

**TOWN OF APPLE VALLEY  
TOWN COUNCIL/REDEVELOPMENT AGENCY**

**REGULAR MEETING  
MINUTES – August 11, 2009**

**OPENING CEREMONIES**

**CALL TO ORDER:**

Mayor Roelle 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; Councilwoman Coleman; Councilman Sagona; Mayor Pro Tem Nassif; Mayor Roelle. Absent: None.

**TOWN COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION**

**1. Closed Session**

**MOTION**

Motion by Councilman Allan, seconded by Councilwoman Coleman, and unanimously carried to discuss Closed Session at the end of the meeting.

**INVOCATION:** The invocation was given by Bishop Donald, River of Kingdom Center

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

**PRESENTATIONS:**

Employee of the Quarter – Benjamin Rodriquez, Information Systems Technician

Proclamation – Ana Hernandez, U. S. Census Bureau

**SPECIAL ANNOUNCEMENTS:**

**PUBLIC COMMENTS**

Chuck Hanson, Apple Valley, invited the Town Council to participate in the Tour de Apple Valley ride on Saturday, September 26, 2009.

Janice Schommer, Apple Valley, expressed concern regarding her neighbor's outdoor lighting which interferes with her quality of life in Apple Valley.

Chandler Powell, Apple Valley, expressed concern regarding the tax assessments placed on property owners in the Village area of Apple Valley. He respectfully requested that the high taxes be eliminated.

Lance Angulo, Apple Valley, spoke on the goals of the Village merchants and their desire to eliminate the taxes.

Tom Moralas, Apple Valley, expressed concern regarding the outdoor lighting problems that he experiences in his neighborhood. He also spoke of the need for more park and recreational facilities in the community to include a bike park. He concluded his comments by expressing concern over the Property Business Improvement District fees.

Christina Estela, Apple Valley, spoke of the need for the Town Council, to build a bike park for the youth in Apple Valley.

William Furmage, Apple Valley, read a statement to the Town Council and the public regarding the need for the Town Council to build a bicycle park.

R. D. Blalock, Apple Valley, expressed concern regarding the treatment that he has received from Code Enforcement and the Town of Apple Valley.

Domenic Mariani, Nonnas Pizzeria, expressed concern regarding citations that he has received for signs that he has placed on his property. He believes that his signs are similar to signs that have not received violations and requested assistance from the Town Council on this issue.

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

Councilman Sagona recommended that an update be given on the BMX facility as soon as possible. Councilman Sagona expressed concern regarding the funding for Housing Partners and a note in the minutes of May 26, 2009 regarding Town funds.

Councilman Sagona requested, with the consensus of the Town Council, to have staff contact the Town Council with the information regarding the note in the minutes.

Councilwoman Coleman stated that a public meeting would be held next week regarding the bicycle park. She stated that they would be contacted all those that were in attendance at previous meetings to participate in this meeting.

Councilman Allan spoke on his attendance at the San Bernardino County Museum and he brought calendars for anyone who is interested. He also commented on attending the groundbreaking for a dental office and the memorial celebration for Doris Davies. He spoke of the contributions that Ms. Davies made to the Victor Valley. He also stated that he attended the State of the County Address in Victorville. He stated that he was concerned about the signs and recommended that this item be brought back to the Town Council for review.

Mayor Pro Tem Nassif commented on statements made by the public regarding signs. He stated that he did not receive preferential treatment from the Town. Mayor Pro Tem Nassif spoke on his attendance at the California Resource and Recovery Association Conference where the topics of diversion rates and recycling were discussed.

Mayor Roelle stated that he would meet with the Town Manager on the issue of signs.

**TOWN COUNCIL ANNOUNCEMENTS**

**Suggested items for next agenda:**

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

**A. Regular Meeting – Tuesday, August 25, 2009, 6:30 p.m. – Council Chambers**

**TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA**

Paul Hood, Apple Valley, expressed concern regarding the 18 wheels on Corwin Road.

**MOTION**

Motion by Councilman Allan, seconded by Councilwoman Coleman, to approve agenda items numbered 2 through 9, as recommended.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle.

**Mayor Pro Tem Nassif abstained from voting on items number 7 and 10.**

Mayor Roelle announced to the public that Item Number 10, regarding the "Resolution Approving The Levy And Collection Of Assessments For Fiscal Year 2009-10 Within The Apple Valley Village Property and Business Improvement District" will be pulled for further discussion and recommendation.

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

**A. Regular Meeting – July 28, 2009**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**3. Award Contract for the Corwin Road Improvement Project 2009-04: Highway 18 to Ramona Road (Apple Valley Airport)**

**Recommendation:**

Direct the Finance Division to allocate \$960,000 from the Transportation Impact Fee Fund and award a contract to Sully-Miller Contracting Co. for the Corwin Road Improvement Project, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager

**4. Release of Securities for Parcel Map 17684.**

**Recommendation:**

Find that the construction of various improvements required for Parcel Map 17684 are complete, and approve the 50% reduction of the performance securities.

**5. Acceptance Of Work, Notice Of Completion And Release Of Retention For The Town Of Apple Valley Civic Center Park Electrical Work Phase I**

**Recommendation:**

1. Accept the work for the electrical upgrade at the Civic Center Amphitheater for a total cost of \$87,571.00
2. Direct the Town Clerk to file a Notice of Completion for the contract work, notify surety and to exonerate 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
  
6. **Adopt Resolution 2009-38, Approving A Reimbursement Agreement, A Custody Agreement And A Security Agreement In Connection With The Substitution Of A Letter Of Credit Relating To The Variable Rate Demand Refunding Certificates Of Participation (Town Center Project) Series 2001, And Authorizing Official Actions And Execution Of Documents Related Thereto**  
**Recommendation:**  
Adopt Resolution 2009-38, approving a reimbursement agreement, a custody agreement and a security agreement in connection with the substitution of a letter of credit relating to the variable rate demand refunding certificates of participation (Town center project) series 2001, and authorizing official actions and execution of documents related thereto.
  
7. **Request To Vacate A Portion Of A Sewer Easement Within Lot 422, 423, And 424, Tract 7934**  
**Recommendation:**
  1. Find that the West 47.5 feet of the sewer easement located at Lot 422, 423, and 424, Tract 7934, is unnecessary for present or future use by the Town of Apple Valley;
  2. Adopt Resolution No.2009-39, "A Resolution of the Town Council of the Town of Apple Valley, California, vacating a portion of a sewer easement at Lot 422, 423 and 424, Tract 7934, 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 sewer easement and accompanying Quitclaim Deed be recorded in the office of the County Recorder of the County of San Bernardino.
  
8. **Ratify Purchase Of The Toilet Partitions And Toilet Accessories For The Apple Valley Municipal Animal Shelter**  
**Recommendation:**  
Ratify the purchase of the Toilet Partitions and Toilet Accessories from Henri Specialties including additional unit priced items.
  
9. **Amendment To The Professional Services Contract For The Preparation Of An Update To The General Plan, Annexation Plan For Service, A CEQA Compliant Environmental Impact Report For The General Plan And Annexation And Prepare Amendments To The Development Code For Compliance With The General Plan**  
**Recommendation:**  
Award the amended professional services contract in the additional amount of \$17,665.00 to Terra Nova Planning and Research, Inc., for professional services for the preparation of an update to the General Plan, Annexation Plan for Service and a CEQA-compliant Environmental Impact Report and Specific Plan, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

**PULLED FOR DISCUSSION**

10. **Resolution Approving The Levy And Collection Of Assessments For Fiscal Year 2009-10 Within The Apple Valley Village Property And Business Improvement District**

Mayor Pro Tem Nassif announced that he had a potential conflict of interest with this item and therefore excused himself from voting on this item.

**MAYOR PRO TEM NASSIF WAS EXCUSED FROM THE DAIS AT 7:14 P.M.**

Emily Wong, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk. She explained how the ballot process was conducted. She stated that after the ballots were counted it was approved by a 53% vote.

Councilwoman Coleman had questions regarding the need to adopt a Resolution for a five year assessment plan.

Councilman Allan questioned the ability to dissolve the PBID District.

John Brown, Town Attorney, briefly commented on the process to eliminate the PBID District. He commented on the ongoing conversations with the Village Association who have concerns regarding the assessments.

Ms. Wong explained the Town's involvement with the PBID and how the collected assessments are distributed back to the Village Association. She commented on the work plan that is brought forward on a year by year basis by the Town with a budget attached that shows how the funds are administered.

Councilman Sagona had questions regarding the merchants association's ability to defer the Levy.

Mr. Brown, Town Attorney, explained the need for the Town Council to vote and approve the item on the agenda. He also explained that any changes made to the Levy must originate from the Board of Directors and the business owners.

Donald Nunn, Apple Valley, believed that this was not the time to have this unfair tax. He recommended this item be tabled.

Sergio Lupian, Apple Valley, expressed concern regarding this unfair tax. He recommended this item be tabled permanently.

Charles Johnson, Apple Valley, expressed concern regarding the tax.

Milt Holland, Apple Valley, expressed concern regarding the tax. He commented on his involvement with the PBID until he was removed. He asked that this item be continued to the next meeting to allow him the opportunity to present the Town Council with a report regarding the PBID.

Kim Scully, Apple Valley, expressed concern regarding the tax fees. She stated that she has allowed individuals out of their lease due to the economic downturn. Ms. Scully commented that the PBID needs to be brought back for review.

Councilman Sagona questioned what would happen should the Town Council not approve this item.

Mr. Brown, Town Attorney, recommended that the Town Council approve this item and direct staff to research options relating to this issue. He explained that it is possible to file a modification to the Levy to reduce or eliminate the Levy.

Councilman Allan noted that the assessment was approved by a majority of the voters and therefore would have to be resolved by a majority of the voters. He recommended that the resolution on the agenda be approved and that if the members wish for the district to be dissolved, that they work with the Board and then forward a recommendation to the Town Council.

Mayor Roelle reiterated that if the Board and its members wish for the district to be dissolved, they should forward a recommendation to the Town Council.

### **MOTION**

Motion by Councilman Allan, seconded by Councilwoman Coleman, to adopt Resolution No. 2009-41 Approving the Levy and Collection of Assessments for Fiscal Year 2009-10 within the Apple Valley Village Property and Business Improvement District.

Vote: Motion carried 3-0-1-1

Yes: Councilmember's Allan; Coleman; Mayor Roelle. Abstain: Councilman Sagona.

Absent: Mayor Pro Tem Nassif.

### **MAYOR PRO TEM NASSIF RETURNED TO THE DAIS AT 7:39 P.M.**

#### **PUBLIC HEARINGS**

### **CONTINUED FROM JULY 14, 2009**

11. **General Plan Amendment No. 2008-001: A Request To Consider A Comprehensive Update Of The Town Of Apple Valley General Plan, Including All Mandated Elements.**

**Annexation 2008-001: A Request To Consider The Annexation Of 4.3 Square Miles Known As The "Golden Triangle," And Located East Of Interstate 15, North Of Johnson Road, West Of Dale Evans Parkway, And South Of Morro Road.**

**Annexation 2008-002: A Request To Consider The Annexation Of 1.3 Square Miles Located South Of Quarry Road And East Of Central Road.**

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

Mayor Roelle opened the public hearing at 7:48 p.m.

William Quimby, Apple Valley, expressed concern regarding the General Plan and annexation. He stated that he submitted a letter to the Town requesting a modification to the three lots located on Stoddard Wells. Mr. Quimby is requesting the Town Council's consideration to amend the zoning of these parcels to General Commercial.

Carl Coleman, Apple Valley, commented on the four lots adjacent to the AV Country Club that are proposed to be changed to commercial. He stated that if they are developed to cause the frontage road to be changed, it would block access to the homes in that area.

Mayor Pro Tem Nassif questioned the concerns expressed by Mr. Quimby and asked that staff address the issues surrounding the parcels.

Ms. Lamson, Assistant Director of Community Development, explained the different annexations on the map. Ms. Lamson recommended that the Council approve to amend the zoning of these Parcels to General Commercial.

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

### **MOTION**

Motion by Mayor Pro Tem Nassif, seconded by Councilwoman Coleman, to approve the recommendation to amend the zoning of Parcels 472-254-01-02 and 05, 472-253-08/06 and 472,252-02 to General Commercial.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle.

### **MOTION**

Motion by Councilman Allan, seconded by Councilwoman Coleman, to

1. In conformance with the requirements of the California Environmental Quality Act (CEQA), and the State Guidelines to Implement CEQA, that the Town Council:
  - a. **Adopt** Resolution No. 2009-30, including the recommended environmental findings, mitigation monitoring program, Statement of Overriding Consideration and certifying the Environmental Impact Report (SCH #2008091077) for General Plan Amendment 2008-001, Annexation 2008-001 and Annexation 2008-002;

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle.

### **MOTION**

Motion by Councilman Allan, seconded by Councilwoman Coleman, to:

2. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for April 15, 2009, and the Town Council staff reports of May 12, 2009, June 9, 2009, July 14, 2009 and August 11, 2009 support the required Findings for approval of the proposed General Plan Update and adopt the Findings as amended.
3. **Adopt** Town Council Resolution No. 2009-31, approving General Plan Amendment No. 2008-001, as amended in the Resolution;
4. **Direct** staff to file a Notice of Determination with the San Bernardino County Clerk of the Board of Supervisors.
5. **Direct** staff to initiate application material in preparation for Annexations 2008-001 and 2008-002.
6. **Direct** staff to correct any remaining errors and distribute the adopted General Plan.
7. **Direct** staff to initiate Development Code and Zoning Map amendments necessary to make those documents consistent with the General Plan.
8. **Direct** staff to initiate the preparation of a Climate Action Plan.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle.

**12. A Resolution Of The Town Council Of The Town Of Apple Valley, California, Establishing Sewer Fees And Establishing An Operative Date Therefore**

Bill Pattison, Assistant Town Manager, Finance and Administration, presented the staff report as filed with the Town Clerk.

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

There being no requests to speak, Mayor Roelle closed the public hearing at 8:03 p.m.

**MOTION**

Motion by Councilman Sagona, seconded by Mayor Pro Tem Nassif, to adopt Resolution 2009-40 revising the sewer user fees for the use of Town sewers.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle.

**LEGISLATIVE MATTERS**

**REPORTS, REQUESTS AND COMMUNICATIONS**

**BUSINESS OF THE COUNCIL**

None.

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

Frank Robinson, Town Manager, commented on items that would be heard at the next scheduled meeting of August 25, 2009, to include plans, programs and projects to assist property owners with rehabilitation properties. Mr. Robinson also stated that the reimbursement agreement with VVWRA will be moving forward with construction of a Regional Waste Water Facility.

**DEPARTMENTAL REPORTS AND BUSINESS:**

**STAFF REPORTS**

**CORRESPONDENCE**

**CLOSED SESSION**

**1. Closed Session**

Motion by Mayor Pro Tem Nassif, seconded by Councilman Sagona, and unanimously carried, to adjourn to Closed Session at 8:15 p.m. to discuss the following:



- A. Negotiations with Real Property Negotiator – APN #3087-171-07, 08, 11 and 12; Negotiating Parties: Tom Hrubik, Operations Manager, HDC Group, LLC, and Robert Shaw, Authorized Officer and Administrator of RMG Real Estate Services II, LLC.; Town Negotiator(s): Town Manager and Assistant Town Manager, Economic and Community Development or Designee. Negotiations involve both price and terms of payment.

Upon returning from Closed Session at 9:27 p.m. Mayor Roelle announced that the Town Council authorized staff to enter into negotiations on the property as described in Closed Session Item 1A.

<b>ADJOURNMENT</b>
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Motion by Councilman Allan, seconded by Councilman Sagona, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:28 p.m.

Town Clerk

Mayor