

**TOWN OF APPLE VALLEY
TOWN COUNCIL – REGULAR MEETING
MINUTES – October 28, 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 Shaun, Victor Valley Worship Center

PLEDGE OF ALLEGIANCE:

Led by Fire Chief Doug Qualls

PRESENTATIONS:

Employee of the Quarter – Mike Molinari, Maintenance Worker II
Special Presentation – Patty Saady – In Recognition of her Retirement
Presentation from Apple Valley Fire District – The Great Shake Out – Bill Woody

SPECIAL ANNOUNCEMENTS:

PUBLIC COMMENTS

Mariana Cole, Apple Valley, expressed concern regarding the Town's brick program. She feels that she is being violated because she can not put what she wants on the bricks. She questioned whose morals and ethics would be represented on the bricks.

Chuck Hanson, Apple Valley, reported on the First Tour de Apple Valley ride and its success.

Pat Hanson, Apple Valley, commented on the success of the bike ride. She also requested additional bicycle lanes in the Town.

Victor Martin, Apple Valley, expressed concern regarding the rules of the brick program.

Lester Milroy, Apple Valley, recommended additional funding be allocated to complete Civic Center Park and a possible BMX Park.

Paul Hood, Apple Valley, would like an addendum or footnote on the agenda items that provide additional information on the items.

William Furmage, Apple Valley, believes that the youth in Apple Valley who ride bicycles are being discriminated against. He believed the skate park should allow bikes.

Andy Silva, representative from Supervisor Brad Mitzelfelt's office, provided additional information to the Town of "The Great Shake Out". He encouraged individuals to take fliers and spread the word about this event.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Roelle thanked the police department for its hard work in locating the individuals that committed the crime at Grand Liquor.

Councilman Nassif stated that the Town has been very proactive in its circulation element, which includes bicycle lanes. He also commented on the recycling efforts of the Town.

Councilman Allan stated that he would like a staff report presented that would address BMX bikes in the skate park.

Mayor Jasper explained that the Town's insurance would not cover the cost to allow bikes in the skate park without a retrofit which would cost approximately \$130,000.

Mayor Pro Tem Sagona suggested this issue be agendized after the first of the year during the mid-year budget cycle. He would also like to review the possibility of a separate BMX facility at that time.

Mayor Pro Tem Sagona commented on a presentation that was given at the Victor Valley Waste Water Reclamation Authority (VWVRA) regarding its financial condition and cost saving measures. He stated that the presentation would be made to the Town Council at a future meeting.

Mayor Jasper stated that he attended the following events during the last few weeks: High Desert Opportunity, Today's Woman, State of the Town to the Hispanic Chamber of Commerce, Grand Opening for Dr. Pepper in Victorville, Distinguished Citizen Award, Apple Valley Clean up Day, Chili Cook-off and the Grand Opening of the Green Tree Golf Course Clubhouse.

Mayor Jasper also commented on the new Caltrans Director who is interested in the high desert area and becoming more familiar with the Yucca Loma Bridge Project. He also stated that the California Redevelopment Association has filed a lawsuit against the State of California for taking the cities redevelopment funds.

Councilman Nassif announced that the Mother of former Mayor Heidi Larkin-Reed recently passed away. He requested, and the Town Council concurred, that the meeting be adjourned in her mothers name.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

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

A. Regular Meeting – Tuesday, November 18, 2008, 6:30 p.m. – Council Chambers

CONSENT AGENDA

Mayor Jasper announced that the U.S Department of Housing And Urban Development (HUD) has waived the requirement to hold a public hearing in order to amend the Consolidated Plan specifically for the Neighborhood Stabilization Program. Based on this information staff has requested that Agenda Item #13 be removed from the consent calendar

Councilman Nassif recommended, with the consensus of the Town Council, that Agenda Item Number 14 be pulled for discussion.

MOTION

Motion by Councilman Allan , seconded by Mayor Pro Tem Sagona, to approve and adopt the Consent Calendar items numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and that Item Number 13 be removed from the Consent Calendar, and that Item Number 14 be pulled for discussion.

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. **Special Meeting – October 10, 2008**
 - B. **Regular Meeting – October 14, 2008**

Recommendation:
Approve the subject minutes as part of the consent agenda.
3. **Treasurer’s Report – September**

Recommendation:
Receive and file.
4. **Award Bids for 2008-09 Vehicle Purchase Program**

Recommendation:
Approve the purchase of new vehicles and trade-ins as listed above.
5. **Accept the Final Map for Parcel Map No. 18370**

Recommendation:
Move to accept the final map for Parcel Map No. 18370.
6. **Award Contract for the Muni Road Guardrail Project 2008-08**

Recommendation:
Award a contract to D.C. Hubbs Construction for the Muni Road Guardrail Project, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.
7. **Review and Approve Construction Specifications for the Microsurface 2008 Project, and Authorize Staff to Proceed With Advertisement for this Project.**

Recommendation:
Review and approve specifications for the Microsurface 2008 Project and direct staff to proceed with the project.

8. **Adopt 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.**

Recommendation:

Adopt Ordinance No. 388

9. **Approve the Refurbishing of Certain Scrap Computers for Donations to Non-Profit Agencies and/or Institutions Within the Town of Apple Valley.**

Recommendation:

Authorize the Town Manager, contingent upon approval by the Town Attorney, to execute the attached agreement between the Town of Apple Valley and Algot Stephenson, allowing refurbishing of computers submitted to HHW for donation to schools and/or other non-profit agencies within the Town of Apple Valley.

10. **Claimant – Calise Taylor, Shay Taylor, a Minor, Kira Taylor, Heather Taylor-Gibbons, Joel Taylor Abrie Taylor-Mikkelson, Ryan Taylor and Eric Taylor**

Recommendation:

Reject the claim of Calise Taylor, Shay Taylor, a Minor, Kira Taylor, Heather Taylor-Gibbons, Joel Taylor Abrie Taylor-Mikkelson, Ryan Taylor and Eric Taylor

11. **Resolution of the Town Council of the Town of Apple Valley, California Adopting an Identity Theft Prevention Program**

Recommendation:

Approve Resolution No. 2008-58, a Resolution of the Town Council of the Town of Apple Valley, California, Adopting an Identity Theft Prevention Program.

12. **Award Professional Services Contract for Performance of a Joint Town of Apple Valley and Victor Valley Wastewater Reclamation Authority Odor Control Analysis and Study**

Recommendation:

Authorize award of a professional services contract to V&A Consulting Engineers, Inc. in an amount not to exceed 50% of \$175,000 for an Odor Control Analysis and Study, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager, and subject to approval by the VVWRA Board of Directors.

PULLED FROM AGENDA

13. **Public Hearing for Proposed Amendment to the Five-Year Consolidated Plan for Fiscal Year 2007-2012 – Establishing Date and Time Certain**

Recommendation:

That the Town Council establish November 18, 2008 at 6:30 p.m. as the date and time certain for the purpose of conducting the public hearing necessary to develop the Amendment to the Five-Year Consolidated Plan.

14. **Resolution Setting Forth Town Council's October 14, 2008 Denial Of Appeal (No. 2008-004) And Upholding Of The Planning Commission's August 20, 2008 Denial Of Conditional Use Permit (CUP) No. 2008-004. CUP No. 2008-004 Proposed The Operation Of Two (2) Crematories That Would Have Provided Cremation Services For Both Human And Animal Remains. The Proposed Project Would Have Occupied Three (3) 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.**

Councilman Nassif questioned the need to approve this resolution since the item was reviewed and denied at the last meeting.

John Brown, Town Attorney, explained that when there is a land use denial, it is recommended that it be submitted to the Town Council in the form of an official resolution to memorialize the action. He explained that if the resolution is not approved it would give the applicant an opportunity to request a reconsideration.

Discussion ensued regarding whether or not this item should be continued.

Carl Jones, Apple Valley, requested the Town Council reconsider this item that was denied on a 3-2 vote. He believed that based on the testimony given, that this project is needed in the community.

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilman Nassif, that no action be taken on this item.

PUBLIC HEARINGS

15. **A Request For The Town Council To Review And Approve General Plan Amendment No. 2007-008 And Zone Change No. 2007-005 To Change The Current Land Use Designation From Single-Family Residential (R-SF, 1 DU 0.4 To 0.9 Net Acres) To Medium Density Residential (R-M, Two (2) To Twenty (20) Dwelling Units Per Acre); And A Corresponding Rezoning Classification From Residential Equestrian (R-EQ, 1 DU Per 0.4 To 0.9 Net Acres) To A Residential Multi-Family (R-M, Two (2) To Twenty (20) Dwelling Units Per Acre) Zoning Classification; And A Request To Approve Conditional Use Permit No. 2007-013 For 140 Apartment Units. The Project Is Located At The Southwest Corner Of Ottawa And Nomwaket Roads; APN(S) 3087-401-02, -03, -04, -05.**

Mayor Jasper opened the public hearing at 8:02 p.m.

Becky Reynolds, Senior Planner, presented the staff report as filed with the Town Clerk.

Mayor Pro Tem Sagona asked a series of questions regarding the proposed project.

Nicky Johnson, Apple Valley, spoke against the proposed project. She did not believe that a multi-family project was needed in this area.

Tom Steeno, Architect, representing the applicant, stated that this is a well-planned upscale project. He also stated that the project will create jobs for the Victor Valley.

Maurice Clayton, Apple Valley, expressed concern regarding the project. He stated that he lived near the proposed project and did not believe that this area would appreciate an upscale multi-family housing project.

William Furmage, Apple Valley, spoke against this project.

There being no additional requests to speak, Mayor Jasper closed the public hearing at 8:29 p.m.

The Town Council members each discussed their views on this project.

MOTION

Motion by Councilman Nassif, seconded by Councilman Allan, to:

1. Determine, in conformance with the requirements of the State Guidelines to implement the California Environmental Quality Act (CEQA) that the proposed General Plan Amendment No. 2007-008, Zone Change No. 2007-005 and Conditional Use Permit No. 2007-013 will not have a significant effect on the environment.
2. Adopt the Negative Declaration prepared for General Plan Amendment No. 2007-008, Zone Change No. 2007-005 and Conditional Use Permit No. 2007-013.
3. Find that the proposed Resolution and Ordinance are consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and, as such, shall promote the health, safety and general welfare of the citizens of Apple Valley, and that Ordinance No. 389, approving conforming rezoning is consistent with the General Plan Amendment established by Resolution No. 2008-57.
4. Find the facts presented within the staff report including the attached Planning Commission staff report for August 6, 2008, support the required Findings for approval of the proposed General Plan Amendment, Zoning Map amendment of the Development Code and Conditional use Permit and adopt the Findings.
5. Adopt Resolution No. 2008-57 approving General Plan Amendment No. 2007-008
6. Move to waive the reading of Ordinance No. 389 in its entirety and read by title only.

Vote: Motion carried 3-2-0-0

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

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 389,

MOTION

Motion by Councilman Nassif, seconded by Councilman Allan, to:

7. Introduce Ordinance No. 389 amending that portion of Title 9 (Development Code) of the Town of Apple Valley Municipal Code, Section 9.05.040 "Adoption of the Official Zoning Map" subsection "B" by approving the conforming rezoning from Residential Equestrian (R-EQ, 1 du per 0.4 to 0.9 net acres to a Residential Multi-Family (R-M, two (2) to twenty (20) dwelling units per acre) Zoning classification for Assessor Parcel Number(s) 3087-401-02, -03, -04, -05.
8. Direct staff to file a Notice of Determination with the San Bernardino County Clerk of the Board.

Vote: Motion carried 3-2-0-0

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

16. A Request Shall Be Presented To The Town Council To Amend The Provisions Of The Development Code Pertaining To Modifying Regulations For Human Operated Signs Located Near Access Areas Of Public Safety Facilities Within The Town.

Recommendation:

Mayor Jasper opened the public hearing at 8:41 p.m.

Becky Reynolds, Principal Planner, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Jasper closed the public hearing at 8:43 p.m.

MOTION

Motion by Councilman Nassif, seconded by Councilman Allan, 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 the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code, and adopt the Findings.
3. 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.
4. Move to waive the reading of Ordinance No. 390 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 390

MOTION

Motion by Councilman Nassif, seconded by Councilman Allan, to:

5. Introduce Ordinance No. 390, amending Chapter 9.74 "Signs and Advertising Displays" of the Development Code as it relates to modifying the regulations for human operated signs located near access areas of public safety facilities within the Town.
6. Direct staff to file a Notice of Exemption.

Vote: Motion carried 5-0-0-0

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



LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

17. Establishment of Consolidated Plan Priorities

Emily Wong, Assistant Director of Economic and Community Development, presented the staff report as filed with the Town Clerk. She recommended, with the consensus of the Town Council, that an additional priority be established for the “Provision of public facilities and parking improvements”.

MOTION

Motion by Councilman Nassif, seconded by Councilman Allan, to establish and confirm the Consolidated Plan Priorities listed below:

1. Preserve the Existing Housing Stock (Single-Family Housing Rehabilitation)
2. Expand the Supply of Affordable Housing and tentative new Senior Rental Project
3. Increase Affordable Homeownership Opportunities
4. Address Public Service Needs
5. Affirmatively Further Fair Housing to Ensure Equal Access to Housing Lower Income, Ethnic Minorities and Special Needs Groups (Fair Housing Program)
6. Create Safer, More Attractive and More Accessible Neighborhoods and Stimulate Economic Growth Through the Improvement of Infrastructure
7. Provision of public facilities and parking improvements

Vote: Motion carried 4-1-0-0

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

18. A Resolution Of The Town Council Of The Town Of Apple Valley Modifying The Personnel Policies And Procedures For The Town Of Apple Valley By Designating December 24th As A Standard Town Holiday

Frank Robinson, Town Manager, presented the staff report as filed with the Town Clerk.

Paul Hood, Apple Valley, commented on the Town's holiday schedule.

MOTION

Motion by Councilman Roelle, seconded by Councilman Allan, to adopt Resolution No. 2008-60, amending the Personnel Policies and Procedures by designating December 24th as a standard holiday for the Town of Apple Valley.

Vote: Motion carried 5-0-0-0

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

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Gina Whiteside, Director of Municipal Services, reported on the success of the Property Rental Inspection Program.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

1. Closed Session

MOTION

Motion by Councilman Allan, seconded by Mayor Pro Tem Sagona, to adjourn to Closed Session at 9:00 p.m. to discuss the following:

- A. 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 of payment.
- B. Conference with Legal Counsel- Existing Litigation pursuant to subdivision (a) of Government Code Section 54956.9 - Town of Apple Valley v. David Merlin Alexander SBSC Case No. CIVVS801207
- C. Conference with Legal Counsel – Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9.

Upon returning from Closed Session at 10:00 p.m., Mayor Jasper announced that there was no reportable action taken.

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 10:00 p.m. in memory of Arline Krogh, Mother of our former Mayor and Council Member Heidi Larkin-Reed; also with well-wishes and prayers to Grant Lamson, son of Lori Lamson, Assistant Director of Community Development, and Mr. Robert "Bob" Henderson, father of Ken Henderson, Assistant Town Manager, Economic and Community Development.

Town Clerk

Mayor