

**CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
OCTOBER 21, 2014, 5:30 P.M.**

Called to Order at 5:30 p.m.

Roll: Council Member Reyes, Council Member Ward, Council Member Gurrola, Vice Mayor Hamilton, Mayor Stowe

ORAL COMMUNICATIONS

None

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

1- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN 260-320-004. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Tomas and Lucina Pizano. Under Negotiation: Terms and Price.

2- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN 253-192-010. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Sierra View Medical Center. 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; Management and Confidential Series; Porterville Police Officers Association; Fire Officer Series; Porterville City Firefighters Association; Public Safety Support Unit; and all Unrepresented Management Employees.

4- Government Code Section 54956.95 – Liability Claim: Claimant: Kimberly and William Wyatt. Agency claimed against: City of Porterville.

5- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: John Duran v. City of Porterville, et al., United States District Court, Eastern District of California, Case No. 12:-CV-01239-LJO-BAM.

6- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Donald Sipple, et al. v. City of Alameda, et al., Los Angeles County Superior Court Case No. BC462270.

7- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: City of El Centro, et al. v. David Lanier, et al., San Diego County Superior Court Case No. 37-2014-00003824-CU-WM-CTL.

8- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Operating Engineers Local Union No. 3 v. City of Porterville, et al., United States Court of Appeals, Ninth District, Case No. VCU249441.

9- Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: Three Cases.

10- 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
AND REPORT ON REPORTABLE ACTION TAKEN DURING CLOSED SESSION

The City Attorney reported that no reportable action had taken place.

The Pledge of Allegiance was led by Council Member Reyes.
Invocation – a moment of silence was observed in recognition of Dinuba City Manager Beth Nunez, who had recently passed away.

PROCLAMATIONS

Friends of the Library Week – October 19 – 25, 2014

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) – October 16, 2014
Council Member Reyes reported that revisions to the JPA were forthcoming, and spoke of discussion regarding the County's proposal pertaining to CWMA management of landfills.
2. Council of Cities – October 15, 2014
Vice Mayor Hamilton reported on consideration of Closed Session items and the upcoming appointment of TCAG and LAFCO representatives.
3. Tulare County Association of Governments (TCAG) – October 20, 2014
Council Member Gurrola reported on receipt of an update from Caltrans regarding Highway 65 (between Porterville and Lindsay), funding received for projects, and the cap and trade program.
4. Local Community Healthcare Task Force – October 14, 2014
Council Member Gurrola provided an update regarding the availability of applications for water delivery service.

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 meeting.
 2. Library & Literacy Commission – October 14, 2014
Vice Chair Bailey spoke of a recent tour of the Centennial Plaza Building; announced that their next meeting would take place on November 13th due to the Veterans Day Holiday; requested that a member of the Council attend LLC meetings of December 9th and May 12th; reported on September highlights; and thanked the Friends and Council for their recognition.
 3. Arts Commission – no meeting.
 4. Animal Control Commission – October 14, 2014, and October 20, 2014
Commissioner Schwartzenberger reported on: the Commission's tour of animal

control facilities, their interest in exploring use of Measure H funds, action to request two additional members, and review of animal control ordinance and animal control shelter plans.

5. Youth Commission – October 13, 2014 – no report given.
6. Transactions and Use Tax Oversight Committee (TUTOC)
Chair Fletcher reported that the next meeting was on October 22nd, and extended an invitation to all in attendance.

II. Staff Informational Reports

1. Water Conservation Phase II, Water System Status

ORAL COMMUNICATIONS

- John Coffee, commented on improvements to the condition of Veterans' Park, and inquired if trees removed would be replaced if they had been planted in someone's memory.
- Brock Neeley, provided a handout reporting activity of Suicide Prevention Hotline.
- John Duran, expressed disappointment in the response to a recent Police Department investigation.
- Barry Caplan, spoke in support of the previous proclamation process.
- Moses Ortiz, expressed concern regarding students jumping out in front of vehicles at Sequoia Middle School, and indicated that he had reported the behavior to the school and the police.
- Frank Miller, spoke in opposition to the proposed \$700 medical marijuana cultivation permit fee, and stated that there would be a war should the fee be adopted.

CONSENT CALENDAR

Item No. 4 was removed for further discussion. Council Member Ward indicated that he would be abstaining from voting on Item No. 3 due to a conflict of interest pertaining to property ownership.

COUNCIL ACTION: MOVED by Council Member Gurrola, SECONDED by Vice Mayor Hamilton that the City Council approve Item Nos. 1 through 3, and 5 through 7, noting the aforementioned abstention by Council Member Ward. The motion carried unanimously.

1. REQUEST FOR APPROVAL TO PURCHASE A DELL POWER EDGE R720 SERVER

Recommendation: That the City Council approve the purchase of the Dell Power Edge R720 Server from Dell at a cost of \$17,829.68

Documentation: M.O. 01-102114

Disposition: Approved.

2. AUTHORIZATION TO ADVERTISE FOR BIDS – CNG FACILITY MAINTENANCE CONTRACT

- John Duran, spoke of rates paid to the City Attorney and background checks as they pertained to City Police Department personnel; and asked Council to address the issues and needs of the community.
- Tamara May Hayes, spoke in opposition of the \$700 permit fee.
- Frank Miller, stated that the medicinal marijuana community were good, honest people; and added that if the Council wanted a war they would get one from him.
- Dawn Jobe, stated that the only person making money from the proposed fee was the City Attorney; questioned her motives; spoke of HIPAA law and civil rights; and added that the City would be co-conspirators in breaking federal law by permitting medical marijuana.
- Jeff Faure, stated that the proposed fee was a shameful act of extortion and threatened the Council with a lawsuit.
- Barry Caplan, inquired about fees based on staff time, since staff was paid a salary already; and encouraged the Council to adjust the fee to avoid lawsuits.
- Travis Fiore, stated the fee was too high compared to fees for other services.

The public hearing was closed at 7:50 p.m.

Council Member Gurrola expressed her offense to comments made about the Council and the City Attorney prior to their consideration of staff's report.

Council Member Ward spoke of efforts to come to a workable solution and the process associated with the establishment of fees; and expressed his disappointment in the divisive comments made during the public hearing.

Council Member Reyes indicated that while he believed the proposed fee to be high, he too was disappointed in the comments being made.

Vice Mayor Hamilton stated that he was against a fee, but he did not appreciate the public comments attacking members of the Council and the City Attorney. He added that to act in a combative manner, prior to Council consideration of the proposed fees, was dumb.

A discussion followed regarding fees charged for other City services, and the frequency of inspections and background checks.

At the Council's request, City Attorney Lew addressed comments regarding alleged HIPAA violations; and indicated that there were good arguments on both sides of the issue. She added that the City could apply it in a way that would not violate the law. In response to concerns raised regarding comments threatening litigation, Ms. Lew advised that the Council could discuss the matter in a future Closed Session if necessary.

Staff then provided clarification regarding the proposed fee for re-inspection, which would be assessed if the re-inspection was to verify correction of a violation. Council Member Ward spoke of the importance of working with individuals to achieve compliance. Staff was directed to bring back a report of activity in December.

COUNCIL ACTION: MOVED by Council Member Gurrola, SECONDED by Council Member Ward that the City Council approve the proposed application for Medical Cannabis Cultivation Permit; and adopt the draft resolution establishing fees association with processing and administering a Medical Cannabis Cultivation Permit, to include a \$40 background check fee and a \$50 re-inspection fee to be assessed if violations are not self-corrected within 30 days.

AYES: Ward, Gurrola, Hamilton, Stowe
NOES: Reyes
ABSTAIN: None
ABSENT: None

Documentation: M.O. 07-102114; and Resolution No. 72-2014
Disposition: Approved.

9. CONSIDERATION OF A CONDITIONAL USE PERMIT (PRC 2014-011-C) TO ALLOW THE UPGRADE TO A TYPE 21 GENERAL OFF-SALE LICENSE FOR ALCOHOL SALES LOCATED AT 1187 WEST HENDERSON AVENUE

Recommendation: That the City Council adopt the draft resolution approving the Conditional Use Permit (PRC 2014-011-C) subject to conditions of approval.

City Manager Lollis introduced the item, and Community Development Manager Phillips presented the staff report.

The public hearing was opened at 8:27 p.m.

- Mark Hillman, on behalf of the applicant, requested the removal of Condition No. 1 regarding liquor advertisement on the outside of the building.
- Andy Arahni, spoke in favor of approval.

The public hearing was closed at 8:30 p.m.

Staff addressed questions regarding the applicant's request and the location of the liquor within the store.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Gurrola that the City Council adopt the draft resolution approving the Conditional Use Permit (PRC 2014-011-C) subject to conditions of approval. The motion carried unanimously.

Documentation: Resolution No. 73-2014
Disposition: Approved.

The Council took a ten minute recess at 8:38 p.m.

SECOND READINGS

10. SECOND READING – ORDINANCE 1818, AMENDING PORTERVILLE DEVELOPMENT ORDINANCE

Recommendation: That the City Council give Second Reading to Ordinance No. 1818, 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 Council Member Gurrola, SECONDED by Vice Mayor Hamilton that the City Council give Second Reading to Ordinance No. 1818, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE PORTERVILLE DEVELOPMENT ORDINANCE TO AMEND THE DEFINITION OF COMMERCIAL ENTERTAINMENT USES AND ADJUST THE ZONE DISTRICTS WITHIN WHICH COMMERCIAL ENTERTAINMENT AND TRADE SCHOOLS ARE ALLOWED, waive further reading, and adopt said Ordinance.

AYES: Reyes, Gurrola, Hamilton, Stowe
NOES: None
ABSTAIN: None
ABSENT: Ward

Documentation: Ordinance No. 1818
Disposition: Approved.

SCHEDULED MATTERS

11. ANNEXATION & MUNICIPAL SERVICES – UPDATE OF POLICIES AND PROCEDURES

Recommendation: That the City Council:

1. Adopt the draft resolution defining objectives and policies for annexations and municipal services;
2. Adopt the draft resolution establishing procedures for annexations and extension of municipal services;
3. Direct the Zoning Administrator to amend and/or create forms and applications as needed to implement the draft resolution; and
4. Direct staff to review fees associated with processing annexation and extra-territorial service agreements, and an appropriate fee for the escrow fund for future annexations, and bring back a report with recommendations to the City Council at the next meeting.

City Manager Lollis introduced the item, and Community Development Manager Phillips presented the staff report. Following the staff report, Vice Mayor Hamilton indicated that some members of the Council did not have Item No. 11 in their packet and had suggested that the item be continued. Administrative Services Director Patrice Hildreth advised that the staff report was posted on the website.

A discussion followed regarding whether the item should be postponed, and consideration by LAFCO. Staff spoke of requests for municipal services received to date and the expectation of more to come; and indicated that the adoption of procedures would aid in the processing of said requests.

Council Member Ward expressed his concern regarding the cost of improvements to annexed areas and the impact of annexation on existing City resources. The Council then discussed the pros and cons of annexing County areas. At the conclusion of the discussion Council Member Ward made a motion to continue the item to the next meeting, which died for lack of a second.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Gurrola that the City Council adopt the draft resolution defining objectives and policies for annexations and municipal services; adopt the draft resolution establishing procedures for annexations and extension of municipal services; direct the Zoning Administrator to amend and/or create forms and applications as needed to implement the draft resolution; and direct staff to review fees associated with processing annexation and extra-territorial service agreements, and an appropriate fee for the escrow fund for future annexations, and bring back a report with recommendations to the City Council at the next meeting.

AYES: Reyes, Gurrola, Hamilton, Stowe
NOES: Ward
ABSTAIN: None
ABSENT: None

Documentation: Resolution No. 74-2014; and Resolution No. 75-2014
Disposition: Approved.

12. CONSIDERATION OF WEB-BASED AGENDA MANAGEMENT SYSTEM WITH LIVE/VIDEO STREAMING COMPONENT AND COUNCIL CHAMBERS AUDIO VISUAL UPGRADES

Recommendation: That the City Council:
1. Approve contracting for service with SuiteOne Media for agenda management and live/video streaming in an amount not to exceed \$8,063; and authorize the Administrative Services Director to sign all necessary documents;
2. Approve the purchase of two stationary cameras and related control

- accessories and software from JCG in an amount not to exceed \$6,380;
3. Approve the proposed A/V appliance upgrade in the Council Chambers and authorize staff to engage the service of in-house staff for miscellaneous electrical upgrades in an amount not to exceed \$1,000; and ITC in an amount up to \$19,419.97
 4. Authorize funding for said services and upgrades out of the Special Purpose Reserve Fund in an amount not to exceed \$34,862.97, with ongoing annual service costs of \$6,959 to become a budgetary item in future budgets.

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

Council inquired about the features of the agenda management and video streaming products, costs for implementation, and staff involvement in the video recording process.

Council Member Ward expressed concern regarding the costs paid to the vendor and the extra burden on staff.

Vice Mayor Hamilton and Council Member Gurrola spoke in favor of an electronic agenda management system, and the Vice Mayor requested a demo of the video streaming software.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward that the City Council approve contracting for service with SuiteOne Media for agenda management in an amount not to exceed \$5,088; authorize the Administrative Services Director to sign all necessary documents; and continue consideration of video streaming and a/v upgrades to the next meeting. The motion carried unanimously.

Documentation: M.O. 09-102114
Disposition: Approved.

13. GOVERNOR'S EXECUTIVE ORDER FOR CALIFORNIA DISASTER ASSISTANCE ACT FUNDING, AND THE PROVISION OF WATER TO EAST PORTERVILLE RESIDENTS

Recommendation: That the City Council consider the planning effort toward the provision of water service connections to East Porterville county residents in reference to Governor's Executive Order, as well as the continuation of water delivery service by Mutual Aid Agreement with the County, and provide directions and authorization to staff as deemed appropriate.

City Manager Lollis introduced the item and presented the staff report.

The Council discussed the County's refusal to fill tanks placed by PACC due to a perceived liability and the need to explore tertiary treatment; and considered the continuation of water delivery. Staff then addressed questions regarding the personnel required to fill tanks, and the money expended to date.

Jesse Snyder of Self Help Enterprises spoke regarding State-wide funding opportunities, and the desire to find a long-term solution.

City Manager Lollis recommended that should the City agree to the provision by Mutual Aid, the City request the agreement be retrospective.

COUNCIL ACTION: MOVED by Council Member Gurrola, SECONDED by Vice Mayor Hamilton that the City Council approve the continuation of water delivery to November 7, 2014. The motion carried unanimously.

Documentation: M.O. 10-102114
Disposition: Approved.

14. CONSIDERATION OF CITY COUNCIL PROCEDURAL HANDBOOK

Recommendation: That the City Council consider the City Council Procedural Handbook, and adopt charges to the Handbook and/or provide direction to staff as deemed appropriate.

City Manager Lollis introduced the item.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Reyes that the City Council continue the item to the next meeting. The motion carried unanimously.

Documentation: M.O. 11-102114
Disposition: Approved.

CONSENT CALENDAR (Pulled Items)

4. AWARD OF CONTRACT – CLEANING OF ANAEROBIC DIGESTERS

Recommendation: That the City Council:
1. Award the Digester Cleaning contract to PARC Environmental for a five-year term in the amount of \$127,307; and
2. Authorize progress payments up to 100% of the contract amount.

City Manager Lollis introduced the item, and the staff report was waived at the Council's request. Council Member Ward requested that staff elaborate on the size of the digesters.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Gurrola that the City Council award the Digester Cleaning contract to PARC Environmental for a five-year term in the amount of \$127,307; and authorize progress payments up to 100% of the contract amount. The motion carried unanimously.

Documentation: M.O. 02-102114
Disposition: Approved.

ORAL COMMUNICATIONS

- Barry Caplan, expressed discontent with the postponement of Item No. 14.

OTHER MATTERS

- Council Member Ward thanked the Police Department staff in advance for their efforts on the Halloween holiday, and wished everyone a happy Halloween.
- Council Member Reyes spoke of the Parent's Against Bullying Rally and his participation in Foot Golf event.
- Vice Mayor Hamilton wished Mayor Stowe a happy belated birthday.
- City Manager Lollis spoke of a Beckman's 50th Anniversary event to take place on November 4th; reported his attendance at Dinuba City Manager Elizabeth Nunes funeral; and announced that Administrative Services Director Hildreth had been appointed to the PELRAC board.

CLOSED SESSION

At 10:30 p.m. the Council took a ten minute recess and reconvened in Closed Session. No reportable action took place.

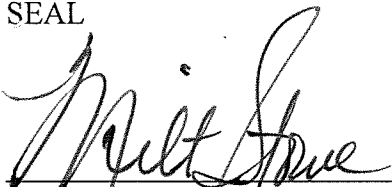
ADJOURNMENT

The Council adjourned at 11:59 p.m. to the meeting of November 4, 2014.



Luisa M. Zavala, Deputy City Clerk

SEAL



Milt Stowe, Mayor