



**MINUTES OF THE REGULAR MEETING OF THE
RIDGECREST CITY COUNCIL AND
RIDGECREST REDEVELOPMENT AGENCY**

**City Council Chambers
100 West California Avenue
Ridgecrest, California 93555**

**April 1, 2009
6:30 p.m.**

This meeting was recorded and will be on file in the Office of the City Clerk for a certain period of time from date of approval by City Council/Redevelopment Agency. Meetings are recorded for the purpose of preparation of minutes.

CALL TO ORDER – 6:04 p.m.

ROLL CALL

PRESENT: Mayor Pro Tem Ronald Carter, Vice Mayor Thomas Wiknich, and Council Members Marshall Holloway and Jerry Taylor

ABSENT: Mayor Steven Morgan

STAFF: Michael Avery, City Manager; Keith Lemieux, City Attorney; Rita Gable, City Clerk; Tyrell Staheli, Administrative Services Department Budget Officer; Jim McRea, Public Services Department Director, Dennis Speer, Public Works Department Director; Jim Ponek, Parks, Recreation And Cultural Affairs Department Director; Ronald Strand, Chief of Police; and other personnel

CLOSED SESSION – 6:04 p.m.

City Manager Avery requested addition of Mulverhill litigation item and removal of the Denise Black claim (it will be brought forward on April 15).

Moved by Council Member Wiknich, second Council Member Taylor. TO ADD THE MULVERHILL LITIGATION AND REMOVE THE BLACK CLAIM ON CLOSED SESSION. No public comment. Carried with a unanimous voice vote of 4 ayes, 1 absent; Mayor Morgan absent.

This item was removed from Closed Session agenda

GC54956.9 Conference with Legal Counsel - Liability Claim of Denise Black, Claim No. 09-01

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The following item was added to Closed Session agenda

GC54956.9 Conference with Legal Counsel – Existing Litigation – Lynette Mulverhill v. City of Ridgecrest

GC54956.8 Redevelopment Agency Real Property Negotiations – Lot 25, APN 33-070-25, PM 10819, Ridgecrest Business Park - Negotiators Michael Avery and James McRea

GC54956.9 Conference with Legal Counsel - Potential Litigation CIWMB

REGULAR SESSION – 6:50 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION - Silent Moment

CITY ATTORNEY REPORTS

❖ Closed Session

- Council approved settlement of Mulverhill litigation in the amount of \$30,000 and authorized staff to transfer funds from self insurance fund
- Real Property Negotiation – Council received report – no action taken
- Received CIWMB status report

PRESENTATIONS

DEPARTMENT AND COMMITTEE REPORTS

First Council Meeting (1st Wednesday of the month)

**Public Services Department Director's Report -
*Report attached***

Community Development Committee

Members: Steve Morgan, Ron Carter, Eric Kauffman, Jason Patin

Meetings: 1st Thursday of month at 5:30 p.m.; Council Conference Room

- At last committee meeting 2 items
- Work with IWV Water District and form a sub-committee to address water issues
- Create sub-committee to address signs and ordinance revision
Next meeting April 2

RACVB director's report attached

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Council Members Chip Holloway, Jerry Taylor
Meetings: 1st Wednesday of the month, 8:00 a.m.,
Next meeting May 6 - location to be announced

Parks, Recreation and Cultural Affairs Department Director's Report - *Report attached*

Parks, Recreation and Quality of Life Committee

Members: Ron Carter, Chip Holloway, Craig Porter, Jason Patin
Meetings: 3rd Thursday of the month at 5:00 p.m.; Kerr-McGee Center
Next meeting April 16

OTHER COMMITTEES, BOARDS, OR COMMISSIONS

Infrastructure will meet April 14
City Organization will meet April 9

High Desert University Foundation meeting in Mojave attended by Council Member Holloway and Economic Development Manager Gary Parsons - they are still moving forward

CITY MANAGER/EXECUTIVE DIRECTOR REPORTS

Special meeting at KernCOG voted on transportation funds

Public Works Director Dennis Speer

- Economic stimulus funds provides for "shovel ready" transportation projects
- 1st round of allocation is 15M within incorporated cities
- Option B – 500K additional to Ridgecrest will be disseminated by KernCOG staff over next few weeks
- We need to identify projects within 30 days - BID read-shovel ready is still criteria
- College heights #2 is bid ready for additional 500K
- Still need to identify another project to be BID ready
- Mayor Morgan suggested Sunland Street

Council Member Wiknich likes it too as it was high on the list of projects to do
Council Member Holloway asked if we should have another project ready in case another city does not have anything ready

- Yes

Mike Neel

- Wants citizens to understand that this is the Washington DC hand-out and money from your pockets
- You don't get money from them without it costing something

PUBLIC HEARINGS

1. **Joint City Council And Redevelopment Agency 33433 Public Hearing On The Sale Of Real Property, Ridgecrest Business Park, Parcel 10819, Lot No. 25, APN 33-070-25 And Disposition Development Agreement (DDA), To Construct And Develop A Commercial Use** **McRea**

Public Services Director McRea

- This agenda item is a joint Public Hearing of the City Council and the Ridgecrest Redevelopment Agency
- This is a duly noticed joint Public Hearing on the sale of Real Property and a pending DDA
- The DDA for this agenda item is still in the process of approval and will be presented to the Agency at a later date
- The RRA is in the process of executing a Disposition Development Agreement (DDA) for the sale of Lot 25 of Parcel Map # 18019 of the Ridgecrest Business Park
- Lot 25 will be developed for a permitted commercial use for a Professional Office and Dermatology Clinic Outpatient Surgical Center in accordance with the CC and R's for the Business Park within an established time period.

Public Hearing opened at 7:27 p.m. for public input and hearing none hearing closed at 7:28 p.m.

Resolution RRA No. 09-02, A Resolution Of The Ridgecrest Redevelopment Agency Approving Disposition And Development Agreement And Authorizing The Execution And Delivery Thereof (Lot 25, Parcel Map 10819, APN 33-070-25, Ridgecrest Business Park)

Moved by Council Member Taylor, second Council Member Wiknich TO APPROVE RESOLUTION RRA NO 09-02, A RESOLUTION OF THE RIDGECREST REDEVELOPMENT AGENCY APPROVING DISPOSITION AND DEVELOPMENT AGREEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY THEREOF (Lot 25, Parcel Map 10819, APN 33-070-25, Ridgecrest Business Park) No public comment. Carried with a voice vote of 4 ayes, 1 absent; Mayor Morgan absent.

DISCUSSION AND OTHER ACTION ITEMS

2. **Status Report On The Compliance Order IWMA BR07-07 And The Local Assistance Plan (LAP) Modified And Now Required By The California Integrated Waste Management Board (CIWMB) And Discussion Of An Administrative Civil Penalty, Along With Four State Mandated Programs Of Consultants And Establishing A Protest Hearing For Property Related Fees**

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McRea

Public Services Director McRea

- The staff report is a continuation of the interaction between the City and CIWMB staff
- The County of Kern has provided invaluable assistance upon the authorization by Mr. Douglas Landon, Interim Director, Waste Management Department
- Ms. Nancy L. Ewert, P.E., Sr. Engineering Manager, Kern County Waste Management Dept. has presented the position of both the City and the County to the CIWMB staff
- The City appeared before the CIWM Board in Sacramento on March 24, 2009 - Mayor Steven Morgan, City Attorney Keith Lemieux, Public Service Director James McRea, and Nancy Ewert. (read more of the staff report

City Attorney Lemieux

- Board issued 2 penalties – first was for past conduct and was \$47K with 20K right now
- Second only applied if City fails to work under the Local Action Plan - 1,950K a day
- Board Staff was recommending a penalty of 1M
- Other cities have been penalized 80K and more
- They went easy because of the ordinance passed at last Council meeting

Mr. McRea

- They gave us opportunity to rework the plan
- We must meet four dates - April 15, May 30, July 1, and January 2010
- Establish a mandatory onsite trash pickup by July 1
- Curbside recycling plan July 1
- Universal pickup and recycling by January 2010
- Consultant for feasibility study

Council action is to receive the report. Next meeting will have more details of progress. Court order received today.

Mayor Pro Tem Carter thanked all who went to CIWMB and also thanked Assembly Woman Jean Fuller for attending the hearing.

City Attorney Lemieux said key to lesser fine was the passing of the ordinance

Mayor Pro tem Carter stated public comment on this item will be limited to 3 minutes per person and a total of 30 minutes with one time to speak for each person

Public comment opened at 7:42 p.m.

Dave Matthews

- What's the matter with all of you people not protesting to the Board
- Where do these fine moneys go
 - They are placed in a special fund and allegedly used to aid cities in carrying out their plans

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- Another agency that is unconstitutional and time to stand up to them
- Consultant to look at the trash flow
- He's been recycling for years and is tired of having this shoved down his throat

Walt Maurer

- Saw headline in DI today and was amused – how many cans needed to paid the fine
- That is not the question
- Question that should be asked is what has Ridgecrest done wrong to earn this fine
- Were told we have exceeded the requirements
- This is an outrage
- This board did not make the laws on this but appears they have assumed executive and judicial powers
- Make these guys prove where is our wrong doing

Al Huey

- Disappointed with the administrative portion of this agenda limiting us to 2 minutes of comment (it was stated as limit of 3 minutes per person)
- What law have we broken
 - Failure to adhere to a plan we agreed to
- Mr. Carter had asked for the DVD to be taken to the board and wants to know why it was not done – heard it was because a vote was not taken
- Wants copy of the transcript of Waste Management Board meeting and audio
- And about the consultant - get the most expensive and have it funded by that fines fund

City Attorney Lemieux stated there was a transcript of the meeting and it is controlled by the Board – believe you can get it if you make a request to the Board. As to what law did we violate – the LAP required we recalculate the base year which we did not do based on info from Kern County. It is an unfunded mandate. Has no comment re litigation

Ronald Porter

- How did they identify we did not have good faith effort
 - We did not produce the work at the time it was supposed to be done
- Did anyone ask why they did not hold meeting locally
- Did they cite any authority to initiate a tax on the property tax
 - That is up to the cities to do
- Wants preliminary plan on how to do this and send it to the Governor and State Treasurer to fund it
- Can he review all the records without making a public records request
 - He has to do the request
- Requested the City to scan and put on the web site

Betty

- Sounds like a failure to communicate
- Worry about using tax monies to fight this
- Seems to be info not being disclosed to everyone
- How does the mandatory trash pickup relate to this

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- Hearing that recycling is now tied into this – have been doing that for a long time
- Pays property tax and for trash pickup – in favor of mandatory pickup
- Why on the property bill
- How can we avoid doing this again and stand firm

Council Member Taylor - the method of putting on your tax bill is just a method of payment

City Attorney Lemieux stated there will be public hearing on this in the near future and it will all be explained

Mike Neel

- Hearing that we only got fined 20K and Board was most supportive
- They did not follow the law and didn't leave us alone
- During two hours at last meeting none of us told you to buckle under but you did it
- Thanked Council Members Carter and Holloway for not voting for ordinance – no thanks to Wiknich and Taylor
- This is just a way for them to get their hands into our pockets
- Wants the bills to come from Benz so they can see how much it costs

Josh Loscar

- Article 117 – cruel and unusual punishment
- Where's the funding gentlemen – this is still an unfunded mandate
- Is there a date set for the public hearing
 - No not yet

Walt Maurer

- Needs clarification - wants written copy of law we broke
- Was it a simple fact we did not complete work in September
 - City Attorney - said essentially yes
- Does he understand it was not completed based on information from Kern County - what was it
 - City Attorney - based on new information from Kern County that information was accurate
- Also appreciated Council Members Carter and Holloway votes on ordinance
- Asked - does Mr. Carter have authority to limit time on comments
 - City Attorney - absolutely as it is part of the Brown Act
- Advice to Council - stick with the Bible and Constitutions - need to go back to the basics

Council Member Holloway stated that just about every one of the Council and staff agree that we do not like this issue

Public comment closed at 8:16 p.m.

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CONSENT CALENDAR

3. Resolution No. 09-13, A Resolution Of The Ridgecrest City Council Announcing Proclamations Prepared For The Month Of April 2009 And Scheduled Date Of Presentation Avery

Public Education Month, April 2009 - the Indian Wells Valley Masonic Lodge - will be presented at 12:00 NOON Friday, April 3, 2009 at City Hall

4. Resolution No. 09-14, A Resolution Of The Ridgecrest City Council Transferring Surplus Property Of One Truck To Desert Mountain Resource Conservation And Development Council And One Truck To Senior Services Of Indian Wells Valley Poniek

5. Resolution No. 09- 15 A Resolution Of The Ridgecrest City Council Approving The Final Balancing Change Order In The Amount Of \$-1,826.55 To Maverick Asphalt Inc. For The Rehabilitation Of The Westbound Lanes Of Drummond Avenue Between Norma Avenue And China Lake Blvd Stpl-5385(032) And Authorizing Filing Of A Notice Of Completion And Authorizing Release Of Retained Funds In The Amount Of \$30,253.87 Thirty Five (35) Days After Recordation Of The Notice Of Completion Speer

Item 6 removed for discussion

6. Resolution No. 09- , A Resolution Of The Ridgecrest City Council Authorizing Application For And Acceptance of the United States Department of Justice, Community Oriented Police Services (COPS) Hiring Recovery Program Grant Strand

The United States Department of Justice is offering local law enforcement agencies grants to hire entry level Police Officers. The COPS Hiring Recovery Program provides funding to employ up to four entry level police officers for a period of three years. This grant provides funds for salaries and benefits during the three year grant period. The potential revenue to the city is up to \$1,106,980.00. After the three year period the City of Ridgecrest will be obligated to continue employment of the grant funded officers positions for a period of one year at a cost of up to \$361,576.80 to the city, depending on the number of grant funded positions. This is a reimbursement grant that requires no matching funds.

7. Minutes Of The Regular City Council/Redevelopment Agency Meeting Of March 18, 2009 Gable

Item 8 removed for discussion

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8. Council Expenditure Approval List (DWR) Dated March 19, 2009 In The Amount Of \$20,548.07 Sloan

Mike Neel requested removal of items 6 and 8

Moved by Council Member Holloway, second Council Member Taylor TO APPROVE THE CONSENT CALENDAR WITH ITEMS 6 AND 8 REMOVED. No public comment. Carried with a voice vote of 4 ayes, 1 absent; Mayor Morgan absent.

6. Resolution No. 09- , A Resolution Of The Ridgecrest City Council Authorizing Application For And Acceptance of the United States Department of Justice, Community Oriented Police Services (COPS) Hiring Recovery Program Grant Strand

Chief Stands stated this was a DOJ grant for three-four police officer positions with no matching funds. Will fund for three years.

Mike Neel

- Don't think anyone thinks we will have them three years then let them go
- Do we think the economy will be good enough to keep them after the three years
- Thought everyone was supposed to be taking 20% budget cuts
 - City Manager Avery these positions were four fully funded in this budget but were frozen
 - As the money was there for filling of vacancies it counts toward the 20% cut for Police Department
- Every federal dollar that comes our way comes with a string attached

8. Council Expenditure Approval List (DWR) Dated March 19, 2009 In The Amount Of \$20,548.07 Sloan

Budget Officer Staheli stated that this was a refund check on a permit. Customer wrote check-bank said it bounced. Customer came in and paid cash. Bank resubmitted check- check cleared. Customer essentially paid twice-we refunded the overpayment.

Moved Council Member Wiknich, second Council Member Holloway TO APPROVE CONSENT CALENDAR ITEMS 6 AND 8. Public comment heard. Carried with a voice vote of 4 ayes, 1 absent; Mayor Morgan absent.

PUBLIC COMMENT 8:27 p.m.

Al Huey

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- Understand the City is working with the Water District on a water ordinance but have no idea of the particulars
- If it contains language where people can be fined for runoff from their property does that apply to the City also
- Noticed water runoff from City watering recently and they need to be compliant too
- Asked City Attorney if he had copy of Constitution and gave him a copy
- Comment voting a certain way and then getting reprimanded by your constituents
- You took an oath to California and the United States Constitutions
- Just because there is a law it cannot trump the Constitutions
- You swore an oath to uphold them
- What is the definition of government – described in Declaration of Independence
- Asks them to go back to that basic
- Always use the Constitution and a moral base

Walt Maurer

- Confessed to being terribly disappointed that the meeting was not taped or video recorded and that it would take weeks to get a transcript
- Surely one of the three persons who went to the hearing could have taped or camcorder the meeting
 - Didn't think of it, did not want to appear aggressive, against the law
- Think about it in the future and that it really ought to be done
- The suggestion of paying the fine with cans dumped on the boards doorstep is amusing
- Is it illegal but if not maybe we should do it
- Good for a chuckle anyway

Al Huey

- In paper it was commented that it was just trash
- Tax on tea was the principle not just a Tea Party
- "Tax Tea Party" - April 15 5-7 pm - KZIQ hosting

Mike Neel

- Against taking stimulus money to fix our streets – thinks it stinks
- Should have taken money we had around here to fix our streets
- Wasting money on all kinds of things
- Putting our children into debt for futures yet to come
- Shouldn't be taking stimulus money and grants and everything you can get your hands on
- We didn't get to fight this issue now we have to pay

Ronald Porter

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- Just the beginning
- Outlaws everyone who wants to recycle independently

Walt Maurer

- There is talk of injunction among the citizens regarding City paying the penalty
- Want to see a written explanation of what we violated

- Lynn Loscar
- Have come and listened
- People are dumping trash in the desert
- Cannot see how mandatory trash pickup can stop that
- Feels the requirements of the Board are too severe
- Lost sovereignty as a city by taking funds from everyone

John Lilly

- Don't understand where the funding is going for the mandatory trash
- How about putting this money toward fixing the roads

Public Comment closed at 8:46 p.m.

MAYOR AND COUNCIL COMMENTS

Taylor

- ❖ Fees for the trash are for services and will pay the recycler
- ❖ For those who felt left out – the State is probably watching tonight as they have and listened in the past
- ❖ We lean heavily on our City Attorney for advice and guidance
- ❖ Will leave here not feeling happy about having to paying the fine
- ❖ Can somewhat understand where the state is going with their program
- ❖ Up here to represent and work for all of you and the best for the community
- ❖ Fund raiser for Cerro Coso Community College later this month and understand tickets are still available

Holloway

- ❖ Has letter from Pearson's Recycling who has offered to be collection point for City of Ridgecrest and will give check to City each month
- ❖ Collect for a legal defense fund rather than to pay the fine
- ❖ It is not mandatory trash to him at this time it is against being dictated to in all aspects of this issue
- ❖ He sits on Kern County Air Pollution Control District Board and has seen us get fined for transports coming in from other areas
- ❖ All kinds of mandates are with us everyday - retrofits on gas pumps, diesel truck vehicle, etc.

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❖ Everyone

Wiknich

- ❖ Confuses him regarding the oath
- ❖ As he remembers there is one branch that interprets the Constitution and laws
- ❖ If they say a law is constitutional what do we say
- ❖ Where else do we go to find out what is right
- ❖ Commended the Respect For Law Dinner last week
- ❖ Friends of NRA dinner is April 18

Carter

- ❖ Personally thanked all who spoke this evening and appreciates all of them
- ❖ You moved me with your comments and appreciate you more than you know
- ❖ We have to get into compliance on the trash and recycling issue
- ❖ We know how you feel and we feel the same

ADJOURNMENT

Mayor Pro Tem Carter adjourned the meeting at 8:57 p.m.


Rita Gable, City Clerk

