

**TOWN OF APPLE VALLEY
TOWN COUNCIL – REGULAR MEETING
MINUTES – January 8, 2008**

OPENING CEREMONIES

CALL TO ORDER:

Mayor Jasper called to order the meeting of the Apple Valley Town Council at 6:30 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Jasper.

Absent/Excused: Mayor Pro Tem Sagona.

CLOSED SESSION

1. Closed Session

Mayor Jasper announced that there was a need to consider immediate action on an item which came to the attention of the Town after the agenda was posted.

MOTION

Motion by Councilman Allan, seconded by Councilman Nassif, and unanimously carried, that based upon finding a need to consider immediate action which came to the attention of the Town after the agenda was posted, Move to add an additional Closed Session Agenda Item 1, C, entitled "CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Approximately 31 acres located at the southeast corner of Highway 18 and Joshua Road, Tentative Tract 17169, APN 0439 073 03. Town Negotiators Jim Cox, Town Manager and his designees including Ken Henderson, Economic and Community Development Director, Richard Pedersen, Brad Miller, William Pattison, Finance Director; negotiating parties for owner: Rick Scott, of Corman Leigh, DRL LLC. Negotiations include both appropriated price and terms of payment".

Mayor Jasper announced that Closed Session would be moved to the end of the meeting.

OPENING CEREMONIES

PLEDGE OF ALLEGIANCE: The Pledge was led by Mr. Tom Hoegerman

PRESENTATIONS:

Proclamation – Exceptional Service - James Joseph Chapdelaine

A presentation was given by Nancy Jackson and Joe Hall from Southern California Edison energy conservation.

SPECIAL ANNOUNCEMENTS:

PUBLIC COMMENTS

Art Bishop, representing the Mojave Water Agency, thanked the Town Council for their water conservation plan on behalf of the new President Mike Page. He commented on the progress that Mojave Water Agency is making at this time.

Doug Shumway, Apple Valley Chamber of Commerce, commented on their desire to form a partnership for business retention services in the community and wanting to work closely with the Town on this issue. He also informed the Town Council and the public that the Chamber of Commerce would be hosting their membership meetings at the Aspen Clubhouse in Jess Ranch on the second Friday of each month. He welcomed everyone's attendance.

Thomas Hoegerman, Apple Valley, commented on the district proposing a \$2.00 DMV surcharge in order to replace buses for the Apple Valley Unified School District. He explained that the issue was heard by the Mojave Desert Air Quality Management District (MDAQMD), but was denied. He respectfully requested the Town Council recommend to the MDAQMD to re-agendize this matter.

Lisa Lawrence, Apple Valley, stated that the district is the Town's largest employer. She indicated that she was not in favor of taxes but believed the proposed assessment is minimal and would benefit the children in Apple Valley. She commented on the new buses and the benefit they will provide for the safety of our children and the environment.

Simone Kvalheim, Apple Valley, asked for clarification from the Town Council regarding whether or not the Town is an Inclusive Community.

Paul Hood, Apple Valley, expressed concern regarding the recent approval of projects in the Town.

Lester Milroy, Apple Valley, expressed concern regarding citizens in Town that have no respect for the speed laws in the community. He recommended that additional street lights and stop signs be placed throughout the Town.

Tonya Wilson, Field Representative for Assemblyman Anthony Adams, stated that she wanted to introduce herself to the community and also thank the Town for offering to open an office for Assemblyman Adams in Town Hall.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Roelle commented on the tragic incident that recently took place in the high desert where two individuals were killed. He gave the statistics of crime in the high desert and believed despite this incident, crime rates were down compared to surrounding cities. He stated that he spoke with Captain Belknap and that he would be giving a presentation to the Town Council on this issue in the near future.

Councilman Nassif commented on the presentation from the Chamber of Commerce regarding business retention. He stated that next month the Town Council would be holding its mid-year Council Workshop and he recommended, with the consensus of the Town Council, that business retention be discussed at that meeting.

Councilman Nassif also commented on the proposed \$2.00 DMV surcharge that was discussed during public comments. He stated that he would like to agendize this issue for a future meeting. He also recommended that the issue be discussed at the next Mojave Desert Air Quality Management District (MDAQMD) Meeting.

Councilman Allan welcomed Tonya Wilson from Assemblyman Adams office to the Town of Apple Valley.

Councilman Allan announced that at the Victor Valley Waste Water Reclamation Authority Meeting on December 21, 2007, the board approved its budget. He stated that a presentation would be given by VVWRA at a future meeting on its proposed treatment plant. He also commented on his attendance at the San Bernardino County Museum Commission Meeting. He stated that the museum is in the process of building a new exhibit hall with an estimated cost of \$3 million. He believed the county museum was interested in assisting the high desert museum and that he will continue to move in the direction of getting the county more involved with the Victor Valley Museum.

Mayor Jasper stated that the roadway between Yucca Loma and Sitting Bull is under construction and is being patrolled. He asked everyone to be mindful of all road construction taking place within the Town. He also commented on the Disaster Council Meeting held today and spoke of the benefit of having Cindy Serrano as our Emergency Preparedness Manager.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Councilman Allan, with the consensus of the Town Council, suggested that a joint meeting be scheduled in the future including Victorville, the County and the Town of Apple Valley to discuss the Yucca Loma Route to Victorville.

Councilman Allan, with the consensus of the Town Council, suggested that a report be prepared regarding the status of the addition to Town Hall, Public Works and the Animal Control Buildings.

Mayor Jasper, with the consensus of the Town Council, recommended an informational item be prepared regarding energy costs.

Time, Date & Place for Next Town Council Regular or Special Meeting:

A. Regular Meeting – Tuesday, February 12, 2008, 6:30 p.m. – Council Chambers

CONSENT AGENDA

Mayor Jasper recommended, with the consensus of the Town Council, that Agenda Item Number 10, be pulled from the consent calendar.

La Vonda M-Pearson, Town Clerk, stated that in reference to Agenda Item Number 12, the Town Council at its Special Meeting of January 3, 2007, selected Bob Murray & Associates as the firm to conduct the recruitment services in an amount not-to-exceed \$24,300. She respectfully requested that this information be included in the motion to approve Item Number 12.

MOTION

Motion by Councilman Roelle, seconded by Councilman Allan, to approve and adopt the Consent Calendar items numbered 2, 3, 4, 5, 6, 7, 8, 9, 11 and 12 as amended, and that Agenda Item Number 10 be pulled for discussion.

Vote: Motion carried 4-0-0-1.

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Jasper. Absent: Mayor Pro Tem Sagona.

2. Approval of Minutes of the Town Council

A. Special Meeting – December 11, 2007

B. Regular Meeting – December 11, 2007

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Adopt Ordinance No. 372, to Amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code, by Amending Section 9.05.070 of Chapter 9.05 as it Relates to Similar uses by Confirming that Unlawful uses such as Medical Marijuana Dispensaries Shall not be Treated as Permitted uses and Shall not be Determined to be Permitted Similar uses and Amending Chapter 9.08 to add a new Definition of Medical Marijuana Dispensary

Recommendation:

Adopt Ordinance No. 372

4. Adopt Ordinance No. 370, To Amend Title 9 “Development Code” Of The Town Of Apple Valley Municipal Code, By Amending Section 9.28.090 Of Chapter 9.28 As It Relates To Implementing The California State Government Code Section 65915 And The General Plan Housing Element To Provide Incentives For The Creation Of Affordable Housing Through The Implementation Of Two Density Bonus Provisions Including Increases In Density And Incentives Or Concessions For The Incorporation Of On-Site Amenities.

Recommendation:

Adopt Ordinance No. 370.

5. Adopt Ordinance No. 371, an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Amending Chapter 9.19 “Home Occupation Permits” to Restrict the Number of Employees, to Prohibit Outdoor Storage Visible from Public View and Change the Revocation Process to an Administrative Hearing by a Hearing Officer.

Recommendation:

Adopt Ordinance No. 371.

6. Right of Way Dedication for Highway 18 North Widening For Apple Valley Commons Project

Recommendation:

Adopt Resolution 2008-01, a Resolution of the Town Council of the Town of Apple Valley Granting a segment of Outer Highway 18 North to the State of California Transportation Department for Highway Purposes.

7. Approve the Local Appointment List (Maddy Act) for the Town of Apple Valley Regular and ongoing Boards, Commissions and Committees

Recommendation:

That the Town Council approve the Local Appointment List (Maddy Act) as presented.

8. Request to Vacate a Portion of Outer Highway 18 North Adjacent to the Saint Mary Medical Center

Recommendation:

1. Find that a 16-foot wide portion of the street easement of Outer Highway 18 North, located adjacent to the Saint Mary Medical Center, is in excess of needed right-of-way and not required for street purposes; and the proposed vacation is exempt from CEQA;
2. Adopt Resolution No. 2008-05, A Resolution of the Town Council of the Town of Apple Valley, California, vacating a portion of street easement at the St. Mary Medical Center, pursuant to the Streets and Highway Code Section 8333-8334.5”;
3. Instruct the Town Clerk to cause the Resolution vacating a portion of the street easement to be recorded in the office of the County Recorder of the County of San Bernardino pursuant to Section 8336 of the Streets and Highways Code.

9. Sports Event Parking Revenue Split Policy

Recommendation:

Approve the sports events parking revenue policy with the Town receiving 60% of the revenue and the user group receiving 40%.

11. Approve the Annexation of Location L-23 into the Apple Valley Landscaping and Lighting Assessment District No. 1

Recommendation:

1. Adopt Resolution No. 2008-02, a Resolution of the Town Council of the Town of Apple Valley initiating proceedings for an annexation of territory, L-23, into the Apple Valley Landscaping and Lighting Assessment District No. 1.
2. Receive and approve the Engineer's Report as filed or as amended (Note: The Engineer's report has already been filed and is made a part of this agenda item for the Council's review and approval).
3. Receive and approve the Landowner's consent
4. Adopt Resolution No. 2008-03, a Resolution of the Town Council of the Town of Apple Valley declaring its intention to annex territory into the Apple Valley Lighting and Landscaping Assessment District No. 1, L-23 ordering improvements, and to levy and collect assessments pursuant to the Lighting and Landscaping Act of 1972.

12. Award of Contract for Professional Services for Recruitment and Selection of Town Manager

Recommendation:

Award contract to Bob Murray and Associates for Professional Services in an amount not to exceed \$24,300, to provide assistance in recruitment and selection of a Town Manager.

Vote: Motion carried 4-0-0-1.

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Jasper. Absent: Mayor Pro Tem Sagona.

PULLED FOR DISCUSSION

10. Review and Discuss Sponsorship Policy, Naming of Parks and Facilities Policy, and Recognition Plaques and Memorials Policy

Mayor Jasper expressed concern regarding the approval authority of the memorial items and/or plaques and the specific use of brass plaques listed in the Policy & Procedure for Recognition Plaques Memorials included in the staff report.

After discussion of this issue by the Town Council, it was the consensus that "brass plaques" listed within the Policy & Procedure be changed to read "plaques as appropriate".

MOTION

Motion by Councilman Allan, seconded by Councilman Roelle, and unanimously carried, to approve the (1) Sponsorship Policy, (2) Naming of Parks and Facilities Policy and (3) Recognition Plaques and Memorials Policy as amended.

PUBLIC HEARINGS

CONTINUED FROM NOVEMBER 14, 2007

13. A Request Shall be Presented To The Town Council To Amend The Provisions Of The Development Code Pertaining To Regulations Prohibiting Snipe Signs In The Public Right-Of-Way And Human Operated Signs Within Residential Neighborhoods.

Mayor Jasper opened the public hearing at 7:39 p.m.

Lori Lamson, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk.

Pat Orr, Apple Valley, representing Little Caesars Pizza, recommended that sign dancers or commercial signs be allowed in commercial areas. He believed that the sign dancers are not problem signs. He stated that the sign dancers employed at Little Caesars are students who are usually too young to work in the actual store. He stated that the job is a benefit to the students and also increases his marketing.

There being no additional requests to speak, Mayor Jasper closed the public hearing at 7:48 p.m.

Discussion ensued regarding the use of human signs in front of commercial businesses versus private property.

Councilman Nassif expressed concern regarding how the approval of this ordinance would impact businesses in the community. He believed that if a person has permission from the property owner, they should be allowed to be on the property. He does not believe this ordinance is business friendly.

Councilman Allan spoke on marketing and believed that there are professional ways to handle signage.

Mayor Jasper, with the consensus of the Town Council, recommended that an Ad Hoc Committee be formed to include Councilman Allan and Councilman Nassif to work with the community on this issue.

MOTION

Motion by Councilman Allan, seconded by Councilman Roelle, and unanimously carried, to reopen the public hearing and continue this item to the first meeting in April.

14. A Request To Terminate Development Agreement (DA) No. 2004-001 Between The Town Of Apple Valley And New Century/Summers, LLC, Establishing The Standards, Criteria And Time Frame For Development Of The Project Area Located On The Southwest Corner Of Jess Ranch Parkway And Bear Valley Road Within The Jess Ranch Planned Unit Development (PUD) Within The Town Of Apple Valley.

Mayor Jasper opened the public hearing at 7:58 p.m.

Lori Lamson, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Jasper closed the public hearing at 8:00 p.m.

MOTION

Motion by Councilman Nassif, seconded by Councilman Roelle and unanimously carried, to:

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from environmental review, stating that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
2. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
3. **Move** to waive the reading of Ordinance No. 373 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 373.

MOTION

Motion by Councilman Nassif, seconded by Councilman Roelle to:

4. **Introduce** Ordinance No. 373, to terminate Development Agreement No. 2004-001 between the Town of Apple Valley and New Century/Summers, LLC establishing the standards, criteria and time frame for development of the project area located on the southwest corner of Jess Ranch Parkway and Bear Valley Road, within the Jess Ranch Planned Unit Development (PUD) within the Town of Apple Valley.
5. **Direct** staff to file a Notice of Exemption.

Vote: Motion carried 4-0-0-1.

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Jasper. Absent: Mayor Pro Tem Sagona.

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

15. **A Resolution Setting the Time and Place for a Public Hearing on Sewer User Fees Increase in an Amount of One Dollar Ninety-Eight Cents (\$1.98) Per Equivalent Dwelling Unit Per Month and Directing Staff to Proceed with the Special Notice Proceeding as Required by Law**

Bill Pattison, Finance Director, presented the staff report as filed by the Town Clerk.

MOTION

Motion by Councilman Nassif, seconded by Councilman Allan, to adopt Resolution No. 2008-04 stating its intention to hold a Public Hearing to increase sewer user fees in an amount of \$1.98 per equivalent dwelling unit per month and direct staff to proceed with the special notice as required by law.

Vote: Motion carried 4-0-0-1.

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Jasper. Absent: Mayor Pro Tem Sagona.

16. **Introduce Ordinance No. 374, An Ordinance Of The Town Council Of The Town Of Apple Valley, California, Amending Chapter 12.36 Of The Town Of Apple Valley Municipal Code Relating To Truck Routes**

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Councilman Allan, seconded by Councilman Nassif, and unanimously carried, to waive the reading of Ordinance No. 374 and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 374.

MOTION

Motion by Councilman Allan, seconded by Councilman Nassif, to introduce Town Council Ordinance No. 374, An Ordinance of The Town Council of the Town of Apple Valley, California, Amending Chapter 12.36 of the Town of Apple Valley Municipal Code Relating to Truck Routes.

Vote: Motion carried 4-0-0-1.

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Jasper. Absent: Mayor Pro Tem Sagona.

17. **Introduce Ordinance No. 375, An Ordinance Of The Town Council Of The Town Of Apple Valley, California, Amending Chapter 12.20., Entitled "Special Speed Limits" Of Title 12 Of The Town Of Apple Valley Municipal Code" (Speed Limit On Riverside Drive Between Sahale Lane And Branding Iron Road; Speed Limit On Ottawa Road Between Kiowa Road And Navajo Road; Speed Limit On Del Oro Road Between Apple Valley Road And Deep Creek Road)**

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Councilman Allan, seconded by Councilman Nassif, and unanimously carried, to waive the reading of Ordinance No. 375 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 375.

MOTION

Motion by Councilman Allan, seconded by Councilman Roelle, to introduce No. 375, an Ordinance of the Town Council of the Town of Apple Valley, California, amending Chapter 12.20., entitled "Special speed limits" of Title 12 of the Town of Apple Valley Municipal Code.

Vote: Motion carried 4-0-0-1.

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Jasper. Absent: Mayor Pro Tem Sagona.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

None.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

1. Closed Session

MOTION

Motion by Councilman Roelle, seconded by Councilman Allan, and unanimously carried, to adjourn to Closed Session at 8:20 p.m. to discuss the following:

- A. Personnel Matters--Government Code Section 54957 – Public Employee Performance Evaluations/Titles: Town Attorney.
- B. Conference with Legal Counsel-Existing Litigation under Government Code Section 54956.9(a) – Deep Creek Agricultural Association vs. Town of Apple Valley, HDC Group LLC, San Bernardino Superior Court Case No. CIVSS 709146.”
- C. Negotiations with Real Property – Approximately 28 acres located at the southeast corner of Highway 18 and Joshua Road, Tentative Tract 17169. Negotiating Parties: Corman Leigh; Town Manager, Economic and Community Development Director and Town Engineer. Negotiations involve both price and terms.

Upon returning from Closed Session at 9:07 p.m., Mayor Jasper announced the following reportable action:

As to Closed Session Agenda Item 1, C, Instructions were given to the Town's Negotiators identified in this agenda item to as to price and terms of the Agreement for purchase of the 31 acre property located at the southeast corner of Highway 18 and Joshua Road, Tentative Tract 17169, to

be appropriated from Storm Drain Impact Fees; when agreement has been executed evidencing approval by the Seller, then the fact of that approval and the substance of the agreement will be disclosed upon inquiry by any person.

ADJOURNMENT

MOTION

Mayor Pro Tem Jasper made a motion, seconded by Councilman Allan, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:08 p.m.

Town Clerk

Mayor