

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

**REGULAR MEETING
MINUTES – November 10, 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: Boardmember/Councilman Allan; Boardmember/Councilwoman Coleman; Boardmember /Councilman Sagona; Vice-Chair/Mayor Pro Tem Nassif; Chair/Mayor Roelle. Absent: None.

TOWN COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION

Mayor Roelle announced that staff is recommending that an additional closed session be added to our agenda because we need to give direction tonight on a matter of existing litigation which arose subsequent to the posting of the Agenda. That matter is as follows:

- B. Conference with Legal Counsel – Existing Litigation under Government Code Section 54956.9(a) – town of Apple Valley vs. High Desert Community Foundation Inc., San Bernardino Superior Court Case No. CIVSS 806940.

MOTION:

Motion by Councilman Sagona, seconded by Mayor Pro Tem Nassif, that the need to give direction on a matter arose subsequent to the posting of the agenda. Move to add Item B, Conference with Legal Counsel – Existing Litigation under Government Code Section 54956.9(a) – Town of Apple Valley vs. High Desert Community Foundation Inc., San Bernardino Superior Court Case No. CIVSS 806940.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle. Absent: None.

1. Closed Session

MOTION

Motion by Councilwoman Coleman, seconded by Mayor Pro Tem Nassif, and unanimously carried to discuss Closed Session at the end of the meeting.

OPENING CEREMONIES

INVOCATION: The invocation was given by Pastor Steve Cobbs, Church of the Nazarene

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Boy Scout Troop #157

SPECIAL MUSICAL SELECTION: God Bless America – Miss Summer Reign, Apple Valley Idol

PRESENTATIONS: *Presentation of Art/Essay/Photo Contest Winners for 2010 Calendar –Kathie Martin, Marketing/Public Affairs Officer and Sierra Webb, Public Relations Specialist*

COUNCILMAN ALLAN ARRIVED AT 6:45 P.M.

Presentation – Update on Bonded Indebtedness and General Fund Ending Fund Balance for 2008/2009 – Bill Pattison, Assistant Town Manager, Finance and Administration

Councilman Sagona recommended that the Bonded Indebtedness be continued until we deal with the business regarding the stadium

SPECIAL ANNOUNCEMENTS:

PUBLIC COMMENTS

Lawrence McCarthy, Apple Valley, expressed concern regarding the action of the Town Council at the last meeting regarding the Apple Valley Country Club. He believed that the Council's action to move forward with the item to include the closing of escrow on the property should be brought back to the Town Council for formal action.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilwoman Coleman commented on her attendance at the California Transit Association Conference where one of the topics discussed was funding. She also commented on her attendance at the Southern California Associated Governments meeting where discussions held included the SP375 and preparation by SCAG for a sustainable community strategy. She announced that SCAG AB1403, a legislation to help fund planning and programming has been signed by the Governor.

Councilman Sagona stated that the City of Victorville has decided to move forward with its sludge agreement, independently with the VVWRA. He believed that the JPA may need to be amended to reflect this action.

Mayor Pro Tem Nassif asked how this action would affect the Town of Apple Valley.

Councilman Sagona stated that the other entities are not shying away from the needs of the Town.

Mayor Pro Tem Nassif commented on attending the 60th Anniversary of the Apple Valley Library and also the Grand Opening for the Dr. Mike Clinic in the Target Shopping Center. He also stated that he and Councilman Sagona are working on the taskforce for the Apple Valley Country Club.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Councilwoman Coleman recommended staff contact SCAG SB375 for a presentation on where they are and the timeline.

Mayor Roelle stated that he received a phone call from a Mr. Tom Carpino regarding the purchase of the Country Club. He would like a special meeting to discuss this further. He is requesting that an item be placed on the Agenda and that staff provide a report on the information reported to the Mayor. He also has requested that the report include why the Council was not informed about another offer to purchase the Country Club.

Councilman Sagona commented on a possible exit strategy. He recommended that another option be added to this agenda to agendize that the Council may possibly wish to reconsider.

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

A. Regular Meeting – Tuesday, December 8, 2009, 6:30 p.m. – Council Chambers

An announcement was made that prior to the meeting, a Christmas / Holiday Tea will be held at 5:30 p.m.

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

MOTION

Motion by Councilwoman Coleman, seconded by Mayor Pro Tem Nassif, to approve and adopt the Consent Calendar items numbered 2 – 14, respectfully.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle. Absent: None. **Mayor Pro Tem Nassif abstained from voting on items 4 and 7.**

2. **Approval of Minutes of the Town Council**
 - a. **Special Meeting – October 27, 2009**
 - b. **Regular Meeting – October 27, 2009**

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. **Treasurer's Report – Month of August 2009**

Recommendation:

Receive and file.

4. **Commercial Warrant Schedule – August 2009**

Recommendation:

Receive, ratify, and file the commercial warrants as presented.

5. **Payroll/Benefits Warrants Schedule – August 2009**

Recommendation:

Receive, ratify, and file the payroll warrant schedule as presented.

6. Treasurer's Report – Month of September 2009

Recommendation:

Receive and file.

7. Commercial Warrant Schedule – September 2009

Recommendation:

Receive, ratify and file the payroll warrant schedule as presented.

8. Payroll/Benefits Warrants Schedule – September 2009

Recommendation:

Receive, ratify and file the payroll warrant schedule as presented.

9. Resolution Approving and Adopting an Amended Conflict of Interest Code Pursuant to The Political Reform Act Of 1974

Recommendation:

That the Town Council adopt Resolution No. 2009-50, approving and adopting the amended Conflict of Interest Code pursuant to the Political Reform Act of 1974 to include new positions that must be designated, declare positions listed in Government Code section 87200 including those who manage public investments, revise titles of existing positions, revise disclosure categories and assign disclosure categories to each position based on the powers and duties of that position, adopt the Fair Political Practices Commission Standard Provisions by incorporating FPPC Regulation 18730 as the provisions of the Code .

10. Supplemental Law Enforcement Services Funds (SLESF – COPS Grant)

Recommendation:

Open the Public Hearing. Close the Public Hearing; then Authorize the Finance Director to submit to the County a request for the Supplemental Law Enforcement Service Fund (SLESF) – COPS Grant in the amount of \$108,226 plus accrued interest to be used to supplement the Juvenile Officer positions.

Recommendation:

12. Update to the Town's two Multi Prime Contracts, The Animal Shelter Located at 22131 Powhatan Road and the Town Hall Annex 14975 Dale Evans Parkway Located Adjacent to the Existing Town Hall.

Recommendation

That the Town Council receive and file this staff report.

13. Center For Disease Control American Recovery And Reinvestment Act Of 2009 – "Communities Putting Prevention To Work" Grant

Recommendation:

That the Town Council Ratify a Letter of Agreement for the Center For Disease Control American Recovery and Reinvestment Act – "Communities Putting Prevention to Work" Grant.

14. Measure I -2010-2040 Expenditure Plan for the Victor Valley Subarea, Five-Year Capital Project Needs Analysis

Recommendation:

Adopt Resolution No.2009-51, "A Resolution of the Town Council of the Town of Apple Valley, adopting the Five-Year Capital Project Needs Analysis"

PULLED FOR DISCUSSION

11. Authorize Expenditure Of A Portion Of Remaining Bond Proceeds For Construction Of Renewable Solar Energy Project At Town Hall.

Diana McKeen, Environmental and Regulatory Compliance Manager, presented the staff report as filed with the Town Clerk.

Councilman Sagona questioned whether or not these bond proceeds would apply to both the new Town Hall Annex and the existing Town Hall.

Ms. McKeen explained that this item applies to the existing Town Hall.

Councilman Sagona requested an item be presented to the Town Council on a future agenda and that staff bring back a report indicating the feasibility for an energy project for the Town Hall Annex.

MOTION

Motion by Councilwoman Coleman, seconded by Mayor Pro Tem Nassif, to authorize expenditure of a portion of remaining bond proceeds for construction of renewable solar energy project at Town Hall.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle. Absent: None.

PUBLIC HEARINGS

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

15. Establishment of Consolidated Plan Priorities

Kenneth J. Henderson, Assistant Town Manager, Economic and Community Development, presented the staff report as filed with the Town Clerk. He respectfully requested that an additional priority be added as Item Number 7 - Provision of Public Facilities and Park Improvements.

Councilman Sagona had questions regarding the order of the priorities.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Councilwoman Coleman, to approve the following list of Community Development Block Grant and HOME priorities, as established in the Strategic Plan, to be used as a guideline by the Community Development Citizens Advisory Committee in making funding recommendations to the Town Council for the 2010-2011 Action Plan.

1. Preserve the Existing Housing Stock (Single-Family Housing Rehabilitation)
2. Increase Affordable Homeownership Opportunities
3. Assist low-income individuals and families in reducing utility costs (Energy Efficiency Programs)
4. Expand the Supply of Affordable Housing
5. Address Public Service Needs
6. Affirmatively Further Fair Housing to Ensure Equal Access to Housing Lower Income, Ethnic Minorities and Special Needs Groups (Fair Housing Program)
7. Provision of Public Facilities and Park Improvements

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle. Absent: None.

16. The Village Area Property-Based Business Improvement District (PBID)

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

MAYOR PRO TEM NASSIF WAS EXCUSED FROM THE DAIS AT 7:15 P.M.

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

Mayor Roelle commented on the need to have this issue resolved possibly through the Public Integrity Unit at the District Attorney's Office if in fact criminal activity is possible. He questioned the amount of staff time that Town employees have involved themselves in the PBID process.

Mr. Henderson stated that the hours spent on the PBID have been substantial but in accordance with Council direction and goals of 2010.

Richard Cambridge, Apple Valley, thanked Councilman Sagona for his participating on the PBID. He commented on the efforts of the PBID to enhance the Village area. He presented a timeline of the PBID meetings.

Ryan Orr, Apple Valley, stated that he is working with the PBID to assist them in moving forward with a marketing plan.

Janice Moore, President of the Apple Valley Chamber of Commerce, stated that the Chamber is working with the PBID in an effort to support the Village District. She stated that the Chamber has attended the meetings and continue to work with them on their marketing plan free of charge since the PBID is a member of the Chamber.

Milt Holland, Apple Valley, expressed concern regarding the way that money was laundered to the PBID members. He stated that he would get a court injunction. He stated that he was not waiting 90 days. He recommends that the activity of the PBID be suspended.

Joyce Stevenson, Apple Valley, expressed concern regarding the manner in which votes were counted for the PBID. She believed that many individuals did not understand that by not voting, they were casting a yes vote.

Eugene Buchanon, Apple Valley, believed that many violations were made to the Brown Act by the PBID. He expressed concern regarding the problems associated with the PBID and the PBID process.

Mayor Roelle believed that additional information should be brought back to the Town Council prior to action being taken. He recommends that an outside source come back with an investigative report of the allegations made by the PBID members.

John Brown, Town Attorney, stated that there are many law firms that are skilled in this type of research.

Councilman Sagona recommended a change be made to Item B from Town Manager to Town Attorney and to delete the 90 calendar days provision.

Councilman Allan believed that all members of the PBID should vote to dissolve the PBID. He expressed concern regarding the cost associated with having an outside source perform an investigations on the issues associated with the PBID District.

MOTION

Motion by Councilman Sagona, seconded by Councilman Allan, to authorize and direct the Town Attorney to develop and issue a Request for Proposals (RFP) to include the cost and scope of work for the purpose of identifying and selecting an appropriate entity (forensic accountant/auditor) to investigate the allegations made by dissenting members of the Village PBID Association.

Vote: Motion carried 4-0-0-1

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

MAYOR PRO TEM NASSIF RETURNED TO THE DAIS AT 7:58 P.M.

17. Introduce Ordinance No. 402, 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 Councilwoman Coleman, and unanimously carried, waive the reading of Ordinance No. 402 and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 402.

MOTION

Motion by Councilman Allan, seconded by Councilwoman Coleman, to introduce Town Council Ordinance No. 402, 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 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle. Absent: None.

18. Status Of The Owner Participation Agreement Between The Apple Valley Redevelopment Agency And Housing Partners I, Inc., For The Development Of An 80-Unit Senior Housing Project.

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

Councilman Sagona requested that Mr. Henderson review the high points of the proposal of Housing Partners Inc. including Section 8 housing options and business of additional funding.

Councilman Allan had questions regarding the outcome of the project should the Council not be in agreement.

Councilwoman Coleman had questions regarding the amount of time spent by staff on the project and alternative funding.

Mayor Pro Tem Nassif had questions regarding the Section 8 voucher program and the increase to the overall project as a result of the change in financing.

Councilman Sagona had questions regarding the amount of funds deposited to Housing Partners Inc.

Paul Bruneau, Apple Valley, believes that Housing Partners Incorporated have not been able to complete their part of the process. He believes the Town Council should not move forward with this project.

Charles Collarini, Apple Valley, commented on the number of empty homes in Apple Valley. He recommended that the Town not move forward with this senior project.

Dino DeFazio, Apple Valley, believed that there was still an option for the Town of Apple Valley by purchasing repossessed homes in an effort to meet the RENA numbers. He recommended the Town be open to other projects brought forth by developers.

Paul Hood, Apple Valley, spoke in opposition of this project. He recommended that the Town use local developers in the high desert.

Councilman Sagona recommended that the Council direct staff to abandon this project.

Mayor Roelle concurred with the comments made by Councilman Sagona.

Mayor Pro Tem Nassif commented on the requirement to use redevelopment funds available for affordable housing. He too concurred with the comments made by Councilman Sagona.

John Brown, Town Attorney, stated that the appropriate steps would be taken to terminate the Owner Participation Agreement.

MOTION

Motion by Councilman Sagona, seconded by Councilman Allan, that the Town Council and Agency Board direct staff to take the necessary steps to terminate the Owner Participation Agreement.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Allan; Coleman; Sagona; Mayor Pro Tem Nassif; Mayor Roelle. Absent: None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Ralph Wright, Parks and Recreation Manager, commented on changes to various agreements with the School District. He explained that mutual benefit agreements remain at no cost; however agreements that are not mutually beneficial will have a cost associated for the use of Town facilities.

Mr. Wright provided an update to the Council regarding Parks and Recreation's master plan stating that a request for proposal has been issued to select a consultant to assist the Town with an update to the master plan.

Councilman Sagona expressed concern regarding any efforts towards the master plan. He stated he would be willing to volunteer his time towards discussion with staff regarding the master plan.

John Brown, Town Attorney, recommended that an item be placed on a future Agenda.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

Motion by Councilman Sagona, seconded by Mayor Pro Tem Nassif, and unanimously carried, to adjourn to Closed Session at 8:10 p.m. to discuss the following:

- A. Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (b) of the Government code Section 54956.9 (one potential case).

- B. Conference with Legal Counsel - Existing Litigation under Government Code Section 54956.9(a) – Town of Apple Valley vs. High Desert Community Foundation Inc., San Bernardino Superior Court Case No. CIVSS 806940.

Upon returning from Closed Session at 8:55 p.m. Mayor Roelle announced that there is no reportable action.

ADJOURNMENT

Motion by Councilman Allan, seconded by Councilwoman Coleman, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:12 p.m. in the memory of one of our Town employees, Nancy Mabry who passed away on Monday October 26. Nancy was a Customer Service representative in the Town's Finance Department. She had been an employee with the Town of Apple Valley for 20 years and in honor of those lives lost and wounded in Fort Hood Texas.

Town Clerk

Mayor