

**TOWN OF APPLE VALLEY
TOWN COUNCIL – REGULAR MEETING
MINUTES – April 22, 2008**

CLOSED SESSION

Mayor Jasper with the consensus of the Council, announced that Closed Session would be moved to the end of the agenda.

OPENING CEREMONIES

CALL TO ORDER:

Mayor Jasper called to order the meeting of the Apple Valley Town Council at 6:33 p.m.

Roll call was taken with the following members present:

Roll Call

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

OPENING CEREMONIES

PLEDGE OF ALLEGIANCE: Councilman Allan

INVOCATION: Pastor Larry Brown

PRESENTATIONS: None.

SPECIAL ANNOUNCEMENTS:

PUBLIC COMMENTS

Paul Hood, Apple Valley, commented on the need for speed limit signs on Taos Road.

Simone Kavalheim, Apple Valley, presented a plaque to Mayor Jasper for his attendance at World Religion Day. She stated that Race Unity Day will be held on the second Sunday in June. Ms. Kavalheim also commented on the National Day of Prayer.

William Furmage, Apple Valley, commented on allowing free style bikes in the parks.

Patricia Hanson, Apple Valley, spoke about the health benefits of using bicycles for transportation.

Barbara Fortin, Apple Valley, thanked the Council for their consideration in not closing the pool. She stated the pool was used by other communities and suggested higher fees for outside communities.

Colleen Branson, Apple Valley, stated she uses the pool daily and would be willing to conduct fundraisers to assist in keeping the pool open.

Ruth Blinsmon, Apple Valley thanked the Council for their commitment to the aquatics program.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Roelle stated that the Council is committed to keeping the pool open year around. He also spoke about the SANBAG's first subregional meeting with city managers to be held on May 8th at Town Hall Park and Recreation. The meeting is concerning funding programs for High Desert roads. He stated that Councilmembers are welcome to attend.

Councilman Allan spoke about Earth Day and bicycling to minimize our use of gas and oil resources.

Councilman Nassif commented on the SHOCK program, stating that the program has been successful and the next two classes are full. He stated the program is not subsidized by the Town.

Councilman Nassif also spoke about attending the League of California Cities Action Days in Sacramento with Mayor Jasper. He stated the State budget was discussed. He stated that Apple Valley's bill AB370, to limit sex offenders in State run group homes did not make it through the Appropriations Committee, however Assemblyman Adams requested a report and it was found that 49 day care centers throughout the state had sex offenders living there. This report sparked renewed interest in the bill and it was renumbered AB2593. A press conference was held last Thursday of which he and Mayor Jasper attended.

Mayor Jasper commented on some key points in the State Auditor's report. The report indicates that the definition of a single family residence is not clearly defined. He encouraged everyone to read the report and it is on the www.bsa.gov.ca website. Apple Valley's bill AB370 was recommending that a lot of the findings mentioned in the Auditor's report be changed. He stated that a hearing is scheduled on the 29th of April and the State appears to be moving rapidly on the newly renumbered bill, AB2593.

Councilman Sagona requested that staff look into Ms. Kvalheim's comments regarding National Day of Prayer.

Councilman Sagona reported that VVWRA is facing a 1.6 million deficit due to the building industry slowdown. He also spoke about he and Councilman Allan attending the re-opening of the Victor Valley College Performing Arts Center.

TOWN COUNCIL ANNOUNCEMENTS

Suggested Items for Next Agenda:

Councilman Sagona requested a discussion item be agendized regarding the attendance policy for the Equestrian Advisory Committee.

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

- A. Special Meeting – Wednesday, April 30, 6:00 p.m. (Joint Meeting with Planning Commission) – Council Chambers**
- B. Special Meeting – Tuesday, May 13, 2008, 4:00 p.m.(Budget Workshop)– Council Chambers**
- C. Regular Meeting – Tuesday, May 13, 2008, 6:30 p.m. – Council Chambers**

The Council requested to know the agenda for the Special Meeting on April 30th.

Lori Lamson, Assistant Director of Community Development, spoke of the Special Joint Meeting scheduled for April 30. She stated that the meeting would be to give a status report on the General Plan update as well as a discussion on the Brown Act and Conflict of Interest video that was presented to the Commission at an earlier date.

Councilman Roelle requested to know if the State was recommending this type of training.

Ms. Lamson responded that it was not a requirement by the State.

Discussion ensued regarding the joint meeting and it was the consensus of the Town Council that the discussion on the Brown Act and Conflict of Interest was not necessary and that the meeting be postponed.

CONSENT AGENDA

MOTION

Motion by Councilman Roelle, seconded by Councilman Nassif, to approve and adopt the Consent Calendar items numbered 2 – 7 with Councilman Allan abstaining on Item No. 6.

Vote: Motion carried 5-0-0-0

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Pro Tem Sagona; Mayor Jasper. Absent: None.

Agenda Item Number 6

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

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

2. Approval of Minutes of the Town Council

A. Regular Meeting – April 8, 2008

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Adopt Ordinance No. 380, an Ordinance of the Town Council of the Town of Apple Valley Repealing Ordinance No. 14 and relinquishing responsibility for the Enforcement of the Mobile home Parks Act and Related Regulations to the State of California Housing and Community Development Department.

Recommendation:

Adopt Ordinance No. 380

4. Adopt Ordinance No. 367 to Amend the Provisions of the Development Code Pertaining to Modifying Regulations for Snipe Signs in the Public Right-Of-Way, Modifying the Residential Kiosk Directional Sign Program and Limiting the Use of Human Operated Signs within Residential Neighborhoods.

Recommendation:

Adopt Ordinance No. 367

5. Reimbursement of Consultant Fees from the Apple Valley Village Business Improvement District Assessments

Recommendation:

That the Town Council approve the transfer of \$25,000 from Fund 211 (Village PBID) to Fund 406 (RDA #2 Capital Projects) in order to reimburse monies formerly advanced for the formation of the Apple Valley Business Improvement District.

6. Establishing Date and Time Certain for Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Public Hearing No. 2 (Consolidated Plan – Second-Year Action Plan)

Recommendation:

That the Town Council establish May 13, 2008 at 6:30 p.m., as the date and time certain for the purpose of conducting the second of two public hearings necessary to develop the Town's Consolidated Plan – Second-Year Action Plan.

7. Approve and Authorize an Agreement with Caltrans for Landscape Maintenance within the Median and along the North side of Highway 18, between Bass Hill Road and Dale Evans Parkway

Recommendation:

That the Town Council approve the Landscape Maintenance Agreement with Caltrans for the center median and north side parkway of Highway 18, between Bass Hill Road and Dale Evans Parkway, subject to approval as to form by the Town Attorney and as to content by the Town Manager.

PUBLIC HEARINGS

- 8. General Plan Amendment No. 2004-002, Zone Change 2004-002, Specific Plan No. 2004-002 And Tentative Tract Map No. 16922. The Request Is For A Specific Plan (“Deep Creek Estates”). The Proposal Changes Approximately Eighty (80) Gross Acres With A Current Residential Low Density (R-LD), One (1) Dwelling Unit Per 2.5 To 5.0 Gross Acre Land Use Designation To Specific Plan (S-P) For The Subject Area And A Request To Consider Changing The Zoning Designation From Residential Agriculture (R-A), One (1) Dwelling Unit Per 2.5 To 5.0 Gross Acre To Specific Plan (S-P) For The Subject Area. The Applicant Has Requested To Subdivide The Total Eighty (80) Gross Acre Site, Under Tentative Tract Map No. 16922, Into Eighty-Seven (87) Single Family Lots. All Lots Are Single-Family Residential And Will Range From 18,000 Square Feet To 57,748 Square Feet In Size. The Approximately Eighty (80)-Acre Site Is Generally Located On The Northwest Corner Of Tussing Ranch And Deep Creek Roads; APNs 0434-201-14 And -48.**

Mayor Jasper opened the public hearing at 7:15 pm.

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

Councilman Nassif requested to know if the Equestrian Advisory Committee had reviewed the project.

Ms. Lamson responded that they did when it was first submitted and recommended approval of the project. She stated that the area is zoned equestrian and therefore the applicant must comply with the multi-use trail conditions. She commented that the project did not comply fully

with the 50% transitional density buffer for the perimeter of the project. She stated that at the Planning Commission meeting two voted in favor and two voted in opposition of the project.

Dino DeFazio, applicant, explained the proximity of the project to Jess Ranch and the Cooper Home. He further commented that the project is an equestrian subdivision and will be an asset to the community. He stated the project would be a lot sale program and all the homes would be custom built. Mr. DeFazio also stated that he is providing two parks in the development as well as paying Quimby fees. The parks will be accessible to the public and maintained by a Homeowner's Association.

Mr. DeFazio stated that the Town will benefit by the infrastructure improvements they will be adding to the area, such as drainage, sewer and mitigation of traffic impacts. The project will be mixed use with equestrian size lots as well as residential ½ acre lots that would back up to Jess Ranch with the larger lots being planned for the front of the project.

Councilman Nassif pointed out the concerns of the Planning Commission regarding larger parks and one acre buffering.

Ms. Lamson explained that the area of the project that backs up to the Cooper home does not meet the code requirement for buffering. She also commented that the General Plan Advisory Committee was considering recommending one acre lots in this area.

Mr. DeFazio stated that the Specific Plan has no guidelines for the size of parks.

Ms. Lamson stated that per Council policy, any park less than one acre is not adequate in a Specific Plan. She stated both parks need to be over one acre in size and any park that is less than one acre is subject to Quimby fees.

Kenneth Henderson, Director of Economic and Community Development, explained that the Specific Plan does not comply with Council policy or the State Government Code provisions. He commented that if the Council were to waive the park size policy, it could set a precedent for other development.

Councilman Nassif suggested that the two parks be combined to make one large park.

Mr. DeFazio stated he would be willing to make one large park.

Carl Coleman, Project Engineer, spoke about the improvements to Deep Creek Road that would be completed by the developer.

John Regner, Apple Valley expressed his opposition to the project due to the small lot sizes.

Joan Paustell, Apple Valley, commented that there is no market for these homes at this time due to the economy. He respectfully asked the Council to support the Planning Commission's decision to deny the project.

Chuck Hanson, Apple Valley, opposed the project due to the added traffic impacts.

Ian Bryant, Apple Valley, President of Deep Creek Agricultural Association, expressed his opposition to the project due to the lot sizes and the insufficient amenities associated with this Specific Plan.

Lovella Sullivan, Chairperson of the Equestrian Advisory Committee, commented on the majority of the Equestrian Advisory Committee members being in favor of the project.

Gail Nunn-Henderson, Equestrian Advisory Committee, spoke about the project enhancing the equestrian lifestyle.

There being no additional requests to speak, Mayor Jasper closed the public hearing at 8:11 p.m.

Discussion ensued by the Council concerning making amendments to the project.

Mr. Henderson recommended to the Council that if they wanted to make amendments to the project that they remand it back to the Planning Commission giving them specific direction as to what amendments they were considering, so that they can be included in the staff report.

The Council was in agreement with all modifications listed in the staff report, except that Item No. 1 should be changed to combine both parks into one. Discussion ensued regarding requiring larger lot sizes for the ½ acre designated lots within the development.

MOTION

Mayor Pro Tem Sagona made a motion that the recommended modifications in the staff report be applied and to send the item back to the Planning Commission to direct them to consider a minimum lot size of ¾ acre

Motion died for lack of a second.

MOTION

Councilman Allan made a motion, seconded by Councilman Nassif that the item be sent back to the Planning Commission for their review and to apply the recommended modifications in the staff report to the Specific Plan.

Vote: Motion carried 5-0-0-0

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Pro Tem Sagona; Mayor Jasper. Absent: None.

RECESS

Mayor Jasper, with the consensus of the Council, called for a recess at 8:28 p.m.

RECONVENE

Mayor Jasper reconvened the meeting at 8:36 p.m.

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

9. Public Noticing for the General Plan Advisory Committee Meetings

Lori Lamson presented the staff report as filed with the Town Clerk.

MOTION

Motion by Councilman Allan, seconded by Councilman Roelle to approve funding for three advertisements in the Daily Press for the GPAC meetings.

Mayor Jasper commented that he would be in favor of approving four full page ads.

AMENDED MOTION

Councilman Allan amended his motion to include funding for four full page advertisements in the Daily Press newspaper for the GPAC meetings with a second by Councilman Roelle.

Vote: Motion carried 5-0-0-0

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Pro Tem Sagona; Mayor Jasper. Absent: None.

10. Granite Mountain Wind Energy Project

Lori Lamson presented the staff report as filed with the Town Clerk.

Jorn Larson, President, Sierra Wind Mobiles, stated that Council action to approve the resolution would be premature at this time. He stated that Supervisor Mitzelfelt was still reviewing the proposal and that there would be more public meetings concerning the wind turbines. He commented on the number of jobs and the sales tax that would be generated by this project.

Nancy Jackson, Southern California Edison Public Affairs Manager, spoke about renewable energy and how this project meets those goals.

Andrew Silva, Supervisor Mitzelfelts office, stated that the Supervisor was concerned about the cumulative effects of these types of projects. He stated that they would be requesting a resolution of the Board of Supervisors that would urge the Federal Government to conduct Environmental Impact Reports for these types of projects and that they are selective in where they would be allowed. Mr. Silva further commented on upcoming meetings so that the citizens would be better informed regarding these projects. He stated that the Board of Supervisors has not taken a position to oppose the project at this time.

Councilman Nassif expressed concerns about a proliferation of these windmills in the desert and the effects of this particular project on property values in that area. He felt that the Council should take a stand on this now because it may be too late later.

Councilman Roelle agreed, stating he would support the resolution opposing this project.

Commissioner Allan felt that approving the resolution at this time would be premature.

Mayor Pro Tem Sagona agreed with Councilman Allan. He stated the project is not in the Town's jurisdiction and as Mr. Silva indicated, the County Board of Supervisors has not taken a stand on the issue at this time.

Mayor Jasper commented that the Town is one of the few communities that consider long range planning and how it will affect our community, even within our sphere of influence. He stated should anything change, the Resolution could be withdrawn.

MOTION

Councilman Nassif made a motion, seconded by Councilman Roelle, to adopt Town Council Resolution No. 2008-16, recommending that the County Planning Commission and Board of Supervisors deny the project.

Vote: Motion carried 3-2-0-0

Yes: Councilman Nassif; Councilman Roelle; Mayor Jasper. Noes: Councilman Allan and Mayor Pro Tem Sagona. Absent: None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

MOTION

Motion by Councilman Nassif, seconded by Councilman Roelle, to adjourn to Closed Session at 9:09 p.m. to discuss the following:

1. **Closed Session**
 - A Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluation. Titles: Town Manager; Town Attorney.
 - B. Conference with Legal Counsel - Anticipated Litigation. Based on existing facts and circumstances, the Town Council is deciding whether to initiate litigation, pursuant to Government Code Section 54956.9(c) (one potential case).

Upon returning from Closed Session at 9:18 p.m., Mayor Jasper announced the following reportable action regarding Item 1, B, anticipated litigation under Government Code Section 54956.9(c):

The council unanimously approved entering as an amicus curiae in "Qualified Patients Association vs. City of Anaheim, an appellate court appeal of a Trial Court decision upholding Anaheim's ordinance prohibiting medical marijuana dispensaries.

No reportable action as to Item 1A.

ADJOURNMENT

MOTION

Motion by Councilman Allan, seconded by Mayor Pro Tem Sagona, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:19 p.m.

Town Clerk

Mayor