

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

**REGULAR MEETING
MINUTES – January 26, 2010**

CLOSED SESSION

1. Closed Session

None

OPENING CEREMONIES

CALL TO ORDER:

Mayor Allan called to order the meeting of the Apple Valley Town Council at 6:31 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Boardmember/Councilwoman Coleman; Boardmember/Councilman Nassif;
Boardmember/Councilman Roelle, Vice Chair/Mayor Pro Tem Sagona; Chair/Mayor Allan. Absent:
None.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Pro Tem Sagona

PRESENTATIONS:

- **Town Hall Volunteer Recognition – Trina Hooper**
- **Certificates for Development Code Advisory Committee Members**

1. Status of Habitat Conservation Plan – Solution Strategies

John Brown, Town Attorney questioned the Town's ability to adopt a Multi-Species Habitat Conservation Plan (MSHCP) for the Town if it includes territory outside of the Town.

Lori Lamson, Assistant Director of Community Development, responded stating that the Town's application for a Multi-Species Habitat Conservation Plan (MSHCP) is close to completion; therefore, any development within the County's sphere would benefit by using the Town's MSHCP process.

Annual Audit Reports – Greg Fankhanel

SPECIAL ANNOUNCEMENTS:

Mayor Allan announced that it was brought to the attention of the Town that there is a need to take action on an item that arose after the posting of the agenda. Based on this information we need to add Item Number 12A to the agenda to Ratify the Existence of a Local Emergency by adopting Resolution No. 2010-08, a Resolution of the Town of Apple Valley, California, proclaiming and confirming the existence of a local emergency caused by heavy rains and flooding.

MOTION:

Motion by Mayor Pro Tem Sagona, seconded by Councilman Nassif, and unanimously carried, that based on the need to take immediate action on an item that rose after the posting of the agenda, move to add Item 12A, adopting Resolution No. 2010-08, a Resolution of the Town of Apple Valley, California, proclaiming and confirming the existence of a local emergency caused by heavy rains and flooding.

Vote: Motion carried 5-0-0-0

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

PUBLIC COMMENTS

Dan Seagondollar, Apple Valley, commented on the discussion held at the last meeting regarding metal buildings.

Pat McGee, Apple Valley, commented on the taxes that are being charged to businesses in the Village Merchant area.

Milt Holland, Apple Valley, commented on the taxes that he is being charged for his business in the Village Merchant area. He commented on his arrest that took place last week and spoke of the false allegations that were made.

Lawrence McCarthy, Apple Valley, commented on the Town of Apple Valley's purchase of the Apple Valley Golf Course. He also commented on whether or not the closure of escrow for the Golf Course would be brought back to the Town Council for a vote.

Eugene Buchanon, Apple Valley, stated that a Special Meeting of the Property Business Improvement District would be held for the possible removal of a board member. He also commented on a check that he received from the Town of Apple Valley.

Constance Koch, Apple Valley, expressed concern regarding the lack of a proper drainage system near her home in the Vineyards.

Lester Milroy, Apple Valley, expressed support for Wind Turbines in Apple Valley.

Dennis Albertson, Apple Valley, announced that he will be a candidate for US Congress, the 41st seat.

APPLE VALLEY CHAMBER OF COMMERCE – BUSINESS RETENTION UPDATE

The Apple Valley Chamber of Commerce will present its next Business Retention Update at the Town Council Meeting on February 23, 2010.

HIGH DESERT HISPANIC CHAMBER OF COMMERCE

Vickie Cabrales, President, High Desert Hispanic Chamber of Commerce, gave a presentation to the Town Council regarding the benefits of the Hispanic Chamber to the Town. She suggested a partnership with the Town of Apple Valley to expand their services in the community.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Nassif commented on his attendance at a League of Cities Meeting in Sacramento on Friday. He spoke of the ballot measure that they are currently working on to continue and protect local government funds. He also commented on various legislative issues including a case in relationship to rent control in Mobile Home Parks and The California Builders Industry Association where the legislation passed an initiative to extend developmental agreements.

Councilman Nassif commented on discussions held regarding SB375 and AB32 measures. He noted they are currently working on suspending the implementation of these measures until the unemployment rate is below 6%.

Mayor Pro Tem Sagona commented on the first meeting of the Apple Valley Task Force. He stated that they are currently working on developing a business plan. He also commented on his attendance at the Mojave Desert Air Quality District Meeting where a vote was called to suspend AB32.

Councilwoman Coleman commented on her attendance at Southern California Associated Governments. She invited the Council to attend the next scheduled meeting on February 19, 2010, where the subject matter will be target setting and scenario planning.

She also commented on various meetings she attended including the Village PBID providing an update to the Council regarding various improvements including the landscaping plans and the Victor Valley Transit Authority Meeting where they are currently working on a pilot program to assist the community of Adelanto with transportation.

Councilman Roelle commented on his attendance at a SANBAG workshop where the topic of discussion was alternate funding mechanisms. He has requested that staff provide SANBAG with direction on the funding that is needed for projects in the High Desert. Councilman Roelle is also requesting that staff provide the Council with direction on any actions that should be taken.

Mayor Allan commented on his attendance at the Mayor's Conference along with the Town Manager. He spoke of a speech that was conducted by Michelle Obama and his attendance at a session at the White House with the President of the United States.

Mayor Allan also commented on meetings that he and the Town Manager held with various staff members in Washington, including members of Senator Feinstein's office.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Councilman Nassif requested an item be presented on a future agenda regarding the proposed rate increase from Ranchos Water, how to conduct a rate intervention and the PUC Process. He also stated that there may possibly be a misprint on the bi-monthly meter service bill; he requested this information be verified.

Mayor Pro Tem Sagona requested that the Town Council reconsider the California Desert item. He requested that staff present the Council with a report on the letter to Senator Feinstein's office for review and allow them the opportunity to re-vote on this issue.

Councilwoman Coleman requested that the names of the cities who have taken a position on this item also be included in the report.

Councilman Roelle asked that a future item be placed on the agenda regarding a partnership with the Hispanic Chamber.

Mayor Allan requested staff provide the Council with a report regarding urgent repairs that need to be made at the Apple Valley Country Club, mainly the well and any improvements that need to be done to the building. Also he requested information regarding whether or not a lien could be placed on the Country Club for all the expenses that we have expended for the Country Club.

Mayor Allan commented on the use of the golf course by high school students. He requested an item be added to the next agenda to discuss if the Council can allow High School students to play after 3:00 p.m. for 9 holes at no cost.

Councilman Nassif questioned if it should be part of a joint use agreement.

**Time, Date & Place for Next Town Council Regular or Special Meeting:
A. Regular Meeting – Tuesday, February 9, 2010, 6:30 p.m. – Council Chambers**

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

Mayor Allan announced that due to a potential Conflict of Interest, Councilman Nassif would be abstaining from voting on Item Number 4.

Item Number 15 – Spay Day USA Awareness Campaign - listed on the agenda was inadvertently placed under public hearings and should be a consent calendar item.

MOTION:

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to approve and adopt the Consent Calendar items numbered 2-12A and 15, respectfully.

Vote: Motion carried 5-0-0-0

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

Councilman Nassif abstained from voting on Item Number 4.

2. Approval of Minutes of the Town Council

A. Regular Meeting – January 12, 2010

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Treasurer’s Report – Month of November 2009

Recommendation:

Receive and file.

4. Commercial Warrant Schedule – November 2009

Recommendation:

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

5. Payroll/Benefits Warrants Schedule – November 2009

Recommendation:

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

6. Claimant – George O’Keefe

Recommendation:

Reject the claim of George O’Keefe.

7. Adopt Resolution No. 2010-04, Approving a Deferment by the City of Adelanto of Prior Contribution Amounts Otherwise Due and Payable to the Victor Valley Economic Development Authority.

Recommendation:

That the Town Council adopt Resolution No. 2010-04, approving a deferment by the City of Adelanto of prior contribution amounts otherwise due and payable to the Victor Valley Economic Authority.

8. Approval for the Transfer of the Mojave Desert and Mountain Integrated Waste Joint Powers Authority Treasurer Functions (Including the Victor Valley Materials Recovery Facility) from the City of Victorville to the Town of Apple Valley

Recommendation:

Approve the recommendation of staff to transfer the Treasurer Functions for the Mojave Desert and Mountain Integrated Waste JPA (including the Materials Recovery Facility MRF) from the City of Victorville to the Town of Apple Valley.

9. Service Agreement with the California State Office of Administrative Hearings

Recommendation:

Authorize the Town Manager to initiate a service agreement with the State Office of Administrative Hearings.

10. Adopt Resolution No. 2010-05 to approve and Authorize an Agreement Between the Town of Apple Valley and the City of Victorville to Continue the Home Investment Partnerships Program (HOME) Consortium For The Period July 1, 2010 – June 30, 2013.

Recommendation:

That the Town Council Adopt Resolution No. 2010-05 to approve and authorize execution of the agreement by the Town Manager; and further authorize the Town Manager to make non-substantive modifications or corrections as deemed necessary.

11. Acceptance of Work, Notice of Completion and Release of Retention for the Town of Apple Valley Civic Center Park Concrete Walkway Work Phase II.

Recommendation:

1. Accept the work for the electrical upgrade at the Civic Center Park for a total cost of \$147,504.70
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

12. Ratify and Approve Emergency Expenditures and Authorize Budget Amendment in the Wastewater Fund

Recommendation:

1. Ratify, approve and authorize emergency expenditure from the Wastewater System Maintenance account 5010-4210-7942 in the amount of \$25,810.55 for the emergency repairs associated with the AD3A-1/2 lift stations, and appropriate funds (\$25,810.55) from existing Fund Balance (AD-3A Bond Fund reserve account).
2. Ratify, approve and authorize payment to AES Global Inc. for costs associated with the Capital Project "Radio Telemetry", totaling \$42,005.15 from the Wastewater Capital Projects account 5010-4210-9300 (\$70,000 budgeted, resulting in a surplus of \$27,993.85).
3. Approve and authorize payment to So & Associates for costs associated with the Capital Project "AD3A PLC replacement", estimated at \$75,000. \$40,000 to be paid from the Wastewater Capital Projects account 5010-4210-9300 (\$40,000 budgeted for this component), and the remaining balance by authorizing a fund transfer (\$35,000) from existing Fund Balance (AD3A Bond Fund reserve account).

15. Spay Day USA Awareness Campaign

Recommendation:

Authorize staff to implement Spay Day event on February 13, 2010, and approve expenditure of Handsel Grant funds, shelter donation and salary budget fund in an amount not to exceed \$3,300.00.

PUBLIC HEARINGS

13. A Request to Modify the Provisions of the Development Code by Amending Section 9.78 "Wind Turbines" of Title 9 "Development Code" of the Apple Valley Municipal Code as it Relates to Site Development Standards for all Wind Energy Conversion Systems Located Within the Town of Apple Valley.

Mayor Allan opened the public hearing at 8:07 p.m.

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

Councilman Nassif requested to know if any consideration was given to smaller lot sizes with respect to the use of wind generators.

Ms. Lamson responded stating that the recommendation made by staff to the Planning Commission was a minimum lot size of one acre and felt that due to the number of lots potentially affected, it would be better to continue to study on a case by case basis and have the opportunity to re-evaluate it in the future.

George Sanford, Apple Valley, commented on the benefit of wind turbines and the proposed setbacks for the turbines listed in the report.

Frank Aubel, Apple Valley, commented on the wind turbine farm that was previously discussed at a Town Council Meeting. He did not believe that the project would decrease property values.

Joe Guasti, Oak Hills, stated that he is an installer for wind turbines in the State. He addressed safety concerns and warranty information for the turbines. He also discussed roof top wind turbines as an alternative for the Town to consider.

Jintau Two, Apple Valley, presented a few pictures to the Town Council for them to view that he believed showed the Town Council and the public how the turbines could be camouflaged in a community.

There being no additional requests to speak, Mayor Allan closed the public hearing at 8:25 p.m.

MOTION:

Motion by Councilman Roelle, seconded by Councilwoman Coleman, and unanimously carried, 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 because 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. 403 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 403.

MOTION:

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

5. **Introduce** Ordinance No. 403, amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Section 9.78 "Wind Turbines" of Title 9 "Development Code" of the Apple Valley Municipal Code as it relates to site development standards for all wind energy conversion systems located within the Town of Apple Valley.
6. **Direct** staff to file a Notice of Exemption.

Vote: Motion carried 5-0-0-0

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

Absent: None.

14. A Resolution of the Town Council Authorized By Chapter 11.80 of the Town Of Apple Valley Municipal Code Establishing Charges for Impounded, Stored, Removed or Released Vehicles

Mayor Allan announced that the public hearing for this item would be tabled at this time.

LEGISLATIVE MATTERS

16. Mayor Allan to Fill Unscheduled Vacancy on the Town of Apple Valley Parks and Recreation Commission

Mayor Allan stated that he would like to continue this item to the next meeting of February 9, 2010.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

17. Social Media Presence for the Town of Apple Valley

Kathie Martin, Marketing and Public Affairs Officer, presented the staff report as filed with the Town Clerk.

This was a receive and file item only. No action was taken.

18. Update on the BMX Bike Park Project

Ralph Wright, Parks and Recreation Manager, presented the staff report as filed with the Town Clerk.

Joshua Richling, Apple Valley, thanked the Town Council for moving forward on this project and he thanked the Parks and Recreation Manager for working with the BMX community. He questioned whether or not there was a back-up plan in the event that the Town was not successful in obtaining a grant.

William Furmage, Apple Valley, respectfully requested that the rules be waived at the skatepark to allow the youth to ride their bicycles within the skatepark. He also asked if the Town would consider relocating the bathrooms so that temporary barriers could be placed within the park for use by the bicyclist.

This was a receive and file item only. No action was taken.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Dennis Cron, Assistant Town Manager, Municipal Operations, discussed the damages that occurred during the recent rain storms in Apple Valley. He presented a short powerpoint on this issue.

Frank Robinson, Town Manager, commented on the activation of the Emergency Operations Center. He stated that staff believed the estimated cost of damages is approximately \$2.7 million.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

ADJOURNMENT

Motion by Mayor Pro Tem Sagona, seconded by Councilman Nassif, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:02 p.m.

Town Clerk

Mayor