Call to Order at 5:31 p.m.
Roll Call: Council Member Ward (arrived late), Vice Mayor Hamilton, Council Member Shelton, Council Member McCracken, Mayor Irish

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

JOINT CITYCOUNCIL/PORTERVILLE REDEVELOPMENT AGENCY MINUTES
291 N. MAIN STREET, PORTERVILLE, CA
DECEMBER 7, 2011

Roll Call: Agency Member Ward (arrived late), Vice Chairman Hamilton, Agency Member Shelton, Agency Member McCracken, Chairman Irish

City Attorney Julia Lew advised that the City had received correspondence from attorney Greg Chambers on December 5, subsequent to the distribution of the agenda packets, pertaining to Item 11, a public hearing before the Council that evening. Ms. Lew requested that the Council consider adding the item to Closed Session as anticipated litigation pursuant to Government Code Section 54956.9(b) – significant exposure to litigation – one case concerning opposition to the amendment of the City’s Zoning Map.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton, that the Council authorize adding an anticipated litigation item pursuant to Government Code Section 54956.9(b) to the Closed Session agenda, as requested by staff.

M.O. 01-120711
AYES: Hamilton, Shelton, McCracken, Irish
NOES: None
ABSTAIN: None
ABSENT: Ward

Disposition: Item added.

ORAL COMMUNICATIONS
None

JOINT CITY COUNCIL/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.

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.
   4- Government Code Section 54957 – Public Employee Performance Evaluation - Title: City Manager.
   5- Government Code Section 54957 - Public Employee Performance Evaluation - Title: City Attorney.

**Item Added:** MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton, the Council authorized the addition of Closed Session Item B-6, Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case in which potential plaintiff opposes proposed amendment to City’s Zoning Map.

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

Documentation: M.O. 01-120711
Disposition: Item added.

6:30 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

City Attorney Julia Lew reported that no reportable action took place.

Pledge of Allegiance Led by Council Member Greg Shelton
A Moment of Silence was observed in Memory of Porterville Fire Captain Bob Davison
PRESENTATIONS
Miss Porterville and Court
Employee of the Month – Caroline Thomason
Employee Service Awards
San Joaquin Valley Air Pollution Control District

REPORTS
- Council Member Shelton reported on his recent attendance at the San Joaquin Valley Air Pollution Control District and reported that Skip Barnes was appointed to represent the small cities on the Board. He then spoke of various events he recently attended, including: a National Health Consortium event in Visalia; a Chamber Ribbon Cutting Ceremony at Villa Sienna; Fishing Derby; a Thanksgiving meal event by the Porterville Area Ministerial Association; tree lighting ceremony in Centennial Park for which he thanked Mr. Steve Feleay of Hoagies for providing sandwiches; a Step Up Meeting; a Friends of the Library event; Myers’ Annual Christmas Tree Memorial Service; and made mention of the anniversary of the attack on Pearl Harbor.
- Council Member Ward thanked the Chamber of Commerce for the Christmas lights on Main Street.
- Vice Mayor Hamilton spoke of a successful meeting with State representatives he attended in Sacramento on behalf of the City on Tuesday, December 6th.

ORAL COMMUNICATIONS
- Buck Fletcher, came forward and admonished the Council Members for their recent behavior, particularly on November 15th, and requested that they all work together for the betterment of the community. He then provided the Council with a copy of Robert’s Rules of Order, and other information relative to parliamentary procedure.
- William Carly, 174 N. Villa, spoke against the Zoning Map Update as proposed in Item 11, commenting that the proposed action would devalue his property.

CONSENT CALENDAR
Item Nos. 7 and 8 were removed for further discussion.

1. CITY COUNCIL MINUTES OF MAY 24, 2011
Recommendation: That the City Council approve the Minutes of May 24, 2011.
Documentation: M.O. 02-120711
Disposition: Approved.

2. BUDGET ADJUSTMENT FOR THE 2011-12 FISCAL YEAR
Recommendation: That the Council approve the proposed budget adjustment, and authorize staff to modify the expenditure estimate as described on the schedule.
Documentation: M.O. 03-120711
3. AIRPORT LEASE RENEWAL – LOT 40

Recommendation: That the Council approve the extension of the Lease Agreement between the City of Porterville and Dan and Allison Dale of San Luis Obispo, CA, for Lot 40 at the Porterville Municipal Airport.

Documentation: M.O. 04-120711
Disposition: Approved.

4. ACCEPTANCE OF PROJECT – OLIVE AVENUE REHABILITATION

Recommendation: That the City Council:
1. Accept the project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

Documentation: M.O. 05-120711
Disposition: Approved.

5. ACCEPTANCE OF PROJECT – HERITAGE CENTER TRAILWAY EXTENSION (RAILS TO TRAILS PHASE II)

Recommendation: That the City Council:
1. Accept the project as complete; and
2. Authorize the release of the final payment immediately.

Documentation: M.O. 06-120711
Disposition: Approved.

6. APPROVAL OF ANNUAL TRANSPORTATION AGREEMENT WITH COUNTY OF TULARE

Recommendation: That the City Council enter into an Agreement with the County of Tulare for FY 2011/2012 to provide services to County residents within the Service Area Boundary Map, and authorize the Mayor to execute the Agreement on behalf of the City.

Documentation: M.O. 07-120711
Disposition: Approved.

9. AMENDMENT TO EMPLOYEE PAY AND BENEFIT PLAN – FIRE OFFICERS SERIES
Recommendation: That the City Council approve the draft resolution amending the Employee Pay and Benefit Plan.

Documentation: Resolution 69-2011
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.

Documentation: M.O. 08-120711
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council approve Item Nos. 1 through 6, 9 and 10. The motion carried unanimously.

7. CONSOLIDATED WASTE MANAGEMENT AUTHORITY (CWMA) MEMBERSHIP REPORT

Recommendation: That the City Council authorizes:
1. To remain members of the CWMA for 2012/2013; and
2. Staff to report back to Council when the tonnage calculations and member contribution figures are completed for 2013/2014.

City Manager Lollis introduced the item and indicated that Council Member Shelton had requested the item be removed from Consent Calendar. Council Member Shelton took a moment to thank Council Member McCracken for his efforts as the City’s CWMA representative; and noted that the landfill would eventually need to be addressed.

COUNCIL ACTION: MOVED by Council Member Brian Ward, SECONDED by Vice Mayor Hamilton that the City Council authorize the City’s membership in the CWMA for 2012/2013; and authorize staff to report back to the Council when the tonnage calculations and member contribution figures are completed for 2013/2014. The motion carried unanimously.

Disposition: Approved.

8. SETTING THE PUBLIC HEARING FOR LIBRARY FINES AND COLLECTION PROCEDURES
Recommendation: That the City Council set December 20, 2011, as the date for the public hearing to consider official adoption of library fines and collection procedures using the appropriate method of public notifications.

City Manager Lollis introduced the item and indicated it had been removed from the Consent Calendar at Council Member Shelton’s request. Parks & Leisure Services Director Milt Stowe then elaborated on the necessity of the item and confirmed the Library and Literacy Commission’s involvement.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member McCracken that the City Council set December 20, 2011, as the date for the public hearing to consider official adoption of library fines and collection procedures using the appropriate method of public notifications. The motion carried unanimously.

Disposition: Approved.

The Council recessed for ten minutes.

At the request of Mayor Irish, staff presented Item 12 next.

PUBLIC HEARINGS

12. CONDITIONAL USE PERMIT PRC-2011-23-C – PROPOSED SALE OF ALCOHOLIC BEVERAGES UNDER AN ON-SALE LICENSE IN CONJUNCTION WITH THE SERVING OF MEALS FOR A PROPOSED “DICKIE’S BARBEQUE PIT” RESTAURANT TO BE LOCATED AT 73 NORTH MAIN STREET (FORMERLY “SCREAMING MOOSE”)

Recommendation: That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit PRC-2011-23-C; and
2. Authorize the Mayor to sign the Letter of Public Convenience or Necessity.

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

The public hearing was opened at 7:35 p.m.

- Mark Hillman, Hillman Building Designs on behalf of the applicant, requested that the resolution be amended to allow flexibility of hours.

The public hearing was closed at 7:36 p.m.

The Council inquired about operation hours during special events, and staff noted that provisions could be added to allow for the flexibility being requested by the applicant.
The public hearing was re-opened at 7:39 p.m.

- Ed Phillips, applicant, indicated that they would appreciate the flexibility to sell food any time for special functions and events.

The public hearing was closed again at 7:40 p.m.

Council Member McCracken MOVED to strike the word “operation” in Condition 1 and replace with “alcohol sales.” City Attorney Lew then advised that the language read “sale of alcohol may occur.”

**COUNCIL ACTION:** MOVED by Council Member Ward, SECONDED by Council Member McCracken that the City Council adopt the draft resolution approving Conditional Use Permit PRC-2011-23-C, as amended to limit the sale of alcohol from 9:00 a.m. to 2:00 a.m., but not limit the hours of operation in Condition No. 1; and authorize the Mayor to sign the Letter of Public Convenience of Necessity. The motion carried unanimously.

Disposition: Approved.

**11. PUBLIC HEARING TO APPROVE REVISIONS TO THE ZONING MAP**

Recommendation: That the City Council conduct a public hearing, and:

1. A. Receive input regarding approval of the revisions to the Zoning Map as depicted on Exhibit A-1; and
   B. Approve the proposed ordinance, give first reading, waive further reading and order the ordinance to print.

2. A. Receive input regarding approval of the revisions to the Zoning Map as depicted on Exhibit A-2; and
   B. Approve the proposed ordinance, give first reading, waive further reading and order the ordinance to print.

3. A. Receive input regarding approval of the revisions to the Zoning Map as depicted on Exhibit A-3; and
   B. Approve the proposed ordinance, give first reading, waive further reading and order the ordinance to print.

4. A. Receive input regarding approval of the revisions to the Zoning Map as depicted on Exhibit A-4; and
   B. Approve the proposed ordinance, give first reading, waive further reading and order the ordinance to print.

5. A. Receive input regarding approval of the revisions to the Zoning Map as depicted on Exhibit A-5; and
   B. Approve the proposed ordinance, give first reading, waive further reading and order the ordinance to print.
City Manager Lollis introduced the item, and the staff report was presented by City Planner Bill Nebeker. Staff clarified that conflicts relative to property ownership within 500 feet were accommodated by breaking up the areas with proposed amendments.

PROPOSED ORDINANCE 1780 (EXHIBIT A-1)

Mayor Irish recused himself from consideration of Exhibit A-1 due to a conflict of interest and exited the Council Chambers.

In response to inquiries made by Council Member Shelton, staff provided clarification regarding various zoning classifications, densities, and pre-zoned areas. He then lauded staff for their notification efforts.

The public hearing was opened at 8:02 p.m. Seeing no one, the Mayor closed the public hearing at 8:03 p.m.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member McCracken that the City Council adopt the proposed ordinance approving the revisions to the Zoning Map as depicted on Exhibit A-1, give first reading, waive further reading and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE OFFICIAL ZONING MAP.

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

Mayor Irish returned to the Council Chambers.

PROPOSED ORDINANCE 1781 (EXHIBIT A-2)

Council Member McCracken recused himself due to a conflict of interest and exited the chambers.

The public hearing opened at 8:04 p.m.

- Daryl Nicholson, 26914 Ave 140, requested that the left portion of the yellow lot on Exhibit A-2 be zoned commercial.

Community Development Director Dunlap addressed questions from the Council regarding Mr. Nicholson’s request and expressed concern regarding changing the area to a General Commercial Zone. He then suggested that the Council consider a Retail Commercial zoning, and direct staff to account for mortuaries as an allowed use in the CR zone as an amendment to the Development Code.
The public hearing was closed at 8:15 p.m.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Shelton that the City Council adopt the proposed ordinance approving the revisions to the Zoning Map as depicted on Exhibit A-2, as amended so all parcels referenced on exhibit are to be zoned CR, with the exception of the southern most parcel, which is zoned RM-2; give first reading, waive further reading and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE OFFICIAL ZONING MAP.

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

Council Member McCracken returned to the dais.

PROPOSED ORDINANCE 1782 (EXHIBIT A-3)

Council Member Shelton recused himself due to a conflict of interest with regard to Exhibit A-3 and exited the Council Chambers.

Community Development Director Dunlap indicated that Exhibit A-3 had been revised to address two additional lots located on Villa Street.

City Manager Lollis indicated that written communication from the Law Offices of Gregory A. Chambers dated December 2nd, 2011, had been received by the City on December 5th. The City Attorney read the letter as follows:

Dear Mayor and Council Members:

I have been retained by Mr. Rodney Martin in regards to the proposed amendments to the official zoning map of the City of Porterville.

The “errors” in the City’s 2010 zoning map as well as the proposed “fix” will obviously have great consequences and harm to my client as well as other property owners if the proposed corrections are approved. My client purchased his property in 2006 at that time it was zoned R-2, this zoning was a primary factor for his purchase of the property, as a result of alleged “errors” in the 2010 General Plan, my client as well as his neighbors were zoned “Open Space Public”. We contend that this in itself was a taking. It is our understanding that the City plans to correct the “errors” in the zoning map and change the zoning of my client’s property to R-1 equivalent, we contend that this is also a taking.

Obviously, this “error” if corrected as proposed will significantly devalue my client’s property and not allow my client and his family to use the property as they have and as they
have planned to do since they purchased the parcel. Furthermore, my client’s neighbors who are similarly situated will also have their property devalued as a result of the “error” by whomever the City contract to create the maps.

Unfortunately, my client will be having a medical procedure and will not be able to attend the public hearing scheduled for December 7, 2011. My client has requested that I attend the meeting in his place and I anticipate being present on the date if the need arises.

Mr. Martin is requesting additional time for public comment on this issue before the City Council takes action on this issue. My client’s next door neighbors, Mr. William and Christine Karle were also no aware of the hearing and never received any type of notice of the City’s intention of amending the “errors” in the 2010 zoning map which will also adversely affect their property rights as well. Other property owners have expressed confusion as to the full implications of the City’s proposed “fix” and its impacts and ramifications on their property value and use.

My client believes, as do I, that without adequate public notice and more importantly time for property owners to fully analyze the implications and impacts of the City’s proposed “fix” amending the map at this time would be grossly inappropriate to those affected by the proposed City “fix”. My client will take all appropriate legal actions in defense of his property rights. My client is requesting that the Council continue this matter to another date so that adequate notice can be given to all landowners affected by the proposed changes and so that my client can also be present to voice his concerns about the amendments and other property owners have sufficient time to analyze the impacts of the proposed “fix”. Finally, additional time would afford additional dialogue with City planning staff of hopes in reaching some common goal in resolving this issue.

Thank you for your prompt attention to this matter.

Sincerely,

Gregory A. Chambers
Attorney at Law

At the Council’s request the City Attorney spoke about notice of the property owners, and a property owner’s right to make a separate application for their property given what they wish to do with the property.

The public hearing opened at 8:30 p.m.

- Joe Faure, 375 N. E Street, expressed concern regarding the description of D-PO zoning, and indicated that he supported the allowable uses for his property on Olive near Plano.
- Greg Chambers, 302 N. 2nd Street, reiterated his comments on behalf of Rodney Martin.
- William Carly, spoke against the proposed zoning of his property.
- Jose Cruz, 194 S. Villa, spoke against the proposed change in zoning.
The public hearing was closed at 8:40 p.m.

A lengthy discussion took place regarding the differences between the new R zones and the previous R-2 zone.

The Council recessed for ten minutes at 8:49 p.m.

The public hearing was re-opened at 8:58 p.m.

- William Carly, re-iterated his opposition to the proposed zoning of his property.

The public hearing was closed at 9:00 p.m.

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

**COUNCIL ACTION:** MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council approve an RM-1 zoning for the four lots south of Villa.

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

**COUNCIL ACTION:** Ordinance 1782  
MOVED by Council Member McCracken, SECONDED by Mayor Irish that the City Council adopt the proposed ordinance approving the revisions to the Zoning Map as depicted on Exhibit A-3, as amended so the four lots south of Villa are zoned RM-1; give first reading, waive further reading and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE OFFICIAL ZONING MAP.

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

Council Member Shelton returned to the dais.

**PROPOSED ORDINANCE 1783 (EXHIBIT A-4)**

Vice Mayor Hamilton recused himself due to a conflict of interest and exited the chambers.

The public hearing opened at 9:07. Seeing no one, the Mayor closed the public hearing at 9:08 p.m.
COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Shelton that the City Council adopt the proposed ordinance approving the revisions to the Zoning Map as depicted on Exhibit A-4; give first reading, waive further reading and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE OFFICIAL ZONING MAP.

AYES: Ward, Shelton, McCracken, Irish

NOES: None

ABSTAIN: Hamilton

ABSENT: None

Vice Mayor Hamilton returned to the dais.

PROPOSED ORDINANCE 1784 (EXHIBIT A-5)

The public hearing was opened at 9:09 p.m. and closed at 9:10 p.m. when nobody came forward.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the City Council adopt the proposed ordinance approving the revisions to the Zoning Map as depicted on Exhibit A-5; give first reading, waive further reading and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE OFFICIAL ZONING MAP. The motion carried unanimously.

The City Manager read the ordinances by title only.

Disposition: Approved, as amended.

SCHEDULED MATTERS

At the Mayor’s request, Item 14 was presented next.

14. PRESENTATION BY BECKMAN INSTRUMENTS SEEKING LOCAL SUPPORT FOR PARTIAL DELISTMENT OF PORTERVILLE SUPERFUND SITE

Recommendation: That the City Council receive the presentation from Beckman Coulter, Inc., and consider supporting the Beckman’s petition of the EPA for partial delistment of the Superfund site.

The City Manager introduced the item. Robert Keeley, Beckman Coulter, gave a presentation regarding their petition for partial delistment of their Superfund site.
In response to inquiries from the Council, Mr. Keeley elaborated on the meaning of partial delistment and the benefits to Beckman Coulter.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward that the City Council authorize support of Beckman’s petition of the EPA for partial delistment of the Superfund site. The motion carried unanimously.

Disposition: Approved.

13. MEDICAL CANNABIS REGULATIONS – DRAFT COMPREHENSIVE MODIFICATIONS TO CURRENT CITY REGULATIONS

Recommendation: That the City Council consider the report and draft ordinance, and provide direction as it deems appropriate.

The City Manager introduced the item, and City Attorney Lew presented the staff report. The Council discussed public safety concerns and complaints related to the cultivation and use of cannabis.

Council Member McCracken made note of the time. Without objection, the Council extended the adjournment time to 10:00 p.m.

The Council directed staff to continue drafting modifications and bring the item back to the Council when ready. The motion carried unanimously.

Disposition: Staff direction given.

ORAL COMMUNICATIONS

• (Name inaudible), spoke against the proposed restrictions for medical marijuana, commenting on the hardship and expense restricting growth to indoors would cause on patients, and voiced safety concerns with home invasions.
• Daryl Nicholson, thanked the City Council for their action in Item 11, and commended the Council for the direction it was heading with regard to imposing restrictions on the growth of medical marijuana.
• Dawn Joe, identified herself as a medical marijuana user, and spoke against the proposed restrictions on requiring growth indoors, and spoke in favor of a voluntary registration process.

OTHER MATTERS

• Council Member Shelton, spoke of various upcoming events, including an Open House for State Assemblywoman Connie Conway; a Chamber Mixer at Sierra View District Hospital; a display at a downtown art gallery; a tree lighting ceremony at White’s Funeral Home; a food giveaway event sponsored by Love, Inc.; and various Santa appearances.
• Council Member McCracken, advised of the scheduling of the Tulare County
Household Hazardous Waste Clean Up Day to be held at County Fire Station 87 on March 17, 2012.

- Vice Mayor Hamilton spoke of the upcoming Employee Christmas Luncheon.

**ADJOURNMENT**

The Council adjourned at 10:05 p.m. to the meeting of December 20, 2011.

_______________________________
Luisa Herrera, Deputy City Clerk

SEAL

_______________________________
Ronald L. Irish, Mayor