

to enter into a consent decree with the court and to pay the attorneys fees of the private organization that sued the city over the discharge of pollutants into the Crescent City Harbor on a regular basis. The question that came up, and I need to add that we are here because the City Council (and I use the term institutionally, not the people that you see in front of you per se), over the course of the last decade has made a series of decisions in open public sessions after full and legal notice of everything that they had intended to do after the public availability and distribution of Environmental Impact Reports, financial plans, scope and studies. In general, the plans and decisions that have led us to this point are decisions that have been made with the opportunity for, and in fact the reality of, a great deal of public participation. So we are not here as an isolated event; we are not here because the city council wants to raise everybody's sewer rates by \$30. We are here because the course of events that has brought us here necessitates an increase. Why do I say necessitates? I'm just the Acting City Attorney, I don't receive sewer service from the city, I live in Gasquet. But I am here as a professional because I feel it is my obligation to answer a question that was asked at the last meeting and I think not very fully responded to. That is the question "What will happen if this rate increase does not pass?" The answer that was given at the last meeting, probably because of the context of the question, was largely what the RWQCB do if we do not pass this increase, and I think the question deserves a broader answer and the question has to do with the future of the City of Crescent City in particular, much less so with reference to users in the county. Although this is referred to as a regional plant, it is a plant that is owned by and managed by, and is basically the responsibility of the City of Crescent City. Those of you, in particular, that are citizens of the City of Crescent City need to have some sort of a sense of what will happen if this increase doesn't pass. I look at it in four different contexts: the Regional Board context, and it is very clear that over the past ten years this city has courted and fostered the cooperation and consideration of the Regional Board, and because the city has expended funds on engineering, expended funds on expensive Environmental Review processes, has conducted public proceedings, public hearings, has adopted plans, has adopted a financial plan that was adopted several years ago and points to almost this exact rate increase that you have before you. Because of that, we have had a great deal of cooperation from the Regional Board. There is no question that if that cooperation evaporates, not because the city council doesn't want to cooperate, but because it won't be able to cooperate by continuing this project, there is going to be friction and I will give you an example of what can happen when that kind of friction occurs in a few minutes. There is the exposure of the city and the city purse to lawsuits from private environmental organizations, and a lot of those are legitimately referred to as "environmental bounty hunters" because what they do is target businesses, and in this case it would be the city, that are polluting and they file lawsuits even when the city or the business is proceeding to clean up, they file lawsuits because they find a window of vulnerability and they sue. What happens as a result of the suit will be similar to what happened with Crescent City. Crescent City entered into a consent judgment with a group called River Watch and the essence of a consent judgment was that the city would keep doing what it is doing to improve the sewer plant and, in turn, they had to pay the attorneys for River Watch \$25,000. Now that was an excellent settlement and the product of some good lawyering on behalf and the part of the previous City Attorney, Mr. Henion, who is now part of the County Counsel. That settlement could have been much

higher and will be much higher if the city is no longer cooperating and is no longer able to enter into a consent judgment that basically provides for the city to “keep doing what it’s doing.” There will also be litigation with the contractor that is presently about \$8 or \$9 million dollars into a \$44 million dollar contract to improve the sewer plant. There will also be litigation with people to whom the city owes money, from whom the city has borrowed money to finance this plant and to finance the improvements that are already underway. There aren’t too many examples of communities that have been unable to keep their commitments, but there is one in Southern California, actually in San Luis Obispo. There is an example of the community of Los Osos. I will read a paragraph to recount for you the history of what happened in Los Osos when the State Water Quality Control Board dictated that this community, consisting of about 14,000 people, very similar in size to the people served by the Crescent City Sewer Plant. That community was under orders from the RWQCB to immediately stop using septic tanks and to create a community sewer system. The reason they were ordered to stop using septic tanks is because their septic systems were polluting their ground water. They were discharging nitrates, which are not digested in septic systems, into the ground water and nitrates are toxic. The community resisted; they had a tremendous fight over the location and also the magnitude of the project that was required. They formed a community services district for the very purpose of managing this sewer issue. I am going to read to you what happened after they started construction. They signed a contract to build a \$120 million dollar project for a community of 14,000 people. In August 2005, the CSD (the Los Osos Community Services District) began building a sewer at the Tri-W site. The Tri-W site was a controversial site. The community was of two minds as to where this thing should be built. Contractors began work on the project and were advanced payments from a State Revolving Loan Fund. Following a recall election, which replaced the majority of the CSD Board and enacted an initiative measure that would require the relocation of the project, the new board stopped building the sewer despite a letter warning them of severe consequences from the RWQCB. Due to the action of the new CSD Board, the costs of the sewer project were greatly increased. In October 2005, the CSD defaulted on a low-interest state loan and the state subsequently refused to disperse additional funds and demanded an immediate repayment. Project contractors filed suit for more than \$23 million dollars in lost profits and costs. State and regional water boards had used their regulatory power to impose fines on the district in the amount of \$6.6 million dollars for water pollution resulting from septic tank discharge of more than 1,000,000 million gallons a day. During February 2006, the RWQCB, a state agency, threatened that it would begin to issue Cease and Desist Orders to the citizens, not to the CSD, but to the **citizens** of Los Osos. Which, by the way, has the potential to embroil them individually in fines and litigation and may require recipients to pump their septic systems every three years and stop using them by 2011. On August 25, 2006, the District, which in this case would be the City, filed for Chapter 9 Bankruptcy protection in Federal Court. While the District had enough money to cover day-to-day needs, they did not have enough money to cover their legal fees and consultant fees. This action stays legal actions against the District related to money owed. Contractor lawsuits and other actions seeking monetary damages or claims against the District will be held in abeyance while the District addresses its financial situation, i.e., it comes out of bankruptcy. In the meantime, the sewer project itself was turned over to the County and guess what the County is doing

today? They have a 218 notice out to the residents of Los Osos for the construction of a \$150 million dollar sewer plant. It is now **\$150 million dollars** because of the delays. The source of this information is Rikipedio, which may not be the most authoritative source, but it was the best summary of all the information that I could find. I, at my own expense, made ten copies of this for those of you who are really interested in researching further. But I think it is important for you to know that if you want to make a crusade of stopping these rates that you may be taking responsibility for them because the City of Crescent City, in my opinion, is in grave jeopardy.

Mayor Burns thanked Bob Black for his answers, and stated that Power Point is working now so the meeting proceeded to conduct the workshop.

Ward Stover, Stover Engineering, Project Manager for the WWTP project, began the workshop. He stated they have some new slides that better illustrate what they were trying to get across during the last presentation. Mr. Stover went over the history of the treatment plant, beginning in 1957, when the treatment plant was first built. It showed the growth of the plant over the years.

Jim Barnts, Director of Public Works, covered spoke of some of the problems with the current treatment plant. For instance, the overflow at Safeway, when the sewer system begins to backup when we get too much wastewater coming into the plant, the plant can't handle it and it begins to bubble up through manhole lids. That is because in the '50s we built this pump station down in the bowels of the treatment plant. The pump on the far left pumps about half of the wastewater and then the four pumps on the right pump the other half. Never in his life has he seen a system where the pump comes on with a float. This is what the State sees and the State is saying "we don't trust what we see down here and want to see something different. Mr. Barnts showed pictures of what up to date pumps should look like. Our plant is just getting old and broken down and needs to be fixed.

Construction cost index tracking was discussed. In December of 2000, there was a 9.3% increase in construction costs from 1999. In December of 2006, there was a 34% increase since 1999, which is a 4.2% average rate, and 17% since 2003, etc., and what you can see is that as time has been progressing, construction costs have been increasing every year.

Continued history of the plant, the facilities plan efforts, construction timelines, Rumiano Cheese treatment plant, and value engineering, and how much hard work and discussions between Crescent City and the State to get to this point were covered in the presentation.

Jim Barnts, Director of Public Works, emphasized that with most everyone of those binders, we had a public hearing where we discussed with the public that part of the project, where we went, what we talked about, and we talked about when we went to the state, and here is where we are in the process and do you have any comments. During that process of eight years, we probably had twenty or thirty public hearings on this, so it

isn't like all of those binders happened in a vacuum. The presentation continued and covered grants and different funding.

Mayor Burns announced that he would take questions at this time, not public comments pertaining to the WWTP and at 6:30 p.m. he would proceed to the Public Hearing and at that time the council would take public comments. The question and answer period proceeded and the following people had questions:

Richard Miles
Jim Barrett
Donna Westfall
Jeff McCadden
Tomas (no last name)
David Olkowski
Debbie (no last name)
Jim Snow
Jesse Salisbury
Eileen Cooper
Wayne Garman

Mayor Burns called a five-minute recess at 7:01 p.m. and reconvened the meeting at 7:11 p.m.

Council Member Scavuzzo asked for clarification for the WWTP loan; Jim Barnts will give a packet to the entire council.

ACKNOWLEDGMENTS

2. Proclamation in recognition of International Credit Union Day

3. Proclamation in recognition of Rotary International

Mayor Burns read the International Credit Union Day proclamation and presented it to Ben Cameron.

Mayor Burns read the proclamation in recognition of Rotary International and presented it to Debbie Stover.

Eli Naffah, City Manager, introduced Stan Arend, the Interim Finance Director.

Mayor Burns then went directly to item #7, Public Hearing.

COMMUNICATIONS

Richard Miles, city resident, spoke about social responsibility and social justice, Doug Morgan of CAN, a CDBG, the community garden, a forensic audit of block grant money, an agenda item on where all the money was spent, and Eureka's Henderson Garden.

Jim Barrett, city resident, spoke about a counting meeting against disempowering the Police Department and stated the Chief should be able to dispatch his own officers.

Jesse Salisbury, city resident, spoke about papers that CAN gave out that say you have to speak in a Christ-like manner and CAN needs to put out signs saying the garden is dictated by their religion and he wants this as an agenda item and wants to have an audit done.

Jim Snow, county resident, stated CAN is the best store on 3rd Street, but when you go into CAN now, they dress differently and drive SUV's.

CONSENT CALENDAR

- 4. Approval of the regular meeting minutes of October 1, 2007**
- 5. Approval of warrant claims list for the period October 2, through October 15, 2007**
- 6. Receipt of biweekly payroll reports for the period ending September 29, paid October 5, 2007**

Council Member Scavuzzo asked about late fees, and checks #406709 (Longs Auto), #406712, (Motivational Speaker), and #406726, Richard Gresham. Eli Naffah, City Manager, reported #406712 was for a Customer Service seminar, and the bill from Richard Gresham was for work on August 1, 2007, for 5-1/2 hours and it was the final bill. Check #406736 was a payment to Brown and Caldwell that they called amendment 8, not a change order, for the WWTP. Stan Arend, Interim Finance Director, will look into the late fees, and Check #406709 was for repair work on a city car.

Council Member Enea made a motion to approve the Consent Calendar as presented; the motion was seconded by Council Member Tynes and approved unanimously, 5-0.

PUBLIC HEARINGS

- 7. Conduct a public hearing to consider and discuss the proposed sewer service rate increases for the financing of improvements and the generation of additional sewer system revenues to provide for the operation and maintenance of the city's sewer system. Continue the public hearing to November 5, 2007 regular council meeting**

Mayor Burns opened the public comment and the following people spoke:

Jim Barrett, city resident, spoke about a restaurant owner and stated the rate increase hits their business unevenly and stated that for a person who makes \$851, that is exactly what the yearly bill is. He also asked who is going to really be responsible for the \$42 million dollar debt.

Jim Snow, county resident, spoke about radicals, incompetence, department heads making the council look good, and recall.

Richard Miles, city resident, commented that people did not listen to what Bob Black said, and spoke about children in the community, his fixed income, his rent increase when the sewer rate increases, green building ordinances, giving money to Rumiano's, and grey water.

Jodie (no last name) spoke about the tsunami zone, irresponsible placement of the WWTP, and bids for the project.

Jess McCadden, county resident, gave kudos to Mike Sacvuzzo, and spoke about assessments on properties and archeology.

Donna Westfall, city resident, spoke about her properties in the city and county, and stated she is in favor of the system, just not the enormous debts, lawsuits, money spent on speakers instead of sewers, toilets, Wahlund Construction, LA County, and bankruptcy.

Jesse Salisbury, city resident, spoke about a city planning meeting, where a bed and breakfast, smaller beds, parking and fire problems, were all voted yes despite all the problems with small events of 100 people.

Eileen Cooper, county resident, spoke about the environment, injustice of loading such a huge debt on so few people, economic injustice not being evaluated and alternatives that have not been explored. She also suggested forming a committee to brainstorm because this is too much of a burden and asked when will developers be asked to pay.

Denise Revera, apartment manager, spoke about apartment tenants.

Chris Howard, county resident, commented that we have known about the problem for a long time and he is proud of the council for taking the next step in looking to the future. He stated the last ten years have been taking a band-aid approach.

Reweti Wicki, county resident, spoke about what a difficult issue this is and stated the taxpayer has provided the money needed to maintain the WWTP and the need to take the step forward.

Richard Young, County Harbor Master, stated the Harbor is dependent on the sewer system and that rates to existing tenants can't be raised high enough to cover costs at the Harbor. He also stated the council has done all they can do to eliminate extras,

construction costs have increased at an accelerated rate in recent years, but this is a project we really need.

There were no comments from the council and Mayor Burns thanked staff for their workshop presentation. The public hearing was continued to next regular city council meeting on Monday, November 5, 2007.

REPORTS

- **Chamber of Commerce – No report at this time.**
- **Other reports relative to City of Crescent City programs, projects, and/or Council and staff travel and training reports**

Council Member Tynes reported she and Council Member Enea are sitting on the Boys and Girls Club and are soliciting private donations for their cause.

Mayor Burns reported on the new airport groundbreaking and fire truck, and that he had signed the Airport JPA.

UNFINISHED BUSINESS

- 8. Consider and approve an agreement for Sales and Use Tax Audit and Information services, and approve a resolution authorizing examination of sales use, and transactions tax records, and take action as necessary and appropriate**

Eli Naffah, City Manager, reported; he had contacted the Board of Equalization and discussion followed. The adjusted gross for Home Depot for the first quarter of 2007 is the one that was down and the city will receive an additional \$14,730 for that, and will make corrections for the other quarters. Staff was directed to work with Jeannine Galatioto and Christine at the County. There were no public comments.

NEW BUSINESS

- 9. Waive full reading, read by title only, and adopt on a four-fifths vote and authorize the Mayor to sign the attached Ordinance 730-U, an urgency ordinance governing claims and take action as necessary and appropriate**

and

- 10. Waive full reading, read by title only, and introduce on a majority vote the attached Ordinance 730-R, an ordinance governing claims, and take action as necessary and appropriate**

Bob Black, Acting City Attorney, made a correction in section 120.040 to strike subdivision “b” of this section in both ordinances; it should read “with the requirements of this chapter.” Mr. Black reported and there were no public comments.

Council Member Tynes made a motion to waive the full reading, ready by title only, and adopt on a four-fifths vote (with correction) and authorize the Mayor to sign the attached Ordinance 730-U, an urgency ordinance governing claims; the motion was seconded by Council Member Schellong and approved by the following polled vote:

AYES: Council Members Tynes, Schellong, Enea, Scavuzzo, and Mayor Burns
NOES: None
ABSTAIN: None
ABSENT: None

Council Member Tynes made a motion to waive the full reading, read by title only, and introduce on a majority vote the attached Ordinance 730-R, an ordinance governing claims; the motion was seconded by Council Member Enea and approved by the following polled vote:

AYES: Council Members Tynes, Schellong, Enea, Scavuzzo, and Mayor Burns
NOES: None
ABSTAIN: None
ABSENT: None

11. Waive full reading, read by title only, and introduce on a majority vote the attached Ordinance 728, set the date of November 5, 2007 for a public hearing and take action as necessary and appropriate

and

12. Waive full reading, read by title only, and introduce on a majority vote the attached Ordinance 729, set the date of November 5, 2007 for a public hearing and take action as necessary and appropriate

Bob Black, Acting City Attorney reported and discussion followed.

Jeff McCadden, county resident, spoke against these items.

Council Member Tynes made a motion to waive full reading, read by title only, and introduce on a majority vote the attached Ordinance 728, set the date of November 5, 2007 for a public hearing; the motion was seconded by Council Member Enea and so carried unanimously, 5-0.

Council Member Tynes made a motion to waive full reading, read by title only, and introduce on a majority vote the attached Ordinance 729, set the date of November 5, 2007 for a public hearing; the motion was seconded by Council Member Enea and so carried unanimously, 5-0.

CITY COUNCIL ITEMS

Reports, Concerns, Referrals

Council Member Schellong requested a report on the community garden on the next council agenda.

Council Member Enea reported on his attendance at the LTCO meeting.

Doug Plack reported on the proposed veteran’s monument and would like to know if he should go forward with the monument plans. He also reminded everyone that the Veteran’s Day Dinner is Saturday, November 10, 2007. The veteran’s monument will be put on the next council agenda.

Legislative Matters – None

CITY MANAGER DIRECTIVES – None

CLOSED SESSION

Direction was given to staff.

ADJOURNMENT

The meeting adjourned at 9:12 p.m.

ATTEST:

L. Dianne Nickerson, City Clerk

**MINUTES
REGULAR MEETING
CRESCENT CITY CULTURAL CENTER
1001 FRONT ST
CRESCENT CITY CA 95531**

Crescent City Redevelopment Agency

CALL TO ORDER Mayor Burns called the meeting to order in regular session at 8:47 p.m.

ROLL CALL Present: Agency Members Schellong, Tynes, Enea, Scavuzzo, and Mayor Burns
Absent: None

COMMUNICATIONS – None

CONSENT CALENDAR

- 1. Approval of the regular meeting minutes of September 17, 2007**
- 2. Approval of warrant claims list for the period September 18, through October 15, 2007**

Council Member Tynes made a motion to approve the Consent Calendar items as presented; the motion was seconded Council Member Schellong and so carried unanimously, 5-0

EXECUTIVE DIRECTOR'S REPORT – None

BUSINESS ITEMS – None

REDEVELOPMENT AGENCY ITEMS

- 3. Consider providing local match funds for a Retail Market Study to be conducted under the Planning and Technical Assistance allocation of the Community Development Block Grant Program (CDBG) and take action as necessary and appropriate**

Eli Naffah, City Manager, reported and discussion followed. There were no public comments.

Jeff McCadden, county resident, spoke against this study.

Council Member Tynes made a motion to approve Resolution 2007-29, a resolution of the Redevelopment Agency Board of the City of Crescent City authorizing the provision of \$4,900 as local match funds for a retail market study proposed for funding under the Planning and Technical Assistance Allocation of the State Community Development Block Grant (CDBG) Program; the motion was seconded by Council Member Enea and so carried unanimously by the following polled vote:

AYES: Council Members Tynes, Enea, Schellong, Scavuzzo, and Mayor Burns
NOES: None
ABSTAIN: None
ABSENT: None

Eli Naffah, City Manager, reported the fiscal year 2005-2006 Redevelopment Agency Audits passed.

ADJOURNMENT

The meeting adjourned at 8:56 p.m.

ATTEST:

L. Dianne Nickerson, Secretary

**MINUTES
REGULAR MEETING
CRESCENT CITY CULTURAL CENTER
1001 FRONT STREET
CRESCENT CITY CA 95531**

Crescent City Housing Authority

CALL TO Authority Member Burns called the meeting to order at 8:56 p.m.
ROLL CALL Present: Authority Members Shellong, Tynes, Enea, Scavuzzo, and Mayor Burns
Absent: None

COMMUNICATIONS – None

CONSENT CALENDAR

1. Approve regular meeting minutes of September 17, 2007
2. Approval of warrant claims list for the period September 18, through October 15, 2007

Council Member Tynes made a motion to approve the Consent Calendar as presented; the motion was seconded by Council Member Enea and so carried unanimously, 5-0

HOUSING DIRECTOR'S REPORT

Susie Mendez, Housing Director, reported that the audits were sent to San Francisco and Washington and there will not be any sanctions from San Francisco, but it is not yet known about Washington.

Ms. Mendez also reported they Housing Waiting List was emptied this month.

PUBLIC HEARING – None

UNFINISHED BUSINESS – None

NEW BUSINESS

ADJOURNMENT: The meeting adjourned at 9:00 p.m.

ATTEST:

SUSIE MENDEZ, SECRETARY

10/15/07 HA