CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
FEBRUARY 7, 2012, 5:30 P.M.

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

ORAL COMMUNICATIONS
None

CITY COUNCIL CLOSED SESSION:
A. 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.
   7- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case concerning facts not yet known to potential plaintiffs.

During Closed Session, Council Member Ward left the meeting due to an emergency, and was absent for the remainder of the meeting.
RECONVENE OPEN SESSION
REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

The Open Session reconvened at 6:45 p.m. City Attorney Julia Lew reported that no reportable action had taken place.

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

PROCLAMATIONS
Teen Dating Violence Prevention and Awareness Month – February, 2012
City of Hope Month – February, 2012

PRESENTATIONS
Employee of the Month – Yuliana Andrade
Introduction of New Employees
Outstanding Business – Cherry Tree Catering

After polling the audience and determining that most of the individuals were in attendance for the public hearing on Riverwalk Marketplace Phase II (Item 25), Mayor Irish requested that staff present that item first. Without objection, Item No. 25 was considered.

25. RIVERWALK MARKETPLACE PHASE II COMMERCIAL DEVELOPMENT; A REQUEST FOR APPROVAL OF CONDITIONAL USE PERMIT 2-2010 AND TENTATIVE PARCEL MAP 4-2010 WITHIN THE VIEJO ROBLES PLANNED DEVELOPMENT

Recommendation: That the City Council:
1) Adopt the draft resolution certifying the Final Environmental Impact Report, adopting Findings of Fact, adopting a Statement of Overriding Considerations, and adopting a Mitigation Monitoring Plan for the Riverwalk Marketplace Phase II Project;
2) Adopt the draft resolution approving a Conditional Use Permit to amend the Conceptual Development Plan for the Viejo Robles Planned Development, to adopt a Specific Plan for the Planned Development to be known as the Riverwalk Marketplace Phase II project with all approved plans and exhibits, to permit the off-site sale of alcohol within the grocery store portion of the Wal-Mart store and to authorize the Mayor to sign the Letter of Public Convenience or Necessity; and
3) Adopt draft resolution for approval of a Tentative Parcel Map.

Community Development Director Brad Dunlap indicated that the staff report would be presented by City Planner Bill Nebeker, Lead Consultant Tony Loccaciato, and himself. He added that members of the consultant team, which specialized in various technical disciplines, were present in the audience to address questions.
Following the staff report, Community Development Director Dunlap indicated that staff and the consultants worked to address all comments received by both the public and governmental agencies regarding the environmental aspects of the project. He spoke of additional comments received the day before from M.R. Wolfe, who represented California Healthy Communities Network and Porterville residents Brock Neely and John Coffee; and indicated that the comments in opposition had been addressed in the additional packet provided to the Council. Said supplemental information was also made available to the public at that time. Mr. Dunlap noted that also contained within the packet were the Findings of Fact which supported the certification of the Environmental Impact Report, and conditions of approval, two of which had been amended. Those amended conditions read as follows:

13. **All roof-mounted, ground-mounted and wall-mounted equipment shall be screened from public view in a manner that is architecturally consistent with the buildings. The plans that are submitted for a building permit shall identify whether mechanical equipment is to be located on the roof, and if so the building plan shall indicate the height of the equipment above the roof; and the plans for screening the rooftop equipment (mechanical, electrical, etc.) such that the roof-top equipment does not project above the screen wall. If rooftop equipment would exceed the height of the screen wall, the applicant/developer shall demonstrate in a drawing that the unit is not visible from the ground level of State Route 190 at a viewing height of 6 feet.**

33. **The trip Reduction Strategies table on page 2.0-80 of the FEIR is hereby adopted as Walmart’s incentive based rideshare program for store employees. Prior to issuance of a building permit Walmart shall submit detailed information on program implementation. The details shall be reviewed and approved by the Zoning Administrator and shall be implemented by Walmart by opening day.**

Tony Loccaciato, Impact Sciences, Project Manager for preparation of the EIR, provided a brief overview of the process, main conclusions and measures.

Community Development Director Dunlap advised of a correction to the draft Environmental Impact Report, Page 5.1-91, and Appendix Table 5.1A should cite to the document prepared by CAPCOA titled *CEQA and Climate Change*, dated 2008. He then spoke of implications of the mitigation measures, which included amending the City’s Mitigation Impact Fee Program by December of 2013 to adopt a Transportation Impact Fee per the 2010 Circulation Element of the General Plan.

- Amelia McCleer, Senior Manager for Wal-Mart Public Affairs in Central California, spoke of growing support for the project; the positive relationship Wal-Mart has developed with the community; and the benefits of a second location.
- Ron Riley, CEI Engineering, spoke about the City’s goals which were made up of seven objectives.
- Matthew Murrillo, spoke about the technology and sustainability features that will be utilized in the architecture, which included photos.
The public hearing was opened at 8:19 p.m.

- Ellen Nichols, commended Wal-Mart and City staff for clarification on many aspects of the project; cited areas of confusion within the first draft EIR; and indicated that she was neither for nor against approval.

- Patty Johnson, Porterville resident, spoke of her love for Wal-Mart and the community of Porterville.

- Elva Beltran, Director of Porterville Love I.N.C., spoke of Wal-Mart’s generosity with charitable donations, and noted that their prices benefit those in need.

- Amber Bush, Chamber Board Chair, spoke in favor of approval on behalf of the Chamber of Commerce; and expressed hope that additional retailers would follow.

- Pablo Espinoza, 1175 W. Westfield, indicated that he was neither in favor nor against the project; spoke of impact to downtown; and suggested that 50% of the items sold in the store be made in America.

- Brock Neely, Porterville resident, inquired about the request for an alcohol license and whether the Council would consider approval for a mom and pop establishment.

- John Duran, address not given, stated that he had conducted a survey of residents south of Olive, all of whom were supportive; and spoke in favor of approval.

- Patrick Lewis, Porterville resident, indicated he was neither for nor against approval, and inquired about concessions given by the City, property taxes, and full and part-time pay.

- John Coffee, Porterville resident, expressed hope that the City would be as stringent with Wal-Mart regarding noise as they were with the Brickhouse; and asked if a full grocery would be added to the Henderson location.

- Walter Smith, Fresno resident, spoke in support of approval and of other retailers waiting for the Wal-Mart development to take place.

- Marion Davis, Century 21 Agent, noted that many first time home buyers are employed by Wal-Mart.

- Barry Caplan, Porterville resident, spoke of the lack of proper maintenance at the Henderson Avenue Wal-Mart location; questioned the lack of significant impact to safety; and inquired about any impact to store prices due to the proximity of the distribution center.

- Case Lok, Porterville resident, spoke in favor of the project, and commented about the amount of time the project has taken.

- Boyd K. Leavitt, cited Wealth of Nations and spoke of free enterprise; and added that if Wal-
Mart did not open here it would just open somewhere else.

- Connie Holvan, Wal-Mart employee, spoke in favor of approval.

The Council recessed for 15 minutes at 8:50 p.m.

Community Development Director Dunlap addressed comments made by Mr. Espinoza and Mr. Caplan regarding urban decay and public safety impacts. He then noted two items which had been distributed to the Council: 1) a memo from Dave Mitchell of Michael Brandman & Associates to Bill Nebeker, City Planner; and 2) a memorandum from Tony Loccaciato of Impact Sciences to Bill Nebeker. These memoranda were also made available to the public at that time. He noted the following corrections:

1) The removal of City staff comments inadvertently inserted into the Brandman & Associates memo;
2) The misplacement of an operational air quality issue that was inadvertently identified as a construction air quality issue;
3) The misplacement of two attachments showing the site plan and information used during the completion of the noise study;
4) The addition of page 5.10-45 of the RDEIR, an aerial of the project area with a site plan overlay.

Community Development Director Dunlap indicated that the above named revisions had not resulted in any change to the conclusions of the impact analysis or the mitigation measures as contained in the Final EIR. He then addressed questions from the Council Member Shelton regarding: zoning, planned development, ownership of undeveloped areas, and updating the circulation element.

Consultants Roger Dale from Dale Natelson Group, and Tony Loccaciato from Impact Sciences responded to a Council inquiries regarding mitigation measures for urban decay and the noise analysis.

Council Member Shelton addressed propaganda and comments made both in support and in opposition of Wal-Mart.

At the request of Vice Mayor Hamilton, Community Development Director Dunlap elaborated on hindrances relative to the project due to an exhaustive analysis well beyond that of an average retailer in anticipation of litigation. Vice Mayor Hamilton commended the final product EIR; and expressed concerns regarding Conditions No. 1 and 14 of the Conditional Use Permit relative to temporary storage containers and graffiti removal. Staff indicated language that graffiti abatement shall comply with the City’s Graffiti Abatement Policy could be included.

Community Development Director Dunlap clarified that the mitigation measures of which Wal-Mart was paying a pro-rata share of would be looked at as part of the impact fee update.
Mayor Irish briefly spoke in support of the item.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member McCracken that the City Council adopt the draft resolution certifying the Final Environmental Impact Report, adopting Findings of Fact, adopting a Statement of Overriding Considerations, and adopting a Mitigation Monitoring Plan for the Riverwalk Marketplace Phase II Project; adopt the draft resolution approving a Conditional Use Permit to amend the Conceptual Development Plan for the Viejo Robles Planned Development, to adopt a Specific Plan for the Planned Development to be known as the Riverwalk Marketplace Phase II project with all approved plans and exhibits, to permit the off-site sale of alcohol within the grocery store portion of the Wal-Mart store and to authorize the Mayor to sign the

Resolution 13-2012 Letter of Public Convenience or Necessity; and adopt the draft resolution for approval of a Tentative Parcel Map.

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

Disposition: Approved, as amended.

The Council recessed for 15 minutes.

ORAL COMMUNICATIONS

Barry Caplan requested that Item 23 be removed from the Consent Calendar for discussion. He then voiced concern that a previous event sponsored by the same organization had encroached into Veterans Park, and alleged inappropriate conduct by a participant while he was recording video in the vicinity.

Mayor Irish expressed his desire to continue the Consent Calendar items to the next meeting. Council Member McCracken noted the late hour and suggested that all remaining items be continued. Staff advised of two items which were time sensitive. Item Nos. 10 and 23.

REPORTS

Reports were continued to the next meeting.

CONSENT CALENDAR

Items 10 and 23 were removed for further discussion.

23. APPROVAL FOR COMMUNITY CIVIC EVENT – PORTERVILLE PREGNANCY RESOURCE CENTER AND EMBASSADOR SKATE PARK GROUP – BIKE AND SKATE FOR LIFE – MARCH 17, 2012
Recommendation: That the City Council approve the Community Civic Event Application and Agreement from the Porterville Pregnancy Resource Center and Ambassador Skate Park Group, subject to the Restrictions and Requirements contained in the Application, Agreement, and Exhibit A of the Community Civic Event Application.

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request. The applicant spoke in support of the item and of time restraints.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED Vice Mayor Hamilton that the City Council approve the Community Civic Event Application and Agreement from the Porterville Pregnancy Resource Center and Ambassador Skate Park Group, subject to the Restrictions and Requirements contained in the Application, Agreement, and Exhibit A of the Community Civic Event Application.

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

Disposition: Approved.

10. AUTHORIZE STAFF TO ACT ON BEHALF OF THE CITY OF PORTERVILLE FOR THE PURPOSE OF OBTAINING FINANCIAL ASSISTANCE BY THE JOB ACCESS & REVERSE COMMUTE AND NEW FREEDOM PROGRAMS

Recommendation: That the City Council:

1. Approve the proposed Resolution of Authority in support of the authorized agents for the purpose of obtaining financial assistance from the Job Access & Reverse Commute and New Freedom programs; and
2. Authorize the Mayor to sign the required Resolution of Authority; and
3. Authorize the City Manager to certify all General Certifications and Assurances for these programs.

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

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Shelton that the City Council approve the proposed Resolution of Authority in support of the authorized agents for the purpose of obtaining financial assistance from the Job Access & Reverse Commute and New Freedom programs; authorize the Mayor to sign the required Resolution of Authority; and authorize the City Manager to certify all General Certifications and Assurances for these programs.
AYES: Shelton, McCracken, Hamilton, Irish
NOES: None
ABSTAIN: None
ABSENT: Ward

Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council continue Reports, and Item Nos. 1 through 9, 11 through 22 and 24 to the next meeting.

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

Disposition: Items continued.

The following items were continued to the meeting of February 21, 2012:

2. Purchase of Four CNG Refuse Trucks – Resolution of Support and Budget Adjustment
3. Authorization to Advertise for Bids – Olive Avenue Courthouse Bus Turnout
4. Acceptance of Project – Jaye Street Improvements (From the Easterly Extension of Brown Avenue to Gibbons Avenue)
5. Authorization to Negotiate a Contract for Design and Engineering Services for the Chase Avenue Park
6. Approval of Measure ‘R’ Supplemental Agreement Heritage Center Trailway Extension (Rails to Trails Phase II) Project
7. Approval of Measure ‘R’ Supplemental Agreement – Rails to Trails Extension Project (CMAQ Funded Project)
8. Approval of Measure ‘R’ Supplemental Agreement – Tule River Parkway, Phase III – Property Acquisition
9. Approval of the Second Amendment to the Agreement for Transit Services for College of Sequoia Students
11. Installation of “No Parking” Signs Along Kessing Street Adjacent to Home Depot and the Installation of Twenty Minute Parking Signs Along Westwood Street Adjacent to Burton Elementary School
12. Redevelopment Agency Annual Report to Legislative Body
13. CDBG Citizens’ Advisory and Housing Opportunity Committee and Citizen Participation Plan
14. Interim Financial Status Reports
15. Quarterly Portfolio Summary
16. Street Performance Measure – 2nd Quarter Report
17. Code Enforcement Update
18. Attendance Report for City Commissions and Committees – Second Quarter Report
20. Acceptance of Grant /Approval of Dispatching Services for Other Police Agencies
21. Community Clean Up Events
22. Consideration of Proposed Budget Calendar for Fiscal Year 2012-2013
23. Review of Local Emergency Status

OTHER MATTERS
• City Manager Lollis advised that Rue 21 would be opening on Thursday, February 9th, and Dickie’s BBQ would be opening on Friday, February 10th.

PUBLIC HEARINGS
26. COMMERCIAL CROP CULTIVATION ORDINANCE: AN AMENDMENT TO THE DEVELOPMENT ORDINANCE TO ACCOMMODATE INTERIM AGRICULTURAL USE OF LANDS WITHIN MULTIPLE ZONE DISTRICTS

Recommendation: That the City Council open the public hearing and continue the public hearing to the meeting of February 21, 2012.

The City Manager introduced the item.

The public hearing was opened at 10:14 p.m., and without objection, was continued to the meeting of February 21, 2012.

Disposition: Item continued.

ADJOURNMENT
The Council adjourned 10:15 p.m. to the meeting of February 21, 2012.

SEAL

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Luisa Herrera, Deputy City Clerk

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Ronald L. Irish, Mayor