

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

**REGULAR MEETING
MINUTES – December 8, 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 Allan, 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: Pastor Doris Eddy, Valley Christian Fellowship

PLEDGE OF ALLEGIANCE: Boy Scout Troops

**2. Selection of Mayor and Mayor Pro Tempore
Recommendation:**

- (1) Council to select one of its number as Mayor; and
- (2) Council to select one of its number as Mayor Pro Tempore.

RECESS FOR REORGANIZATION

PRESENTATIONS:

- a. Mayor’s Plaque – Councilman Roelle for his term as Mayor on the Town Council for the period December 2008 to December 2009.
- b. Teen Zone Awards – Volunteer Service
- c. Civic Center Parking and Circulation Plan – Brad Miller, Town Engineer

SPECIAL ANNOUNCEMENTS:

PUBLIC COMMENTS

Richard Rorex, Apple Valley, spoke in support of the Country Club. He commented on how the Club would benefit the Town.

Claude Sparks, spoke in opposition of the Town taking over the Apple Valley Golf Course and building a new stadium in the Town.

Milt Holland, Apple Valley, expressed concern regarding the finances of the Property Business Improvement District.

William Furmage, Apple Valley, thanked the Apple Valley Police Department for their assistance in locating his son’s bicycle which was stolen approximately one month ago. He also commented on the need to move forward with the bicycle park for the Town.

Verlaine Stauffer, Apple Valley, expressed concern regarding the proposed baseball stadium in Apple Valley.

Eugene Buchanon, Apple Valley, expressed concern regarding the actions of the PBID Board of Directors and its management plan.

Kim Scully, Apple Valley, expressed concern regarding her attendance at the PBID meeting and the lack of communication by the board members.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Nassif commented on his attendance at the Desert Mountain League of California Cities awards dinner where topics of discussion included the Community Services Policy Committee and promoting recreational tourism.

Mayor Pro Tem Sagona thanked Councilman Nassif for his hard work on the League of California Cities Meeting. He commented on the meetings held by Victor Valley Water Reclamation Authority and the Mojave Desert Air Quality Mgmt District where distinctive awards were brought forward by the Desert Mountain section of the California Water Environmental Association.

Councilwoman Coleman commented on her attendance at the Victor Valley Transit Authority meeting and the workshop and Joint Meeting held by SCAG on SP375. She also commented on her attendance at the tree lighting ceremony.

Councilman Roelle commented on SANBAG and the requested funding for appropriations to help fund the Yucca Loma Bridge. He also commented on his meeting with Mr. Jim Cox, City Manager, City of Victorville on this issue.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Councilman Roelle recommended that a future item be placed on the Council agenda regarding metal buildings.

Mayor Allan commented on the possible need for a VVWRA meeting/presentation regarding the sludge agreement to include future water reclamation plants.

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

A. Regular Meeting – Tuesday, January 12, 2010, 6:30 p.m. – Council Chambers

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to approve and adopt the Consent Calendar items numbered 3 – 13, minus number 11, with Councilman Nassif abstaining on Item Number 5.

Vote: Motion carried 5-0-0-0

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

Councilman Nassif abstained from voting on Item Number 5.

3. Approval of Minutes of the Town Council

A. Regular Meeting – November 10, 2009

B. Special Meeting – November 24, 2009

Recommendation:

Approve the subject minutes as part of the consent agenda.

4. Treasurer's Report – Month of October 2009

Recommendation:

Receive and file.

5. Commercial Warrant Schedule – October 2009

Recommendation:

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

6. **Payroll/Benefits Warrants Schedule – October 2009**
Recommendation:
Receive, ratify, and file the payroll warrant schedule as presented.
7. **Claimant – Daryl Bell and Wawanesa General Insurance**
Recommendation:
Reject the claim of Daryl Bell
8. **Claimant – Patrick T. Nichols**
Recommendation:
Reject the claim of Patrick T. Nichols
9. **Adopt 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**
Recommendation:
Adopt Ordinance No. 402.
10. **Initiation of Development Code Amendments**
Recommendation:
Move to receive and file the report and to initiate the proposed Development Code Amendments.
12. **Fee Waiver Request for the Memorial Service of Mr. James A Woody**
Recommendation:
For good cause shown, approve the waiver of rental fees for use of the James A. Woody Community Center for Mr. Woody's Memorial Service on December 4, 2009.
13. **Fee Waiver Request for The American Cancer Society 2010 Relay For Life.**
Recommendation:
For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$2982.40.

PULLED FOR DISCUSSION

11. Initiation of Amendment to the North Apple Valley Industrial Specific Plan

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

Pastor Ed Loring, Apple Valley, spoke in support of this item. He recommended the Town Council approve this item.

RECOMMENDATION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, to receive and file the report and to initiate the proposed North Apple Valley Industrial Specific Plan amendment.

Vote: Motion carried 5-0-0-0

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

14. Proposal to Provide “The Village Enhanced Security Program” in the Village Property and Business Improvement District (PBID)

Councilman Nassif stated that he had a potential conflict of interest with this item and items 14, 15 and 16 and therefore excused himself from the dais.

COUNCILMAN NASSIF EXCUSED HIMSELF FROM THE DAIS AT 7:40 P.M.

Emily Wong, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk.

Eugene Buchanon, Apple Valley, believed that approval of this item would be a violation of Proposition 218.

Milt Holland, Apple Valley, expressed concern regarding the proposed contract with the San Bernardino County Sheriff’s Department.

Mayor Pro Tem Sagona had questions regarding the need for an appendix to police protection for a special area.

Councilman Roelle clarified that the agreement for additional security service is being funded by the PBID and would not impact the Town’s Police protection.

Councilwoman Coleman questioned the use of outstanding funds mentioned in the proposal for special services.

Richard Cambridge, PBID, commented on the budget for the security plan for the Village area.

Captain Bart Belknap, Apple Valley Police Department, commented on the outstanding funds stating it would offer more latitude. He answered questions from the Council regarding the additional security for the Village and reiterated that it would not impact the Town’s police protection.

John Brown, Town Attorney, clarified statements made by members of the PBID regarding Proposition 218 and some of the terms used. He commented on the advancement of additional funds under the terms of the contract to provide additional law enforcement services. He expressed concern regarding the impression being given of members of the PBID Board of Directors.

MOTION

Motion by Councilwoman Coleman, seconded by Mayor Pro Tem Sagona, to approve the San Bernardino County Sheriff’s Department’s Proposal to Provide “The Village Enhanced Security Program” in the Village Property and Business Improvement District (PBID).

Vote: Motion carried 3-0-1-1

Yes: Councilmember’s Coleman; Mayor Pro Tem Sagona; Mayor Allan. Abstain: Councilman Roelle.

Absent: Councilman Nassif.

15. Authorize “Continuing Appropriations” of Fiscal Year 2008-09 Budget of the Village Property and Business Improvement District (PBID) Association

Emily Wong, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk.

Milton Holland, Apple Valley, expressed concern regarding repayment to the Town.

Ed Buchanon, Apple Valley, commented on the repayment to the Town from the PBID. He is requesting information regarding the matching funds from the merchants.

MOTION

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to authorize “Continuing Appropriations” of Fiscal Year 2008-09 Budget of the Village Property and Business Improvement District Association

Vote: Motion carried 4-0-0-1

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

16. Authorize an Agreement with Caltrans for Landscape Maintenance within the Median of Highway 18, between Navajo Road and Central Road.

Emily Wong, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk.

Paul Hood, Apple Valley, expressed concern regarding the amount of funding that the Town is investing in this item.

Milton Holland, Apple Valley, expressed concern regarding the collection of funds from the PBID Assessment District for this project.

Ed Buchanon, Apple Valley, commented on other areas after being beautified and felt it is unnecessary.

Mayor Pro Tem Sagona had questions regarding the funding for the enhancement of landscaping.

Ms. Wong explained how the project is funded.

MOTION

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to authorize the Landscape Maintenance Agreement with Caltrans for the center median of Highway 18, between Navajo Road and Central Road, subject to approval as to form by the Town Attorney and as to content by the Town Manager.

Vote: Motion carried 4-0-0-1

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

COUNCILMAN NASSIF RETURNED TO THE DAIS AT 8:13 P.M.

PUBLIC HEARINGS

LEGISLATIVE MATTERS

17. Council Members Representation on Various Boards, Committees and Commissions

Discussion ensued regarding the Council Members representations on various boards and whether changes should be made.

Mayor Pro Tem Sagona recommended with the consensus of the Town Council, that Councilwoman Coleman be the alternate to San Bernardino Associated Government (SANBAG).

Councilwoman Coleman, with the consensus of the Town Council, requested she be a member of the Village Merchants Ad Hoc Committee.

MOTION

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to approve the list of Council Members Representation on Various Boards as amended.

Vote: Motion carried 5-0-0-0

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

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

18. Town of Apple Valley Country Club – Water Rights Presentation

Piero Dallardo, Best, Best and Krieger, presented a PowerPoint presentation to the Town Council and the public regarding the Country Club Water rights.

Discussion ensued regarding the ability to walk away from purchasing the Country Club as a result of the concerns surrounding the water rights.

Mayor Pro Tem Sagona commented on the possibility of the Town Council agendaing an open session discussion regarding possible reversal of the Town's purchase of the Country Club at a future meeting and to suspend any action to close escrow on this purchase until this discussion takes place.

This was a receive and file item only.

Recessed Meeting

Mayor Allan declared a recess of the Town of Apple Valley Town Council at 8:46 p.m.

Meeting Reconvened

Mayor Allan reconvened the meeting of the Apple Valley Town Council at 9:00 p.m.

19. Annual Budget Report of The Village Property and Business Improvement District (PBID) Association

Councilman Nassif stated that he had a potential conflict of interest with this item and therefore excused himself from the dais.

COUNCILMAN NASSIF EXCUSED HIMSELF FROM THE DAIS AT 9:01 P.M.

Emily Wong, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk.

Rick Cambridge, PBID, stated that the PBID Board Members would provide an update to the Council on a monthly basis regarding projects. He commented on the proposed budget for the year.

Ryan Orr, Passantino Andersen Communications, commented on the new marketing plan for the Village area.

Milt Holland, Apple Valley, expressed concern regarding the PBID and commented on the hardships he is experiencing due to the economy.

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Roelle, to approve Annual Budget Report of the Apple Valley Village Property and Business Improvement District Association.

Vote: Motion carried 4-0-0-1

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

COUNCILMAN NASSIF RETURNED TO THE DAIS AT 9:13 P.M.

20. Apple Valley Baseball Stadium Feasibility Analysis

Frank Robinson, Town Manager, introduced Mr. Henderson who would be presenting this item.

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

Mr. Johnson, CSL International, presented a PowerPoint presentation regarding the feasibility analysis on this project.

Mayor Pro Tem Sagona had questions regarding the financial and funding analysis.

Councilman Nassif had questions regarding private financing and commented on funding plans that help stadiums move forward.

Katie Manning, Apple Valley, recommended the Town Council not approve this project. She did not believe this project should be supported at this time.

Tom Piper, Apple Valley, spoke in opposition of this project.

MOTION

Motion by Councilman Roelle, seconded by Mayor Pro Tem Sagona, to receive and file the CSL International "Minor League Baseball In Apple Valley" feasibility analysis as though fully set forth at length and direct staff to take no further action regarding the proposed Apple Valley baseball stadium project.

Councilman Nassif felt a project like this would bring a lot to the Town. He recommended that the Town seek other solutions to fund this project.

Bill Pattison, Assistant Town Manager, Finance and Administration, stated that he believed the interest rate for the bonds for this item would be approximately 12%.

Councilwoman Coleman felt that a project like this would not be productive at this time. She commented that staff is needed to devote their time towards the planning of other projects.

MOTION

Motion by Councilman Roelle, seconded by Mayor Pro Tem Sagona, to receive and file the CSL International "Minor League Baseball In Apple Valley" feasibility analysis as though fully set forth at length and direct staff to take no further action regarding the proposed Apple Valley baseball stadium project.

Vote: Motion carried 5-0-0-0

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

21. Approval for the Transfer of the Victor Valley Materials Recovery Facility Treasurer Function from the City of Victorville to the Town of Apple Valley

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

Discussion ensued regarding having the funds managed by the Town of Apple Valley.

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilwoman Coleman, to approve the recommendation of staff to transfer the MRF treasurer function from the City of Victorville to the Town of Apple Valley. To include that the MRF will refund the same level of reimbursement as the City of Victorville to the Town of Apple Valley.

Vote: Motion carried 5-0-0-0

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

22. Discussion of Long-Term Town Bond Debt and Ending Balance in the Town of Apple Valley General Fund For Fiscal Year Ended 2008-09

Bill Pattison, Assistant Town Manager, Finance and Administration, presented the staff report as filed with the Town Clerk. He presented a PowerPoint presentation on the Town's bond debt.

This item was a receive and file item only.

23. A Resolution of the Town Council of the Town of Apple Valley Amending the Personnel Policies and Procedures of the Town of Apple Valley

Nikki Salas, Director of Human Resources, presented the staff report as filed with the Town Clerk.

John Brown, Town Attorney, clarified that there are other alternatives that exist to the vacation buy-back provisions.

MOTION

Motion by Councilman Roelle, seconded by Mayor Pro Tem Sagona, to adopt Resolution 2009-52, a Resolution of the Town Council of the Town of Apple Valley Amending the Personnel Policies and Procedures.

Vote: Motion carried 5-0-0-0

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

24. Town of Apple Valley Golf Club – Stakeholder Task Force Members

Councilman Nassif presented a report to the Town Council and the public regarding the proposed stakeholder task force members. He presented the following names of proposed members for this taskforce.

Wally Linn, Banker
Ned Curtis AVCC Board
Jason Barker, CEO St. Mary's Hospital
Kari Leon, Agio Real Estate
Roger Hayes, Property Owner (on golf course)
Bob Tinsley, Former Equity Member
Chet Hitt, Community Member

James Nickerson, Apple Valley, commented on the task force and recommended that the committee look at the club being a revenue positive position in the community.

It was the consensus of the Town Council to appoint Mr. Nickerson to the Stakeholder Task Force Committee.

This was an informational item only.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Lori Lamson, Assistant Director of Community Development, announced that they had completed the task of reviewing the development Code changes as it relates to the recently adopted General Plan and it will be moving forward to the Planning Commission at the Joint meeting scheduled for January 20, 2010.

She also announced that staff will be proceeding with the annexation program with an RFP for a consultant to provide education and promotion of the annexation of the Golden Triangle along with an outreach to the residents in that area.

Jim Andersen, Code Enforcement Manager, commented on a recent abatement issue that was positively resolved through demolition using the Fire Academy and Burrtec free of charge through collaboration.

John Brown, Town Attorney, commented on the Request for Proposal for the Forensic Accountant to investigate the records, practices and procedures of the Property Business Improvement District. He stated that this item would be on the next agenda.

Frank Robinson, Town Manager, announced that at the request of Councilwoman Coleman, a SCAG presentation was scheduled for the first meeting in January to discuss SB375. He also announced that per the request of Mayor Pro Tem Sagona, staff will discuss the feasibility of solar panels at a meeting in January, and will also give an update to Council on the overall performance of the Country Club.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

Motion by Councilwoman Coleman, seconded by Mayor Pro Tem Sagona, and unanimously carried, to adjourn to Closed Session at 10:20 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 or more potential cases).
- 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 11:34 p.m. Mayor Allan announced that there was no reportable action.

ADJOURNMENT

Motion by Mayor Pro Tem Sagona, seconded by Councilwoman Coleman, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 11:35 p.m.

Town Clerk

Mayor