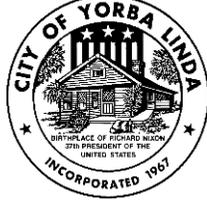

CITY OF YORBA LINDA



Land of Gracious Living

CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING MINUTES

AUGUST 18, 2009

**CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING
CONVENING AT 5:30 P.M.**

CALL TO ORDER

The City Council/Redevelopment Agency convened at 5:30 p.m. in the Council Chambers at 4845 Casa Loma Avenue, Yorba Linda.

ROLL CALL

Council/Agency Members: Anderson, Horton, Rikel, Schwing, Winder

Staff Members: Adams, Carvalho

CLOSED SESSION

CITY COUNCIL

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION,
SIGNIFICANT EXPOSURE TO LITIGATION

Government Code Section 54956.9(b) (1 case)

- B. CONFERENCE WITH LABOR NEGOTIATOR

Government Code Section 54957

Agency Designated Representative:
Employee Organizations:

City Manager Adams
Yorba Linda Mid-Management
Association; Yorba Linda Chapter of
the Orange County Employees
Association; and Department Heads

RECESS

CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING RECONVENING AT 6:30 P.M.

CALL TO ORDER

The City Council/Redevelopment Agency reconvened at 6:30 p.m. in the Council Chambers at 4845 Casa Loma Avenue, Yorba Linda.

ROLL CALL

Council/Agency Members: Anderson, Horton, Rikel, Schwing, Winder

Staff Members: Adams, Brown, Carvalho, Conklin, Harris, Hartman, Leto, Salvado, Stowell

PLEDGE OF ALLEGIANCE

Assistant City Manager/Public Works Director/City Engineer Mark Stowell

INVOCATION

Reverend Daniel White, Yorba Linda Presbyterian Church

CLOSED SESSION REPORT

City Attorney Carvalho reported that Council gave direction to staff on further negotiations for Item A. She also reported that labor discussions have not been concluded and Council will reconvene to Closed Session after the public meeting.

PUBLIC COMMENTS - ITEMS ON THE CONSENT CALENDAR OR ITEMS NOT ON THE REMAINDER OF THE AGENDA

Assistant Chief Laura Blaul of the Orange County Fire Authority spoke regarding the Ready, Set, Go! program and provided a short video presentation. She explained that Orange County is the pilot area for this statewide program. Assistant Chief Blaul said there is more information available on the OCFA website, including a brochure and a DVD. She mentioned that at the next council meeting she will speak about recognizing the fire risk to one's own home.

Rosemarie Sauer, resident, advised everyone that official protests to the Yorba Linda Water District regarding the rate increase must be in hard copy format and e-mails are not accepted. She also questioned why the Black Gold Golf course was watering the turf at 12:30 in the afternoon.

Julia Lawson, Yorba Linda Arts Alliance, thanked Mayor Schwing for initiating the opportunity for the Arts Alliance to share a presentation with the Planning Commission about a cultural arts center. She also thanked all the councilmembers for their due diligence and hope that all the commissions in the city will follow their example.

Sandra Kennedy, resident, requested that Item 21, Resident Request for Reconsideration of the Water Conservation and Cost Saving Actions Taken on the Lomas de Yorba East Parkway Slope, be moved up on the Agenda.

Susan Rochosky, resident, thanked Council for the successful lawsuit of the private trail easement behind their homes.

Kathy Bonet, resident, stated that City Attorney Jamie Raymond did a fabulous job representing the City in the trail easement lawsuit.

Mary Carbone, resident, thanked Council for taking on the trail easement issue for all the residents and said it was a grand victory in keeping an icon of Yorba Linda alive and well.

Betty Gillaspy, resident, stated she is the new Chairwoman of the CERT program. She said she spent last weekend with the OCFA presenting the Ready, Set, Go! program to residents and will do so again for the next 3 weekends.

Lee Day, resident, expressed her disappointed with Council's decision to maintain the sewer fee at \$19.40 and pay through the General Fund. She also questioned whether Mayor Schwing should have abstained from voting because of his HOA.

Terry Kilker, resident, echoed the comments of the previous speaker regarding sewer maintenance fees and felt that at least raising the fees for the east side of the City to the same amount as the west side would have been appropriate. Mr. Kilker urged Council not to spend funds on studies for projects if there is no intention of follow-through. He also mentioned he was concerned that at the previous Council meeting a speaker was not allowed to finish his comments. He suggested that Council make the public aware of what can be discussed during public input. Mr. Kilker also commented on a power point presentation about the Black Gold Golf Course by resident Ed Rakochy that illustrated the consequences on property near the course if it was to be closed. He hoped that none of the Councilmembers would ever consider doing that.

Pat Nelson, resident, mentioned that school would be starting soon and she was concerned about the El Cajon trail fences being damaged. In the past she had suggested installing a camera to catch any vandalism. Mrs. Nelson asked the status of the Janeway House. She also stated her disappointment with Council's vote not to increase sewer maintenance fees and said that some key points were missed and many important questions were not asked.

Paul Armstrong, resident, recounted that at one time the City had offered the sewer system to the Yorba Linda Water District for a certain amount of money per connection but the Water District refused the offer.

Walter Bruckner, resident, spoke about the Black Gold Golf Course and said the best way to dispel rumors was to read the Treasurer's Report each month.

Greg Gillaspay, resident, thanked City Clerk Kathie Mendoza for her assistance in accessing documents on the City's website. He said the Ready, Set, Go! program is a wealth of information for the public. Mr. Gillaspay also mentioned that last week he spoke at the City of Costa Mesa regarding the national motto. He asked for Council's support in showing the City of Costa Mesa what a positive experience it has been to display it in city hall.

Louie Scull, resident, thanked the councilmembers who voted against the NPDES storm water inspection fees at the last city council meeting. He also stated he was disappointed that the Chamber of Commerce was not at the meeting to represent the business and commercial property owners.

Raul Piette, resident, stated he is on the board of directors for the Chamber of Commerce and apologized that the board was not aware of the issue. He said they would have happily become involved if they had known and are interested in any issue that affects the business community.

City Attorney Carvalho stated that the Mayor was able to participate in the decision regarding the sewer maintenance fees because when councilmembers are looking at assessments, rates or fees, the law allows them to participate if at least 10% or more of the properties in their community will be impacted.

Mayor Schwing clarified that in his condominium complex the units are treated as individual homes and each homeowner pays their own sewer fee through their property taxes not through the homeowners association.

CONSENT CALENDAR

Councilwoman Horton abstained on item 3, Councilmember Winder pulled items 11, 16 and 17 and Mayor Schwing pulled items 6, 12 and 13 from the Consent Calendar.

It was **MOVED/SECONDED - WINDER/HORTON** - to approve the Consent Calendar with the removal of Items 6, 11, 12, 13, 16 and 17 and Councilwoman Horton's abstention on Item 3. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

1. WAIVE READING IN FULL OF ALL ORDINANCES AND RESOLUTIONS ON THE AGENDA

The City Council/Redevelopment Agency waived reading in full of all ordinances and resolutions on the agenda and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

2. ACCOUNTS PAYABLE WARRANT LISTS

The City Council/RDA approved the Accounts Payable Warrant Lists.

3. APPROVAL OF THE MINUTES OF THE JULY 21, 2009 CITY COUNCIL/RDA MEETING

The City Council/RDA approved the minutes of the July 21, 2009 meeting.

4. APPROVAL OF THE MINUTES OF THE AUGUST 4, 2009 CITY COUNCIL/RDA MEETING

The City Council/RDA approved the minutes of the August 4, 2009 meeting.

5. CONTRACT AGREEMENT EXTENSION FOR PARK TURF MAINTENANCE SERVICES - ARTISTIC MAINTENANCE, INC.

The City Council approved a one (1) year Contract Extension for Park Turf Maintenance Services between the City and Artistic Maintenance, Inc., and authorized the City Manager to execute Change Order No. 1 for said extension.

6. Removed

7. REDUCTION OF MASS GRADING BOND, TENTATIVE TRACT NO. 16208, SHAPELL INDUSTRIES

The City Council authorized the City Clerk to reduce the Grading Bond to 70 percent of the second reduction amount and hold until final release.

8. REDUCTION OF IMPROVEMENT BONDS FOR STORM DRAIN, TRACT NO. 16987, SHAPELL INDUSTRIES

The City Council authorized the City Clerk to reduce the Faithful Performance and Labor & Material Bonds to 70 percent of the original amounts and hold until final release.

9. ACCEPT PUBLIC IMPROVEMENTS AND RELEASE BONDS, TRACT NO. 16637, HQT HOMES

The City Council authorized the City Clerk to release the Labor and Materials bond in 180 days, reduce the Grading and Faithful Performance bonds to 10 percent of the original amount and release in one year if no liens have been filed, and release the Monumentation Bond immediately.

10. REDUCTION OF IMPROVEMENT BONDS, TRACT 17079, MBK HOMES

The City Council authorized the City Clerk to reduce the Faithful Performance and Labor & Materials Bonds to 70 percent of the first reduction amount and hold until final release.

11. Removed
12. Removed
13. Removed
14. FREEWAY COMPLEX FIRE DEBRIS REMOVAL AND PROPERTY TAX ASSESSMENT

The City Council adopted Resolution No. 2009-4037, confirming the costs to abate the public nuisances at the fire damaged parcels and ordering the collection of such costs as special assessment liens on such parcels: 5020 Greenhaven Street, 21890 Cardiff Drive and 24410 Via Lomas de Yorba East.

15. REVISION TO THE BUDGET ALLOCATION TO IMPLEMENT URGENT ACTIONS REQUIRED DUE TO MANDATORY REGIONAL WATER REDUCTIONS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT AND OTHER PUBLIC LANDSCAPE AREAS

The City Council revised the previously approved allocation of \$200,000 from General Fund Reserve to pay for the cost associated with vacating the various easements and implementing other reductions to be an allocation of \$185,000 from the Landscape and Lighting District Reserves and \$15,000 from the General Fund Reserves.

16. Removed
17. Removed

End of Consent Calendar

ITEM 6

CONTRACT AGREEMENT EXTENSION FOR JANITORIAL SERVICES AT CITY FACILITIES - MERCHANTS BUILDING MAINTENANCE, LLC

Mayor Schwing questioned the figures in Exhibit C and asked for a corrected report at the next Council meeting.

It was **MOVED/SECONDED - SCHWING/RIKEL** – to continue the item until the next City Council meeting. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

ITEM 11

CONTRACT AGREEMENT EXTENSION FOR TREE MAINTENANCE SERVICES -
WEST COAST ARBORISTS, INC.

Councilmember Winder had questions regarding policy changes and possible cost savings opportunities. He said he would like to continue the item and allow staff more time to respond.

It was **MOVED/SECONDED - WINDER/SCHWING** – to continue the item to the next city council meeting. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

ITEM 12

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YORBA LINDA TO HOLD A PUBLIC HEARING TO ASCERTAIN WHETHER PRIVATE PROPERTY LOCATED IN THE CITY OF YORBA LINDA CONSTITUTES A PUBLIC NUISANCE

Mayor Schwing stated he drove by 17835 Anna Marie Road but could not locate 17841 Anna Marie Road. Community Development Director Harris stated that the properties are next door to each other.

It was **MOVED/SECONDED - SCHWING/WINDER** – to adopt Resolution No. 2009-4032, declaring a private property located at 17835 Anna Marie Road in the City of Yorba Linda is a public nuisance. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

ITEM 13

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YORBA LINDA TO HOLD A PUBLIC HEARING TO ASCERTAIN WHETHER PRIVATE PROPERTY LOCATED IN THE CITY OF YORBA LINDA CONSTITUTES A PUBLIC NUISANCE

It was **MOVED/SECONDED - SCHWING/WINDER** – to adopt Resolution No. 2009-4033, declaring a private property located at 17841 Anna Marie Road in the City of Yorba Linda is a public nuisance. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

ITEM 16

TIME EXTENSION FOR CONDITIONAL USE PERMITS AND DESIGN APPROVALS GRANTED BY THE CITY IN 2008 AND 2009

Councilmember Winder declared that the Resolution incorrectly stated a one year extension and it should be two years.

City Attorney Carvalho stated she would make the correction to the Resolution.

It was **MOVED/SECONDED - WINDER/HORTON** – to adopt Resolution No. 2009-4028, extending the approval time period associated with Conditional Use Permits and Design Review approvals for a period of two years. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

ITEM 17

ADOPTION OF ORDINANCE NO. 2009-934, APPROVING AND ADOPTING AN ENGINEER'S REPORT FOR SEWER MAINTENANCE CHARGES FOR FISCAL YEAR 2009/2010 AND PROVIDING FOR THE COLLECTION THEREOF

Councilmember Winder stated that he read the transcript of the August 4th meeting for clarification on this item. He had been hoping to reach a compromise with the property owners of the seven homes on Green Crest Drive and believed that was the nature of the motion which was then clarified by the Mayor. He stated he would otherwise not have voted to remove the seven properties from the Resolution.

Councilwoman Horton asked the City Attorney if this could be considered a gift of public funds since the City is taking tax dollars and supplementing somebody else's bills.

City Attorney Carvalho stated that it would not be deemed a gift of public funds.

Councilwoman Horton stated that the City is using general funds to subsidize the sewer rates on the east side of town but not using public funds to subsidize the west end and help pay their bills. She said the west end is still paying more plus helping pay for the east side and that is not a good policy.

It was **MOVED/SECONDED - ANDERSON/RIKEL** – to have second reading and adoption of Ordinance No. 2009-934. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Rikel, Schwing
NOES: Horton, Winder
ABSENT: None

“ITEM NO’S 20 AND 21” WERE TAKEN AT THIS TIME BUT ARE REPORTED IN THEIR RESPECTIVE POSITION ON THE AGENDA.

PUBLIC HEARINGS

18. PUBLIC HEARING REGARDING WEED ABATEMENT PROGRAM COSTS AND ASSESSMENT OF LIENS

- a. Open Public Hearing - Mayor Schwing opened the Public Hearing.
- b. Staff Report – Senior Community Preservation Officer Howard Weldon presented the staff report and responded to questions from Council.
- c. Take Testimony - None
- d. Close Public Hearing – Mayor Schwing closed the Public Hearing.
- e. Make Determination

Upon Councilmember Winder’s request, Senior Community Preservation Officer Weldon showed before and after pictures of 19384 Mickel Lane, the owner of which sent a letter requesting a waiver or reduction of the abatement fee.

It was **MOVED/SECONDED – WINDER/HORTON** – to adopt Resolution No. 2009-4036, confirming the Report of Costs of Abatement of Weeds, Rubbish, Refuse, and Dirt, Public Nuisances, and Imposing Special Assessments as Liens on Parcels.

Mayor Pro Tem Anderson stated he would be voting no because the property at 19384 Mickel Lane did not look that bad and he did not believe it warranted abatement.

Councilwoman Rikel asked for and received confirmation that the pictures shown were of the Tabbaa property at 19384 Mickel Lane.

MOTION CARRIED by the following roll call vote:

AYES: Horton, Schwing, Winder
NOES: Anderson, Rikel
ABSENT: None

19. AB 3229-CITIZEN'S OPTION FOR PUBLIC SAFETY PROGRAMS (COPS) GRANT EXPENDITURES

- a. Open Public Hearing – Mayor Schwing opened the Public Hearing.
- b. Staff Report – Police Lieutenant Darrin Devereux presented the staff report and responded to questions from Council.

- c. Take Testimony - None
- d. Close Public Hearing - Mayor Schwing closed the Public Hearing.
- e. Make Determination

Mayor Schwing asked if the positions were fully covered by the General Fund.

Lt. Devereux replied that the positions would be partially covered by the General Fund and neither one is a new position.

Mayor Schwing also asked what the Traffic Safety Fund monies could be used for.

Director of Finance Susan Hartman stated that the Traffic Safety Fund could be used for any traffic-related expenditure.

It was **MOVED/SECONDED – WINDER/RIKEL** – to approve the expenditure of \$304,308 to fund a Traffic Officer and Detective position using AB 3229 funds, the Traffic Safety Fund, and the General Fund as funding sources. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Winder
NOES: Schwing
ABSENT: None

MAYOR'S REPORT

Mayor Schwing explained that he voted against the Sewer Maintenance fee increase because it called for adding a full time employee to an already existing part time employee and he questioned the need for one and a half people for a three to four month period. He also stated he would have liked the item to come sooner in order to continue it one more meeting for questions. Mayor Schwing added that he expects the matter to come back next year with a minimum cost and a step approach towards the ultimate goal.

Mayor Schwing commented that while driving westbound on Lomas de Yorba Avenue he noticed a portion of the sidewalk is obstructed by k-rails and there is no room for people to walk. He also asked that staff look at the horse trail that starts just past the railroad underpass. He said part of the rails have been vandalized and pushed down the ridge.

MATTERS PRESENTED BY COUNCILMEMBERS

Councilwoman Rikel said she shares the comments that Mayor Schwing made about the Sewer Maintenance Fees, and would like to see it come back next year with enough time before the tax roll is due.

Councilwoman Rikel commented that she joined the CERT program in May and was out on the Ready, Set, Go program this weekend. She thanked the Orange County Fire Authority for their efforts involved with the program.

Councilwoman Rikel announced that water use is down by 22% despite the recent hot weather.

Mayor Pro Tem Anderson responded to rumors about the Black Gold Golf Course and stated that Council has no plans to build affordable housing there. He reminded everyone that a full discussion about the golf course would take place at a City Council meeting on September 22, 2009.

Mayor Pro Tem Anderson commented that since he ran for city council he has advocated a public/private partnership for an equestrian facility and that rumors in the community that he wishes to spend \$8 million on an equestrian facility are completely false.

Mayor Pro Tem Anderson announced that he would be starting a series of community meetings in partnership with various equestrian clubs starting with the Yorba Linda Country Riders. He said that residents would be able to learn about the equestrian lifestyle, meet different types of horses, as well as the opportunity to ask him questions about any particular issue. Mayor Pro Tem Anderson will announce the date and time of the first community meeting at the next City Council meeting.

Mayor Pro Tem Anderson congratulated the Yorba Linda Country Riders on beginning their 40th year in the community and wished them continued success for another 40 years.

Mayor Pro Tem Anderson asked if the Boys and Girls Club had closed its doors.

Councilmember Winder provided an update that the Board of Directors voted to close the facility on Crowther Avenue that serves Placentia. He said that three facilities in the City will continue to fund programs once school starts in the fall.

Councilwoman Horton asked about the status of the annual State of the Union address. Mayor Schwing responded that there has not been a demand for it and he has suggested to staff, that as a cost savings measure, not to have one this year.

Councilwoman Horton said her concern is about the Citizen of the Year award which is announced during the State of the Union event and she feels it is important to the community. She would like to see that tradition continued, perhaps at a council meeting. Councilwoman Horton requested the process of eliciting nominations for that prestigious award since those people give so much to the community.

Councilwoman Horton announced she walked at the Relay for Life and thanked Matt Bennett from the Engineering department who walked with her. She also welcomed the new reporter for the Yorba Linda Star, Jessica Terrell, to the community.

Councilwoman Horton declared that her next Box Dinner at the Park would be held on Thursday evening, August 20th at 6:00 p.m. at Jessamyn West Park and invited everyone to attend.

Councilmember Winder spoke about the justification for the lack of increase in the sewer maintenance fees. He specifically recalls that at the council meeting there was discussion on the difference between the current rate of \$1.62 and what today's actual expenses are. There was clear information that we were paying about \$33.60 a year not \$88 as the staff report recommended. Councilmember Winder added that any amount of introspection or study would have clearly justified the \$33.60 a year as a fee not a tax.

ADMINISTRATIVE REPORTS

20. OHIO STREET TRAFFIC SAFETY IMPROVEMENT

Traffic Engineering Manager Tony Wang presented the staff report, provided a power point presentation and responded to questions from Council.

Kathy Pomykata, appellant, provided a brief overview summarizing why homeowners on Ohio Street are opposed to staff's recommendation. She stated that many of the homeowners prefer the improvements be made on the east side of the street which would not impact any properties, nor the rural atmosphere which is prized by the residents on that street. However, the improvements that staff is recommending would significantly impact several of the homeowner's properties. Ms. Pomykata respectfully asked Council to reject the Traffic Commission's decision and consider making the improvements on the east side of the street and address the issue of speeding cars.

Alan Fernandez, resident, spoke in opposition to the recommended action and said his property would be the most impacted if the street improvements are approved.

Raul Piette, resident, spoke in opposition to the street improvements and said that residents are overwhelmingly against it.

Robert Gunling, resident, said he moved to that area of Yorba Linda because of its rural nature and said the improvements would be destructive to the residents on the west side of Ohio Avenue.

Frank Lettang, resident, said that eleven homes were canvassed. He added that 10 of the residents were against the proposed improvements and only one resident was in favor of it.

Dale Jensen, resident, commented that people walk down both sides of the street and sometimes at night. He feels that lighting is a more important safety concern.

Mary Carbone, resident, indicated that she would like to see the City's General Plan include preservation of rural streets.

Mayor Pro Tem Anderson clarified that direction has been given to staff about incorporating in the General Plan the protection of rural areas.

Dee Dee Frederick, resident, said the Yorba Linda Country Riders would like to see a decomposed granite trail with either white fence or a hedge.

Claudine Lynch, resident, suggested placing signs on the street advising that it is a rural area with narrow roads. She also suggested closing off the street with sidewalk all around which would allow horses and people to get through, but not vehicles.

Pat Nelson, resident, stated that the accident on Ohio Street was an isolated incident so there is no need to overreact. She urged Council to keep the area the way it is now.

Council discussion ensued.

Councilwoman Horton suggested finding a safer way to improve the street, taking into account the type of street surface so both pedestrians and horses are safe and explore further making improvements on the east side of the street.

Councilmember Winder inquired of the City Attorney about exemptions to the Americans with Disabilities Act requirements. He stated he would be comfortable directing the City Attorney and Director of Community Development Harris to research whether there are any exceptions to the ADA requirements.

City Attorney Carvalho replied that she would research the information and report back to Council.

It was **MOVED/SECONDED – ANDERSON/RIKEL** – to receive and file the report and invite staff to report back with Councilmember Horton's suggestions.

Councilmember Winder suggested that staff work on a solution for both the east and west sides of the streets that would meet ADA requirements and also allow the City to be competitive for a grant from Congressman Miller's office.

The **MOTION** was **AMENDED — ANDERSON/RIKEL** to direct staff to bring back a report with a solution for both the east and west sides of Ohio Street that would meet ADA requirements and allow the City to compete for a grant. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder

NOES: None

ABSENT: None

RECESS:

Mayor Schwing called a recess at 8:47 p.m. and reconvened the meeting at 8:58 p.m.

21. RESIDENT REQUEST FOR RECONSIDERATION OF THE WATER CONSERVATION AND COST SAVING ACTIONS TAKEN ON THE LOMAS DE YORBA EAST PARKWAY SLOPE

Assistant City Manager/Public Works Director/City Engineer Stowell presented the staff report and responded to questions from Council.

Sandra Kennedy, resident, presented letters and a petition to Council signed by 59 of her neighbors in opposition to water conservation efforts on the Lomas de Yorba East Parkway slope. Ms. Kennedy said the greenbelt provides significant fire protection and said that watering the slope once or twice a week would still achieve water conservation goals. She urged Council to reconsider their decision and turn the water back on in that area.

Tom Phelan, resident, asked about landscaping in the middle island on Bastanchury Road where the new high school is being built.

Mayor Schwing replied that that Council has directed there be low water type of landscaping which will be paid by the citywide arterial Lighting and Landscaping District.

Irene Calderon, resident, pleaded with Council to reconsider turning the water back on in that area and look at other ways to conserve water.

Rosemarie Sauer, resident, asked about prescriptive easements.

City Attorney Carvalho responded that prescriptive easements do not operate against governmental entities.

Mark Diedrich, resident, stated that he bought his home on representation that the greenbelt was maintained by the City. He also said he was concerned about the City being exposed to liability.

Dan Wentworth, resident, suggested the City plant drought-tolerant vegetation on the parkway and urged Council to change their decision.

Sandra Kennedy, resident, stated in regards to adverse possession or prescriptive easements, that the State of California did not acquire the property in question until 2006. The City was maintaining the property since about 1989 so the city acquired those rights before the State owned it. She said that the State takes subject to the City's rights and therefore the City has ownership or easement rights of the property.

Councilmember Winder stated that when the matter was first evaluated it was pointed out that the City does not have an easement or other obligation to maintain the property. He is in favor of continuing the matter to a future meeting

and directing staff to explore the possibility of trying to work with neighborhood associations to take over the property or other creative solutions.

It was **MOVED/SECONDED – ANDERSON/RIKEL** – to direct staff to turn the water back on sparingly in the Lomas de Yorba East Parkway slope, investigate the easement rights and come back to a future council meeting with alternative ideas for conserving water, and hold a discussion that includes the Orange County Fire Authority. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing,
NOES: Winder
ABSENT: None

OTHER AGENCY REPORTS AND REFERRALS

ORANGE COUNTY SANITATION DISTRICT

Mayor Pro Tem Anderson reported that the Orange County Sanitation District had been working on a budget that had some significant reductions. He could not make it that night and Councilmember Winder went in his place and voted the same way he would have.

ORANGE COUNTY DIVISION OF THE LEAGUE OF CALIFORNIA CITIES - None

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR/TRANSPORTATION
CORRIDOR SYSTEM

Mayor Schwing reported that there are traffic diversions on Windy Ridge again this week. It may be on and off for both sides of the Windy Ridge Project which is expected to be finished in November.

ORANGE COUNTY FIRE AUTHORITY - None

ORANGE COUNTY VECTOR CONTROL - None

OTHER BUSINESS

22. MORATORIUM ON IMPLEMENTING THE WATER SAVINGS PLAN OF ABANDONING LANDSCAPE MEDIANS (ANDERSON)

Mayor Pro Tem Anderson said the implications of Council's decision to abandon landscape medians will have far reaching implications and was a terrible mistake.

It was **MOVED/SECONDED – ANDERSON/RIKEL** – to direct staff to put a moratorium in place, turn the water back on at a minimal level and develop a plan using drought tolerant vegetation.

Councilmember Winder stated that the City should be using the minimum amount of water allowed by the water district during the warm months and the plants will return to visible health over the next eight or nine months.

A **SUBSTITUTE MOTION** was made — **ANDERSON/RIKEL** to direct staff to restore the water on La Palma Avenue, Rimcrest Drive/Falcon Ridge, Stonehaven Avenue, Hidden Hills Road and Foxtail Drive.

Councilwoman Horton stated she cannot support directing staff to return with a staff report to turn the water back on for La Palma Avenue because she has not heard any complaints from that area and does not believe it would be a good idea.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Rikel, Schwing
NOES: Horton, Winder
ABSENT: None

23. DISCUSSION RE CONSIDERATION OF RDA SPONSORED FEASIBILITY STUDY FOR A TOWN CENTER CULTURAL ARTS FACILITY (SCHWING)

Mayor Schwing said that at some point either the Redevelopment Agency or the cultural arts group will have to sponsor a feasibility study to determine the size, need, and potential for a privately funded, built and operated cultural arts facility.

It was **MOVED/SECONDED – RIKEL/ SCHWING** – to direct staff to bring back a staff report for consideration of a Redevelopment Agency sponsored feasibility study for a Town Center Cultural Arts Facility.

Councilmember Winder stated that he cannot support the motion until more is known about the joint use facility at the Friends Christian High School.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing,
NOES: Winder
ABSENT: None

24. DISCUSSION RE 2009 FIESTA DAYS PARADE (SCHWING)

It was **MOVED/SECONDED – SCHWING/RIKEL** – to direct staff to return with a staff report on organizing the Fiesta Days Parade this year with the help of the Chamber of Commerce, other community groups, internal staff and using minimal funds.

Councilwoman Horton mentioned that attendance has been down at previous Fiesta Days Parades and there has been difficulty obtaining assistance. She added that with staff layoffs, furloughs and cutbacks on services, it would be the wrong message to send the community.

Councilmember Winder stated that the parade was considered at the time the budget was adopted and it was not included. He said Council must make decisions and keep them in place.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Rikel, Schwing,
NOES: Horton, Winder
ABSENT: None

CLOSED SESSION IF REQUIRED

The City Council/RDA convened into Closed Session at 10:45 p.m. The meeting was reconvened at 11:30 p.m.

ADJOURNMENT

Mayor Schwing adjourned the meeting at 11:30 p.m. to a Special Joint Meeting of the City Council and Planning Commission on Wednesday, August 19, 2009, at the Community Center to discuss the Town Center Specific Plan.

There will be a meeting of the City Council at 6:30 p.m. on Tuesday, August 25, 2009 at City Hall to discuss Ethics and City Manager Goal Setting.

The next regularly scheduled City Council/Redevelopment Agency Joint Meeting is September 1, 2009.

Marcia Brown, Deputy City Clerk

APPROVED BY COUNCIL/RDA:
