



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

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

**July 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 – 6:00 p.m.

ROLL CALL

PRESENT: Mayor Steven Morgan, Mayor Pro Tem Ronald Carter, Vice Mayor Thomas Wiknich, and Council Member Marshall Holloway

ABSENT: Council Member Jerry Taylor

STAFF: Michael Avery, City Manager; Keith Lemieux, City Attorney; Rita Gable, City Clerk; Tyrell Staheli, Finance Department Director; Jim McRea, Public Services Department Director, Dennis Speer, Public Works Department Director; Ronald Strand, Chief of Police; and other personnel

APPROVAL OF AGENDA

Moved by Council Member Wiknich, second Council Member Holloway TO APPROVE THE AGENDA. No public comment. Carried with a voice vote of 4 ayes, 1 absent; Council Member Taylor absent.

CLOSED SESSION – 6:00 p.m.

GC54956.9 Conference With Legal Counsel - Potential Litigation - Public Disclosure Of Potential Litigant Would Prejudice The City Of Ridgecrest

REGULAR SESSION – 6:30 p.m.

PLEDGE OF ALLEGIANCE let by Mayor Morgan

INVOCATION by Pastor Jim Weston, Desert Christian Center

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CITY ATTORNEY REPORTS

- ❖ In Closed Session Council discussed 2 items of potential litigation, no action taken
- ❖ Other -none

COMMITTEES, BOARDS AND COMMISSIONS

First Council Meeting (1st Wednesday of the month)

Community Development Committee

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

Meetings: 1st Thursday of the month at 5:00 p.m.; Council Conference Room

Next meeting to be announced

RACVB (Director's report in Clerk's packet)

Council Members Chip Holloway, Jerry Taylor

Meetings: 1st Monday of the month, 8:00 a.m.,

Next meeting and location to be announced

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 to be announced

OTHER COMMITTEES, BOARDS, OR COMMISSIONS

Vice Mayor Wiknich reminded everyone of the Infrastructure Committee meeting on July 7 and the City Organization Committee on July 9

Mayor Morgan attended the Kern County Association of Cities dinner meeting in Tehachapi June 30 – the report on their Old Town District will be forwarded to us for information

CITY MANAGER/EXECUTIVE DIRECTOR REPORTS - none

PUBLIC HEARINGS

1. Public Protest Hearing For Property Related Fee Proposed To Be Added To The County Of Kern Residential Property Tax Roll McRea

City Council conducted a Public Hearing for input and comments from the community regarding the proposed Universal (Mandatory) Solid Waste property related fee.

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Mayor Morgan read a description of what the hearing was about and the procedures to be taken. (copy in Clerk's agenda packet)

Public Services Director McRea read the staff report. (copy is part of this item in agenda packet)

City Attorney addressed the legality of the process under Proposition 218. The proposed fee is property related

Pablo Perez of MBS Consultants reported that 10,582 copies of the public notice were mailed via United States Postal Service on May 15, 2009 to property owners listed on the last tax roll. The Public Hearing on this issue was to be held not less than 45 days after the mailing. There are 11,673 parcels within the city limits subject to the proposed fee. Protest letters were to contain name of property owner, description or address of property, must state opposition to the proposed fee, and signature of person who holds interest in the property. The City needed to receive 5,837 protests to be majority.

Paul Benz of Benz Sanitation clarified a few of their statements made in earlier meetings. Their relationship with the City has been very good throughout the whole procedure. Have worked very hard with staff to solve any problems. State has told us we need get into compliance with their Mandatory Waste Management Program and that's what we are doing. The new trash trucks parked outside show we are working toward getting into compliance.

The Procedure for the Public Hearing will be as follows:

- Persons who wish to file a protest or speak at the public hearing must fill out a speaker card and deposit it with the City Clerk. Speaker cards were available in the Council Chambers 30 minutes prior to the beginning of the Council meeting.
- Speakers are limited to two (2) minutes each (*amended to 3 minutes*) and the order in which speakers will be determined will be by a random draw of speaker cards received. (*Only 38 speaker cards received so all were scheduled to be heard - 34 spoke*)
- Council may limit the total time allowed for Public Comment

Mayor Morgan opened the Public Hearing at 7:12 p.m.

Helen Jackson, 1236 W. Ridgecrest Boulevard

- Stated it was wrong that it is assumed that everyone gets a newspaper, has a computer, or watches the meetings on TV
- Feels that information was not provided as widely as it should have been
- Concerned with how the fees will be done among the various types of residences and commercial and businesses

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- How will you judge the persons who share a dumpster or have been sharing a trash bin

Margie Petrolio, 420 N. Peg

- How will you judge persons who live alone or another who shares with her neighbor next door when only gets the bill
- If fee put on both tax bills they will both be charged
- She often goes out of city for weeks or even months so has no trash
- Has a son who lives in town and he can come and get her trash if she is incapacitated
- Will these concerns be addressed

Bettye Sembach, 130 S. Sunset

- This is a heavy burden on the tax payers and taxes keep coming up too often
- She is protesting this fee on her tax bill
- Council should be concerned with passing the fee first
- Asked if citizens were contacted before the fee was determined
- The government is all the people, by the people and for the people
- Feel we should be contacted before things are decided for us
- Example is the phone bill with all the taxes added to it for many different taxes
- Need more of a guideline to tell us exactly what this is all about

John DiPol, 836 W. Howell

- Resident of China Lake and Ridgecrest for 59 years
- This is first he has known about protest hearings
- Bad way to handle business between private parties
- No direct connection between provider and consumer
- The tax roll was not intended to handle private transactions
- It is not lawyers who make the law, it is the courts who determine it
- May be a lawsuit on the horizon
- Many unknowns involved here
- He is purchasing home through a CalVet loan and they are the owners of the property
- Asked if they should collect for the waste fee as they do for property tax and then pay the taxes to the County
- Would the state auditor allow for payment between two private properties

Joshua Loscar, 740 W. Upjohn

- Questioned if we met the state mandate but not the way they wanted
- 19 years old and is coming to council meetings and speaking his opinions
- He and his generation will be paying for a long time

Billie Wisecarver, 1226 Vulcan

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- Retired on fixed income and oppose addition to tax roll
- Will it go from 1 to 2 to 3 can and added fees

Robert Eireman, 504 Las Posas

- Against having this fee on tax roll
- City cannot give discounts once this is placed on tax rolls
- Disabled, low income, etc. already have rates with Benz
- Citizens have the power to repeal all taxes and fees
- Had a lot of "What if's"

John Monahan, 713 Howell

- Has lived here over 25 years
- Is a commercial property owner and owns his home
- Has two Benz accounts and will continue using their services
- At triplex house he shares with the duplex next door
- Will end up with 10 various cans
- Questioned the legality of the process
- Sewer is now a special district and has gone up more at his apartments that are valued lower than at his residence with a higher value

Alfred Huey, 1128 Windy Lynn

- Did not like filling out a "mother may I speak" card
- Opposed to having this fee on his tax bill
- We the people have allowed the government to pin us down
- Approaching our 235th year of Independence
- Council has chosen politics over principle
- He will not be forced to live his life on his knees
- This is fuel on people who are tired of having more fees
- Asked attorney for diversion flow documentation
- Asked if fees can be increased without another hearing
- Could county conduct an election to get the vote of the people

Brian Waterman, 1100 arroyo (renter)

- Asked neighbors if they had received notices and their opinions
- Not one was in favor of this fee
- Unfortunately they did not have a letter submitted
- Feel the majority of property owners are against this
- We are all so inundated with everyday things to pay good attention to issue such as this
- Hope more will take interest with things that really matter

David Matthews, 717 Kevin Court

- Delivered his letter to clerk yesterday

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- Lived at address for 41 years and living on very low income
- If placed on his tax bill will represent a 7.25% increase
- That is well within the boundaries of Prop 13
- Now if he leaves for any length of time he can contact Benz and get financial relief
- But if on the tax rolls may have to wait a long time for a rebate or relief after many forms to be filled out
- If the 50% plus 1 of protest letters is not hopes Council has the choice of going with this process or to chose another

David Leverett, 319 S. Rancho

- Noted Mike Neel and Ron Porter letters in DI
- On limited income with two kids
- Cannot afford this so will not take the service
- Asked what gives you the right to put this on his tax bill
- He recycles his own stuff
- Not for this and wants us to fight this

Eugene Copeland, 1109 Krista Court

- Is opposed to this fee on his property tax bill
- Lived here 46 years and sees no problem with trash
- We are already paying a landfill fee on our taxes
- Prop 13 is the Howard Jarvis Association
- If Council does not pull In their horns soon they (Javis Assn.) may sue the Council
- Mandatory pickup of the trash is a social thing going on out there
- Question may have been now that we have mandatory how are we going to collect if the people refuse to pay

Craig Stump, 1230 E Church

- Point is we have to recycle as mandated by the state
- You people contract with Benz and you should let them charge for it
- Thinks prop 13 covered that not being put on the tax roll
- Think the negotiations on number of cans, etc. should be hashed out and let Benz sort it out
- Benz has done a great job in the past and let them continue to do so

Penelope LePome, 635 Rio Bravo

- On limited income and concerned with cost especially if not there for a while
- Concerned with the constitutionality of this
- Would include an automatic increase based on cop
- Expecting costs to continue to go up
- How will it affect a person's ability to get a reverse mortgage

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Frances DeRosa, 117 S. Desert Candles

- It is about time that we do recycling
- She is on fixed income and is a senior
- Would like to be able to pay the fee monthly
- Opposed to tax roll billing

Warren Nelson, 604 S. gold canyon

- A lot has been decided and we have had no voice in it
- It is like what is happening in Washington
- Has to be some way to get more info to the citizens and what is happening in the council
- We are not getting our questions answered
- Feel like we are getting ignored

Joan Renner, 427 Jean Avenue

- Has lived in her home since 1973
- Never received a notice in the mail that we were having this meeting
- 20 years ago city officials went to Tehachapi to look at the Benz recycling plant
- They said it was too expensive and Ridgecrest couldn't afford it
- If recycling had been implemented then we wouldn't have been fined now
- Have you consider the impact mandatory trash pickup will have on those with limited incomes
- Letters to the editor state you have broken lots of California Constitution laws regarding mandatory trash
- Wrong to make it mandatory for citizens to have trash pickup
- She and her husband recycle everything
- They share trash bin with a widowed neighbor
- Considers Benz a service and should not be exempt from sending bills for the service
- Benz offers senior rates and if added to tax bill everyone will pay the same
- Years ago a charge was added to our property tax bill to use the dump
- Even if you never used the dump you still pay for it on the tax bill
- California EPA only requires recycling not trash pickup
- Hope if you have not followed California Constitution to letter of the law you reconsider position on mandatory trash pickup
- We don't want this added to our property taxes

Michael Neel, 736 Randall

- Talked to folks around town about receiving the notice – most have not
- Any fee or assessment placed on tax roll is against the property
- Don't pay it and you lose your property

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- Decision by council not good
- Costs over a million dollars a year
- He will not give up any more freedom to socialist
- He condemns this action
- Let Benz do it as it has always been done
- How hard would this be
- He will fight this even if it fails

Donna Uhls, 231 N Helena

- Concerned with low income persons
- She share containers with others and has trash run of several houses
- Does not want this on her taxes
- Noted north Norma Street not being repaired yet
- Want to pay to Benz for their services

Derek Cooper, 525 W Wasp

- Initially I was for putting on property tax because it appeared the most cost effective way
- After hearing the comments and see the people want to pay the bill themselves
- Really feel it should be kept off the property tax bill

Robert McDiarmid, 965 Jefferson

- See too much possibility of abuse if renter does not know if owner has paid
- With your own bill you know what you are paying
- Low income persons may not be able to do the tax bill payment system
- Could Ridgecrest meet their waste stream if they did green waste
- Questioned if mandate is being met by number of bins or amount collected

David Neipp, 801 S. Allen

- It is a fee to meet a mandate by the state
- Complete ignorance of the 10th Amendment of Constitution

Ralph Lachenmaier, 2917 Shamrock Ave

- Appreciate we are finally getting mandatory recycling
- Noted the 2 can solution
- In Pennsylvania we did it a bit differently but made money on it
- Did it ourselves with 5 boxes
- Worried that a central facility doing the sorting will be expensive
- Doesn't care where billed or on tax bill
- Concerned for the seniors and hopes something can be done to help them

Joey Clubb, 1220 Rebecca

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- Disturbed that this was not an actual vote tonight on the issue
- Lot of serious issues about how this came about
- Don't feel the state came about it correctly
- The people want to have info
- Would like to see this done like the road tax with pros and cons and education
- Show the ramifications if it doesn't happen
- People want the ability to vote
- Note if allowed to continue you might see results

Ronald Porter, Moyer

- Term refuse – means no value
- Prop 218 research and no way did it refer to recycling
- Glad the \$6 issue was resolved
- Just don't need it

Edward Hinkley, 417 Veata

- Main opposition is he did not hear about it - got no notice
- Being mandatory he cannot opt out
- Hauls his own trash and recycles and get a few dollars to augment his income
- Feels betrayed by the State

Walt Maurer, 412 mariposa

- Appreciated all who showed up this evening
- This is exceptional turn out
- If this happened more often the Council would have more input from you
- They have tried to get people down here to communicate
- Opposed to being on tax roll
- Discounts for seniors is not allowed by law
- You have an option not to put this on tax tolls
- Benz offers a discount rate for seniors - the tax rolls will not

Bud Klamt, 221 N. Gold Canyon - for Dorothy Brown

- Does not envy Council predicament
- Mandated by the State
- He and his mother have 1/4th can a week - pays for taxed CRV and recycles
- This is an overwhelming turnout
- Use the City Attorney to file a suit against the State and urge League of California Cities to join in suit
- California tax is increasing
- Take the tax for the landfill use off the property tax till if this fee goes on

Sylvia Brooks, 221 N Kern

- Does not have trash pickup - puts trash in her truck and goes to dump

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- Pays taxes on several properties
- Does not want to have on tax roll

Marilyn Neel, 736 Randall

- Placed a sign on the dais - "No Blackmail Tax"
- Appreciate what other citizens have already said
- Opposed to being put on tax roll
- CIWMB did not have authority to impose the fine to start with
- They did not have the proof to say we were not in compliance
- Council did not stand up to them and now you are putting the cost of your cowardliness on our heads
- Appreciate all the work everyone has put into this
- No one appreciates not standing up to unconstitutionality

Yvonne Beyer, 813 N. Peg

- Also has triplex on N. Atkins
- Opposes the fee being put on the tax roll
- Do not think it is right at all
- Should have been addressed years ago for the planning, etc.
- Feel disappointed and let down that we did not meet the requirement on time
- Always have left the majority of governing to the elected officials
- Do not like the addition of extra can on any of the properties she manages
- AB 989 CIWMB has the right to exempt the city if they meet as much recycling as possible
- Accountability is what she is for and asking for it now
- Opposes the tax

Dennis Wiley, 405 Moyer

- Don't get Channel 6 but does get newspaper
- Who is responsible for putting on the tax
- He does not want it
- Has 3 rental houses – gets the rent and pays bills – tenants pay for their trash
- If he has to pay he will have to raise rents
- Appreciates all the Council they work really hard
- Would love to see this put off for a few months
- Benz needs to bill us – strongly opposes putting on tax bill

Kathy Walker, 1519 N. Balsam

- Did not know anything about – owns several properties
- Has own business
- Did not know until she saw the Swap Sheet
- Does the public really know what is going on here
- Do not want on property tax bill

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- Landlords will have to reflect this back on their tenants
- Did council have a choice of doing this or not doing this
- Appears you have already made a decision and didn't have any input
- Should think this would be somebody's choice

Mayor Morgan closed public hearing at 8:50 p.m. Mayor thanked all speakers for their comments and input.

Council Member Holloway thanked everyone for attending this evening - in his 11 years this was the largest turnout he has seen - noted it was sad that some turned out for the first time - no way did Council want it to get to this point - appreciated the effort by many citizens - initially wanted to sue the Waste Management Board - most here said they did not want on tax roll - concern about the absentee landlord issue - much bigger issue coming down the road regarding the gas tax - thank you for your input

Vice Mayor Wiknich also thanked everyone - has been beat up for past 5 days about this issue - sometimes he makes mistakes and will admit it when he does - when forced into this wanted discount for seniors and cheapest way to satisfy the State of California - surprised this night by those of you are willing to pay more by having Benz do the billing and now agrees they should do the billing and that is how he will go - we want your continued input on all issues

Mayor Pro Tem Carter noted it has already been said but also thanked everyone for coming - your input has been good - personally does not want on his property tax but want what is best for the community - appreciates what citizens have said - he will not vote for this to be on property taxes - hope all of you keep coming back and you're your input - he is ready to start a revolution with California because he has had it

Mayor Morgan noted that a lot has been said and a lot of info has been dispensed - one issue not widely known was that the onetime Solid Waste Committee was supposed to come up with a recycling plan - they did not do it - what your input tonight was most important - did not believe that all of you were willing to pay more for the trash pickup by having Benz do billing - years ago dispersion figures were gotten by weight of trash now there are no weight scales

Mayor Morgan recessed the meeting at 9 p.m. to reconvene at 9:15 p.m.

DISCUSSION AND OTHER ACTION ITEMS

2. Resolution No. 09-42, A Resolution Of The Ridgecrest City Council Authorizing The City Attorney To Cooperate With The League Of California Cities, Other Cities And Counties In Litigation Challenging The Constitutionality Of Any Seizure By State Government Of The City's Street Maintenance Funds Avery

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This resolution directs the City Attorney to take all necessary steps to cooperate with the League of California Cities, other cities and counties in supporting litigation against the state of California if the Legislature enacts and the Governor signs into law legislation that unconstitutionally diverts the City's share of funding from the Highway Users Tax Account (HUTA), also known as the "gas tax," to fund the state general fund.

Public comment

Dave Matthews

- o Thanked Council for the quick reaction to taking up the fight on this

Walt Maurer

- o Also thanked Council for taking on this fight
- o Asked if the funds were around 1M – yes
- o Does not know what the attorney fees are but surely more than an engineer on base makes
- o Glad to see that other cities and the League may be banding together to fight this

Mike Neel

- o Good to see the fighting spirit up there
- o Hopes that Mr. Carter will stand by his statements
- o Fight for principle or don't fight at all

David Neipp

- o Noted the quickness to fight on this issue as opposed to the trash issue
- o Where does our street repair funds come from
 - Several sources that the state funnels down to counties and cities
- o Should we be surprised that any government can distribute and take away funds to use as they wish

Bud Klamt

- o Obvious that this is only a drop in the bucket with the state doing this to all of the cities
- o Surprised that the League does not tell them to "cut the pork" and stay out of our pockets

Moved by Council Member Holloway, second Council Member Carter TO ADOPT RESOLUTION NO. 09-42, A RESOLUTION OF THE RIDGECREST CITY COUNCIL AUTHORIZING THE CITY ATTORNEY TO COOPERATE WITH THE LEAGUE OF CALIFORNIA CITIES, OTHER CITIES AND COUNTIES IN LITIGATION CHALLENGING THE CONSTITUTIONALITY OF ANY SEIZURE BY STATE GOVERNMENT OF THE CITY'S STREET

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MAINTENANCE FUNDS. Public comment heard. Carried with a voice vote of 4 ayes, 1 absent; Council Member Taylor absent.

CONSENT CALENDAR

3. Minutes Of The Special City Council/Redevelopment Agency Meeting Of June 9, 2009 Gable
4. Minutes Of The Special City Council/Redevelopment Agency Meeting Of June 10, 2009 Gable
5. Council Expenditure Approval List (DWR) Dated June 19, 2009 In The Amount Of \$499,658.74 Staheli
6. Agency Expenditure Approval List (DWR) Dated June 19, 2009 In The Amount Of \$315.05 Staheli

Walt Maurer requested item 5 be removed - he questioned the total of almost \$500K and asked if any individual items were in excess of 100K. City Manager Avery replied that none were in excess of \$100K.

Moved by Vice Mayor Wiknich, second Mayor Pro Tem Carter TO APPROVE THE CONSENT CALENDAR. Public Comment heard. Carried with a voice vote of 4 ayes, 1 absent; Council Member Taylor absent.

PUBLIC COMMENT 9:38

Walt Maurer

- Notion of suing entity as opposed to defying
- Mandatory trash issue – has the city complied with the recycling – the answer was yes
- Remember hearing that the City worked with the County who said we were OK
- So how did we get to the point of being fined
- Why did we just not pay the fine and let them come to us in court and prove we were not in compliance
- Up to the agency to prove their point
- Can it be shown that the City was inadvertently not in compliance
- Section 6 #1 – the basis upon the which the fee was come to
- From what he sees this was not addressed
- The \$6 fee was an estimate and what was the basis – wants to see the data

David Matthews

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- Three days away from what is commonly called the 4th of July – IT IS INDEPENDENCE DAY!
- More and more we are losing that independence
- Suggested for this year we all fly our flags upside down
- The worker bees are being shut up whenever they speak up
- Does not know how many here are veterans – they are the ones who fought to set and keep us free
- Truly enthused by some of the words heard here tonight

Michael Neel

- Read from the United States Constitution
- You have to decided if you are going to fight for some of these rights
- You are the lowest level of government to protect the citizens

Bob Nostram

- He is a 25 year veteran
- Now fighting to stay in his residence
- In La Mirage an 80 year lady was kicked out of her residence and promised 3K for her keys – at time she left she was offered 2K - that's not right
- Look at how many residents are left in there – the pool is half empty with mosquitoes
- Andy Blue asked him to come down and ask about the proposed "renters" ordinance
- Had been told we were working on it
- He and wife are unemployed and disabled – they are moving
- 3K is not enough
- Noted nothing is being done to the person who cheated or stole about 1M
- That's about 200 families being affected

MAYOR AND COUNCIL COMMENTS

Holloway

- ❖ As of coming here tonight has received no update on the state budget
- ❖ Only ones who know about what comes to the floor are the "Big 5"
- ❖ Since they did not take action before midnight there is an additional \$6B gap
- ❖ Prop 1A says they can take only 8% from cities and that is because of League of California Cities
- ❖ They already lost lawsuit on taking Redevelopment Agency money
- ❖ Commented on lack of action or reaction of Mayor on some issues
- ❖ The Council has written letters of opposition and endorsement on more issues in the last two years than ever before
- ❖ Solar Millennium project had good article in media
- ❖ Trade Bill had hidden in it a "no solar allowed in Mojave Desert" clause

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Wiknich

- ❖ Last few days lots of folks came in to talk about the trash and other things we are doing
- ❖ He wants to involve the people as much as possible
- ❖ Seems like the media don't think the Town Hall meetings are worthwhile
- ❖ Has another survey coming out and hopes everyone will participate
- ❖ Look forward to your inputs and need to hear from you
- ❖ Frustrating when we use every means we can to get info out to the public and hear people say they didn't get it or didn't see it
- ❖ Talked to one man tonight – no newspaper - no TV

Carter

- ❖ Thanked all who came out and gave their opinion
- ❖ We need to do this at the state level too
- ❖ Need to do something about all the state boards and commissions
- ❖ There are too many and it has to stop
- ❖ Need to direct this to our elected officials
- ❖ Hope you all do more at state level

Morgan

- ❖ Some comments heard at public hearing disturbed him
- ❖ They were accusing us of this but it is not where it came from
- ❖ Blamed us for not taking CIWMB on
- ❖ You will see more recycling throughout the state
- ❖ Back in the 40's at China Lake you just went out about a mile from housing area and dug a hole and buried it regardless of whether contaminated or not
- ❖ Had a bundle of all the waste management laws passed in California going back 20 plus years
- ❖ Interesting to see how the rest of the community will react to the headlines that those here are willing to pay more for their trash removal
- ❖ 4th of July Bingo brought in about \$7K for the Community Fireworks Fund
- ❖ Thanked everyone tonight for their participation

ADJOURNMENT

Mayor Morgan adjourned the meeting at 10:12 p.m.



Rita Gable, City Clerk