

**CITY COUNCIL MINUTES  
CITY HALL, 291 N. MAIN STREET  
PORTERVILLE, CALIFORNIA  
SEPTEMBER 2, 2014, 5:30 P.M.**

Called to Order at 5:32 p.m.

Roll Call: Council Member Reyes, Council Member Ward, Council Member Gurrola (arrived at 5:35pm), 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 261-020-010. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Lynda Mourton. Under Negotiation: Terms and Price.

2- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN 259-050-025. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Corridor Group. 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 54956.9(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.

5- 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.

6- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: California Healthy Communities Network v. City of Porterville, California Court of Appeal, Fifth District, Case No. F067685.

7- Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case.

8- Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Two Cases.

**6:30 P.M. RECONVENE OPEN SESSION AND  
REPORT ON REPORTABLE ACTION TAKEN DURING CLOSED SESSION**

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

Pledge of Allegiance Led by Mayor Milt Stowe

Invocation – one individual participated.

## **PROCLAMATIONS**

Claudia Brewer – 100<sup>th</sup> Birthday  
Library Card Sign-Up Month – September 2014  
Literacy Awareness Month – September 2014

## **PRESENTATIONS**

Employee of the Month – Vikki Cervantes

## **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) – August 21, 2014 (cancelled)
2. Tulare County Economic Development Corporation (TCEDC) – August 27, 2014  
Council Member Reyes reported on: the appointment of a new Chair, Craig Vejvoda of Tulare; presentation of the Annual Report; and a presentation by the International Economic Development Council.
3. Porterville Community Healthcare Taskforce – August 27, 2014  
Council Member Gurrola reported on recent drought efforts, including: the recent distribution of water by the County; collection of survey data; and school showers being made available to students.

## **REPORTS**

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

- I. City Commission and Committee Meetings:
  1. Library & Literacy Commission – no report.
  2. Parks & Leisure Services Commission – no report.
  3. Arts Commission – no report.
  4. Youth Commission – no report.
  5. Transactions and Use Tax Oversight Committee (TUTOC) – Chairman Fletcher reported on the groundbreaking ceremony for the Public Safety Building on August 26<sup>th</sup>; and reported that the next TUTOC meeting would be on October 22, 2014.

## **ORAL COMMUNICATIONS**

- Brock Neeley, Porterville, extended an invitation to the Festival of Hope event on September 27<sup>th</sup> at the Tulare Outlet Mall; and spoke of a legislative bill being drafted which would impose a surcharge for exported bottled water to fund water infrastructure and water disaster relief in California.
- Fred Beltran, updated the City Council on donations received and recent efforts pertaining to drought relief; and spoke of concerns raised in the staff report for Item 13.
- Krista Vingelis, Trinity Lutheran Church, spoke of the congregation's efforts to conserve water for the betterment of the community; and extended an invitation to the unveiling of new landscape design on September 14<sup>th</sup>.

- Ron Halsey, Porterville, spoke of recent electrical repairs made at the Golden Hills Mobile Home Park; thanked the City for its assistance; and requested the use of tankers for fire suppression in mobile home parks.

### CONSENT CALENDAR

Item Nos. 3 and 5 were pulled for further discussion; and Item No. 2 was pulled by staff for consideration at a future meeting.

COUNCIL ACTION:      MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward, that the City Council approve Item Nos. 1, 4, and 6 through 8. The motion carried unanimously.

1.      CITY COUNCIL MINUTES OF AUGUST 19, 2014

Recommendation:      That the City Council approve the Minutes of August 19, 2014.

Documentation:      M.O. 01-090214

Disposition:      Approved.

2.      REQUEST FOR SPECIALIZED SERVICES WITH TESCO CONTROLS

Recommendation:      That City Council approve the request for Specialized Service for the upgrade of the WWTF SCADA system with TESCO Controls, Incorporated, at a cost not to exceed \$194, 295.

Disposition:      Item removed by staff for future consideration.

4.      AMENDMENT TO APPENDIX D OF THE URBAN WATER MANAGEMENT PLAN ADOPTED BY RESOLUTION NO. 59-2014”

Recommendation:      That the City Council:

1. Approve the draft resolution amending appendix D of the Urban Water Management Plan which was adopted by Resolution 59-2014; and
2. Add Ornamental Water Feature Prohibition language to Phase II of the City's Water Conservation Plan, which is Appendix D of the Urban Water Management Plan.

Documentation:      Resolution No. 62-14

Disposition:      Approved.

6.      APPROVAL FOR COMMUNITY CIVIC EVENT – CENTRAL CALIFORNIA CRISIS CENTER – ANNUAL CANDLELIGHT VIGIL FOR DOMESTIC VIOLENCE – OCTOBER 16, 2014

Recommendation:      That the Council approve the attached Community Civic Event Application and Agreement submitted by the Central California Family

Crisis Center, subject to the stated requirements contained in the Application, Agreement, Exhibit A and Exhibit B.

Documentation: M.O. 02-090214  
Disposition: Approved.

7. REQUEST FOR PROCLAMATION – DOMESTIC VIOLENCE AWARENESS MONTH – OCTOBER 2014

Recommendation: That the City Council consider approval of the request to proclaim October 2014, as Domestic Violence Awareness Month.

Documentation: M.O. 03-090214  
Disposition: Approved.

8. REVIEW OF LOCAL EMERGENCY STATUS – DECEMBER 21, 2010

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.

Documentation: M.O. 04-090214  
Disposition: Approved.

**PUBLIC HEARINGS**

9. VACATION OF EASEMENTS FOR WATER LINE AND STORM DRAINAGE, TEMPORARY EMERGENCY INGRESS AND EGRESS AND TEMPORARY STORAGE OF STORM WATER RELATED TO RIVERVIEW ESTATES, PHASE FIVE SUBDIVISION (SMEE BUILDERS, INC.)

Recommendation: That the City Council:

1. Conduct a Public Hearing;
2. Adopt the Resolution of Vacation for the easements described in the attached legal description; and
3. Authorize the City Clerk to record the Resolution of Vacation.

City Manager Lollis introduced the item, and Public Works Director Rodriguez presented the staff report.

The Public Hearing was opened at 7:13 p.m. Seeing no one, the Mayor closed the Public Hearing at 7:14 p.m.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Gurrola, that the City Council adopt the Resolution of Vacation for the easements described in the legal description; and authorize the City Clerk to record the Resolution of Vacation. The motion carried unanimously.

Documentation: Resolution No. 63-2014  
Disposition: Approved.

The Council took a ten-minute recess at 7:15 p.m.

10. MEDICAL CANNABIS/MARIJUANA – DRAFT ORDINANCE CONCERNING CULTIVATION AND DISPENSARIES

Recommendation: That the City Council:

1. Approve the proposed ordinance for medical cannabis cultivation and give first reading to the draft Ordinance; and
2. Waive further reading and order the Ordinance to print.

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

The Public Hearing was opened at 7:27 p.m.

- Russell Fletcher, spoke of the need to create regulations that balance patient rights and everyone else's.
- Lisa Sparks, spoke in support of cannabis for medicinal purposes.
- Debra Chastain, spoke of patient's difficulties obtaining medicine, and requested that the Council approve marijuana groves and dispensaries.
- Roy O'Garrison, stated that he was a recovering cancer patient who needed medicinal marijuana and had harmlessly grown it in town for many years without incident.
- Joe Sparks, expressed his support for marijuana cultivation and use.
- Michael Green, Fresno Cannabis Association, presented a written statement to the Council and commended the Council for taking a balanced approach to the issue.
- Jeff Faure, stated that the draft ordinance infringed on patient rights; was a cruel and inhumane act; and would open the City to lawsuit.
- Carol Anderson, spoke of her extensive experience and knowledge of medical cannabis, and offered to serve as an information resource for the Council.
- Randy (last name not given), advocated for the allowance of 16 marijuana plants indoors and 16 outdoors.
- Joseph (last name inaudible), stated that a 600-foot distance requirement between cultivation sites would not be fair, nor would the requirement of a security alarm or the limit of 16 plants.
- Dawn Jobe, spoke in opposition to the proposed ordinance and its limitations on marijuana cultivation; noted the lack of an environmental impact study for the proposed ordinance; and argued that the City would face lawsuits if the ordinance were to pass.

- John Hallberry, spoke of the dangers of prescription pharmaceuticals, and stated that each patient needs a specialized treatment regimen of marijuana from a doctor.
- Ruth Ann Callahan, stated that she had been growing and smoking marijuana in Porterville for over thirty years, and that marijuana had helped her to become a “sober alcoholic.”
- (Name inaudible), a property owner, voiced concerns for tenants who grew medical marijuana, and requested that the City’s ordinance hold the tenants responsible for infractions, not the property owner.
- Ron Halsey, spoke of dangers and nuisances from people growing marijuana in mobile home parks, and requested that the City’s ordinance address such issues.
- Debra Halsey, stated that growers in the mobile home park were growing marijuana for sale, not for medical use, and asked the Council to remember the rights of every citizen, not just those who use marijuana.
- Dan McCormick, indicated that his grandson and friends have medical marijuana cards without having any medical problems; stated that he gets his medicine from a pharmacy; and expressed his belief that all medicine should be regulated.
- (Name not given), spoke of a young man who died from marijuana use.
- Gilbert Vargas, noted that he has diverticulitis; accused the City Attorney of being biased in her presentation of marijuana laws; and stated that he had tapes to use in a lawsuit against the City.
- John Hallberry, advocated for dispensaries, stating that “God gave us marijuana.”

When no one else came forward, the Mayor closed the Public Hearing at 8:23 p.m.

The Council expressed confusion regarding the negative comments received during Oral Communications, noting that the statements made at previous meetings indicated more acceptance of the proposed marijuana regulations. Several Council Members asked the public for more appreciation of the City’s efforts to find a balanced solution, rather than banning cultivation altogether. Mayor Stowe voiced his understanding and support for those who need marijuana for medical purposes.

The Council discussed the pros and cons of dispensaries, indoor versus outdoor cultivation, the number of plants to allow, and the requirement of security alarms; and directed staff to bring the item back for Council consideration after modifying sections 301.23(E)2, 301.23(E)3, 301.23(E)20, 301.23(J)4 and 301.23(E)8 of the draft ordinance.

The Mayor re-opened the Public Hearing at 8:55 p.m., and stated that it would be continued to the meeting of September 16, 2014.

Disposition: Public Hearing continued; and direction given.

The Council took a ten-minute recess at 8:55 p.m.

**SECOND READINGS**

11. ORDINANCE 1816, ADDING SECTION 25-5.1 TO PORTERVILLE MUNICIPAL CODE REGARDING ENFORCEMENT OF ADOPTED WATER CONSERVATION PLAN

Recommendation: That the Council give Second Reading to Ordinance No. 1816, waive further reading, and adopt said Ordinance.

City Manager Lollis introduced the item.

**COUNCIL ACTION:** MOVED by Council Member Ward, SECONDED by Council Member Gurrola, that the City Council give Second Reading to Ordinance No. 1816, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING SECTION 25-5.1 TO CHAPTER 25, ARTICLE I, DIVISION 1 OF THE PORTERVILLE MUNICIPAL CODE REGARDING ENFORCEMENT OF ADOPTED WATER CONSERVATION PLAN; waive further reading, and adopt said ordinance. The motion carried unanimously.

Documentation: Ordinance No. 1816  
Disposition: Approved.

City Manager Lollis read the ordinance by title only.

**SCHEDULED MATTERS**

12. CONSIDERATION OF APPOINTMENTS TO ANIMAL CONTROL COMMISSION

Recommendation: That the City Council appoint two individuals to serve 2-year terms as members of the Animal Control Commission; and three individuals to serve 4-year terms.

City Manager Lollis introduced the item, and Administrative Services Director Hildreth presented the staff report. Council Member Ward asked the applicants in the audience to stand and be recognized.

The Council elected to utilize the McCracken ballot method. City Attorney Lew advised that Vice Mayor Hamilton could vote for four individuals, instead of five, since his mother was one of the candidates for appointment. The votes were read allowed as follows:

- Council Member Reyes: Maureen Hamilton; Shawn Schwartzenberger; Margaret Land; Kathy Guinn; and Diane Wagner
- Council Member Ward: Kathleen Harris; Maureen Hamilton; Shawn Schwartzenberger; Margaret Land; and Kathy Guinn
- Council Member Gurrola: Kathleen Harris; Maureen Hamilton; Margaret Land; Kathy Guinn; and Anna Poteet
- Vice Mayor Hamilton: Shawn Schwartzenberger; Margaret Land; Kathy Guinn; and Anna Poteet

Mayor Stowe: Maureen Hamilton; Shawn Schwartzenger; Margaret Land; Kathy Guinn; and Terry Perry

Margaret Land, Kathy Guinn, Maureen Hamilton and Shawn Schwartzenger received the required three votes for appointment. The Council briefly discussed the qualifications and interest of Ms. Harris and Ms. Poteet who each received two votes, and concurred that Anna Poteet would be the fifth member of the Commission. A discussion regarding the assignment of two and four year terms then followed.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Gurrola, that the City Council appoint Shawn Schwartzenger and Anna Poteet to serve two-year terms as members of the Animal Control Commission; and appoint Margaret Land, Kathy Guinn, and Maureen Hamilton to serve four-year terms. The motion carried unanimously, with Vice Mayor Hamilton abstaining from the vote for Maureen Hamilton.

Documentation: M.O. 05-090214  
Disposition: Approved.

### 13. WATER DELIVERIES OUTSIDE CITY LIMITS

Recommendation: That the City Council provide direction to staff on:  
1. The number of hydrants Council is willing to make available for PACC use; and  
2. Direction on restrictions or conditions as to the use and amount of water made available to private water haulers.

City Manager Lollis introduced the item, and Public Works Director Rodriguez presented the staff report, noting the locations of five fire hydrants that could be utilized to provide water to residents for drought relief. Mr. Rodriguez also expressed concern regarding the provision of an unattended water source.

The Council discussed at length possible abuses of water stations, and various scenarios pertaining to the manning of hydrants and enforcement of restrictions. Council Member Reyes stated his preference to start with only one manned and metered fire hydrant instead of the five identified in the staff report.

Mr. Rodriguez also requested that the Council provide direction with regard to private water haulers. Staff indicated that there was currently one licensed potable water hauler in town, and provided clarification regarding the Council's authority to permit the operation.

COUNCIL ACTION: MOVED by Council Member Gurrola, SECONDED by Vice Mayor Hamilton, that the City Council approve the use of one fire hydrant by the Porterville Area Coordinating Council for a period of thirty (30) days, and require said hydrant to be locked, metered, and manned during



hours of operation; and prohibit the sale of City water to private water haulers. The motion carried unanimously.

Documentation: M.O. 06-090214

Disposition: Approved.

**CONSENT CALENDAR**

3. CIP BUDGET ADJUSTMENT FOR ODOR CONTROL AT THE WASTEWATER TREATMENT FACILITY (WWTF)

Recommendation: That the City Council:

1. Approve moving the Odor Control Project into the 2014/2015 fiscal year; and
2. Authorize the Public Works Director to seek Statement of Qualifications (SOQ) from prospective manufacturers of biofilters for Council's consideration.

City Manager Lollis introduced the item, and Public Works Director Rodriguez addressed questions from Council Member Ward regarding the need to control the odor, and the life of the proposed equipment.

**COUNCIL ACTION:** MOVED by Council Member Ward, SECONDED by Council Member Gurrola that the City Council approve moving the Odor Control Project into the 2014/2015 fiscal year; and authorize the Public Works Director to seek Statement of Qualifications (SOQ) from prospective manufacturers of biofilters for Council's consideration. The motion carried unanimously.

Documentation: M.O. 07-090214

Disposition: Approved.

5. APPROVAL OF MEASURE R SUPPLEMENTAL AGREEMENT – ACQUISITION OF RAILROAD RIGHT-OF-WAY

Recommendation: That the City Council:

1. Approve the draft resolution affirming the City Council's support of Acquisition of Railroad Right-of-Way;
2. Authorize the Mayor and City Manager to execute the Acquisition of Railroad Right-of-Way Project Supplemental Agreement for the purchase of railroad property; and
3. Direct the City Clerk to transmit the executed Supplemental Agreements to Tulare County Transportation Authority.

City Manager Lollis introduced the item, and the staff report was waived at the Council's request. Council Member Gurrola lauded staff for their efforts pertaining to the acquisition.

COUNCIL ACTION: MOVED by Council Member Gurrola, SECONDED by Vice Mayor Hamilton that the City Council approve the draft resolution affirming the City Council's support of Acquisition of Railroad Right-of-Way; authorize the Mayor and City Manager to execute the Acquisition of Railroad Right-of-Way Project Supplemental Agreement for the purchase of railroad property; and direct the City Clerk to transmit the executed Supplemental Agreements to Tulare County Transportation Authority. The motion carried unanimously.

Documentation: Resolution No. 64-14; M.O. 08-090214  
Disposition: Approved.

ORAL COMMUNICATIONS

None

OTHER MATTERS

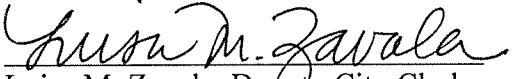
- Council Member Ward, thanked City Attorney Lew for her work on the draft ordinance regarding medical cannabis and City representatives attending the League of California Cities Conference.
- Council Member Reyes, thanked those who applied for the Animal Control Commission; and spoke of vacancies on Arts Commission.
- Council Member Gurrola, spoke of the Senior Luau event on August 29<sup>th</sup>.
- Vice Mayor Hamilton, extended best wishes to the Mayor who would be having a surgical procedure.
- Mayor Stowe, wished those attending the League Conference a safe journey.
- City Manager Lollis, extended an invitation, on behalf of Dr. Snavely, to a meet and greet with Fresno State President Joseph Castro at the PUSD Boardroom on September 11<sup>th</sup>, from 11:30 a.m. to 1:00 p.m.

CLOSED SESSION

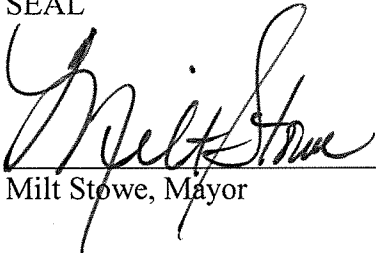
None

ADJOURNMENT

The City Council adjourned at 9:53 p.m. to the meeting of September 16, 2014.

  
Luisa M. Zavala, Deputy City Clerk

SEAL

  
Milt Stowe, Mayor