

**CITY COUNCIL MINUTES  
CITY HALL, 291 N. MAIN STREET  
PORTERVILLE, CALIFORNIA  
AUGUST 20, 2013, 5:30 P.M.**

Called to Order at 5:30 p.m.

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

Adjourn 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.
  - 2- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APNs 261-122-007 and 261-122-008. Agency Negotiator: John Lollis and Brad Dunlap. Negotiating Parties: Successor Agency to the Porterville Redevelopment Agency and Porterville Hotel Investors. Under Negotiation: Terms and Price.
  - 3- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One case.

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: 200 N. “D” Street. Agency Negotiator: John Lollis and Brad Dunlap. Negotiating Parties: City of Porterville and Ken Lansford. Under Negotiation: Terms and Price.
  - 3- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 197-090-005. Agency Negotiators: John Lollis and Chuck McMillan. Negotiating Parties: City of Porterville and City of Lindsay. Under Negotiation: Terms and Price.
  - 4- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing

Litigation: Azevedo v. City of Porterville, Tulare County Superior Court Case No. 252894.  
5- Government Code Section 54956.9(d)(2) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case concerning facts not yet known to potential plaintiff.

**6:30 P.M. RECONVENE OPEN SESSION**

**REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION**

B-4: On a MOTION made by Vice Mayor McCracken, and SECONDED by Council Member Ward, the Council unanimously voted to defend the City in the matter of Azevedo v. City of Porterville, Tulare County Superior Court Case No. 252894.

Documentation: M.O. 01-082013  
Disposition: Approved defense of action.

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

**PRESENTATIONS**

Outstanding Business – Melson Realty

**AB 1234 REPORTS**

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

1. Tulare County Local Agency Formation Commission (LAFCO) – August 7, 2013  
Council Member Hamilton reported that the Commission had passed the City of Tulare’s Municipal Service Agreement.
2. Tulare County Economic Development Corporation – August 14, 2013  
Council Member Hamilton reported on the presentation of information regarding the new business enterprise program.

**REPORTS**

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

- I. City Commission and Committee Meetings:
  1. Parks & Leisure Services Commission – no report.
  2. Library and Literacy Commission – August 13, 2013  
Commissioner Edith LaVonne spoke of: recent changes to the Margaret J. Slattery Library; an upcoming conference; the success of the library’s summer reading program; and the library’s Facebook account.
  3. Arts Commission – no report.
  4. Youth Commission – no report.
  5. Transactions and Use Tax (“Measure H”) Oversight Committee – August 8, 2013  
Committee Member Gail Lemmen reported that the committee had reviewed the approved Fiscal Year 2013/2014 Budget, and were awaiting final numbers pertaining to the construction of the public safety station.
- II. Staff Informational Items
  1. Charter Review Committee Appointments  
Re: Informational item identifying committee appointments.

Administrative Services Director Patrice Hildreth reported that Council Member Shelton's first selection for appointment was not a City resident, and was therefore ineligible for appointment. She added that he had since appointed Mr. John Hardin.

**ORAL COMMUNICATIONS**

- Edith LaVonne, Barn Theatre Board of Directors, spoke regarding Item No. 11 and the fencing proposed by staff. She spoke of the Board's desire to install chain link fencing.
- Brock Neely, Porterville, expressed concerns with the costs relative to Item No. 23 and possible Brown Act violations which could result.
- Anabel Ragalado, publicly apologized for attempting to take books from the library.
- John Snavelly, Porterville Unified School District, spoke of a recent back to school event; thanked the Council for their attendance, and staff for their support of the Pathways program.
- Barry Caplan, Porterville, requested that the Council pull Item Nos. 2 and 14 from the Consent Calendar for consideration; expressed concern with the lack of written procedures regarding processing of proclamations; and suggested that it be considered by the Charter Review Committee.
- Johnna Key, spoke in opposition of Item No. 8.

**CONSENT CALENDAR**

Items 2, 8, 11, and 16 were pulled for further discussion. Council Member Shelton noted his abstention on Item 6 due to a conflict of interest, and Council Member Ward indicated his conflict and abstention on Items 7 and 9.

**COUNCIL ACTION:**      MOVED by Vice Mayor McCracken, SECONDED by Council Member Ward that the Council approve Items 1, 3, 4 through 7, 9, 10, 12 through 15, 17, and 18. Motion carried unanimously, with the aforementioned abstentions.

1.      MINUTES OF APRIL 2, 2013, MAY 21, 2013, JUNE 4, 2013, AND JULY 16, 2013

Recommendation:      That the City Council approve the Minutes of April 2, 2013, May 21, 2013, June 4, 2013, and July 16, 2013.

Documentation:      M.O. 24-082013

Disposition:      Approved.

3.      PURCHASE OF SPECIALIZED EQUIPMENT

Recommendation:      That the City Council authorize the purchase by negotiation of the equipment listed and authorize payment for said equipment upon satisfactory delivery.

Documentation:      M.O. 02-082013

Disposition:      Approved.

4.      AUTHORIZATION TO PURCHASE SERVERS AND SERVER RACK EQUIPMENT

Recommendation:      That the City Council:  
1. Authorize Staff to purchase Dell server, rack equipment and high capacity storage array at a cost of \$41,756.11; and  
2. Authorize payment upon satisfactory delivery of the server equipment.

Documentation: M.O. 03-082013  
Disposition: Approved.

5. AUTHORIZATION TO ADVERTISE FOR PROPOSALS – REVENUE SHARING TRANSIT ADVERTISING

Recommendation: That the City Council authorize staff to distribute Request for Proposals for Advertising Contractor.

Documentation: M.O. 04-082013  
Disposition: Approved.

6. ACCEPTANCE OF PROJECT – 2013/2014 MICRO-SURFACING PROJECT (HENDERSON AVENUE, INDIANA STREET, LEGGETT STREET AND GIBBONS AVENUE)

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 5% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

Documentation: M.O. 05-082013  
Disposition: Approved.

7. ACCEPTANCE OF PROJECT – DIGESTER TRANSFER LINE PROJECT

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 5% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

Documentation: M.O. 06-082013  
Disposition: Approved.

9. APPROVE A REQUEST FOR A FIVE-YEAR CONTRACT FOR MAINTENANCE, SUPPORT, DESIGN, PROGRAM AND REPAIR OF SPECIALIZED EQUIPMENT AND SOFTWARE

Recommendation: That the City Council:  
1. Approve a request for a 5-year Service Contract to allow for the maintenance, upgrade and repair of the WWTF SCADA system with TESCO Controls, Incorporated; and  
2. Authorize the Public Works Director to sign the 5-Year Service Contract.

Documentation: M.O. 07-082013  
Disposition: Approved.

10. APPROVAL OF LOCAL AGENCY HEARING AGREEMENT

Recommendation: That the City Council:  
1. Approve the Agreement between the Office Administrative Hearings and the City of Porterville; and  
2. Authorize the Administrative Services Director to sign the Agreement and any other required documentation on behalf of the City.

Documentation: M.O. 08-082013  
Disposition: Approved.

12. This Item Was Removed.

13. REQUEST TO RECEIVE OFFICE OF TRAFFIC SAFETY SOBRIETY CHECKPOINT PROGRAM GRANT AWARD

Recommendation: That the City Council:  
1. Accept the Sobriety Checkpoint Grand funding from the California Office of Traffic Safety in the amount of \$12,500; and  
2. Authorize a budget adjustment to reflect the addition of \$12,500 to the Police Department budget upon receipt of funds.

Documentation: M.O. 09-082013  
Disposition: Approved.

14. APPROVAL OF PROPOSED PROCLAMATION – LIBRARY CARD SIGN-UP MONTH – SEPTEMBER 2013

Recommendation: That the City Council consider the approval of the proposed Proclamation declaring September 2013 as Library Card Sign-Up Month.

Documentation: M.O. 10-082013  
Disposition: Approved.

15. APPROVAL FOR COMMUNITY CIVIC EVENT – COCOLA BROADCASTING COMPANY AND FAMILY HEALTHCARE NETWORK – FIESTA DE LA FAMILIA AND HEALTH FAIR – OCTOBER 13, 2013

Recommendation: That the Council approve the Community Civic Event Application and Agreement submitted by the COCOLA Broadcasting Company and Family Healthcare Network, subject to the stated requirements contained in Exhibit A of the Community Civic Event Application.

Documentation: M.O. 11-082013  
Disposition: Approved.

17. 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.

Documentation: M.O. 12-082013  
Disposition: Approved.

18. COUNCIL MEMBER REQUESTED AGENDA ITEM – REQUEST FOR THE CITY COUNCIL TO CONSIDER SPECIAL RECOGNITION OF THE TULE RIVER TRIBAL COUNCIL AND SIERRA VIEW DISTRICT HOSPITAL FOR SPONSORSHIP OF 2013 FREEDOM FEST

Recommendation: Council Member Shelton makes the motion that the City Council authorize the scheduling on the next Council Agenda the consideration of special recognition for the Tule River Tribal Council and Sierra View District Hospital for their sponsorship of the 2013 Freedom Fest.

Documentation: M.O. 13-082013  
Disposition: Approved.

### **SECOND READINGS**

19. ORDINANCE 1797, ARTS COMMISSION

Recommendation: That the Council give Second Reading to Ordinance No. 1797, waive further reading, and adopt said Ordinance.

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

**COUNCIL ACTION:** MOVED by Vice Mayor McCracken, SECONDED by Council Member Hamilton that the City Council give Second Reading to Ordinance No. 1797, waive further reading, and adopt said Ordinance being, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 5A OF THE PORTERVILLE MUNICIPAL CODE REGARDING THE FORMATION OF AN ARTS COMMISSION. The motion carried unanimously.

The ordinance was read by title only.

Documentation: Ordinance 1797  
Disposition: Approved.

### **SCHEDULED MATTERS**

20. TRANSACTIONS AND USE TAX (MEASURE H) OVERSIGHT COMMITTEE VACANCY AND CONSIDERATION OF APPOINTMENT

Recommendation: That the City Council accept the resignation of Dr. Gary Mekeel from the Transactions and Use Tax Oversight Committee; and provide direction with regard to filling the vacancy with an unexpired term ending in May 2014.

City Manager Lollis introduced the item, and the staff report was presented by Administrative Services Director Patrice Hildreth.

Vice Mayor McCracken MOVED to accept the resignation of Dr. Gary Mekeel from the

Transaction and Use Tax Oversight Committee; and fill the vacancy with an unexpired term ending in May 2014 by a ballot vote of the Council. The motion was SECONDED by Council Member Hamilton.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Hamilton, that the Council amend the motion to suspend the use of the ballot, and appoint Russell Fletcher to fill the vacancy on the Transactions and Use Tax Oversight Committee.

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

Documentation: M.O. 14-082013  
Disposition: Motion amended.

COUNCIL ACTION: MOVED by Vice Mayor McCracken, SECONDED by Council Member Hamilton, that the Council accept the resignation of Dr. Gary Mekeel from the Transactions and Use Tax Oversight Committee; and appoint Russell Fletcher to fill the vacancy with an unexpired term ending in May 2014. The motion carried unanimously.

Documentation: M.O. 15-082013  
Disposition: Approved, Russell Fletcher appointed.

21. CONSIDERATION OF APPOINTMENT TO ARTS COMMISSION AND INTERNAL CITY AUDIT COMMITTEE

Recommendation: That the City Council:

1. Appoint one individual to the Arts Commission to fill the seat vacated by Rebecca Ybarra, expiring in February 2014;
2. Re-appoint Alex Schooler to the Arts Commission for a three-year term, expiring August 2016; and
3. Appoint one individual to serve on the Internal City Audit Committee.

City Manager Lollis introduced the item, and the staff report was presented by Administrative Services Director Hildreth.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Ward that the City Council appoint Monte Reyes to fill the seat vacated by Rebecca Ybarra, expiring in February 2014; and appoint Alex Schooler, Mel Gosage, and Judith Holloway to three-year terms expiring August 2016.

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

Documentation: M.O. 16-082013  
Disposition: Arts Commission appointments made.

Council Member Shelton moved that the City Council appoint Aldo Gutierrez to serve on the Internal Audit Committee. The motion died for lack of a second.

Without objection, the Council continued consideration of the Audit Committee appointment to the meeting of September 3, 2013.

Disposition: Audit Committee appointment continued.

## 22. ASSESSMENT DISTRICTS

Recommendation: That the City Council provide direction on the future use of Lighting and Landscape Maintenance Districts or Benefit Assessment Districts, and the use thereof for infrastructure, pocket parks, and frontage improvements benefiting the assessed properties within a given district.

City Manager Lollis introduced the item, and the staff report was presented by Community Development Manager Julie Philips.

A discussion ensued regarding the benefits and drawbacks of Lighting and Landscape Maintenance Districts, and Council Members Shelton and Ward expressed opposition to the proposed broadening of scope for LMDs. Staff addressed questions from Council Member Ward about financial liabilities for the districts.

At the request of Council Member Shelton, Mayor Gurrola recognized a member of the audience to address the Council on this matter.

- Mr. Jim Winton, a business owner at 150 W. Morton Ave., voiced his opposition to broadening the scope of the Lighting and Landscape Maintenance Districts, and stated his support for continuing the already-existing LMD uses.

The Council discussed: the intent of past City Councils regarding implementation of LMDs; financial challenges from the State; and fees and services associated with each proposed Tier of improvements.

The Council took a brief recess at 8:15 p.m.

City Engineer Mike Reed presented a spreadsheet of the Tier fees and services, and a discussion ensued regarding the City's liability for each Tier of improvements.

Council Member Shelton MOVED to approve the proposed Tier 1 improvements, which would continue the use of LMDs as they currently exist: perimeter landscaping along major street frontages; a proportional share of the street light costs within and at the perimeter of the subdivision; and an estimated cost per year ranging from \$73.04 to \$98.44 per lot. The motion died for lack of a second.

Vice Mayor McCracken MOVED to return the item to City staff for further research and analysis. The motion died for lack of a second.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Vice Mayor McCracken, that the Council postpone consideration of the item to the



meeting of September 3, 2013; and direct staff to focus analysis on Tier 1 and road benefit assessment options.

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

Documentation: M.O. 17-082013  
Disposition: Item postponed; and direction given.

### 23. CONSIDERATION OF PAPERLESS AGENDA PACKETS

Recommendation: That the City Council provide direction to staff.

City Manager Lollis introduced the item, and the staff report was presented by Administrative Services Director Hildreth.

Council Member Shelton expressed concern regarding the discontinuation of all physical copies of agenda packets. Mayor Gurrola inquired about the use of cellular data on the tablet devices when not connected to wireless internet.

COUNCIL ACTION: MOVED by Vice Mayor McCracken, SECONDED by Council Member Hamilton that the City Council direct staff to implement paperless agendas as soon as possible; bring back modifications to the City Council Procedural Handbook to reflect changes regarding technology.

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

Documentation: M.O. 18-082013  
Disposition: Approved.

### 24. AWARD OF CONTRACT – SPORTS COMPLEX SOFTBALL AND SPORTS FIELD LIGHTING PROJECT

Recommendation: That the City Council:

1. Award the Sports Complex Softball and Sports Field Lighting Project Base Bid to G&S Electric in the amount of \$318,551.29;
2. Authorize progress payments up to 95% of the contract amount;
3. Authorize a 10% contingency to cover unforeseen construction costs and \$15,000.00 or 4.7% for construction management, quality control and inspection; and
4. Provide direction regarding the expected remaining funds and Add Alternative Bid.

City Manager Lollis introduced the item and Public Works Director Rodriguez presented the staff report. A discussion ensued regarding the placement of the proposed lighting structures, with Council Member Ward stating his opposition to the proposed placements. Public Works Director

Rodriguez and Parks & Leisure Services Director Moore addressed the Council's questions.

Vice Mayor McCracken MOVED to reject all bids and direct Council Member Ward to collaborate with staff on the project design. The motion was SECONDED by Council Member Shelton, who subsequently withdrew his second, and the motion failed.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Ward, that the City Council award the Sports Complex Softball and Sports Field Lighting Project Base Bid to G&S Electric in the amount of \$318,551.29; and direct staff to develop future options for additional lighting. The motion carried unanimously.

Documentation: M.O. 19-082013  
Disposition: Approved.

### **CONSENT CALENDAR**

#### **2. BUDGET ADJUSTMENT FOR THE 2013-14 FISCAL YEAR**

Recommendation: That the Council approve the budget adjustments and authorize staff to modify the revenue and expenditure estimates as described on the schedule.

City Manager Lollis introduced the item. Council Member Shelton requested elaboration on the circumstances of the OHV grant award, and commended staff efforts.

**COUNCIL ACTION:** MOVED by Council Member Shelton, SECONDED by Council Member Hamilton, that the City Council approve the budget adjustments and authorize staff to modify the revenue and expenditure estimates as described on the schedule. The motion carried unanimously.

Documentation: M.O. 20-082013  
Disposition: Approved.

#### **8. APPROVAL OF FIFTH AMENDMENT TO THE AGREEMENT FOR TRANSIT SERVICES FOR COLLEGE OF SEQUOIA STUDENTS**

Recommendation: That the City Council authorize the purchase by negotiation of the equipment listed and authorize payment for said equipment upon satisfactory delivery.

City Manager Lollis introduced the item. At Council Member Shelton's request Transit Manager Richard Tree provided clarification regarding the college student transit program.

**COUNCIL ACTION:** MOVED by Council Member Shelton, SECONDED by Council Member Hamilton, that the City Council authorize the purchase by negotiation of the equipment listed and authorize payment for said equipment upon satisfactory delivery. The motion carried unanimously.

Documentation: M.O. 21-082013  
Disposition: Approved.

#### **11. MODIFICATION TO LICENSE AGREEMENT FOR BARN THEATRE**

Recommendation: That the City Council:

1. Authorize Parks and Leisure Services Department to negotiate the modification to the Revocable Licenses Agreement; and
2. Approve the construction of a fence of the same or lesser dimension as was approved in CUP 2013-009.

City Manager Lollis introduced the item, and Council Member Shelton inquired about the purpose of the proposed fencing.

**COUNCIL ACTION:** MOVED by Vice Mayor McCracken, SECONDED by Council Member Hamilton, that the City Council authorize Parks and Leisure Services Department to negotiate the modification to the Revocable Licenses Agreement; and approve the construction of a fence of the same or lesser dimension as was approved in CUP 2013-009; and directed the Zoning Administrator to collaborate with the Barn Theatre regarding the type and scale of fencing to be used. The motion carried unanimously.

Documentation: M.O. 22-082013

Disposition: Approved.

#### 16. REQUEST TO PURCHASE POLICE MOTORCYCLE

Recommendation: That the City Council:

1. Authorize Police Department Staff to negotiate the purchase and outfitting of one police motorcycle; and
2. Authorize payment upon satisfactory delivery of the motorcycle.

City Manager Lollis introduced the item. Council Member Shelton inquired about the vendor to be utilized in purchasing the motorcycle.

**COUNCIL ACTION:** MOVED by Council Member Shelton, SECONDED by Council Member Hamilton, that the City Council authorize Police Department Staff to negotiate the purchase and outfitting of one police motorcycle; and authorize payment upon satisfactory delivery of the motorcycle.

Documentation: M.O. 23-082013

Disposition: Approved.

#### **ORAL COMMUNICATIONS**

- Barry Caplan, Porterville, inquired about the absence of Samsung and other android options relative to Item No. 23.
- Russell “Buck” Fletcher, thanked the Council for his appointment to the Measure H Oversight Committee.

#### **OTHER MATTERS**

- Council Member Shelton, commented on the recent passing of a motorcyclist in a traffic collision; and thanked public safety personnel for their efforts as of late.
- Mayor Gurrola, invited everyone to attend the Plano Street Bridge Groundbreaking event on Thursday, August 22<sup>nd</sup> at 9:00 a.m.
- Council Member Ward, expressed gratitude to Southern California Edison and their employees for keeping the power on in the community of Porterville.

- City Manager Lollis, announced that KMPH morning show would be at Crossfit 559 on August 30<sup>th</sup> and the Porterville Museum on Sept. 2<sup>nd</sup>, and extended an invitation to the Council.

**ADJOURNMENT** – at 9:38 p.m. to the meeting of September 3, 2013.

SEAL

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Luisa M. Herrera, Deputy City Clerk

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Virginia R. Gurrola, Mayor