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 Sturgeon, 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 hospital’s 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 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.
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.

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Luisa Herrera, Deputy City Clerk

SEAL

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Ronald L. Irish, Mayor