

**CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
FEBRUARY 5, 2013, 5:30 P.M.**

Called to Order at 5:30 p.m.

Roll Call: Council Member Ward, Council Member Hamilton, Council Member Shelton, Vice Mayor McCracken, Mayor Gurrola

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

**JOINT CITY COUNCIL / SUCCESSOR AGENCY TO THE
PORTERVILLE REDEVELOPMENT AGENCY AGENDA
291 N. MAIN STREET, PORTERVILLE, CA**

Roll Call: Member Ward, Member Hamilton, Member Shelton

ORAL COMMUNICATIONS

None

JOINT CITY COUNCIL/AGENCY CLOSED SESSION:

- A. Closed Session Pursuant to:
- 1- Government Code Section 54956.9(a) – Conference with Legal Counsel – Existing Litigation: County of Tulare v. All Persons Interested in the Matter of the Addition of the 2010 Amendment to Redevelopment Plan for the Redevelopment Project Area No. 1, as Adopted by Ordinance 1765 on June 15, 2010, by the City of Porterville, et al., Tulare County Superior Court Case No. 249877.

During Closed Session, the Joint Council/Successor Agency Meeting adjourned to a Meeting of the Porterville City Council.

CITY COUNCIL CLOSED SESSION:

- B. Closed Session Pursuant to:
- 1- Government Code Section 54956.9(a) – Conference with Legal Counsel – Existing Litigation: City of Porterville v. County of Tulare et al., Tulare County Superior Court No. 249043.
 - 2- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APNs 245-040-041 and 245-047-042. Agency Negotiator: John Lollis and Baldo Rodriguez. Negotiating Parties: City of Porterville and Reconstruct Company, N.A. Under Negotiation: Terms and Price.
 - 3- Government Code Section 54956.9(a) – Conference with Legal Counsel – Existing Litigation: Hatcher v. City of Porterville et al., Tulare County Superior Court Case No. 11-244777.
 - 4- Government Code Section 54957 – Public Employee Performance Evaluation - Title: City Manager.

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

6:30 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

City Attorney Lew reported that no reportable action had taken place in Closed Session.

Pledge of Allegiance Led by Vice Mayor McCracken
Invocation – the Mayor participated.

PRESENTATIONS

Employee of the Month – Lupe Diaz

AB 1234 REPORTS

This is the time for all AB 1234 reports required pursuant to Government Code § 53232.3.

1. Consolidated Waste Management Authority (CWMA) – January 17, 2013: Vice Mayor McCracken reported that a model Sharps Ordinance had been approved and would be transmitted to city councils for consideration.
2. Tulare County Association of Governments (TCAG) – January 22, 2013: Mayor Gurrola reported on discussion regarding TAP funds and Sustainable Communities.
3. Tulare County Economic Development Corporation – January 23, 2013: Mayor Gurrola reported on discussion about target employment area changes, which require more documentation and could be a burden to small businesses.
4. Indian Gaming Local Community Benefit Committee – January 24, 2013: Council Member Hamilton reported on the selection of a Chair and Vice Chair of the committee, and spoke of grant application changes.
5. Joint City/School Committee – January 28, 2013: City Manager Lollis reported on continued discussion of future community forums, and the formation of a subcommittee charged with advancing the forums.
6. SJVAPCD's Special City Selection Committee – January 29, 2013: Council Member Shelton indicated that he did not attend the committee meeting, but that he understood a North Valley representative had been elected.
7. Council/City Manager Joint Meeting with City of Lindsay – January 31, 2013: Mayor Gurrola and Vice Mayor McCracken reported that it was determined that there was not sufficient need for a joint meeting of the two Councils; spoke of the cities supporting each other in areas of common interest; and indicated that the City of Lindsay was interested in participating in Council of Cities.

REPORTS

This is the time for all committee/commission/board reports; subcommittee reports; and staff informational items.

- I. City Commission and Committee Meetings:

1. Arts Commission – January 16, 2013: Commissioners Rebecca Ybarra and Sandra Romero reported that the commission had adopted a mission statement and were working on a presentation of goals to be presented to the Council.
2. Youth Commission – January 28, 2013: Parks and Leisure Services Director Donnie Moore reported that the commission was currently working on their upcoming Youth Voice Conference and a dodge ball tournament for the local high schools.

II. Staff Informational Items

1. Project Update – New Animal Shelter: Council Member Shelton inquired about the use of Measure H funds, the presence of an elderberry bush in proximity to the proposed site, and available funding.
2. Street Performance Measure – 2nd Quarter Report: Council Member Ward requested that the number of potholes repaired be included in future reports; and requested that, as part of the budget process, an analysis be prepared that compares the cost/duration of overlay maintenance of County-standard neighborhood streets versus reconstruction/duration to City-standards.
3. Code Enforcement Update: Council Member Shelton lauded the efforts of Code Enforcement Officer Dignam.
4. Attendance Report for City Commissions and Committees – 2nd Quarter Report: Council Member Shelton requested that Parks and Leisure Services Commissioner Carson be contacted regarding his attendance.
5. Report on Charitable Car Washes

ORAL COMMUNICATIONS

- Catherine Harris, Porterville, spoke in support of the use of Measure H funds for the construction of an animal shelter; and suggested ordinances regarding animal control, administrative hearings for citations, and an increase in animal control officers.
- Brock Neeley, Porterville, spoke of Council Member Shelton’s involvement in the recent purchase of City owned property and requested his resignation.
- Cody Clem, Member of Porterville Firefighters Association 2169, spoke of MDA fundraising efforts, noting that the Porterville Firefighters Association was ranked #1 in the state for funds raised per member.
- David Coon, Riverside resident, requested a re-bid for street sweeper due to difficulties with delivery of his bid; and spoke of the benefits of having two competitive bids.

A discussion followed, during which the City Manager spoke of Buy America requirements which were affecting the CMAQ funded replacement Mr. Coon had mentioned.

CONSENT CALENDAR

Items 2, 7, 9, 12 and 14 were pulled for further discussion and/or abstention.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Ward that the City Council approve Item Nos. 1, 3 through 6, 10, 11, 13, and 15 through 19. The motion carried unanimously, with the exception of those abstentions noted below.

1. MINUTES OF AUGUST 7, 2012, AUGUST 21, 2012, AND JANUARY 15, 2013

Recommendation: That the City Council approve the Minutes of August 7, 2012, August 21, 2012, and January 15, 2013.

Documentation: M.O. 01-020513

Disposition: Approved.

3. ACCEPTANCE OF PROJECT – RAILS TO TRAILS CLASS I TRAIL EXTENSION PROJECT (CMAQ PORTION) (OLIVE AVENUE TO HERITAGE CENTER)

Recommendation: That City Council:
1. Accept the project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the immediate release of final payment, provided no stop notices have been filed.

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

Documentation: M.O. 02-020513

Disposition: Approved.

4. AWARD OF CONTRACT - ISLAND ANNEXATION SEWER PROJECT (AREA 458A & 458B)

Recommendation: That City Council:
1. Award the Island Annexation Sewer Project, Area 458A & Area 458B, to Todd Companies, in the amount of \$1,804,502.40;
2. Authorize progress payments up to 95% of the contract amount;
3. Authorize a 10% contingency to cover unforeseen construction costs; and
4. Authorize 5% for construction management, quality control and inspection.

AYES: Hamilton, McCracken, Gurrola
NOES: None

ABSTAIN: Ward, Shelton
ABSENT: None

Documentation: M.O. 03-020513
Disposition: Approved.

5. INTENT TO VACATE EASEMENTS FOR INGRESS, EGRESS, STORM DRAIN PIPELINE AND STORM WATER RETENTION RELATED TO SIERRA MEADOWS SUBDIVISION (NICHOLSON & SMEE, LLC)

Recommendation: That the City Council:

1. Pass a Resolution of Intent to Vacate easements dedicated to the City of Porterville by document numbers 2004-0134038 and 2004-0134039, recorded December 28, 2004 in the Office of the Tulare County Recorder; and
2. Set the Council Meeting of March 5, 2013, or as soon thereafter, as the time and place for a public hearing.

Documentation: Resolution 02-2013
Disposition: Approved.

6. AUTHORIZE TRANSIT STAFF TO APPLY FOR TRANSIT SECURITY GRANT PROGRAM FUNDING

Recommendation: That the City Council approve the draft Resolution authorizing staff to act on behalf of the City to apply for financial assistance.

Documentation: Resolution 03-2013
Disposition: Approved.

10. COMMUNITY CLEAN UP EVENTS

Recommendation: That City Council:

1. Declare April 13, 2013, "Spring Clean Up Day" and October 12, 2013, "Fall Clean Up Day";
2. Encourage all residents to clean up their properties and take advantage of these special opportunities offered by the City;
3. Authorize the City to accept trash, litter and yard clippings delivered by City residents receiving City residential refuse service to the Spring and Fall Clean Up Events for free disposal; and
4. Authorize the cost of both events be funded from the Solid Waste Operating budget.

Documentation: M.O. 04-020513
Disposition: Approved.

11. CONSIDERATION OF STREET CLOSURE FOR PORTERVILLE “STEP-UP” NEIGHBORHOOD OUTREACH EVENT

Recommendation: That the City Council authorize the temporary closure of Doree Street between Forester and Mohoff Courts on February 23, 2013, in support of the planned neighborhood “Step-Up” outreach event.

Documentation: M.O. 05-020513

Disposition: Approved.

13. REQUEST TO SCHEDULE PUBLIC HEARING FOR THE CONSIDERATION OF AN ORDINANCE ADDING PENALTY PROVISIONS TO THE MUNICIPAL CODE RELATED TO CHARTER SECTION 67 PERTAINING TO INTERFERENCE

Recommendation: That the City Council direct staff to notice a public hearing for February 19, 2013, for the consideration of an ordinance adding penalty provision to the Municipal Code related to Charter Section 67 pertaining to Interference.

Documentation: M.O. 06-020513

Disposition: Approved.

15. ASSIGN AIRPORT LEASE – LOT 37

Recommendation: That the City Council approve the assignment of the Lease Agreement for Airport Hanger Lot 37 between the City of Porterville and the Estate of Earnest Freeman to Chris Freeman and Connie Hulsey.

Documentation: M.O. 07-020513

Disposition: Approved.

16. INTERIM FINANCIAL STATUS REPORTS

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

Documentation: M.O. 08-020513

Disposition: Approved.

17. QUARTERLY PORTFOLIO SUMMARY

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

Documentation: M.O. 09-020513

Disposition: Approved.

18. CONSIDERATION OF PROPOSED BUDGET CALENDAR FOR FISCAL YEAR

2013-2014

Recommendation: That the City Council approve the proposed budget calendar for the 2013-2014 Fiscal Year.

Documentation: M.O. 10-020513

Disposition: Approved.

19. 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 8630 of the California Emergency Services Act, determine that a need exists to continue said local emergency designation.

AYES: Ward, Hamilton, McCracken, Gurrola

NOES: None

ABSTAIN: Shelton

ABSENT: None

Documentation: M.O. 11-020513

Disposition: Approved.

The Council recessed for five minutes at 7:49 p.m.

PUBLIC HEARINGS

20. MINOR CONDITIONAL USE PERMIT PRC-2012-028M – CONSIDERATION OF THE PROPOSED DIALYSIS CLINIC AT 841 W. HENDERSON AVENUE (AMERICAN RENAL ASSOCIATES)

Recommendation: That the City Council adopt the draft resolution approving MUP PRC-2012-028m subject to the conditions of approval.

City Manager Lollis introduced the item, and Vice Mayor McCracken recused himself due to a conflict of interest relative to ownership of property within proximity to the proposed site. The staff report was presented by Community Development Manager Julie Phillips.

The public hearing was opened at 8:05 p.m. Seeing no one, the Mayor closed the public hearing at 8:06 p.m.

The Council spoke of the need for the proposed service in the community; and inquired about the patient capacity and safe loading/unloading areas. Questions posed by the Council were addressed by staff and the applicant.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Hamilton that the City Council adopt the draft resolution approving MUP PRC-2012-028m subject to the conditions of approval.

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

Documentation: Resolution 04-2013
Disposition: Approved.

SCHEDULED MATTERS

21. CONSIDER 'WALL OF FAME' HONOR DESIGNATIONS

Recommendation: That the City Council consider the nominations and designate new 'Wall of Fame' Honorees.

City Manager Lollis introduced the item, and the staff report was presented by Parks and Leisure Services Director Donnie Moore.

Council Member Shelton spoke in favor of approving all nominees submitted for designation. A discussion ensued regarding the number of nominees, and whether additional time was needed to review the information provided. It was noted that a number of family members were in attendance. At 8:22 p.m. the Council took a ten minute recess to allow Vice Mayor McCracken and Mayor Gurrola the opportunity to review the supplemental information provided with regard to the nominees.

Following the recess, the Council discussed previous changes to the 'Wall of Fame' placement procedures and future consideration of the procedures for possible amendment. The Council took a moment to speak about each of their nominees, and then provided the opportunity for family members in attendance to address the Council.

- Joe Faure, brother of Cyrille O. Faure, spoke of insensitivity for the Council to discuss the need for changes to the existing placement procedures in the presence of the nominees' families.
- Muriel Josten, daughter of Vivian Lucey, spoke in favor of the placement procedures, and of the designations.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Hamilton that the City Council designate all seven nominees as 'Wall of Fame' honorees: Clara Rutherford, Mary Baker, Emogene McCullar, Vivian Lucey, George Overcash, Cyrille O. Faure, Robert Christenson. The motion carried unanimously.

Documentation: M.O. 12-020513
Disposition: Approved.

CONSENT CALENDAR (Items pulled for discussion)

**2. ACCEPTANCE OF PROJECT - FIRE STATION NO. 2 TRAINING FACILITY
MEZZANINE AND STAIRS PROJECT**

Recommendation: That City Council:

1. Accept the project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 5% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

City Manager Lollis introduced the item, and the staff report was waived at the Council's request. Council Member Shelton lauded staff for coming in under budget on the project.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Hamilton that the City Council accept the project as complete; authorize the filing of the Notice of Completion; and authorize the release of the 5% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

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

Documentation: M.O. 13-020513

Disposition: Approved.

**7. AUTHORIZE STAFF TO APPLY FOR JOB ACCESS & REVERSE COMMUTE
AND NEW FREEDOM PROGRAM FUNDING**

Recommendation: That the City Council:

1. Approve the draft Resolution authorizing staff to act on behalf of the City to apply for financial assistance; and
2. Authorize the City Manager to certify all General Certifications and Assurances for these programs.

City Manger Lollis introduced the item, and the staff report was waived at the Council's request. Transit Manager Rich Tree addressed questions from Council Member Shelton regarding the intended use of the funds.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Ward that the City Council approve the draft Resolution authorizing staff to act on behalf of the City to apply for financial assistance; and authorize the City Manager to certify all General Certifications and Assurances for these programs. The motion carried unanimously.

Documentation: Resolution 05-2013
Disposition: Approved.

8. ADOPTION OF THIRD AMENDMENT OF NONDISPOSAL FACILITY ELEMENT

Recommendation: That the City Council approve the amended Nondisposal Facility Element.

City Manager Lollis introduced the item, and the staff report was waived at the Council's request. Public Works Director Baldo Rodriguez addressed questions from Council Member Shelton regarding odors and segregation of waste.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Hamilton that the City Council approve the amending Nondisposal Facility Element.

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

Documentation: Resolution No. 06-2013
Disposition: Approved.

9. REQUEST FOR IMMEDIATE CONSULTANT SERVICES – WASTE WATER TREATMENT FACILITY RAW SEWAGE PUMPS PROJECT

Recommendation: That the City Council:

1. Direct the Public Works Director to negotiate a Design Service Agreement with Carollo Engineers for a "Not to Exceed" \$60,000 fee;
2. Authorize the Mayor to execute the Design Service Agreement, if successfully negotiated, for a "Not to Exceed" \$60,000 fee; and
3. Direct staff to present a report no later than March 5, 2013, describing the recommended pre-selected equipment for Council's consideration.

The City Manager introduced the item, and presented the staff report. Following the staff report the Public Works Director addressed questions from the Council regarding the urgency of the item, costs for repair of the current pumps, and new pump technology available.

COUNCIL ACTION: MOVED by Vice Mayor McCracken, SECONDED by Council Member Hamilton that the City Council direct the Public Works Director to negotiate a Design Service Agreement with Carollo Engineers for a "Not to Exceed" \$60,000 fee; authorize the Mayor to execute the Design Service Agreement, if successfully negotiated, for a "Not to Exceed" \$60,000 fee; and direct staff to present a report no later than March 5,

2013, describing the recommended pre-selected equipment for Council's consideration. The motion carried unanimously.

Documentation: M.O. 14-020513

Disposition: Approved.

12. INTENT TO SET A PUBLIC HEARING TO CONSIDER THE FORMATION OF SEWER UTILITY DISTRICT AREA 458

Recommendation: That the City Council:

1. Set a Public Hearing for April 2, 2013, pursuant to Proposition 218 Guidelines, for consideration to form Sewer Utility District 458;
2. Approve the Engineer's Report for Sewer Utility District Area 458; and
3. Authorize staff to notify all affected property owners of the Public Hearing, via certified mail, including the sewer connection assessment amount, length of time provided on the assessment, reason for the assessment and a summary on how the voting will function.

City Manager Lollis introduced the item, and the staff report was waived at the Council's request. Council Members Ward and Shelton recused themselves due to conflicts of interests, and exited the Council Chambers. City Attorney Lew indicated that the item had been pulled by staff simply to make note of non-substantive amendments made to the draft resolutions.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Vice Mayor McCracken that the City Council set a Public Hearing for April 2, 2013, pursuant to Proposition 218 Guidelines, for consideration to form Sewer Utility District 458; approve the Engineer's Report for Sewer Utility District Area 458; and authorize staff to notify all affected property owners of the Public Hearing, via certified mail, including the sewer connection assessment amount, length of time provided on the assessment, reason for the assessment and a summary on how the voting will function.

Documentation: Resolution Nos. 07-2013 and 08-2013

Disposition: Approved.

14. SCHEDULING OF CITY COUNCIL SPECIAL MEETING REGARDING THE TULARE COUNTY ASSOCIATION OF GOVERNMENTS (TCAG) PROPOSED "MEASURE R" EXPENDITURE PLAN AMENDMENT #3

Recommendation: That the City Council authorize the scheduling of a Special Meeting for Tuesday, February 12, 2013, beginning at 5:30 p.m. in City Hall Council Chambers, to discuss the proposed "Measure R" Expenditure Plan Amendment No. 3.

City Manager Lollis introduced the item, and indicated that staff was requesting a meeting

time of 5:00 p.m. for Closed Session and 6:00 p.m. for Open Session.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Vice Mayor McCracken that the City Council authorize the scheduling of a meeting for Tuesday, February 12, 2013, to discuss the proposed “Measure R” Expenditure Plan Amendment No. 3, as amended to include a start time of 5:00 p.m. for Closed Session and 6:00 p.m. for Open Session. The motion carried unanimously.

Documentation: M.O. 15-020513

Disposition: Approved.

ORAL COMMUNICATIONS

None

OTHER MATTERS

- Council Member Shelton lauded City employee Sarah Weaver for being a 2012 Junior Giants Willie Mac Award recipient. He spoke of the following community events: Tule River Tribe elections, Emerald Duo concert; SF Giants trophy viewing event, the upcoming round dance event at the Tule River Reservation, and the World Ag Expo. He then communicated his interest in a City sponsored soap box derby event, and made a motion to have it considered on the next Agenda. The motion died for lack of a second.

COUNCIL ACTION: MOVED by Vice Mayor McCracken, SECONDED by Council Member Ward that the City Council appoint Council Members Shelton and Hamilton to a committee to explore the proposed soap box derby event and present information to the Council.

AYES: Ward, McCracken, Gurrola

NOES: Shelton, Hamilton

ABSTAIN: None

ABSENT: None

Documentation: M.O. 16-020513

Disposition: Committee members appointed.

- Council Member Shelton requested that the Parks and Leisure Services Director and the City Manager conduct a review of all Leisure Services Programs to find funding for the OHV Park.
- Council Member Hamilton expressed condolences to Mr. Will Lloyd whose ex-wife and current mother-in-law had both recently passed away.

CLOSED SESSION

The Council took a five minute recess at 9:41 p.m. before reconvening in Closed Session.

ADJOURNMENT – at 10:30 p.m. to the meeting of February 12, 2013 at 5:00 p.m.

SEAL

Luisa M. Herrera, Deputy City Clerk

Virginia R. Gurrola, Mayor