

**MINUTES
REGULAR CITY COUNCIL
MEETING**

Monday, July 6, 2009

City of Crescent City

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Call to Order Mayor Schellong called the meeting to order at 5:05 p.m.

Roll Call Council Members present: Burns, Westfall, Slert and Mayor Schellong. Council Member Murray entered at the end of the closed session.
Staff present: City Manager Rod Butler, City Attorney Robert Black, Deputy City Clerk Karen Phillips, Associate Engineer Eric Wier, City Planner/Economic Development Specialist Michele Rambo, Finance Director Ken McDonald and Police Chief Doug Plack.

Pledge of Allegiance The Pledge was led by Council Member Murray.

PUBLIC COMMENT ON CLOSED SESSION ITEMS

There were no public comments regarding the closed session.

CLOSED SESSION

- **Existing Litigation (Gov't Code § 54956.9 subdivision (a)) (Four cases: Sanches versus City of Crescent City, USDC CV08-1395; Barber versus City of Crescent City, USDC Northern District of California, Case #08-CV-04883-WDB; Misti Cardenas versus City of Crescent City, et. al., USDC CV08-4053; Brian Strom versus City of Crescent City, USDC Case #CV08-4708)**
- **Conference with Real Property Negotiator (Gov't Code § 54956.8)
Negotiating parties: Rod Butler, City Manager**
- **Conference with Labor Negotiator Re: Crescent City Police Officers Association (CCPOA), Gov't Code § 54956.8**

The closed session was convened at 5:05 p.m. and adjourned at 6:03 p.m. City Attorney Robert Black announced that no action was taken in closed session.

ACKNOWLEDGEMENTS

1. **Introduce the new City Planner/Economic Development Specialist, Michele Rambo**

Mayor Schellong thanked those who worked on the committee to detract from illegal fireworks this year. New City Planner/Economic Development Specialist Michele Rambo was introduced to the Council by City Manager Rod Butler. She has had several

years experience in Southern California and has worked for several cities. She has a Masters Degree in Planning and Geography and is a Certified Planner among other credentials.

2. Acknowledgement of City Clerk, L. Dianne Nickerson's, retirement

Former City Clerk L. Dianne Nickerson was present at the meeting and received a framed photo of Crescent City for her service as Clerk from 2000 to 2009. Mayor Schellong presented the photo and Council and staff expressed their thanks for Dianne's service.

CONSENT CALENDAR

3. Approval of the regular minutes of June 15, 2009

4. Approval of warrant claims list for the period June 23, through July 6, 2009

5. Approval of biweekly payroll reports for the period ending June 20, paid June 26, 2009

6. Receive audited financial statements of FY 2007-2008 on the City, RDA, the Housing Authority, and the Public Financing Authority

The consent calendar, consisting of items 3-6, was approved and adopted on a motion by Council Member Slet, seconded by Council Member Burns, and unanimously carried with a correction of the minutes changing "Wal-Mart" to "Walgreens" on page 2.

Richard Miles addressed the Council.

PUBLIC HEARINGS

7. Conduct a public hearing to confirm the assignment of delinquent sewer charges to the 2009 – 2010 tax roll and take action as necessary and appropriate (Ken McDonald)

Ken McDonald, Finance Director, reported on the delinquent sewer charges and assigning them to the 2009-2010 tax roll. A revised schedule was presented to the Council for the record. Council Member Westfall indicated that a senior citizen on Lipowitz Avenue indicated that her water would be shut off; she rents. Council Member Westfall wanted to know if there was a program to help her pay bills. Council Member Murray indicated that the Community Assistance Network will be applying for ARRA funding to assist seniors and others, who are income eligible, with utility bills.

Mayor Schellong opened the public hearing at 6:20 p.m. The following persons addressed the Council: Richard Miles, city resident; Jodi Mangum, city resident, said that she pays about six months ahead on her bill. When she was two weeks late she received a shut-off notice and wanted to know if this was standard procedure. Staff will follow up on this policy. Public hearing was closed at 6:22 p.m.

Council Member Burns made a motion to approve the assignment of the delinquent sewer assessments to the 2009-2010 tax rolls for collection at the same time and in the same

manner as ordinary property taxes are collected; the motion was seconded by Council Member Slert and carried on a four-fifths vote, with Council Member Westfall abstaining.

8. Conduct a public hearing and review of the 2009-2014 Crescent City Housing Element Update and take action as necessary and appropriate (Rod Butler)

City Manager Rod Butler introduced Audrey Knight, housing consultant, who then presented the 2009-2014 Crescent City Housing Element Update overview, the final of which will be presented to the State Housing and Community Development. Crescent City will need to address 314 housing units needed over the next four years in a variety of income levels. Renter occupied (55%) versus owner occupied (45%) units in Crescent City is different than in other rural cities. The last Housing Element document was adopted in 2003 and was a joint venture with the County of Del Norte. Council Member Westfall asked about infill and incentives and what those terms meant and rehabilitation as it relates to single family residences. Council Member Murray indicated that RHS and CAN have applied for ARRA funding to create scattered housing for homeless rather than shelter housing. The public hearing was opened at 6:43 p.m. The following public members addressed the Council: Richard Miles, city resident; and Vicky Dickey, county resident. The public hearing was closed at 6:48 p.m. Council received the report at this time. No other action was taken.

REPORTS

- **Reports relative to the City of Crescent City programs and projects, from staff or outside agencies**

No reports were made.

COMMUNICATIONS

☒ PUBLIC COMMENT PERIOD

The following persons addressed the Council - Helga Burns, representing the Redwood Mural Society; Connie Morrison, city resident; Richard Miles, city resident; Jodi Mangum, city resident; Victoria Dickey, county resident; and Tim Hoone, city resident.

CONTINUING BUSINESS

- 9. Consider and approve a resolution appointing two new BID members and take action as necessary and appropriate**

Rod Butler, City Manager, reported on assisting the BID (Business Improvement District) get their board of directors vacancies filled. Two additional members were recommended to fill the vacancies – Chere Wier and Mike Johnson. Council Member Burns expressed this appreciation for the two new members stepping up to fill the vacancies of the board.

Council Member Murray, made a motion to approved and adopted Resolution No. 2009-26, entitled, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF

CRESCENT CITY APPOINTING TWO PERSONS TO FILL THE VACANCIES OF THE DOWNTOWN PARKING AND BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD; the motion was seconded by Council Member Burns and carried on a four-fifths polled vote, with Mayor Schellong abstaining.

10. Consider and approve payment of Wahlund Construction invoice #25, and Stover Engineering invoice #26 (Jim Barnts)

Council Member Westfall asked the City Manager to provide information and verification of state certification of the electricians working on the treatment plan project. Staff and the Mayor indicated that the documentation was available for review in person; however the cost of the copying would be excessive. Council Member Slert indicated that the payment to Stover Engineering was not just for their services; it was for sub-contractor's as well. The following persons addressed the Council: Jodi Mangum, city resident, asked if Change Order No. 10, as presented in the agenda packet, was the entire change order. She was concerned about the contaminated soils at the Wastewater Treatment Plant. Ms. Mangum was informed that the documents she had were not for this agenda item, but item 13 below; and Richard Miles, city resident, stated that the City has a general contract that needs our faith; Ward Stover is a long-term citizen hardworking citizen who worked on the Elk Valley Road project and a person of integrity. Mayor Schellong admonished the audience from making comments from the floor in order to allow each person to speak.

Council Member Burns, made a motion to approve Change Order No. 10 as presented; the motion was seconded by Council Member Murray and carried on a four-fifths vote, with Council Member Westfall voting "no".

11. Waive the second reading, read by title only, consider and adopt Ordinance No. 743, an Ordinance of the City of Crescent adding Chapter 15.33, entitled Local Hiring for Public Works Projects to Title 15 of the Crescent City Municipal Code and take action as necessary and appropriate (Robert Black)

City Attorney Black explained the term "waive reading and read by title only" and what that action allowed as it relates to the record. Ms. Morrison, city resident, wanted to know how much time the public has to review the ordinance. City Attorney Black and Mayor Schellong explained the process for adoption and public viewing process. City Attorney Black indicated that this ordinance was on the agenda three weeks ago due to the month of June having five weeks.

Council Member Slert, made a motion to waive the second reading, ready by title only, and adopt Ordinance No. 743, as presented; the motion was seconded by Council Member Westfall and unanimously carried on a polled vote.

12. Receive and discuss restrictions on smoking in public areas for the purpose of protecting members of the public from second-hand smoke and give direction to staff (Robert Black)

City Attorney Black reported on language that has been adopted around the State regarding the restrictions on smoking in public areas for the purpose of protecting members of the public from second-hand smoke. He would like direction so that he can come back with an ordinance for adoption. Mayor Schellong indicated that she would like public input before adoption. Council Member Slett indicated that the Tobacco Use Prevention Program (TUPP) gave a very informative packet including those cities around the State that have taken action regarding smoking. Council Member Murray wanted to have more public input and asked to table the matter until the next meeting. Council Member Burns indicated that he understands the second-hand smoke issues; he wants any action of the Council to be enforceable for policing purposes. Council Member Westfall indicated that she does not like to breathe second-hand smoke. Mayor Schellong indicated that the ordinance needed some clarification in the wording. The following persons addressed the Council: Richard Miles, city resident, commented on his issues with smokers and cleaning up after them; Jim Barrett, city resident, voiced his concerns regarding policing a smoking ordinance. Mayor Schellong indicated that there needs to be some compromise to work through the issue. This matter will come back on future agenda. Police Chief Plack was asked to provide a staff report on the matter before it is re-agendized.

NEW BUSINESS

13. Consider and adopt Wahlund Change Order #2 and take action as necessary and appropriate (Jim Barnts)

Mayor Schellong outlined the bid and the need for change orders. The previous soils testing did not give a good representation of the amount of contaminated soil that needed to be removed in addition to the additional amount decided upon by the health officer and Wahlund Construction. The additional soils were documented by receipts when trucked. The State permits the removal of contaminated soils and its remediation. Change Order No. 2 did not come before the Council because the owner's representative, not clearly defined in the past, was allowed to sign change orders, thus the change order was signed by a previous City Manager. Interim City Manager Michael Young had that requirement changed so that all change orders come before the Council. Staff felt that since it did not come before the Council previously that it should now be approved and if there are changes needed that they could also be addressed. All change orders come before the Council now and are available for public review at City Hall. City Manager Butler indicated that he and Mr. Barnts would take questions as well and Mel Jennings, Mr. Wahlund and Ward Stover, who were all present. Council Member Westfall indicated that she did have questions about the contaminated soil. She wanted to know who was performing the demolition of the tank and removal of the same. Mr. Barnts did not know who installed and removed the tank. The tank was mended after placement and then it was used for 30+/- years. Former employee Bud Hoffman indicated to Mr. Barnts that he felt that this could have caused the contaminated soils. Mr. Barnts stated that he did not know if there was fuel left in the tank at the time of removal, most likely not. There was an inspector, Leon Perrault, on site when the tank was removed. Staff does not know why the tank had diesel in it when it was placed, or if they found the leak after it was placed in the ground since it was many years before current staff was hired. The tank removal was documented; probably the most well documented part of the project. Ward Stover indicated that the monitoring information is on file with the Regional Water

Quality Control Board and the remediation is on their website. Council Member Westfall asked about the superfund monies, which Mr. Stover indicated the City was not eligible for. City Attorney Black indicated that if the fuel was spilled when it was removed, it would have caused a massive mobilization to contain it. Mr. Stover indicated that the current change order was only 1% of the project and the project has not gone over the budgeted amount approved by the Council. The consultants have been working on keeping the costs down. The following persons addressed the Council: Richard Miles commented that he believes Bud Hoffman would represent the tank placement correctly and the rules for using petroleum products have changed. He called the Regional Water Quality Control Board and the County Health Department, which both reported that the contaminated soils were dealt with appropriately; Jodi Mangum stated her belief that not all change orders have come to the Council. She would like a copy of Eli Naffah's resignation letter, as she has concerns regarding his saying that he had a conflict. She wanted to know where the tank was located. She believes that there was funding available for municipal projects. She also mentioned that there was no mention in the minutes about a tank. Staff indicated the goal of the project was to excavate the soils on the ground that need to go to an approved site; however, there was a drainage pipe near the MRV building and the bad soils were more than anticipated and removed by the sanitarian. City Attorney Black indicated that the superfund was a program to make you take responsibility for your own contamination; the funds would, if eligible take years to resolve. Jim Barrett wants the record to reflect that he does not like the comments made tonight about why a council person would question the bills; he expects everything to be questioned; Victoria Dickey stated that she appreciated what the Council was doing; things should be investigated. She stated that the gas plumes should have been investigated and the initial bid should have been more thorough; Connie Morrison commented on the Grand Jury Report and questioning bills and processes. Mayor Schellong indicated that a response would be filed with the Grand Jury and made public. Robert Black, City Attorney, stated the response to the Grand Jury could be simply to respond, take a deeper response, or publish an insert to the local paper. Council Member Burns asked the attorney to review why the change order was being approved when the work was already completed. Counsel indicated that part of the approval was to cover the items and to alleviate the need to address this matter in the future. Council Member Slert stated he was happy to put this to bed, there was so much complexity to such a project and there was a lot of diligence on this project.

Council Member Murray, made a motion to approve and accept Change Order No. 2 for the Wastewater Treatment Plant; the motion was seconded by Council Member Burns and carried on a four-fifths vote, with Council Member Westfall abstaining.

14. Discussion and questions regarding the Waste Water Treatment Plant project (Council Member Westfall)

Council Member Westfall asked questions regarding the cost of the project increasing. Jim Barnts commented that he was not working for the City at the beginning of the project so he asked Ward Stover to go through the cost estimates and history. Ward Stover indicated there have been several staff changes at various key levels since the beginning of the project. The project started out as a \$60 million dollar project, to which, Council Member Burns had objected. Value engineering was done and costs were

reduced. The project is now a three-year project. The scope of the project has changed to include a new lab building. Regarding the question of the bid opening and optimal date of December, Mr. Stover indicated that the opening was done in February, not December. The overtime needs to be paid for non-exempt employees, for overtime for the inspector; these costs were built into the budget. Council Member Burns indicated that the temporary lab was going to cost so much that the council agreed to go ahead and put in a new one and so could also be available for hire by other agencies needing the same testing. Richard Miles wanted to know if there was Italian marble on the lab floor and stated that the grass and weeds around the project need to be dealt with. Staff reported that there is no Italian marble in the lab. According to Mr. Stover, the flooring installer did not read the instructions when installing the first flooring and it was not acceptable to the City; the flooring was removed at the contractor's cost and replaced with vinyl flooring. Ralph Dickey questions receiving only one bid. Mr. Stover indicated that the bidding environment was such that they were surprised that there were any bids. There were projects in the State that were not receiving any. The list of interested contractors is available in the record for review. City Attorney Black indicated that the bidders have no idea how many bids will be received when they submit a bid, so Mr. Wahlund had no idea if he would be the only one. Colvin Electric is a licensed California electrical contractor, they have no issues on file and they have inspectors on site to perform inspections regularly. Mr. Stover does not know of any other certification required by the state. The contractor is not a union shop and there have been complaints regarding use on non-union workers. Prevailing wages are required and payrolls are certified weekly. The electrical union has requested copies of the certified payrolls. Apprenticeship programs may have made requests to the programs; however, Mr. Stover is unsure. Council Member Slert asked about switch gears that were changed. Mr. Stover indicated that the wires in the project were rusted shut and there were some design changes, mostly as a result of finding new conditions. Richard Miles commented that staff and the contractors are doing the best job at the cost that the contractor bid on. He is concerned that if the questions that should be asked if we will have an operation staff that will be able to operate this facility when it is completed. Discussion was held regarding the need for high-tech staff at the new plant. A grade five, the highest certification, staff member is on board and the other staff has all been certified as grade one operators. Ward Stover indicated that he is available to answer questions or have the records reviewed during normal office hours.

15. Consider and adopt Wahlund Change Order #7 and take action as necessary and appropriate (Jim Barnts)

Jim Barnts presented the Change Order #7, which represents a credit to the project \$204,754.91. A change in the fencing brought about this credit.

Council Member Westfall made a motion to accept Change Order No.7; the motion was seconded by Council Member Burns and carried unanimously on a polled vote.

16. Consider and designate a voting delegate and alternate for the League of California Cities' Annual Conference – September 16 – 18, 2009, in San Jose, CA (Rod Butler)

City Manager Rod Butler presented on the request for a designated voting delegate and alternate. Because the agenda for the conference has not been reviewed yet the matter will be tabled until a future meeting.

17. Waive full reading, read by title only, introduce and adopt as an urgency ordinance, Ordinance No. 744-U, an Ordinance of the City of Crescent City regarding parking enforcement (Robert Black)

Mayor Schellong indicated that the parking ordinance before the Council would provide the infrastructure to enforce parking ordinances on the books. City Attorney Black indicated that the City was assisted by the County Counsel's office with regard to writing the ordinance, which was adapt for the City's use.

Council Member Westfall left meeting 9:19 p.m. reentered at 9:21 p.m.

Chief Plack indicated that this ordinance will help the officers to enforce the existing parking ordinances. There are various parking limits throughout the downtown area from 30 minutes to 2 hours. Council Members indicated that there needs to be signage announcing the parking limits and curb painting. BID needs to be involved with the City Manager or Police Chief to come back with an amended parking ordinance. There was no public comment.

Council Member Burns, made a motion to waive the full reading, read by title only, introduce and adopt as an urgency Ordinance No. 744-U, entitled, AN URGENCY ORDINANCE OF THE CITY OF CRESCENT CITY ADDING CHAPTER 10.10 TO THE CRESCENT CITY MUNICIPAL CODE ENTITLED, "PARKING ENFORCEMENT"; the motion was seconded by Council Member Murray and carried unanimously on a polled vote.

18. Consider and adopt an employment agreement for the City Planner/Economic Development Specialist and take action as necessary and appropriate (Rod Butler)

City Manager Butler presented the agreement with Michele Rambo. The Manager thanked former staff member Diane Mutchie and County Planner Heidi Kunstal for their work on the interview panel.

Council Member Slert made a motion to adopt Resolution No. 2009-27, entitled, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CRESCENT CITY APPROVING AN EMPLOYMENT AGREEMENT WITH THE CITY PLANNER/ECONOMIC DEVELOPMENT SPECIALIST OF THE CITY OF CRESCENT CITY; the motion was seconded by Council Member Burns and carried unanimously.

19. Consider and approve Resolution No. 2009-25 amending the Memorandum of Understanding (MOU) between the City of crescent City and the Crescent City Employees' Association for the period July 1, 2006, through June 30, 2010 and take action as necessary and appropriate (Rod Butler)

City Manager Butler presented the resolution and indicated that the on-call staffing issues necessitated this resolution.

Council Member Burns, made a motion to adopt Resolution No. 2009-25, entitled, A RESOLUTION AMENDING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CRESCENT CITY AND THE CRESCENT CITY EMPLOYEES' ASSOCIATION FOR THE PERIOD OF JULY 1, 2006 THROUGH JUNE 30, 2010; the motion was seconded by Council Member Slert, and carried unanimously on a polled vote.

20. Consider and authorize the completion of a water mainline extension on Modoc Street, between Cooper Avenue and Childs Avenue, and on Napa, between Breakwater and Childs Avenue, and take action as necessary and appropriate (Eric Wier)

Eric Wier presented the Modoc Waterline Extension Project. The developer, Marshal Jones of Richterich & Jones Construction, will construct the waterline on his development and the City will install the connectors at Breakwater and on Modoc Street, which will help strengthen the system, due to the loop, and provide extra fire hydrants to serve as a springboard for future development of the system on Murphy Street. The cost of the project is estimated at \$22,000. Mr. Jones stated that staff has been very helpful. His subdivision will have 19 homes and they will be improving the Childs Street access to the project as directed by the County.

Council Member Westfall left the meeting at 9:42 p.m. and returned at 9:43 p.m.

The following persons addressed the Council: Bill Lonsdale, city resident, commented on the subdivision and working to resolve the water pressure issues; Jim Barrett has not given up on the idea of annexation and he would like to see this area annexed into the City of Crescent City. Council Member Slert commented that this was a cost efficiency, new homes and new population.

Council Member Murray, made a motion to authorize the City forces to complete a water mainline extension on Modoc Street between Cooper Avenue and Childs Avenue and on Napa between Breakwater and Childs Avenue; the motion was seconded by Council Member Slert and carried unanimously on a polled vote.

21. Consider and award a contract for the 9th Street rehabilitation (Jim Barnts, Eric Wier)

Associate Engineer Eric Wier presented the 9th Street Rehabilitation project and the fact that there were four bidders. Tidewater Contractors, Inc. was the low bidder for the project at \$189,000, which was under the estimated bid. Since the bid came in under budget, staff would like to have a change order to add sidewalks and gutter/curb and demolition. This would bring project to \$247,094.44 with approximately \$12,000 in contingency. Council Member Westfall stated that she would recuse herself due to the fact that her residence is on "J" Street.

Council Member Slert made a motion to authorize City Manager to sign an agreement with Tidewater Contractors, Inc., to complete the Ninth Street (H to L) Rehabilitation & Pedestrian Improvement Project; the motion was seconded by Council Member Burns and carried on a four-fifths polled vote, with Council Member Westfall recused.

Jim Barrett commented on the cost of the sidewalks and his having to pay for a portion of the sidewalk outside his residence.

Council Member Murray made a motion to approve the Charge order as presented by staff; the motion was seconded by Council Member Slert and carried on a four-fifths polled vote, with Council Member Westfall recused.

A motion was made by Council Member Burns, seconded Slert, and carried on a four-fifths polled vote, with Council Member Westfall recused, to authorize City Manager to approve individual future contract change orders in the amount of \$10,000.00 or less with an aggregate future change order amount not to exceed \$50,000.00 for the entire 9th Street Rehabilitation project.

CITY COUNCIL ITEMS

Legislative Matters – Consider miscellaneous legislative matters pertinent to the City of Crescent City. Authorize the Mayor to sign the appropriate letters and/or positions with respect to such matters

The following legislative matters were discussed: Marine Life Protection Act (MPAs) and a document being circulated in the protection area (Northcoast area) opposing the regulation. The County and Harbor District have already signed the document addressed to Secretary Crisman. The regulations need to consider economic impacts, etc. Council Members indicated their full support and authorization for the Mayor to sign the letter. Council Member Murray wanted to have nominations from the community for the Stakeholders Group.

Reports, Concerns, Referrals, Council travel and training reports – In accordance with Gov't Code § 54954.2(a), City Council Members may make brief announcements or brief reports on their own activities. They may ask questions for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda

The following matters were discussed: Council Member Westfall attended the Local Transportation Commission meeting as an alternate; Council Member Slert wanted to know if there was new information regarding water study consultants. Mr. Wier indicated that he has not spoken to them; however, a week ago they said they were close. Staff indicated that the City is holding back money from the project until it is done appropriately; Council Member Murray indicated that the 4th of July really went well and the town filled up, it was successful; and Mayor Schellong indicated that she would like to set an audit committee meeting to review the annual audit.

CITY MANAGER DIRECTIVES

Pursuant to Crescent City Municipal Code § 2.08.200, the City Council may instruct the city

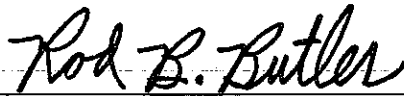
manager on matters of importance to the administrative services of the city, and provide direction with respect to subordinates of the city manager. (Directives from individual Council Members that are not objected to by any member present shall be considered an order of the City Council.)

The City Manager was directed to do the following: Mayor Schellong has had several complaints about the weeds on the medians on Northcrest Drive and she would like to see them cleaned up. The City Manager has considered calling the County to see if there could be some work done and he will do this. Mayor Schellong also indicated that the rocks out front of City Hall need to be contained in the garden area.

ADJOURNMENT

There being no further business to come before the Council Mayor Schellong adjourned the meeting at 10:21 p.m. until the next regularly scheduled meeting on July 20, 2009.

ATTEST:



Rod Butler, City Manager/Clerk