



**MINUTES  
REGULAR CITY COUNCIL MEETING  
FLYNN CENTER  
981 H STREET  
CRESCENT CITY, CA 95531**

*City of Crescent City*

**Monday                      October 19, 2009                      5:00 p.m.**

- Call to Order                      Mayor Schellong convened the open session at 5:57 p.m.
- Roll Call                              **Council Members present:** Donna Westfall (entered at 5:07 p.m.), Dennis Burns, Charles Slert, Kathryn Murray, and Mayor Kelly Schellong  
**Council Members absent:** none  
**Staff present:** City Manager Rod Butler, Deputy City Clerk Robin Patch, Deputy City Clerk Karen Phillips, City Attorney Bob Black, City Planner/Economic Development Specialist Michele Rambo, Associate Engineer Eric Wier, Housing Authority Director Susie Mendez
- Pledge of Allegiance              Council Member Kathryn Murray

**PUBLIC COMMENT ON CLOSED SESSION ITEMS:** none

**1. CLOSED SESSION**

- Existing Litigation (Gov't Code § 54956.9 subdivision (a)) (Four cases: Sanches vs. City of Crescent City, USDC CV08-1395; Barber vs. City of Crescent City, USDC Northern District of California, Case #08-CV-04883-WDB; Misti Cardenas vs. City of Crescent City, et. al., USDC CV08-4053; Brian Strom vs. City of Crescent City, USDC Case #CV08-4708)
- Public employee performance evaluation – City Manager (Gov't Code § 54957)
- Conference with Labor Negotiator Re: Crescent City Police Officers Association (CCPOA) (Gov't Code § 54957 et seq)
- Real Property Negotiations; Negotiator Rod Butler; parcels to be identified. (Gov't Code § 54956.8)

The closed session was called to order by Mayor Schellong at 5:03 p.m. Council Member Donna Westfall arrived at 5:07 p.m. The closed session was adjourned at 5:42 p.m. and City Attorney Bob Black advised that there were no final actions taken on closed session items.

**ACKNOWLEDGEMENTS**

2. Approve and read "A PROCLAMATION DECLARING OCTOBER 24, 2009 AS MAKE A DIFFERENCE DAY"

Mayor Schellong read and presented the proclamation to Cheryl Corpstein on behalf of

the volunteer board of the Business Improvement District.

Cheryl Corpstein spoke in regards to efforts the 4-H children will be doing to beautify Tsunami Landing in preparation for the upcoming Halloween event.

On a motion by Council Member Slert, seconded by Council Member Westfall, and unanimously carried, the City Council of the City of Crescent City approved and adopted A PROCLAMATION DECLARING OCTOBER 24, 2009 AS MAKE A DIFFERENCE DAY.

### **CONSENT CALENDAR**

3. Approval of the regular minutes of October 5, 2009 Crescent City Council meeting.
4. Approval of warrant claims list for the period October 6, through October 19, 2009.
5. Approval of biweekly payroll reports for the period ending October 9, 2009, paid October 16, 2009.

Council member Slert indicated an typographical error on Page 5 of the minutes, sixth line down from top, the word should be “recall” rather than “anti-fluoridation”. He commented that the meeting minutes are becoming too vague. He would like to have each member’s statement identified.

On a motion by Council Member Burns, seconded by Council Member Slert, and unanimously carried, the City Council of the City of Crescent City approved and adopted the consent agenda, consisting of items 3-5 as presented.

### **ADJOURN TO HOUSING AUTHORITY -**

6. See attached agenda. (Suzie Mendez)

The regular session was recessed and immediately convened as the Housing Authority at 9:11 p.m.

The following persons addressed the Council: Richard Miles commented on Council Member Westfall’s absence.

A motion by Council Member Slert, seconded by Council Member Burns and unanimously carried, the Housing Authority Board approved and adopted the consent calendar as presented.

No reports were made.

Susie Mendez reported on the Administrative Plan. The advisory commission, which includes two tenant members, has reviewed and approved the plan. The plan is updated every five years. HUD regulates much of the process outlined in the chapters (6, 7 and 16), including the methodology for terminating families, which has been added in this revision upon the advice of HUD. Only the revisions and additions were presented to the council since the document is so lengthy. No public comments were made. When asked

about assisting tenants, Ms. Mendez indicated that the Housing Authority helps negotiate rent, but they do not step in with other landlord tenant issues. Mayor Schellong asked about the new solid waste charges and asked if there is any process for the landlords to help collect this increased cost or how it might affect their rent subsidy. The owners could ask for a rent increase for the garbage pick-up based on which party is paying for the utilities, according to staff, however, there is a 60 day notice to allow the tenants to be noticed. Council Members Schellong and Murray thanked staff for the luncheon and a chance to meet with State housing staff.

On a motion by Council Member Burns, seconded by Council Member Slert, and unanimously carried, the Housing Authority Board approved the revisions and additions to the Administrative Plan as presented.

The Housing Authority meeting was adjourned at 9:23 p.m. and immediately convened as the City Redevelopment Authority.

### **ADJOURN TO CRESCENT CITY REDEVELOPMENT AGENCY**

7. See attached agenda. (Rod Butler)

Richard Miles commented on the RDA hire a consultant to come up with a real plan to rehabilitate Tsunami Landing and the old Christmas tree and heritage trees in the RDA.

On a motion by Council Member Slert, seconded by Council Members Murray, and unanimously carried, the Redevelopment Agency approved the consent calendar as presented.

The Redevelopment Agency meeting was adjourned at 9:27p.m. and immediately reconvened in regular session as the City Council.

### **PUBLIC HEARING(S)**

NOTE: If you challenge the decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. (Gov't Code § 65009)
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8. Consider and hold a public hearing to receive public input regarding an appeal of the City Planning Commission's September 10, 2009 action with regard to the Point of Honor Monument (Use Permit 09-06, Architectural Review 09-09 and Environmental Review 09-01). After holding the public hearing take action with regard to Use Permit 09-06, Architectural Review 09-09, and Environmental Review 09-01. (Michele Rambo)

City Planner Michele Rambo presented to the Council a power point presentation in regards to the above Public Hearing as approved by the Planning Commission on September 10, 2009, and was appealed by the Friends of Del Norte due to habitat affected by the location. Michele went into great detail in regards to the design of the monument which totals approximately 333 square feet. She addressed the issues the opponents presented: the scenic view of Elk Creek Bridge, she stated that the project falls outside of its view shed. There is an issue of a viewpoint through the trees, she stated that it was actually just recently cleared of trees due to a homeless problem, thus

creating the view in discussion. She advised that it is not a scenic vista, it is not a historical site, it is something that was created fairly recently. Another issue at hand is that the site does not have an appropriate atmosphere or space. She advised that the applicant did not intend for the location of the monument to be a place of reflection, they wanted it more visible to those driving down the 101 corridor. The area within the 'blue pentagon', considering 15 square feet per person, it will hold approximately 250 people. The typical amount of people expected would be from 50-100 people, therefore is well within the comfort zone. She addressed the issue of lighting of the monument and stated that those lights shine directly onto the monument. The lights that shine onto the flagpoles is typical lighting for a flagpole with a flag flying at night. She addressed the issues surrounding the bathrooms and parking being claimed to be 'insufficient'. She pointed out that there are restrooms available across the Elk Creek Bridge and in the part itself. Michele stated that there is parking available in a new parking lot across the Elk Creek Bridge, at the Cultural Center, and at Kids Town as well as street parking on Front Street and a parking lot by Tsunami Landing. Staff worked with Caltrans to provide "no parking" signs to be posted so that no parking will be done along the 101 corridor. The last issue to address was the distraction the monument will be to drivers. In speaking with Caltrans about the issue, they did not feel that it would be a distraction due to the size of the monument and location. Staff recommends that the Council uphold the Planning Commission's approval of Use Permit 09-06, Architectural Review 09-09 and Environmental Review 09-01. Mayor Schellong asked for Michele to address the most recent letter from the Coastal Commission. Michele stated that when the project started three years ago, the Coastal Commission was contacted and project was described to them (and no changes have been made to the project since then). At that time the Coastal Commission stated they did not need a Coastal Development Permit because the project was not big enough and there were no potential issues. They have since come back to the Planning Commission stating that they have changed their mind and they now require a Coastal Development Permit. However, that requirement does not impact the Council's decision for this matter; it's simply an extra step 'above and beyond' what the applicant was anticipating having to do. Mayor Schellong asks if there are any significant hurdles the applicant would have to do to be successful with the permit. Michele stated the Coastal Commission now has a concern over the lighting affecting migratory birds, and the location of the project to the Elk Creek estuary, therefore will be reviewing the plans again. It was further clarified that the Elk Creek water shed was 160 feet from the monument. Before the Public Comment period began, Mayor Schellong gave Harlan Ziegler, President of Veterans' Monument Committee, a chance to address the crowd first, however, he declined, stating he would save his comments for the latter part of the Public Hearing.

Mayor Schellong opened the Public Hearing at 6:20 p.m. reminding the public the time limit for Public Comments as well as the understanding it is reserved for the Agenda item at hand. The following citizens made comments on the topic: Richard Miles stated that this monument very important for our community. He is offended that people would oppose such a monument and hopes the Council approves it. Eileen Cooper, County resident, commented that she was the appellant, not Friends of Del Norte and that the monument would cause detrimental affects to wildlife (fish and birds) wit the night lighting, the feeling of misinformation regarding the project space and the feeling that the space per person (15 feet) is adequate. She stated that the project area is significant for

birds on Elk Creek; Sharon Perry, County resident, stated she is not opposed to a monument, however, is opposed to it's location due to the affects she feels it has on the wildlife as well as congestion on the 101 corridor; Donald Bruce states he is in support of a Veterans "Memorial" and is not pleased with the location because it is too busy and a distraction to drivers; Dory Bruce, spoke in regards to her family being very involved in the Armed Services. She feels that the location of the "memorial" should be in a "quiet, respectful" area and feels the current location is "misplaced" as it is not peaceful due to the traffic; Bill Lonsdale, city resident, supports the monument where it is proposed if they comply with all other specifics; Don Ferguson, Jr., spoke in favor of the "memorial" and is pleased with City Planner Michele Rambo's report and gives her his support. He states his opinion that the Friends of Del Norte have always been in the way of progress; Donna Thompson, county resident, stated that the Audubon Society designated part of the Coast of Crescent City as a globally important birding area, and that Elk Creek was included in that designation. She stated she is concerned with the lighting of the monument being "all night, every night". She offered the suggestion that perhaps a informative sign could be at the current location directing people elsewhere for a different location for the monument. She hopes that the Council does not "give up on the idea" of locating the monument at Front Street, supposing that an exemption could be obtained for the monument to be located there. She asks if such an exemption has been applied for? James McGill, county resident, Commander of the local VFW, spoke in opposition to the monument. He distributed to the Council some renderings that the VFW created for their proposed "memorial" to be located at the Harbor. He stated that the VFW was not in approval of the current monument as suggested. He stated the current plan was not representative of all branches of the service. Stan Jones, county resident, spoke in opposition to the monument with five-sides. Harlan Ziegler, county resident, President Veterans' Monument Committee, Vietnam Vet, spoke in favor of the project and the monument's placement. He wanted to address the fact that the VFW gave \$10,000.00 for the Point of Honor monument and wonders why they are in opposition to it now? He addressed some items of Eileen Cooper's appeal, as well as other people's comments calling the project a "memorial". He explained the difference between a memorial and a monument. A memorial, for the record, is a remembrance of something – usually persons or an event. A monument is a commemoration of persons or an event. The next item on the appeal he wanted to address was that Ms. Cooper stated that at the Harbor, there was a dedication ceremony for the Point of Honor monument at the Harbor flag. She stated that this was the proposed location chosen by the Veterans. He states that is not a true statement, at least not of the Veteran's Monument Committee. The last item to address is that there were some veterans concerned to where the monument would be located. He respects the opinion of the veteran that spoke tonight in regards to the current location, however, that this project has been in the works for three years, and that veteran has had the same opportunity as all the rest to give his input on this project. Angelina Countess-Bieber, county resident, would like to see the Council consider placing procedures in effect that would close the loophole on discounting a vote from the Planning Commission. She states that certain special interest groups have been responsible for delaying many projects, not only the Point of Honor Monument, but the Condo project, the airport, etc. that are encouraging positive growth, increasing the tax space, promoting employment, and positively increasing our population. She concludes with saying that the community is tired of seeing "urban decay" and would like to see Crescent City improve its image. Sparky Countess, county resident, stated that he's been

on the Monument Committee for approximately three years. He wants to clarify that the military has many divisions within the individual branches and that is why the design was centered around the five main branches, at no disregard to the Seabees and Merchant Marines. He stated that for the past three years the meetings have been made public and people were welcome to come and discuss their viewpoints on design, location, etc. He states that the Committee has had the support of many veterans, not just two or three people deciding what needs to be done. He states he wants people to be in support of this monument and to disregard the affects lighting will have on birds as there are many lights throughout the city. He said that he counted the parking spaces available within a three block radius and found that there are almost 225 spaces. He states his hope that the Council will support this project by voting in its favor. The public hearing was closed at 6:55 p.m.

Council Member Burns asks Harlan Ziegler that in light of the recession if the Commission plans on going forward to apply for Coastal Development Permit? Harlan answered "Yes". Council Member Burns stated that we are here to uphold the City Planning Commission's decision on this monument, not the type of monument, not the design. He states that as a Veteran himself he respects the grass-roots effort in regards to the monument, however, he truly appreciates the decision made by the Veterans involved with the Point of Honor design, he also appreciates the Planning Commission's efforts. Council Member Murray states her support of all veterans and is grieved whenever she hears of lost lives in the current war. She stated that did not realize how controversial this project is, and that by her counting she sees that six people here tonight that have spoke out and said that they do not want a "memorial" here, and five people in favor of the "memorial" being where it was designated. She states she has seen a lot of beautiful things in regards to Elk Creek and feels 'torn' in the regard of the monument's location. She does feel it should be visible so that those passing through our community see how much Del Norte County supports our Veterans. She thanked everyone for their attendance in regards to the Public Hearing. Council Member Westfall states that she feels it is distracting to have the monument where it is, however, she is torn on the idea. She said that she likes the idea of a monument. Council Member Slert states that he is not torn and appreciates the public comments; however, wonders where they have been in the process as the project has went on for a long time. He also reiterates that this is a monument, not a memorial. It's about creating a great civic outdoor room, it's about civic honor of veterans who have served our community and country, it's about civic pride. He takes issue with the Coastal Commission's recent letter regarding the requirement of a development permit regarding the proposed use. He stated that he is a Vietnam Combat Veteran and he is the author of the design, by which he did free of charge and will stay free of charge until the completion of this design. He is in agreement with Ms. Countess-Bieber's comments on how to keep some sense of consistency in the decision making process. He further stated he would like to uphold the Coastal Commission's initial approval of the monument, the City Staff, and the majority of the local veterans who voted in a unanimous approval of this monument. He is concerned with a faction in our community that is attempting to keep progress from happening. He clarifies that the Merchant Marines are under the Navy as defined by Washington D.C. He addresses the lighting issue and the importance of the monument being lit at night as a celebration of our service members. He also reminds people that Washington D.C. is filled with monuments that are up lit. Council Member Murray asks about the new Coastal

Commission's letter – do we have to deconstruct the monument? Mayor Schellong stated that the Coastal Commission rescinded their decision two weeks ago and that the Veterans group, the applicant, will be required to apply for a Coastal Development Permit. Attorney Bob Black stated we need a use permit from the City Council and a permit from the Coastal Commission. He states that if the Council does not approve it, that means there will be no City Use Permit. He states if either party deny permit, the monument cannot not be built. At the request of a public member, the Mayor ran through a brief history of how the project got to this point. Attorney Bob Black states that the Council has the right to modify the project if they feel it necessary. Mayor Schellong states that she was in contact with the Audubon Society and they do not have a problem with the location, however, only a concern of the lighting all night long. She also wanted to thank Harlan Ziegler's explanation of the difference between a monument and a memorial. She is fairly certain that the Coastal Commission will make changes to the project, due to design changes. Council Member Slert advises that the decision was made based on a misunderstanding – that the renderings have not changed since conception. Mayor Schellong stated her support of our veterans and those serving in our military today.

On a motion by Council Member Burns, seconded by Council Member Slert, and unanimously carried on a polled vote, the City Council of the City of Crescent City upheld the Planning Commission's decision and denied the appeal.

## **9. REPORTS**

- Reports relative to the City of Crescent City programs and projects, from staff or outside agencies.
- Chamber of Commerce Quarterly Report. (Gina Zottola)
- Community Assistance Network update on community gardens. (Executive Director Doug Morgan, Director of Human Resources & Community Development Kendra Howerton and AmeriCorps Vista Volunteer Coordinator Neisha Brannon)

The following reports were given: Gina Zottola, Chamber of Commerce reported on a increase in visits and visitor packets this summer. The visitor packets have seen a 1,571% increase, due in part to the advertising in Sunset Magazine this last month. They have mailed out a lot of packets. Sea Cruise had 366 cars this year and she thanked the City for all their assistance. The hotels averaged 76% and 88% occupancy during the weekend with many at 100%. Gina mentioned that Forbes magazine had recognized Crescent City as one of the "Prettiest Place to Live". These numbers are valuable in these challenging times according to Council Member Slert. Print and radio advertising assist in the increases.

Doug Morgan, Community Assistance Network, reported on the community-based agriculture or the community garden, in this case. He spoke of the trend towards community-based agriculture (CBA) in small scattered sites, 1-5 acre sites and community farms, the last two with various partners. Partners include Del Norte Healthcare District, local churches, First 5 Del Norte, the City of Crescent City and Del Norte Unified School District. Neisha Brannon, Vista, is working in the Peterson Park Community Garden and has organized the youth workforce and events to clean up and

manage the garden. The hoop house is in place and waiting for plastic until the council can view the structure and make sure that it is sturdy. CAN was asked to go back to the Planning Commission to get approval for that. Youth involvement has been great, they prepped for the work day, and they have had a harvest festival day with art, food presentations and work. Significant partnerships have been formed and food from the Harvest Day was used to put in the food boxes. They presented pictures of possible future garden improvements as represented by pictures of other gardens on the north coast. Fencing around the garden has been raised, there is a current chain link fence around the garden at this time. CAN would like to explore adding a different material to make the garden more inviting capitalizing on the natural materials we have. Mayor Schellong asked if Mendocino and Carmel have community gardens. Both of the communities have community gardens of which written and visual reports are available. Mayor Schellong asked if there is a strategic plan for the garden with a list of items needed. There is a work plan for the garden, which is kept updated (July 2009 to current). Council Member Slert thanked CAN for the beautification of the garden. Council Member Westfall mentioned that it is important that there is only a 72 hour supply of groceries on hand. She has a huge quantity of hollyhock seeds that she would like to donate to the garden.

## **COMMUNICATIONS**

### **➤ PUBLIC COMMENT PERIOD -**

The following persons addressed the council: Richard Miles commented additionally on the First 5 community garden.

Donna Westfall left meeting at 7:47 p.m.

Richard indicated that the gardens add atmosphere to the community. He asked that the Planning Commission would approve the extra 12 feet for the hoop house. The City indicated in the past that they would donate signs for the garden as CDBG Grant funds.

Donna Westfall commented on her conversation with Mayor of San Paulo and the sewer project they are building. The shaved off \$40 million from their plant. She presented ballot initiative notice of intent to roll back fees to the council.

## **CONTINUING BUSINESS**

10. Consider re-adopt Resolution No. 2009-35, entitled, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CRESCENT CITY ACCPETING THE NINE PROPOSED MODICIATIONS TO THE COASTA NORTE CONDOMINIUM/ TIMESHARE PROJECT (APN: 118-020-034) AS APPROVED BY THE CALIFORNIA COASTAL COMMISSION, or take other action as necessary and appropriate. (Michele Rambo)

Michele Rambo reported on the resolution that was adopted in September and the corrections of parcel numbers and working. All other information in the resolution is correct. Discussion was held regarding resolution and the additional four parcels that are zoning CTRZ. Council Member Murray asked if it was standard procedure for the Coastal Commission to write the City's resolutions,

On a motion by Council Member Burns, seconded by Council Member Slert, and carried on a three – fifth polled vote, with council member Schellong voting “no” and Westfall absent, the City Council of the City of Crescent City approved and adopted Resolution 2009-38 as presented.

### **NEW BUSINESS**

11. Conduct a public meeting to discuss 2009/2010 Business Improvement District Assessments. Give direction to staff as necessary and appropriate after receiving public comments. (Robert Black and Martha Rice)

Mayor Schellong asked for the report from staff regarding the BID assessments. Rod Butler reported on the assessment and new proposed rates. The following public comments were made: Richard Miles commented in support of the assessment, he feels that the BID is selling itself short as well as the city. Nonprofits or service organizations receive a discount. Council Member Slert is concerned about the previous council giving funds to the past owner of the Square Deal building gave the owner a deal since retail businesses would be coming into that building, instead there are governmental entities moving into that facility. He would like to see this fixed.

A motion by Council Member Burns, seconded by Council Member Murray to approve the assessments was withdrawn after review of the process.

Schellong abstained from discussion. The three Council Members present, directed staff to bring this back in November.

12. Consider and award the bid for the Microsurfacing Project and authorize the Mayor or City Manager to sign the contract for services or take other action as necessary and appropriate. (Eric Wier) (Agmt No. 09-10-007)

Eric Wier presented a report regarding the micro surfacing of pavement and the process including cost. There were 4 bids for Valley Slurry Seal \$311,171.22; Bond Blacktop \$368,558.83, Graham Contractors \$446,843.58 and Intermountain Contractors \$453,061.89. Since the lowest bidder was under bid for the project, there is additional funding available in the amount of \$89,000.00. Staff would like to add the rejuvenation seal for Front Street and striping. The change order total is \$115,000.00 for a total project cost of \$426,000. Council Member Slert asked about Mr. Barnts comment that there were funds for Front Street. The Front Street project will be a complete reconstruction and will cost about \$2 million. Eric feels that anything other than rejuvenation treatment is not worth the cost of the treatment. The trees on Front Street have caused problems, maintenance may be one of the issues. The wrong trees were used for sidewalks and parking lots. STIP funding may not be forthcoming from the State due to the economy. The rejuvenation seal will prolong the life of the roadway for a few years, until the City can work out the funding for the complete reconstruction. City staff have requested funding from RSTP funding or from the City’s general fund for the restriping to get the cost down to \$400,000.00. Staff feel that the contingency funds, through small, should be enough. Staff of the Del Norte Local Transportation

Commission feel that the RSTP funds will be an allowable project. In the alternative, staff feel that there is some funding available from gas tax that would cover the cost of the project. The following person addressed the council: Richard Miles support the rejuvenation project.

On a motion by Council Member Burns, seconded by Council Member Murray, and carried on a polled vote, with Council Member Westfall absent, the City Council of the City of Crescent City approve the bid and authorize the Mayor to sign the contract with Valley Slurry Seal and the contract change order as submitted.

13. Consider, review and discuss the Current and Future Code Compliance Program and give direction to staff or take other action as necessary and appropriate. (Michele Rambo)

This matter was tabled until November 2, 2009 meeting in the interest of time.

14. Consider and discuss the replacement of the Monterey Cypress trees along the east side of the courthouse. Give direction to staff regarding preferred replacement or take other action as necessary and appropriate. (Michele Rambo)

Michele Rambo gave the Council a report on the trees in front of the courthouse. She advises that the State is removing the trees for safety reasons. She advises that the trees will be replaced, however, not by Monterey Cypress (per Arborist). The recommendation is to have trees native to Northern California. The State is paying for the removal and replanting of trees, however, we get to choose the type of trees to plant. Council Member Slert asks where the Friends of Del Norte are now, and stated that it was correct to claim the Monterey Cypress as landmark trees. He would like to know if all the trees need to be removed or if they can be spaced. He does not want to replace them with anything other than what is there. Council Member Murray states her disappointment with the removal of the trees. She expresses her opinion with the perceived concern from the State over the liabilities surrounding the trees staying in place. Council Member Slert reported that he feels there is other ways to deal with the issue. The general rule is that local zoning does not apply to state lands. Mayor Schellong asked about reactive pruning. The City Manager was allowed to select the second arborist, who is from Willets and specializes in Monterey Cypress trees. Mr. Butler indicated that he could have the arborist attend a future meeting to address the tree issue. Richard Miles commented on the tree removal. Bill Lonsdale indicated that a previous study indicated that annual pruning will keep the trees from needing to be removed. Council Member Slert asked to have more time and wanted to go on record to not approve their removal.

On a motion by Council Member Slert, seconded by Council Member Burns, and unanimously carried, with Council Member Westfall absent, the City Council of the City of Crescent City decided to send a letter to the admin office of the courts and that it is the City's intent that nothing be done until the discussion could be held. The motion was amended to include reactive pruning to allow time to research for other methods of saving the trees.

Bill Renfro speaks in regards to the State deeming the trees to be a danger to the community and being a big liability. He suggests that a middle ground should be found that they (the State) do reactive pruning to take care of the dangerous limbs, etc. to mitigate their damages.

15. Consider and discuss smoking regulation enforcement. Give direction to staff or take other action as necessary and appropriate. (Chief Doug Plack)

Police Chief Doug Plack reported on his staff report regarding smoking in various areas throughout the state. Some cities charge up to \$600 for infractions of the smoking ordinance after the first violation. The Department of Health and Human Services has surveyed the fair attendees regarding smoking. Manpower is going to put an impact on the police department as it is unbudgeted. He wants the council to realize that is it an educational issue as well as enforcement. He would like to modify the park regulations to allow more tobacco free areas for children. 146 cities and counties in California have prohibited smoking in public places. Voluntary compliance needs to be encouraged. Most will comply. He would like to see more important role of the police and some signage; he does not feel that this will be a fiscal impact to the city. He suggested that we follow the 146 other cities and counties regarding the no public smoking ordinance. Council Member Murray thanked the chief for his report and research. She realizes that the public safety is number one. Council Member Westfall commented on her dislike of smoking, but she does not want the police force to become cigarette Nazi's. Council Member Burns commented on the boilerplate language and the language that includes public beaches, which would include all beaches in California. He does not want the ordinance to become a burden or it cannot work. Mayor Schellong does not like smoking, but she also feels that you cannot take away the right to take that right way when it does not affect others. She is in favor of an ordinance that prohibits smoking in areas where children are allowed. Current ordinances indicated that smokers have to be outside a public building 25 feet. Most smoking areas are outside buildings in the entrance area. This does not alleviate the second-hand smoke issue. The following persons addressed the council: Jeff Wolsfeld commented that no retailers sold tobacco to minors for the second time in a row. He is offering a partnership with the City to educate the public about no-smoking allowed in designated areas and provide signs. Del Norte County is always at the forefront of each of the six conferences he has attended; McKenzie Pickerell, county resident, she participated in all the clean-ups and they found around 600 cigarette butts, they still smoke around Kidtown, she feels that they should be a smoke free park. She has recently learned about third-hand smoking and she feels that it would enhance the environment if there were no smoking; Cameron Pickerell, county resident, supports no-smoking ban in the city, especially in the parks, he would like to see a larger no-smoking sign at Kidtown; Richard Miles, commented on the need for a no-smoking campaign and he disagrees with the Police Chief when he says he cannot be the smoking police. He requested a police check of the skate park. The beauty school attendees in the Mason Mall are flicking their cigarette butts into the tree wells, his call to the Police Chief regarding enforcement of the current ordinances at the new Mental Health facility; Leith Gill, commented on the consuming cigarette butts is the cause of serious childhood poisoning. He supports reducing this.

Council to give direction to staff in regards to the Ordinance for non-smoking changes as noted above. Council Members Slert, Burns, Murray, and Mayor Schellong were present to make decision.

City Attorney commented on the wording in the agenda packet being used more as a checklist for any future ordinance. Council Member Slert does not like smoking, unfortunately some folks make that choice. He wants to see a user friendly city, signage is a big deal. He would like to see Kidtown and the 4<sup>th</sup> of July to be smoke free. Council Member Burns indicated that large crowds are not the place to smoke, being by yourself and smoking is okay; it is a matter of situation. Mayor Schellong indicated that there has been a lot of abuse of the local ordinances and the littering of butts on the ground. She would like to see an ordinance banning parks, restaurants, entrances to buildings at least 50 feet, she would like the ordinance to address littering the butts also. City Attorney indicated that that would increase the ordinance to include all buildings and increase the limit. Parks, public places and 50 feet around the entrance of all buildings. Council Member Murray would like to have the Halloween parade and Veterans parade smoke-free and advertise the event as non-smoking. She would like to have an educational campaign regarding this issue.

Council Member Westfall left the meeting at 8:30 p.m.

Discussion was held regarding the amended ordinance. Cigarette butt cans could be placed to help keep the litter down. City Attorney was directed to come back with the amended ordinance including the fact that employers should be required to provide cans.

OFF AGENDA ITEM – Closed session:

City Attorney Black indicated that due to the presentation of the notice of intent regarding the ballot measure to reverse the sewer rates, presented by Council Member Westfall, has resulted in the need for a closed session item regarding potential litigation immediately following the Council meeting.

On a motion by Council Member Slert, seconded by Council Member Burns, and unanimously carried on a four-fifths vote, with Council Member Westfall absent, the City of Crescent City made the finding that subsequent to the posting of the agenda that there was need to add a closed session to the end of the meeting regarding potential threat and potential initiation of litigation.

Richard Miles commented on the demands of Council Member Westfall.

The meeting was recessed in closed session at 10:04 p.m.  
The closed session was recessed at 10:40 p.m. and the City Attorney advised that no actions were taken on the closed session items.

16. ~~Receive and update from staff on Harbor Annexation. Give direction to staff or take other action as necessary and appropriate. (Rod Butler)~~ Pulled from agenda.

### **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
- **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
- 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 following matters were discussed: Mayor Schellong reported on the Sea Cruise, airport terminal project and the planning commission meeting approval by two votes. She thought it was nice to be able to share staff's last hour. Mayor Schellong and Council Member Murray were at a TCE meeting. She also met with the Economic Planner with Pacific Power who gave her some issues to talk to the City Manager about.

The City of Crescent City Council meeting was adjourned to a closed session at 10:05 to discuss an item of potential litigation and a potential threat of litigation, with Council Member Westfall absent. There is no action anticipated.

### **ADJOURNMENT**

Adjourn the meeting to the Budget Workshop, October 26, 2009 at 4:30 p.m., I St. Fire Hall.

There being no further business to come before the Council, Mayor Schellong adjourned the meeting at 10:06 p.m., until the next scheduled meeting of October 26, 2009 at 4:30 p.m. to conduct budget discussions.

ATTEST:

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By: Robin Patch, Deputy City Clerk  
for Rod B. Butler City Clerk