

**TOWN OF APPLE VALLEY  
TOWN COUNCIL – REGULAR MEETING  
MINUTES – October 14, 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 Pro Tem Sagona; Mayor Jasper. Absent: None.

**CLOSED SESSION**

It was the consensus of the Town Council to discuss Closed Session at the end of the meeting.

**OPENING CEREMONIES**

**INVOCATION:** Pastor Patrick Foy, United in Christ Baptist Church

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Bianca

**PRESENTATIONS:**

1. Town's Current Financial Condition and Safety of Investments, presented by Bill Pattison, Finance Director
2. Update on Design and Construction of Town Hall Annex and Animal Shelter, presented by Patty Saady, Deputy Town Manager

**SPECIAL ANNOUNCEMENTS:** None.

**PUBLIC COMMENTS**

Eulene Cienfuegos, Apple Valley, expressed concern regarding the lack of lighting on her street in Apple Valley. She stated that she appreciated the dark skies in Apple Valley; however she recommended that one street light be located every three blocks for lighting. She also expressed concern regarding the inability to read street names and recommended they be illuminated.

Gail Nunn-Henderson, Equestrian Committee, thanked the Town Council for approving the footing at Horseman's Center. She personally thanked Ms. Saady and Mr. Cron and his staff for their hard work in making sure that the footing was put down correctly. She spoke on the success of the Equine Extravaganza.

Larry Kempton, Apple Valley, thanked the Town Council for releasing the opinion on the political signs.

Chuck Hanson, Apple Valley, commented on the success of the Town Anniversary Celebration. He also commented on the Tour de Apple Valley and welcomed everyone to attend the event and the pancake breakfast on Saturday, October 18.

William Furmage, Apple Valley, would like the PAL Center to work with the bicyclist on establishing a bike park.

#### **COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION**

Councilman Roelle commended staff on the 20<sup>th</sup> Town Anniversary Celebration. He also commented on the success of the Equine Extravaganza and the Air Show.

Councilman Nassif reported on the League of Cities Annual Convention. He stated that the main discussion centered on a potential bylaw change to add four additional seats to the league for each of the caucuses. He noted that the issue was not approved by the board. He also commented on the session that was held regarding youth commissions and the interest of this project with the student delegates that attended the League Conference from Apple Valley. He also spoke of his attendance at the Equine Extravaganza and its success.

Councilman Nassif also commented on SB375 and how it will affect the Town of Apple Valley. He informed the Town Council that the League changed its bylaws to match that of the Mt. Desert Division and that he would remain as President of the Desert Division for another year.

Mayor Pro Tem Sagona commended staff for their hard work and originality which led to the success of the 20<sup>th</sup> Anniversary. He also commended Bill Pattison for his excellent thorough report on the town's finances.

Mayor Jasper commented on the annual conference and the various sessions that were held. He noted that SCAG approved its regional comprehensive plan. He commented on the success of the 20<sup>th</sup> Anniversary Celebration, the St. Mary Gala and the Air Show. He stated that High Desert Opportunity would be held on Thursday, October 16, and the Today's Woman Conference would be held Saturday, October 18.

#### **TOWN COUNCIL ANNOUNCEMENTS**

##### **Suggested items for next agenda:**

Councilman Roelle, with the consensus of the Town Council, recommended an item be placed on a future agenda regarding the pavement bricks being sold by the Aquatics Coalition to raise funds for a pool cover. He would like the report to provide information regarding the wording on the bricks and a definition of offensive wording.

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

**A. Regular Meeting – Tuesday, October 28, 2008, 6:30 p.m. – Council Chambers**

**CONSENT AGENDA**

Haviva Shane, Acting Town Attorney, stated that there was a correction made to the recommendation on Item Number 7. She noted that the corrections were approved by legal counsel and are reflected in the actual report.

**MOTION**

Motion by Councilman Allan, seconded by Councilman Nassif, to approve the consent calendar items numbered 2-14, as amended.

Vote: Motion carried 5-0-0-0

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

**2. Approval of Minutes of the Town Council**

**A. Regular Meeting – September 23, 2008**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**3. Commercial Warrant Schedule - August**

**Recommendation:**

That the Town Council of the Town of Apple Valley receive, ratify, and file the commercial warrants as presented.

**4. Payroll Warrants Schedule - August**

**Recommendation:**

That the Town Council of the Town of Apple Valley receive, ratify, and file the payroll warrant schedule as presented.

**5. Commercial Warrant Schedule - September**

**Recommendation:**

That the Town Council of the Town of Apple Valley receive, ratify, and file the commercial warrants as presented.

**6. Payroll Warrants Schedule - September**

**Recommendation:**

That the Town Council of the Town of Apple Valley receive, ratify, and file the payroll warrant schedule as presented.

**7. Agreement Between the Town of Apple Valley and the Apple Valley Unified School District for the Joint Use of Facilities**

**Recommendation:**

Approve the Joint Use Agreement for facilities and Authorize the Town Manager to Execute the Agreement in substantially the form attached subject to them minor changes approved by the Town Attorney

**8. Agreement Between the Town of Apple Valley and the Lewis Center for Educational Research, Academy of Academic Excellence for the Joint Use of Facilities**

**Recommendation:**

Approve the Joint Use Agreement for facilities and Authorize the Town Manager to Execute the Agreement

**9. Agreement Between the Town of Apple Valley and the Apple Valley Unified School District for the Use of the Swimming Pool**

**Recommendation:**

Approve the Agreement with the Apple Valley Unified School District for the use of the Swimming Pool located at 14999 Dale Evans Parkway and Authorize the Town Manager to execute the Agreement

**10. Authorize Staff to Proceed with a Request for Proposal for the Town of Apple Valley Graffiti Removal Program**

**Recommendation:**

Direct staff to proceed with a request for proposal for graffiti removal services.

**11. Authorize Staff to go out for Bid for Demolition and Clean-Up of the Property 15341 Broken Bow Road, Apple Valley, Ca 92307 APN # 0441-181-24**

**Recommendation:**

Direct staff to go out for bid for the demolition and clean-up of the property located at 15341 Broken Bow Road, Apple Valley, CA APN # 0441-181-24.

**12. Review and Approve Construction Plans and Specifications for the Navajo Road Improvement Project, and authorize staff to Proceed with Advertisement for this Project.**

**Recommendation:**

Review and approve specifications for the Navajo Road Improvement Project and direct staff to proceed with the project.

**13. Acceptance of Work, Notice of Completion and Release of Retention for Dakota Road and Altadena Street Improvement, Project 2008-01.**

**Recommendation:**

1. Accept the work for the roadway improvements on Dakota Road and Altadena Street for a total cost of \$474,200.61.
2. Direct the Town Clerk to file the Notice of Completion for the contract work, notify surety and to exonerate contract bonds.
3. Direct the Finance Director to release retained funds 30-days after the filing of the Notice of Completion, provided no claims are filed against the contractor.

**14. Treasurer's Report – Month of August 2008**

**Recommendation:**

Receive and file.

**PUBLIC HEARINGS**

**15. Community Development Block Grant (CDBG) and Home Investment Partnerships Program (Home) – Consolidated Plan – Public Hearing No. 1**

Mayor Jasper opened the public hearing at 7:36 p.m.

Emily Wong, Assistant Director of Economic and Community Development, presented the staff report as filed with the Town Clerk. Ms. Wong made comments regarding the Housing and Economic Recovery Act signed by the President. She stated that the Town would receive approximately \$3 million under the Consolidated Plan process; however the plan must be

written, have completed the administrative process and funds allocated for use by December 1, 2008.

Councilman Nassif questioned the use of the funds for existing facilities.

Ms. Wong explained that the funds may only be used in conjunction with the purchase of foreclosed homes. She provided examples of how the funding could be used.

It was the consensus of the Town Council to move forward with this action by preparing a plan as needed to begin the process.

Cassandra Black, Sexual Assault Services, thanked the Town Council for the previous support that has been given to their agency. She stated that Apple Valley has 253 registered sex offenders living within in their community.

There being no additional requests to speak, Mayor Jasper closed the public hearing at 7:58 p.m.

There was no additional action taken on this item.

16. **Appeal (No. 2008-004) of The Planning Commission's August 20, 2008 Denial Of Conditional Use Permit No. 2008-004, That Would Permit The Operation Of Two (2) Crematories That Would Provide Cremation Services For Both Human And Animal Remains. The Proposal Would Occupy Two (2) Suites, Totaling Approximately 4,500 Square Feet Of Leased Space, Inside An Existing Industrial Building. The Project Site Is Approximately Two (2) Acres In Size And Is Located Within The Service Commercial (C-S) Zoning Designation.**

Kenneth J. Henderson, Director of Economic and Community Development, presented the staff report as filed with the Town Clerk.

Mayor Jasper opened the public hearing at 8:03 p.m.

Steve Atmore, Applicant, stated that he has met before the Planning Commission twice on this issue. He commented on the noticing requirement that he completed as required. He expressed concern stating that he has completed all the requirements imposed of him, even though he did not believe it was not an initial condition. He said that the crematorium is a needed business in the Town.

Sandra Munson, United in Christ Baptist Church, expressed concern regarding the location of the proposed crematory. She explained that even though the applicant states that there will be no smell, it does not mean that it is safe.

Star Mesa, Apple Valley Mobile Home Park, spoke in opposition of this proposal. She believed that the swamp coolers used to cool many of the trailers in the park would be susceptible to chemicals used during the cremation process.

Gerald Carr, Apple Valley, spoke in favor of the proposed project. He did not think it would have a negative impact on the area.

Carl Jones, Apple Valley, stated that he attended the first hearing on this project and believed that this project would be good for the proposed area. He believed that the denial from the Planning Commission was based on emotion and not facts.

Discussion ensued regarding the potential health hazard that a crematorium would have on the surrounding neighborhood.

Mr. Atmore assured the Town Council that there would be no negative impact on the surrounding neighborhood should this project be approved.

There being no additional requests to speak, Mayor Jasper closed the public hearing at 8:37 p.m.

The Town Council deliberated over this issue and discussed whether or not they believed this was a safe, adequate project for the Town of Apple Valley.

### **MOTION**

Motion by Councilman Roelle, seconded by Mayor Pro Tem Sagona, to:

1. Find that Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270 (a), that a project which is denied is Exempt from CEQA.
2. Find the Facts presented within the staff report for the Council hearing of October 14, 2008, including the comments of the public and the Planning Commissioners as reflected in the Minutes of the Planning Commission Meeting of July 16 and August 20, 2008, and the record as a whole as discussed and considered by the Council, including the negative findings, as identified within Planning Commission Resolution No. 2008-006 (attached), that the proposed crematories may adversely affect or be materially detrimental to adjacent uses and residents and is not compatible with such adjacent uses.
3. Deny Conditional Use Permit No. 2008-004

Vote: Motion carried 3-2-0-0

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

## **LEGISLATIVE MATTERS**

## **REPORTS, REQUESTS AND COMMUNICATIONS**

### **BUSINESS OF THE COUNCIL**

#### **17. Design Services for Civic Meeting Room Space – Town Hall Expansion**

Frank Robinson, Town Manager, presented the staff report as filed with the Town Clerk. He corrected for the record that the project would not be funded with redevelopment tax bonds, but with certificate of participation funds that have already been approved by Council.

Mr. Robinson presented a PowerPoint presentation that showed renderings of the proposed meeting room facility and discussed the need to have such a facility in the Town. He spoke of

the benefit that this facility would have on the numerous service groups in the community as well as private organizations that are in search of meeting facilities in the Town.

The Town Council spoke in favor of the proposed motion and thanked Mr. Robinson for his presentation.

Paul Hood, Apple Valley, spoke in favor of this project.

### **MOTION**

Motion by Councilman Allan, seconded by Councilman Roelle, to appropriate \$148,800 from its redevelopment tax allocation bond proceeds for the purpose of designing civic meeting room space as part of the previously approved Town Hall Expansion Facility project and authorize staff to approve the attached proposal from Dougherty & Dougherty.

Vote: Motion carried 5-0-0-0

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

- 18. Introduce Ordinance No. 388, An Ordinance Of The Town Council Of The Town Of Apple Valley Amending Chapter 1.01.200 Violations; Adding Section 1.01.205 Administrative Hearings; Amending Section 15.01.010 Definitions, Amending Section 15.01.020 (J) Mandatory Licensing, Adding Sections 15.01.050 Animal Care And Section 15.01.055 Animal Tethering, Amending Section 15.01.070 Control Of Animals, Adding Section 15.01.095 Mandatory Spay/ Neuter Amending Section 15.01.110 Annual Permit/Business License, And Amending Section 15.01.125 Animal Limitations.**

Gina Whiteside, Director of Municipal Services, presented the staff report as filed with the Town Clerk.

### **MOTION**

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

1. Find that the proposed adoption of Ordinance No. 388 is not subject to and is Exempt from CEQA, based upon findings under CEQA Guidelines, Section 15061 Sub (b)(3) that can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.
2. Move to waive the reading of Ordinance No. 388 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 388.

Motion by Councilman Nassif, seconded by Councilman Allan, to

1. Move to Introduce Ordinance No. 388, amending Chapter 1.01.200 General Provisions Violations and adding section 1.02.105 General Provisions Administrative Hearings. To amend section 15.01.010 Definitions, amend section 15.01.020 (j) Mandatory Licensing, add section 15.01.050 Animal Care and section 15.01.055 Animal Tethering, amend section 15.01.070 Control of Animals, amend section 15.01.110 Annual Permit/Business License, and amend section 15.01.125 Animal Limitations of the Apple Valley Municipal Code.
2. Direct Staff to File a Notice of Exemption.

Vote: Motion carried 5-0-0-0

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

### **TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE**

Ken Henderson, Director of Economic and Community Development, announced that Orlando Acevedo, Economic Development Specialist was named High Desert Opportunity Board member and Committee Co-Chair for the High Desert Opportunity Conference.

Kathie Martin, Public Information Officer, commented on the success of the Equine Extravaganza and the Town's 20<sup>th</sup> Anniversary Celebration. She presented photos of both events for the Council's viewing.

### **DEPARTMENTAL REPORTS AND BUSINESS:**

#### **STAFF REPORTS**

#### **CORRESPONDENCE**

### **CLOSED SESSION**

#### **MOTION**

Motion by Councilman Allan, seconded by Councilman Nassif, and unanimously carried, to adjourn to Closed Session at 9:20 p.m. to discuss the following:

#### **1. Closed Session**

- A. Conference with Legal Counsel – Initiation of Litigation pursuant to subdivision (c) of the Government Code Section 54956.9 (one or more potential cases).
- B. Negotiations with Real Property Negotiator – Property located at 15200 Rancherias Road, Apple Valley; Negotiating Parties: Lana Dugan; Town Negotiator(s): Town Manager or Finance Director or Designee. Negotiations involve both price and terms.
- C. Negotiations with Real Property Negotiator – Parcel Number: 441-33-01 located at the northwest corner of Dale Evans Parkway and Thunderbird, Apple Valley; Negotiating Parties: Quan and Pellissier; Town Negotiator(s)--Town Manager and Director of Economic and Community or Designee. Negotiations involve both price and terms.
- D. Conference with Legal Counsel – Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9.

Upon returning from Closed Session at 9:43 p.m., Mayor Jasper announced the following:

As to Agenda Item 1D, the Town Council unanimously approved an amendment to Section 1C of the Separation Agreement and Release between the Town of Apple Valley and the former Town Manager as it relates to the monthly amount of compensation for the Retiree Health Savings Plan.



**ADJOURNMENT**

Motion by Councilman Nassif seconded by Mayor Pro Tem Sagona, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:45 p.m.

Town Clerk

Mayor