



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

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

**November 24, 2009
5:00 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 – 5:00 p.m.

- Meeting was called to order by Mayor Morgan at 5:00pm

ROLL CALL

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

STAFF: Harvey M. Rose, Interim City Manager; Keith Lemieux, City Attorney; Rachel Ford, City Clerk; Jim McRea, Public Services Department; Dennis Speer, Public Works Director,; and other personnel

APPROVAL OF AGENDA

Added public comment for closed session item
Added City Attorney Report to agenda

Motion to approve agenda made by Council Member Council Member Wiknich, Second by Council Member Council Member Taylor. Motion carried by voice vote of 5 Ayes; Noes; 0 Abstain; 0 Absent.

Closed Session Public Comment:

Opened at 5:05pm

- Al Huey – in my opinion, initiative under discussion in closed session is Brown Act violation.

Adjourned to closed session at 5:06pm

CLOSED SESSION

GC54956.9 Conference with Legal Counsel – Potential Litigation – Disclosure of Potential Litigant Would Prejudice the City of Ridgecrest

MINUTES - CITY COUNCIL / REDEVELOPMENT AGENCY - REGULAR

Page 2

Reconvened at 6:10pm

PLEDGE OF ALLEGIANCE

Pledge of Allegiance was led by Mayor Morgan

INVOCATION

Moment of Silence was led by Mayor Morgan

CITY ATTORNEY REPORT

- ❖ Closed Session
 - Council met to discuss identified item in closed session.
 - Report the potential litigation of proposed trash initiative
 - Ask court for preliminary opinion
 - Council decided not to pursue litigation
 - Directed attorney to prepare Ballot Title & Summary
 - City may pursue initiative legality at future time
 - Title & Summary due to proponents by close of business November 25

ORDINANCES AND RESOLUTIONS

1. **Ordinance No. 09-05, An Ordinance Of The City Council Of The City Of Ridgecrest Amending Chapter XII Article 9 And Repealing Chapter IV, Article 19 Of The City Of Ridgecrest Municipal Code Concerning Water Efficient Landscape Requirements** **Rose**

This ordinance was introduced for first reading, by title only, at the regular Council meeting of November 4, 2009. At the time of first reading public comment was heard from local citizens commending the Council for taking this action and amending language to Section 12-9. 17 Mandatory Measures, and Section 12-9. 21 Administrative Exceptions. Council approved a motion to waive reading in full on introduction and a second motion to introduce the ordinance for first reading by title only.

The Ordinance was brought back to Council for second reading and adoption at the Regular meeting of November 18, 2009 at which time it was determined that more input from the community and refinement of the language was necessary. Council scheduled a Special Meeting of the Council for November 24, 2009 to continue discussions.

Council may, on completion of discussion and revision of the Ordinance, make the following motions.

- Jim McRea presented ordinance to council
 - Water Board committee formed to enter into discussion of proposed ordinance.
 - 2 things slipped thru from previous council meeting

MINUTES - CITY COUNCIL / REDEVELOPMENT AGENCY - REGULAR

Page 3

- 12-9.7 and 12-9.17 discussions from previous council meeting. No discussion of 12-9.9 residential is exempt from this ordinance
- Mandatory measure relative to waste determined by general manager
- Pertains to new houses which must follow the ordinance where existing houses are encouraged to follow the ordinance
- Council Member Taylor – ordinance originally was to grandfather existing residences for 5 years now reads January 1 all residences must follow.
 - Mr. McRea – Mandatory Measures does apply to all however general manager will review
 - Tom Mulvihill – all single family residential development is not require to do anything other than abide by the mandatory measures section for water waste. Only restriction for landscaping for new developments only.
- Mayor Morgan – city has many instances where changes have to conform to existing code, such as signs. Idea is if a change is made, a person comes in and wants to change landscaping, encouraged and helped by water district, that doesn't force people who own property to make changes but encourages them to change.
 - Mr. McRea – that is correct.
- Mayor Morgan – if they don't want to change what they already have they don't have to but if they have a river of water they will be fined. Language change suggestions to take care of the way it reads right now about water being on sidewalk. Not willing to cut out the wording and no matter what we do some people won't be happy. Example of language 12-9.17(a) “...**creating the undue continuous flow of water.**” Not trying to punish, just put something together to show state we have ability to manage a water resource, not punish people. No one in valley.
 - Mr. McRea – did not define waste. Subsection A runoff is defined. Morgan **as it relates to the excessive flow of water off the property** Trying to make a way to prevent an unmitigated flow of water down the street. Word **abusing** is fine also.
- Council Member Taylor – Lancaster has 2 minute time limit, other gives a 'pool greater than ¼ inch of water'. What is the definition of excessive? Less of problem if people are grandfathered in for a number of years to become compliant. Willing to comply but not by January 1.
- Mayor Morgan – new section or put the sunset clause in current section.
- Council Member Taylor – not sure if sunset is legal to state mandate. Looking for input from water board or other. Don't have buyback program yet, another state mandate trying to implement. What is the definition of excessive? No problem with words if we can come to agreement.
- Mayor Morgan – suggestion?

MINUTES - CITY COUNCIL / REDEVELOPMENT AGENCY - REGULAR

Page 4

- Council Member Taylor – reasonable limit of watering is 15 minutes, would accept something like that. Setting goal for people to improve, not educating public enough. Telling people 3 times a week only cramped timers to water longer those 3 days. Help people set meters properly with defined time limits. Is water board going to announce a buy-back program, doubt it. Feel 15 minutes is adequate time for today.
- Council Member Wiknich – problem is interpreting “...unless the layout of the property provides no adequate means to prevent it.” One suggestion, give exception because of the way property is layed out. Section (b)“ unless water saving device with automatic shutoff is being used.”
- Council Member Holloway (b) put comma and add “...without any generally accepted water conservation device.”
- Council Member Taylor – running literally where goes to sidewalk then to gutter now running for 5 minutes is excessive. 5 minute rule is reasonable but sidewalk wet is not.
 - Tom Mulvihill – actual runoff may take more than 5 minutes, person enforcing would be required to time the watering after they get to the location.
 - Council Member Taylor – researching cities have different definitions and tolerance.
 - Mr. Mulvihill – 5 minutes would be in the gutter.
 - Council Member Taylor – trying to get there and work out compromise.
- Mayor Morgan – other comments or ideas
- Council Member Wiknich – still think city manager should have exception capability 12-9.21 administrative
 - Mayor Morgan – City Manger or designee after consultation with general manager
- Tom Mulvihill – section (b) too vague, what type of device. Water broom not familiar with.
 - Council Member Taylor – definition of runoff is mentioned in ordinance.
 - Council Member Holloway – would like to strike ‘f’ from 12-9.9
 - Mr. Mulvihill – that is ok.

Public Comment

- Robert Eierman – gave written recommendations to Mayor via City Clerk. This is compilation of other cities. Runoff – excessive water flow or runoff define as amount of water that would flow unrestrained from a garden hose for a period of 2 minutes.
 - Mayor Morgan – definition suggestion?

MINUTES - CITY COUNCIL / REDEVELOPMENT AGENCY - REGULAR

Page 5

- Mr. Eierman – for that paragraph only 12-9.17 1(a). not sure of correct figure, guessed free flowing garden hose for 2 minutes is fair amount
 - Mr. Eierman – 12-9-17 1(b) – pertaining to washing off hard surfaces, suggest safety or sanitary, hand held bucket, hose equipped with low volume device, or low-volume water broom.
 - Mr. Eierman – 12-9.17 1(c) – read written statement from City of San Jacinto.
 - Mr. Eierman – violations recommended progressive for 1st, 2nd, & 3rd infraction. Help citizen rather than punishing citizens. Most want to work with city to do it right. Suggest dropping ‘each day’s violation is a separate violation’
 - Mr. Eierman – swimming pool section 12-9.13(b) suggested change should eliminate ‘new swimming pools shall have a swimming pool cover’ and change (c) to read “new swimming pools shall have a drainage plan” Citizens suggestions and from research
- Al Huey – question runoff on street, sometimes difficult to figure out who might be at fault. Example 3 people on street watering at same time, problem may be 2nd guy in line not 1st or 3rd. How do you measure ¾ inch amount of water for 2 minutes when hitting the gutter. Looking at possible enforcement dilemma, no answer just an observation.
 - Lynn Loscar – observation from last council meeting, sidewalk at city hall was flowing at 9:55pm. Researched numbers of gallons limits, 60 gallons is pretty tight. Most places had between 80 and 122 gallons per person per day limit. Have more than 2.5 persons in household and if that is the 1st tier of water rate structure then not in favor. Would like input from water district. Still in a quandary why IWV is having jurisdiction over the valley or just district people.
 - Mr. Mulvihill – this ordinance only affects the City residences. Water district ordinance will affect the entire valley. Will project for sake of speculation all users within water district includes those with own wells.
 - Mrs. Loscar – extremely strong opposition for the regulation of private well.
 - Mark Ball – happy to hear about gutter tonight, 5 minutes reasonable period of runoff if they stand at your yard, time the runoff, then write the ticket. Recommends one violation. Concerned about exemptions being managed at City Manger office, does feel deserved as this is City ordinance. Need well-defined exemptions. Concerned about permit or city service, covering expense of employee staff time, why have permit for new sod or grass planting? If having to put down new sod, wouldn’t expect 12-9.17 2 **recommend special permit for newly planted material be stricken from the language**
 - Council Member Taylor – understand and duly noted. Permit does not necessarily mean cost.
 - Mr. Ball – suggest ‘new grass’ sign.

MINUTES - CITY COUNCIL / REDEVELOPMENT AGENCY - REGULAR

Page 6

- Diana Moon – how can Ridgecrest be compared to Lancaster. Suggest diverting runoff to something useful such as park. Change word excessive to unnecessary.
- Stan Retoria – talks about fine but doesn't say if fine goes to landlord, renter, or Management Company? A lot of out of town owners and rental agencies don't want to be fined for something renters do. Most renters really don't care about the property. Give consideration as to who the fine would go to.
- Mike Neel – Preclusive measures, mandatory 12-9.9 single family landscape encouraged. Low flow faucets from water district. On-going problem, should ramp up those efforts. Some grass that is drought resistant and uses less water. Encourage people to put in a grass that doesn't require as much water. Get citizens involved and include fact water bill will go down. Plug the lawn with low water grass which will take over existing lawn and cost less than sod. Zoysa grass plugs provided by IWV. 12-9.17 defines runoff sets well, how much is too much? Quantify. How do you determine which person is watering too much and now all are required to water at same times. Perhaps just time it, 10 minutes, for enforcement. Question about everyone watering at same time, is there going to be a flow problem? Water pressure drop if everybody's sprinkler goes off at same time?
- Diana Moon – address and home location, what miracle of God caused the James Monroe field to turn green while St. Anne's is brown.
- Mrs. Beyer – if watering at night, who will be available to enforce water restrictions? If we have target of gallons per person per household per day, when does the baseline start? Is it based on last-years billing, this years, or next years? If already started water conservation, when will we be counted.
 - Tom Mulvihill – over number of prior years will be reviewed to establish baseline. Community total reduction, not an individual problem if already conserving. Purpose of ordinance is to safeguard resources for future. State model ordinance is there.
 - Ms Beyer – swimming pool covers, sunlight and wind cause evaporation, current definition covers pool from receiving direct sunlight. This does not address if you have an awning which protects from direct sunlight but not wind. Floating cover required during sunlight hours, when would you swim? Clarify definition.
 - Mayor Morgan – bubble cover allowed?
 - Mr. Muvihill – yes
 - Council Member Taylor – 12-9.5 swimming pool cover... “when not in use”
 - Ms. Beyer – drainage plan for existing pools? Suggest drainage plan and recirculation plan. Can't flood yard but need to drain.
 - Mr. Muvihill – pump is recirculation. Drainage plan refers to surface and is addressed by City in new construction.
 - Ms Beyer – 35 year standing water in gutter which has never been fixed by City. Caused by runoff from neighbors but settles in our gutter. During

MINUTES - CITY COUNCIL / REDEVELOPMENT AGENCY - REGULAR

Page 7

summer causes mosquitoes. Need to shovel it and clean it periodically to get rid of the water. Scoop up and throw in trash then clean with high pressure device.

- Mayor Morgan – engineering department will go to 813 N. Peg to review issue.
- Penelope DePalm – comment earlier about notification to violators. Would prefer notification before a fix-it fine is penalized.
- Dave Matthews – concur with everything brought forward by Robert Eierman, including paragraph 12-9.17 1(c) is unenforceable and he gave means to enforce. Question is this the second reading of this ordinance.
 - Mayor Morgan – not now. Will have to take this back and make these changes again.
 - Mr. Matthews – other question from previous for City attorney. How can City as agency allow or delegate authority to enforce City ordinance to another agency?
 - Keith Lemieux – this doesn't delegate enforcement to water district, allow general manager of IWV to allow administrative exceptions with City Manager. There will be 2 parallel ordinances from both City and Water District and will mirror each other. Water district enforcement of their ordinance will be same as our enforcement of our ordinance.
 - Mr. Matthews – previous reading was clear that water district general manager would be the enforcer.
 - Mr. Muvihill – district cannot enforce City's ordinance, water district will have their own matching ordinance with same rules.
- Mr. Ball – swimming pool cover, 12-9.5 strike and change to reduce evaporation. Landscape irrigation to an extent to allow runoff specifically into gutters and streets, flow of water that has left your property for a period of 5 minutes.
- Council Member Taylor – back to council on December 2

Changes from Jerry Taylor to be emailed to City Clerk and revision to City Attorney ASAP to be scheduled December 2 meeting for 1st reading.

- Council Member Wiknich – when will water district do their ordinance
 - Mr. Muvihill – staff will be working on shortly after 1st of the year. Sister ordinance concerns about enforcement which district will work on procedures and penalties with warnings and progression. Have to create an appeals and due process procedure. Same rules but water district process for complaints. Can't give exact date by which district ordinance can be in place. Council's biggest concerns are to prevent state model ordinance and city ordinance will accomplish this. Then water district will be working on saving water.
 - Council Member Wiknich – city is under mandate to have ordinance, does water district have the same mandate?
 - Mr. Muvihill – no

MINUTES - CITY COUNCIL / REDEVELOPMENT AGENCY - REGULAR

Page 8

- Council Member Taylor – not here just to keep state ordinance from being enacted but also to conserve water.
- Mayor Morgan – continue ordinance to first meeting in December.

Changes presented will be written up and provided for further discussion.

- Pool covers definition to change the word shall to should? Morgan opposed because 'shall' has a definitive direction.
- Mr. Muvihill – may have more time, encourage City to do good job rather than push thru by January 1.
- Council Member Taylor – 5 minute vs. $\frac{3}{4}$ inch hose. No problem delegating city staff to work with Tom and council to define. Understand process and want positive progress.
 - Mr. Muvihill – don't see how enforcement person would be able to identify quantity of water.
 - Council Member Taylor – revision suggest time rather than amount of water
 - Council Member Wiknich – enforcement observe both location and time.
- Council Member Holloway – penalties should be defined both in residential and commercial. Tenant/user would be the one fined.

Tenant = person renting or leasing residential structure or the resident.

- Mr. Ball – As far as who gets the ticket it would be the person who lives in the unit and controls the water usage. Real estate contracts the property that is leased sometimes pays for the water. The tenant or resident is the one who is actually controlling the water. Penalty with warnings built in.
- Council Member Holloway – how would ordinance affect fundraising carwashes? Huge and very legal
 - Mr. Muvihill – that question will have to be considered, first time it has come up.
 - Council Member Taylor – lot of cities allow car washing but no device that allows water to run continuously. Spray car off, use bucket or hose with shut off hand-held device.

PUBLIC COMMENT

Opened at 7:47pm

- Dan Clark – mesquite high school discuss trash. Suggestion for Council to think about. Lot of conversation over trash issue, believe solutions rest in community. Suggest in conjunction with 2 committees, do a town hall meeting on the issue of

MINUTES - CITY COUNCIL / REDEVELOPMENT AGENCY - REGULAR

Page 9

trash. Only allow people to speak to the issue with parameters, if they are paying trash bill or using trash, they generate a solution to submit to you. List waste management recommendations, Benz pay scale and expenditures, community brainstorm and create solution to problem. Lot of community talk about not having a voice. Evening 6pm to whenever, bring solutions to council. Don't eliminate 2 committees but have a town hall meeting. A lot of work on Ponek's part but will probably be a lot. Neutral moderator. Open up to public for submitting solution.

- Council Member Carter – would you facilitate?
 - Mr. Clark – yes, willing to do it. Brainstorming session with parameters and invite all community. Let them come up with their ideas for submission to council. Generally committees have same faces with same input, may get a broader perspective.
 - Council Member Wiknich – good idea, past town hall meeting? Pointing out something lacking. Up to now been operating on timeline from state, now opportunity to do something more like what is asking for.
 - Mayor Morgan – Taylor and Holloway discuss with Dan Clark after meeting
 - Council Member Carter – thanked Mr. Clark
- Mike Neel – two council meeting ago discussed meeting format with approximately 8 people pleading public comment being moved to beginning of meeting. Why is this still at end of meeting. Also, parameters on council speaking, last council meeting regrettable response from Mayor toward citizen. Sensitive persons attending meeting had to hear it. Request either an apology from Mr. Morgan or Council reprimand Mr. Morgan and remove from position of Mayor.
 - Mayor Morgan – format changes have not gone to City Manager yes. Second, while you feel statement is regrettable, feel attacks on this council does not recognize the efforts of council to
 - Joshua Loscar – couple months ago speech of quorum speaking to each other. Need to watch each other, 'f-ing' comments and Jesus comments made tonight are unacceptable.

MAYOR AND COUNCIL COMMENTS

- Council Member Taylor – appreciate everyone attending, things better when public involved. For critics can also play back meetings with reverse comments.
- Council Member Wiknich – wish good will and happy thanksgiving and hello from sister visiting from Ohio
- Mayor Morgan – happy and safe thanksgiving, will be working on formats after committees work on their issues. CIWMB hoping to target personal dialogue January 20 about trash issue and will be forwarding information as we go along to avoid future fines; current format, council has every opportunity to position new person in slot of Mayor with majority vote.

MINUTES - CITY COUNCIL / REDEVELOPMENT AGENCY - REGULAR

Page 10

- Council Member Carter – As an athlete, used to love talking trash, no longer like talking trash. Retired from school district and will continue to live in this community. Need to come together as community, put differences aside and find solutions to solve this. Been moving in different direction, now want to work together. Let's find a way to achieve what we have to with recycling. Let's work out as community, no need to fight. Best community to raise kids, let's keep it that way and work together. Appreciate what you say.
- Council Member Holloway – Mr. Taylor and I interested in serving on AdHoc committee, email us with mini resume and we will select persons to work with us. Nobody better in trying to solve this problem than us, great ideas to have town hall. Happy thanksgiving.

ADJOURNMENT

Mayor Morgan adjourned the meeting at 8:04 p.m.


Rachel J. Ford, City Clerk