

**CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
JUNE 4, 2013, 5:30 P.M.**

Called to Order at 5:32 p.m.

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

ORAL COMMUNICATIONS

None

JOINT CITY COUNCIL/AGENCY CLOSED SESSION:

A. Closed Session Pursuant to:

1- Government Code Section 54956.9(d)(1) – 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 shall adjourn to a Meeting of the Porterville City Council.

CITY COUNCIL CLOSED SESSION:

B. Closed Session Pursuant to:

1 - Government Code Section 54956.9(d)(1) – 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: 280 North Fourth Street. Agency Negotiators: John Lollis and Donnie Moore. Negotiating Parties: City of Porterville, Porterville Senior Council, and Tulare/Kings Counties Area Agency on Aging. Under Negotiation: Terms and Price.

3- Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis, Steve Kabot, and Patrice Hildreth. Employee Organizations: Porterville City Employees Association; Public Safety Support Unit; Porterville Police Officers Association; Management and Confidential Series; Porterville City Firefighters

Association; Fire Officer Series; and all Unrepresented Management Employees.

4 - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Halopoff & Sons, Inc. v. Doug Ross dba Central Valley Asphalt, et al., Tulare County Superior Court Case No. 159053

5- Government Code Section 54956.9(d)(2) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case concerning the May 9, 2013 written request by Tulare County Council on behalf of the Tulare County Local Community Benefit Committee for the City to return the 2011 and 2012 grant funds awarded to it totaling \$217,313.

6- Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One Case.

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.

Pledge of Allegiance led by Caelon and Conner Wolf of Boy Scout Troop #132

Invocation – two individuals and Council Member Shelton participated.

PROCLAMATIONS

LGBT Pride Month – June 2013

Council Members Hamilton, Ward, and Shelton voiced their opposition to the Proclamation and stated that they had not signed the document.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Hamilton that the Council move Oral Communications to take place before the Presentations.

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

Documentation: M.O. 01-060413

Disposition: Approved.

Mayor Gurrola stated that the following rules would be enforced for Oral Communications:

1. Oral Communications would last a duration of thirty minutes; and
2. Each individual would have three minutes to speak.

ORAL COMMUNICATIONS

- Carl Griffiths, spoke in opposition of the proclamation read by the mayor; and spoke in support of a mayoral recall.
- Patricia Thompson, Concerned Women for America, spoke against the proclamation, which

- she found to be discriminatory; and spoke in support of biblical principals in governments.
- Lisa Clausen, Porterville, Concerned Women for America, expressed her opposition to the proclamation and its divisive consequences.
 - Dustin Reeder, Pixley, spoke in opposition to the proclamation, and requested repentance for all the sinners.
 - Kenneth Avila, spoke against the proclamation; and spoke in support of the death penalty for the practice of homosexuality.
 - Mark Pitcher, spoke in support of the adoption of criteria for future proclamations; stated that all people have value; and encouraged agreeing to disagree where beliefs are concerned.
 - Cici Townsend, spoke in opposition to the proclamation; encouraged the Council to focus on City business; and stated that the proclamation sets precedence.
 - Kelly Teeter, spoke in support of the proclamation and of people being themselves.
 - Cindy Dominguez, thanked Council Member Shelton for getting “this” together; presented statistics with regard to homosexuality; and discouraged promotion of the lifestyle.
 - Lance Sepee, spoke against the proclamation and homosexuality; and encouraged individuals to immediately pull their children out of government run schools.
 - Dennis Townsend, expressed disappointment in the Mayor’s decision to approve the proclamation; and stated that the matter didn’t have any place in city government.
 - Kathleen Adams, spoke in opposition to the proclamation; and encouraged proclamations to honor others for their accomplishments and contributions to the community.
 - Ann Marie Wagstaff, spoke of the difficulty associated with change; and thanked the Mayor for her courage.
 - Melissa McMurry, noted that the proclamation was not initiated by the Mayor; and spoke in favor of equality for all people.
 - Matthew Gifford, expressed fear for youth of the community; and spoke of the hate in the room.
 - Amber Dennard, thanked the Mayor for the proclamation.
 - Melody Sepee, spoke against the proclamation, and calling what is evil good.

Mayor Gurrola spoke briefly about the proclamation request, her decision to approve it, and her strong faith.

The Council recessed from 7:33 p.m. to 7:45 p.m.

PRESENTATIONS

- Chamber of Commerce Annual Report
- Office Depot
- Employee of the Month – Gale Labonte

AB 1234 REPORTS

1. Tulare County Economic Development Corporation – May 22, 2013, (No meeting due to lack of quorum) and May 23, 2013 – No verbal report.

REPORTS

- I. City Commission and Committee Meetings:

1. Transactions and Use Tax (“Measure H”) Oversight Committee – May 23, 2013 – No meeting due to lack of a quorum; May 30, 2013 – No meeting due to lack of a quorum.

II. Staff Informational Reports

1. Building Permit Activity – January 1, 2013, to April 30, 2013 – No verbal report.
2. Indian Gaming Local Community Benefit Grant Awards – The City Manager provided a brief verbal report, during which he commended Transit Manager Rich Tree and Interim Fire Chief Glenn Irish for their presentations.
3. Report – Update Regarding Status of Medical Marijuana Law and the California Supreme Court Decision in City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. et al. – City Attorney Lew elaborated on recent decision regarding land use.

City Attorney Lew notified the Council of two emergency items, and advised that their additions be considered prior to Oral Communications.

Emergency Item 1: AWARD OF CONTRACT – PLANO STREET BRIDGE WIDENING AND REHABILITATION PROJECT

Emergency Item 2: AUTHORIZATION TO NEGOTIATE AND EXECUTE A CONTRACT – CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE PLANO BRIDGE WIDENING AND REHABILITATION PROJECT

COUNCIL ACTION: MOVED by Vice Mayor McCracken, SECONDED by Council Member Ward that the City Council accept the emergency items for addition to the evening’s agenda as Items 22 and 23, respectively. The motion carried unanimously.

Documentation: M.O. 02-060413

Disposition: Items added.

Mayor Gurrola noted that Oral Communications would be held again for any members of the public who wished to speak in regards to any items other than the Proclamation.

ORAL COMMUNICATIONS

- Brock Neeley, stated desire for political views to be set aside when considering the two agenda items regarding the Chamber of Commerce.
- Barry Caplan, requested that Agenda Item Nos. 12, 13, and 14 be pulled for discussion by the Council; and commended the Mayor for her courage and exercise of leadership.

CONSENT CALENDAR

Items 3, 5, 9, 13 and 14 were pulled for further discussion. Council Member Shelton noted his abstention on Item No. 17 due to a conflict of interest.

City Attorney Lew advised the Council regarding Item No. 11, stating that no Council Member had a conflict of interest with the Item because of the widespread coverage of the Target Area. Ms. Lew also affirmed that Council Member Ward did not have a conflict relative to Item No. 5.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Hamilton that the City Council approve Items 1, 2, 4, 6-8, 10-12, and 15-17. The motion carried unanimously, with the exception of the aforementioned abstentions.

1. MINUTES OF DECEMBER 4, 2012

Recommendation: That the City Council approve the Minutes of December 4, 2012.

Documentation: M.O. 03-060413

Disposition: Approved.

2. REQUEST TO PURCHASE ADVANCED AUTHENTICATION SMART CARDS

Recommendation: That the City Council:

1. Approve the purchase of the Advanced Authentication Smart Cards, licenses, and service agreement for the amount of \$7,692.82; and
2. Authorize staff proceed with the project.

Documentation: M.O. 04-060413

Disposition: Approved.

4. AUTHORIZATION TO ADVERTISE FOR BIDS – MAIN STREET BUS TURNOUT

Recommendation: That the City Council:

1. Approve Staff's recommended Plans and Project Manual; and
2. Authorize staff to advertise for bids on the project.

Documentation: M.O. 05-060413

Disposition: Approved.

6. THIS ITEM HAS BEEN REMOVED.

7. THIS ITEM HAS BEEN REMOVED.

8. ACCEPTANCE OF PROJECT – JAYE STREET BUS TURNOUT

Recommendation: That the 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.

Documentation: M.O. 06-060413
Disposition: Approved.

10. PRE-SELECTION OF SLUDGE DEWATERING EQUIPMENT AND ELECTRIC BLOWERS

Recommendation: That the City Council:

1. Approve the pre-selection matrix as presented in the staff report; and
2. Direct the Public Works Director to prepare or have prepared a "Commitment" document that commits the pre-selected vendor to the purchase price as presented in the vendor's proposal and to a specific equipment delivery.

Documentation: M.O.07-060413
Disposition: Approved.

12. UPDATED TARGET EMPLOYMENT AREA

Recommendation: Staff recommends that council adopt the resolution accepting the new boundaries for the Target Employment Area.

Documentation: Resolution 33-2013
Disposition: Approved.

12. CONSIDER RESOLUTION OF OPPOSITION TO AB 667 (HERNANDEZ) REGARDING LAND USE: DEVELOPMENT PROJECT REVIEW: SUPERSTORES

Recommendation: That the City Council consider the adoption of a Resolution of Opposition to AB 667 (Hernandez).

Documentation: Resolution 34-2013
Disposition: Approved.

15. APPROVAL FOR COMMUNITY CIVIC EVENT – WORD OF VICTORY CHURCH – CHURCH COMMUNITY OUTREACH – JUNE 29, 2013

Recommendation: That the Council approve the Community Civic Event Application and Agreement from the Word of Victory Church, subject to the Resolutions and Requirements contained in the Application, Agreement, Exhibit A and Exhibit B of the Community Civic Event Application.

Documentation: M.O. 08-060413
Disposition: Approved.

16. RESPONSE TO GRAND JURY REPORT – MEDICAL MARIJUANA CITY ORDINANCES

Recommendation: That the City Council:
1. Consider the draft “Response to the Grand Jury” letter regarding the 2012-2013 Report on Medical Marijuana City Ordinances; and
2. Authorize the Mayor to sign the Response letter.

Documentation: M.O. 09-060413
Disposition: Approved.

17. REVIEW OF LOCAL EMERGENCY STATUS

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 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. 10-060413
Disposition: Approved.

The Council took a ten minute recess at 8:42 p.m.

PUBLIC HEARINGS

18. REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW FOR AN ON-SALE TYPE 64 (BEER AND WINE) LICENSEE FOR THE BARN THEATER LOCATED AT 42 SOUTH PLANO STREET

Recommendation: That the City Council:
1. Adopt the draft resolution approving Conditional Use Permit (PRC 2013-009C) subject to conditions of approval; and
2. Authorize the Mayor to sign the Application for Conditional Use Permit.

City Manager Lollis introduced the item, and Community Development Manager Phillips presented the staff report. During which she noted that staff had amended the original report to include a revision of the license type from a Type 69 to a Type 64 license, per the recommendation of the California Department of Alcoholic Beverage Control.

The Public Hearing was opened at 8:59 p.m.

- Nikki Edwards, President of the Barn Theater, spoke of the intended use of the alcohol sales and voiced her support for the approval of the item.

The Public Hearing was closed at 9:00 p.m.

A discussion ensued regarding the positive public opinion of the Barn Theater's proposed alcohol sales.

Council Member Ward inquired if any other local non-profit organizations are permitted to sell alcohol. Community Development Director Dunlap addressed the question and provided clarification.

COUNCIL ACTION: MOVED by Vice Mayor McCracken, SECONDED by Council Member Hamilton that the City Council adopt the draft resolution approving Conditional Use Permit (PRC 2013-009C) and authorize the Mayor to sign the Application for Conditional Use Permit. The motion carried unanimously.

Documentation: Resolution 35-2013
Disposition: Approved.

SCHEDULED MATTERS

Council Member Shelton noted a conflict of interest relative to Item No. 19, and exited the council chambers.

19. CONSIDERATION OF TEMPORARY USE AT 952 WEST NORTH GRAND AVENUE

Recommendation: That the City Council adopt the draft resolution approving a temporary structure permit to allow for the storage and consignment of equipment at 952 West North Grand Avenue.

City Manager Lollis introduced the item, and the staff report was waived at the Council's request. Vice Mayor McCracken commended the applicant for improvements to the property.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Hamilton that the City Council adopt the draft resolution approving a temporary structure permit to allow for the storage and consignment of

equipment at 952 West North Grand Avenue.

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

Documentation: Resolution 36-2013
Disposition: Approved.

20. CONSIDERATION OF FISCAL YEAR 2013-2014 PROPOSED BUDGET AND
SETTING DATE OF PUBLIC HEARING

Recommendation: The City Manager recommends that the City Council consider the proposed 2013-2014 Fiscal Year Budget, include any modifications so directed by the Council, and schedule a Public Hearing on the proposed Budget for Tuesday, June 18, 2013.

City Manager Lollis introduced the item, provided the staff report, and addressed the Council's questions.

The Council commended City staff, especially Finance Director Bemis, for their efforts in managing the City's finances.

Council Member Ward inquired about the dilapidated condition of Westwood Street between Henderson Avenue and Westfield Street. City Manager Lollis addressed the question and provided clarification.

COUNCIL ACTION: MOVED by Vice Mayor McCracken, SECONDED by Council Member Ward that the City Council approve the scheduling of a Public Hearing on the proposed 2013-2014 Fiscal Year Budget for Tuesday, June 18, 2013; and approve the scheduling of a City Council Budget Study Session for Tuesday, June 11, 2013, at 6:00 p.m. The motion carried unanimously.

Documentation: M.O. 11-060413
Disposition: Approved.

Mayor Gurrola noted a conflict of interest relative to Item No. 21; instructed Mayor Pro Tempore McCracken to assume the chair; and exited the council chambers.

21. CONSIDERATION OF SUPPORT FOR SCHOLARSHIPS TO ATTEND
PORTERVILLE COLLEGE "COLLEGE 4 KIDS SUMMER CAMP"

Recommendation: That the City Council consider approval of Council Member Ward's use of his Council Member "Meeting Expenses" account to support the scholarships

of ten (10) Los Robles Elementary School students to attend Porterville College's upcoming "College 4 Kids Summer Camp".

Mayor Pro Tempore McCracken introduced the item, and the staff report was waived at the Council's request.

The Council discussed the history of the "Meeting Expenses" accounts and the purpose of the "College 4 Kids Summer Camp".

City Attorney Lew advised the Council regarding the legality of using the funds for the student scholarships.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Ward that the City Council approve Council Member Ward's use of his Council Member "Meeting Expenses" account in the amount of \$500 to support the scholarships of ten (10) Los Robles Elementary School students to attend Porterville College's upcoming "College 4 Kids Summer Camp", with the purpose of benefitting the public through gang prevention.

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

Documentation: M.O. 12-060413
Disposition: Approved.

CONSENT CALENDAR (ITEMS REMOVED FOR FURTHER DISCUSSION)

City Manager Lollis introduced Items 22 and 23, and the staff reports were waived at the Council's request.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Hamilton that the City Council approve Items 22 and 23. Motion carried unanimously.

22. AWARD OF CONTRACT – PLANO STREET BRIDGE WIDENING AND REHABILITATION PROJECT

Recommendation: That the City Council:
1. Approve an appropriation of \$664,605 of Capital Improvement Funds for the Plano Bridge Widening and Rehabilitation Project from the Local Transportation Fund account;

2. Award the Plano Street Bridge Widening and Rehabilitation Project to Viking Construction in the amount of \$10,464,505.50;
3. Authorize a 10% contingency to cover unforeseen construction costs; and
4. Authorize payments to the Contractor up to 100% of the contract amount.

Documentation: M.O. 13-060413
Disposition: Approved.

23. AUTHORIZATION TO NEGOTIATE AND EXECUTE A CONTRACT –
CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE
PLANO BRIDGE WIDENING AND REHABILITATION PROJECT

Recommendation: That the City Council:

1. Authorize staff to negotiate a contract with VSCE/The Hanna Group for an anticipated fee not to exceed \$825,000, for construction management and inspection services for the Plano Bridge Widening and Rehabilitation Project;
2. Authorize staff to negotiate a contract with the second ranked firm if staff is unable to negotiate an acceptable contract with VSCE/The Hanna Group;
3. Authorize the Mayor to execute all contract documents;
4. Authorize progress payments that concur with construction progress until proper closeout of the work;
5. Authorize a 10% contingency to cover unforeseen events that relate to the construction project efforts; and
6. Direct the Finance Director to prepare a budget adjustment and augment the project fund in the amount of \$70,000

Documentation: M.O. 14-060413
Disposition: Approved.

3. SALE OF SURPLUS VEHICLES TO THE CITY OF LINDSAY

Recommendation: That the City Council approve the sale of the two above-listed surplus vehicles to City of Lindsay for the sum of \$1,500 each.

City Manager Lollis introduced the item, and Chief of Police McMillan addressed the Council's questions.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Hamilton that the City Council approve the sale of the two above-listed surplus vehicles to City of Lindsay for the sum of \$1,500 each. The motion carried unanimously.

Documentation: M.O. 15-060413
Disposition: Approved.

5. AUTHORIZATION TO ADVERTISE FOR BIDS – W. NORTH GRAND AVENUE RECONSTRUCTION PROJECT (PROSPECT STREET TO STATE ROUTE 65)

Recommendation: That the City Council:

1. Approve an appropriation of \$126,500 of Capital Improvement Funds for the W. North Grand Avenue Reconstruction from the Storm Drain Developer Fund account;
2. Approve Staff's recommended Plans and Project Manual; and
3. Authorize staff to advertise for bids on the project.

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

Council Member Ward inquired as to why the City did not pursue repairing the worst segments of the street first. Public Works Director Rodriguez and City Manager Lollis addressed the question and provided clarification.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor McCracken that the City Council approve an appropriation of \$126,500 of Capital Improvement Funds for the W. North Grand Avenue Reconstruction from the Storm Drain Developer Fund account; approve staff's recommended Plans and Project Manual; and authorize staff to advertise for bids on the project. The motion carried unanimously.

Documentation: M.O. 16-060413
Disposition: Approved.

9. CITY WELL #1A – EMERGENCY REPAIR

Recommendation: That the City Council approve emergency work to be completed by S.A. Camp Pump Company on City Well #1A at a cost not to exceed \$35,000.

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

A discussion ensued regarding the status of other City wells and the cost to replace them before they become deficient. Public Works Director Rodriguez addressed the Council's questions.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor McCracken that the City Council approve emergency work to be completed by S.A. Camp Pump Company on City Well #1A at a cost not to exceed \$35,000. The motion carried unanimously.

Documentation: M.O. 17-060413
Disposition: Approved.

At the Council's request, City Attorney Lew spoke briefly regarding Item Nos. 13 and 14, noting a finding by the FPPC as the reason for their reconsideration by the Council.

13. RESCISSION/APPROVAL – ALLOCATION OF \$35,000 TO THE CHAMBER OF COMMERCE

Recommendation: That the City Council rescind the action taken on June 21, 2011, and reapprove the 2011-2012 fiscal year allocation of \$35,000 for the Porterville Chamber of Commerce.

City Manager Lollis introduced the item, and City Attorney Lew presented the staff report.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Hamilton that the City Council rescind the action taken on June 21, 2011, and reapprove the 2011-2012 fiscal year allocation of \$35,000 for the Porterville Chamber of Commerce. The motion carried unanimously.

Documentation: M.O. 18-060413
Disposition: Approved.

14. RESCISSION/APPROVAL – MISC. PORTERVILLE CHAMBER OF COMMERCE ITEMS

Recommendation: That the City Council rescind the listed actions and re-approve said actions.

City Manager Lollis introduced the item, and the staff report was waived at the Council's approval.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor McCracken that the City Council rescind the listed actions and re-approve said actions. The motion carried unanimously.

Documentation: M.O. 19-060413
Disposition: Approved.

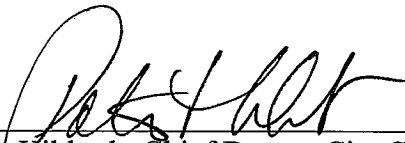
ORAL COMMUNICATIONS

- John Coffee, encouraged coordination of an event to unite the community.
- Barry Caplan, thanked the Council for explanation of legalities regarding Item Nos. 13 and 14.

OTHER MATTERS

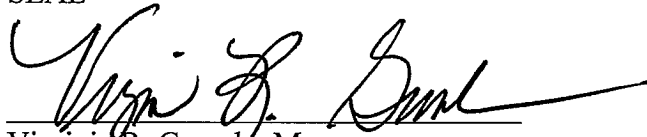
- City Manager Lollis, announced that the Tribal Council approved \$7,500 to Freedom Fest; and extended an invitation to an MDA presentation at Vallarta Supermarket on June 6.
- Council Member Shelton, requested that the Council be noticed of future annexation hearings; requested future consideration of policy/procedures regarding proclamations; and expressed interest in seeing Charter Review Committee on the agenda.
- Council Member Ward, also requested that the Council moved forward with the consideration of a Charter Review Committee.
- Mayor Gurrola, spoke of upcoming Porterville College Summer Strings performances.

ADJOURNMENT – at 10:16 p.m. to the meeting of June 11, 2013.



Patrice Hildreth, Chief Deputy City Clerk

SEAL



Virginia R. Gurrola, Mayor