of November 1, 2011

1992 Total Bond Issue: $6,185,000  
  Redevelopment Fund $4,682,242  
  Low and Moderate Income Housing Fund $1,170,561

2008 Total Refinance Bond Issue: $8,475,000  
  Redevelopment Fund $6,675,000  
  Low and Moderate Income Housing Fund $1,800,000

<table>
<thead>
<tr>
<th>REDEVELOPMENT FUND</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projects:</td>
<td></td>
</tr>
<tr>
<td>Porterville Hotel Project</td>
<td>In Negotiations</td>
</tr>
<tr>
<td>Streetscape:</td>
<td></td>
</tr>
</tbody>
</table>
| Main Street – Morton Avenue to Olive Avenue  
  (includes conversion of Main Street, Second Street and  
  Hockett Street to two-way traffic) | Complete |
| Putnam Avenue and Olive Avenue – Hockett Street to Second  
  Street | Design Phase Complete |
| Street and Pedestrian Lighting of side streets | Construction Documents Complete |
| Alley Lighting – Morton Avenue to Olive Avenue | Construction Documents Complete |
| Street Furnishings | Phase I Complete;  
  Additional Phases to be accomplished as funds become available |
| Main Street – Olive Avenue to Orange Avenue | Design Phase Complete |

<p>| Parking Lots – Construction and Acquisition: |
| Second/Harrison | Complete |
| Hockett/Oak     | Complete |</p>
<table>
<thead>
<tr>
<th>REDEVELOPMENT FUND</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second/Olive and adjacent lots</td>
<td>Complete</td>
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</tbody>
</table>

**Building Renovation:**

- Financial Incentive Program | 14 Façade Renovations Complete |

**Building Assistance:**

- Chamber of Commerce Office Complex | Complete |

**Loan Repayment:**

- City Loan Repayment – Risk Management Fund Loan 1 | Complete |

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<table>
<thead>
<tr>
<th>LOW AND MODERATE INCOME HOUSING FUND</th>
<th>STATUS</th>
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<tbody>
<tr>
<td>Villa Siena – (Macfarlane &amp; Costa) 70 unit multi use Low and Moderate Housing Project (a portion of the replacement housing for the Porterville Hotel)</td>
<td>Project completed and management is in the process of renting the units. RDA provided the $930,000 long term loan per the executed Affordable Housing Agreement.</td>
</tr>
<tr>
<td>Low and Moderate First-Time Homebuyer Program HOME Grant Match No. 1 (1994)</td>
<td>Complete - $250,000 expended</td>
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<tr>
<td>Low and Moderate First-Time Homebuyer Program HOME Grant Match No. 2 (Year 2002)</td>
<td>Complete - $121,951 expended</td>
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<tr>
<td>Low Income Homebuyer Casas Buena Vista Homebuyer Assistance</td>
<td>Complete - $425,342 expended</td>
</tr>
<tr>
<td>Casas Buena Vista Project Common Area Improvements, Utilities, Meeting Expenses, Escrow Costs, Debt Service</td>
<td>Complete - $321,830 expended</td>
</tr>
<tr>
<td>Multifamily Rental Construction Program:</td>
<td></td>
</tr>
<tr>
<td>Project #1: St. James Place Construction Complete February 2005</td>
<td>Complete - $254,000 expended (served as the 25% match for the $1,000,000 HOME grant)</td>
</tr>
<tr>
<td>Project #2: Date Avenue Apartments Infrastructure</td>
<td>Complete - $115,000 expended</td>
</tr>
<tr>
<td>LOW AND MODERATE INCOME HOUSING FUND</td>
<td>STATUS</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Implementation Plan</td>
<td>Complete - $24,364 expended</td>
</tr>
</tbody>
</table>

Note: Bond funds have been allocated toward the highest priority projects as detailed in the Redevelopment Strategic Plan. Projects detailed in the Redevelopment Strategic Plan with a lower priority ranking are not included in this Status Report due to lack of available funds.