

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

**REGULAR MEETING
MINUTES – April 13, 2010**

CLOSED SESSION

1. Closed Session

MOTION

Motion by Councilman Nassif, seconded by Councilwoman Coleman, and unanimously carried to adjourn to Closed Session at 6:31 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).

Upon returning from Closed Session at Mayor Allan, Mayor Allan announced that there was no reportable action taken.

OPENING CEREMONIES

CALL TO ORDER:

Mayor Allan called to order the meeting of the Apple Valley Town Council at 6:57 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.

INVOCATION: The invocation was led by Pastor Patrick Foy, United in Christ Baptist Church.

**Proclamation – Wounded Warrior Project Day – Msgt Ronald Linna
Employee of the Quarter – Omar Dominguez, Custodian**

SPECIAL ANNOUNCEMENTS:

PUBLIC COMMENTS

Dr. Eldoris Bonner, Apple Valley, thanked the Town Council and staff for their hard work. She specially recognized the Apple Valley Police Department.

Chuck Hanson, Apple Valley, thanked the Town Council for their support on the annual Bike Ride. He specially thanked Art Bishop and the Apple Valley Fire Department for their work.

Ernst Hardies, Apple Valley, expressed concern regarding the proposed Happy Trails Villas project which would be converted to apartments.

Richard Simpson, Apple Valley, commented on the proposed golf course and believed that funding should not be used on this project.

Lovella Sullivan, Apple Valley, commented on the need for the Town Council to work together for the betterment of the community.

James Owens, Apple Valley, expressed concern regarding the Happy Trails Villa project.

Paul Bossier, Apple Valley, expressed concern regarding the Happy Trains Villa project and respectfully requested that the Town Council not move forward with the project.

David Mueller, Apple Valley, requested clarification by the Town Council regarding the purchase of the Victorville Industrial Waste Water Treatment Plant and discussions held in closed sessions. He also commented on the sludge agreement and reclaimed water.

Brice Crow, Apple Valley, commented on the Happy Trails Villas project. He expressed concern regarding the project and provided solutions that he believed would be feasible.

Gerald Hannah, Apple Valley, thanked various Council Members for being fiscally responsible. He expressed concern regarding the purchase of the Country Club using tax payer money.

Tony Tyler, Apple Valley, announced that he was a 59th Libertarian Candidate for this Assembly district. He expressed concern regarding regulations that allow fee increases without going before Legislatures for approval. He also expressed concern regarding the retirement plans for public employees.

Leslie Speaks, Apple Valley, spoke in opposition of the Happy Trails Villa project.

Lester Milroy, Apple Valley, commented on the Apple Valley Country Club and respectfully requested that the Town Council move forward.

Corey Phillips, Apple Valley, respectfully requested that the Town Council support a BMX Park for the riders in Apple Valley.

Kim Scully, Apple Valley, expressed concern regarding a business owner who is renting space from her was having difficulty obtaining a Conditional Use Permit.

Gordon Higgins, Apple Valley, commented on the Happy Trails Villa project. He stated that he was informed that there was a potential buyer for this project. He respectfully requested that this item be brought back to the Town Council for discussion.

Paul Hood, Apple Valley, expressed concern regarding needed improvements to Corwin Road.

APPLE VALLEY VILLAGE PROPERTY BASED IMPROVEMENT DISTRICT UPDATE

Larry Cusack, Chairman, Apple Valley Village Property Based Improvement District Update, provided the Town Council and the public with an update on upcoming events in the area and information on their new website. He announced that the next meeting is scheduled for April 21, 2010 at the Mojave Water Agency at 9:00 am.

HISPANIC CHAMBER UPDATE

Vickie Cabrales, High Desert Hispanic Chamber Update, provided an update to the Town Council on upcoming events. She announced that the Chamber will host Friends of the Town of Apple Valley located at the Town of Apple Valley Recreation Center on April 22, 2010, as part of an outreach to businesses outside of the membership.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Nassif commented on his attendance at the League of Cities Policy Committee on Community Housing and Economic Development where discussions held included a new program that will help to stimulate the housing market for homes that are in the high value housing areas. He also commented on discussions held regarding AB32 and recommendations made to the Board. He recommended a Council retreat with staff to discuss achieving mutual goals and objectives.

Mayor Pro Tem Sagona agreed with Councilman Nassif that an informal retreat be conducted with the Town Council that would allow team building. He commented on his attendance at the event for Welcome Home Veterans. He also commented on the passing of Mr. Lee Tucker and Mr. Bill Porter and stated that the Town Council would be adjourning in their memory.

Mayor Pro Tem Sagona also commented on the comments that were made by the public on Happy Trails Villas. He stated that he would like to agendize this item for discussion at a future meeting.

Councilwoman Coleman commented on her attendance at the Government Conference on renewable energy where Supervisor Brad Mitzelfelt spoke on the topic of renewable energy projects. She also commented on various meetings she attended including the Southern California Association of Government meeting where the action on protection of local funding was approve and the Environmental Quality Policy Committee meeting for the League of California Cities where discussions held included AB32 and SP375.

Councilman Roelle commented on funding that was allocated for the Yucca Loma Bridge project for the City of Victorville from SANBAG.

Mayor Allan announced that the San Bernardino County Museum is currently refurbishing the Victor Valley Museum and will hopefully re-open in June. He thanked Mayor Pro Tem Sagona for attending the regional-wide emergency preparedness.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Councilwoman Coleman requested that a section of the Development Code dealing with variances come back to the Council for review.

Mayor Pro Tem Sagona would like to agendize leasing space in the New Town Hall Annex, Public Works Building and the Animal Shelter.

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

A. Regular Meeting – Tuesday, April 27, 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 will be abstaining on Agenda Item Number 4. He also requested that Item Number 11 be pulled for discussion.

MOTION

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to approve and adopt the Consent Calendar items numbered 2 – 12, and that item number 11 be pulled for discussion.

Vote: Motion carried 5-0-0-0

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

Councilman Nassif abstained from voting on Item Number 4.

2. Approval of Minutes of the Town Council

A. Regular Meeting – March 23, 2010

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Treasurer's Report – February

Recommendation:

Receive and file.

4. Commercial Warrant Schedule – February

Recommendation:

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

5. Payroll/Benefits Warrants Schedule– February

Recommendation:

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

6. Acceptance of Work, Notice of Completion and Release of Retention for Navajo Road Improvements, Project 2008-02.

Recommendation:

1. Accept the work for the roadway improvements on Navajo Road from Highway 18 to Waalew Road for a total cost of \$2,640,858.35.
2. Direct the Town Clerk to file the Notice of Completion for the contract work, notify surety and to exonerate contract 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.

7. **Acceptance of Work, Notice of Completion and Release of Retention for Corwin Road Improvements, Project 2009-04.**

Recommendation:

1. Accept the work for the roadway improvements on Corwin Road from Highway 18 to Waalew Road for a total cost of \$3,247,761.66.
2. Direct the Town Clerk to file the Notice of Completion for the contract work, notify surety and to exonerate contract 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.

8. **Authorize Professional Design Consulting Service Contract For Design Of Renewable Energy Photovoltaic System At Town Hall.**

Recommendation:

Authorize the Town Manager to execute a contract with Engineering Partners, Inc. for an amount not to exceed \$43,270 for the referenced project, "approved as to form" by the Town Attorney and "approved as to content" by the Town Manager.

9. **Approve and Ratify Expenditures for January 17, 2010 – February 6, 2010 Storm Clean-Up Activities**

Recommendation:

Approve and ratify expenditures associated with the Town's response to emergency storm clean-up activity expenses of \$205,634.

10. **Establishing Date and Time Certain for Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Public Hearing No. 2 (Consolidated Plan – Fourth-Year Action Plan)**

Recommendation:

That the Town Council establish May 11, 2010 at 6:30 p.m., as the date and time certain for the purpose of conducting the second of two public hearings necessary to develop the Town's Consolidated Plan– Fourth-Year Action Plan.

12. **Appointment of a Town Representative to the Police Activities League (PAL) Board of Directors**

Recommendation:

Approve the appointment of Dennis L. Cron, Assistant Town Manager - Municipal Operations and Contract Services, to the PAL Board of Directors.

PULLED FROM CONSENT

11. **A Professional Services Contract for the Preparation of the BMX Bike Park Design Documents and Cost Comparison Study**

Councilwoman Coleman announced that she had a potential conflict of interest on this item. She stated that her father-in-law has completed work toward this project and therefore excused herself from the dais.

COUNCILWOMAN COLEMAN WAS EXCUSED FROM THE DAIS AT 8:05 P.M.

MOTION

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

1. Award the professional services contract in the not to exceed amount of \$24,980.00 to Action Sport Development, LLC., for professional services for the preparation of construction documents and cost comparisons for the BMX Bike Park Project subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager; and
2. These expenditures are currently unbudgeted and staff requests an additional appropriation be made to Account Code 2510-6820-8940

Vote: Motion carried 4-0-0-1

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

COUNCILWOMAN COLEMAN RETURNED TO THE DAIS AT 8:06 P.M.

PUBLIC HEARINGS

13. **Introduce Ordinance No. 405 for Development Code Amendment 2009-005: A Request To Consider Comprehensive Amendments To The Development Code To Address Changes Required To Assure The Consistency Of The Development Code With The General Plan Adopted In 2009.**

Introduce Ordinance No. 406 for Zone Change 2009-003: A Request To Consider Changes To The Zoning Map To Assure Consistency With The General Plan Map Adopted In 2009.

Nicole Christi, Consultant, presented the staff report as filed with the Town Clerk.

Mayor Allan opened the public hearing at 8:17 p.m.

Ms. Christi stated that there were approximately 17 sections that contained proposed modifications. She briefly described each of the proposed changes. Councilwoman Coleman noted for the record that she provided the Ms. Lamson, Assistant Director of Community Development a series of non-substantive changes to be made to the Development Code.

Councilwoman Coleman expressed concern regarding operational requirements and conditions. She recommended that the section 9.29 be changed to state "up to two residents instead of stating blood relatives. Additional changes were made to the code, including: 1) That Section 9.31.070 #7 be changed to "above residential development"; Section 9.31.080, be changed to allow a 10% reduction in residential and commercial; Section 9.36.010 be changed to coincide with 9.31.070 #7.

There being no requests to speak, Mayor Allan closed the public hearing at 8:35 p.m.

Councilwoman Coleman thanked the Planning Commission, Development Code Advisory Committee and staff for their hard work on this project.

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Nassif, and unanimously carried, to waive the reading of Ordinance No. 405 and Ordinance No. 406 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinances 405 and 406.

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Roelle, to

2. **Introduce** Ordinance No. 405 approving Development Code Amendment 2009-005, consisting of comprehensive amendments to the Development Code; and
3. **Introduce** Ordinance No. 406 approving Zone Change No. 2005-008, amending the Zoning Map consistent with the adopted General Plan land use map, and amending the Zoning Map for Assessor's Parcel Numbers: 441-141-10, -12, -16, -17, -18, -19, -20, -21, -24, -25, -26, -27, -28, -29, -30, -35, -36, -37, -38, -39, -40, -41, -42, -43, -44, -45, -46, -47, -55, -56, -57, -58, and -59 to R-EQ.
4. **Direct** staff to correct any remaining errors and distribute the adopted Development Code.

Vote: Motion carried 5-0-0-0

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

RECESSED MEETING

Mayor Allan recessed the meeting of the Apple Valley Town Council at 8:38 p.m.

MEETING RECONVENED

Mayor Allan reconvened the meeting of the Apple Valley Town Council at 8:48 p.m.

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

14. High Desert Hispanic Chamber Of Commerce Agreement For Business Retention Services

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

Councilman Nassif asked a series of questions regarding the funding level proposed for the Hispanic Chamber.

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilman Roelle, that the Town Council approve and adopt the Agreement with the High Desert Hispanic Chamber of Commerce for business retention and technical assistance services.

Gary Stater, Apple Valley, believed that we are opening the door for all Chambers to come forward and ask for financial assistance.

Vickie Cabrales, President, Hispanic Chamber of Commerce, spoke on the added business that the Hispanic Chamber offers its members.

Discussion ensued regarding the services that can be provided by the Hispanic Chamber of Commerce.

Vote: Motion carried 5-0-0-0

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

15. Discussion and Recommendation Regarding the Continued Course of Action for the Apple Valley Country Club

COUNCILWOMAN COLEMAN WAS EXCUSED FROM THE DAIS AT 9:03 P.M.

Mayor Pro Tem Sagona asked whether or not Mayor Allan could participate in the voting on this item.

Piero Dallarda, Town Attorney, responded stating that it was brought to his attention that a complaint was filed by FPPC regarding the votes by Mayor Allan on the Golf Course, which currently are being investigated. He also stated that he understands Mayor Allan has withdrawn his membership at the course; therefore, he can participate in the discussions regarding the issues on tonight's Agenda.

Mayor Allan stated that there has been reporting to FPPC regarding his character. He explained that he has not participated in any discussions regarding the purchase of the Country Club and that his only association to the Club is that he was a former owner. He stated that he felt that his character has been damaged by the complaint to the FPPC as well as the information that was sent to the newspaper.

Jason Barker, Task Force President, CEO, St. Mary's Hospital and former Chief Financial Officer for St. Mary's Hospital, presented the staff report as filed with the Town Clerk. He clarified the duties of the Task Force and stated that the Task Force was not tasked with making a recommendation regarding whether or not the Town should move forward with the purchase, only to provide direction to the Town regarding what could be done to potentially eliminate expenses and produce revenue.

Mr. Barker briefly described the fourteen (14) recommendations prepared by the Task Force to assist in generating revenue at the Golf Course. He explained that even with the recommendations. The annual deficit would be approximately \$1.2 – \$1.3 million annually. He also stated that if the members were willing to pay their fair share, that would save approximately \$100,000 and if the debt service with the bank could be negotiated, the debt could possibly be less.

Councilman Roelle asked a series of questions regarding the Town's current debt service.

Frank Robinson, Town Manager, commented on the Town's current financial situation and the drain on the general fund due to the Parks and Recreation Department. He also commented on the purchase Apple Valley Golf Course and the water rights. He answered a series of questions from Councilman Roelle regarding ability to meet the basic needs of public safety with the drain on the general fund and the current state of affairs at the Golf Course.

Mr. Robinson recommended to the Council to continue to stay focused on the water rights because of their tremendous value. He further recommended that the Council to stand down on

voting up or down and continue to see through the purchase of the club through December before deciding to close the deal.

Kevin Smith, Interim Finance Director, commented on the Golf Course and felt it would be costly to maintain the Apple Valley Country Club. He also commented on the Town's cash reserves available after his projection that the Park & Recreation and Golf Course would lose money. He briefly commented on the Town's success of making up the deficit with the solid waste account by implementing a repayment plan.

Mayor Pro Tem Sagona asked a series of questions regarding the succession of membership of dues. He also asked questions of Mr. Henderson regarding pressure points that the Golf Course has on the general fund.

Discussion ensued regarding the finances of the Golf Course.

Michael Kulick, Apple Valley, spoke in support of moving forward with the Golf Course.

David Mueller, Apple Valley, spoke in opposition of moving forward with the Golf Course.

Mary Nachman, Apple Valley, spoke in opposition of moving forward with the Golf Course. She felt that the Town cannot fund the Country Club.

Marty Nachman, Apple Valley, spoke in opposition of moving forward with the Country Club.

Pete Nadler, Apple Valley, spoke in support of moving forward with the Golf Course. He felt that the purchase of the Club would fulfill a Vision for the residence of Apple Valley.

Jim Phillips, Apple Valley, spoke in support of the purchase of the Country Club and felt it's an essential part of Park and Recreation.

James Nickerson, Apple Valley, spoke in support of the Country Club. He felt that by not moving forward with the purchase of the Club, it would affect the property values.

Don Caffey, Apple Valley, spoke in support of moving forward with the Golf Course.

Jennifer Samples, Apple Valley, spoke in support of the Golf Course and felt it is the only true amenity in the Town of Apple Valley.

Jerry Moore, Apple Valley, spoke in support of the Golf Course.

Barbara Davisson, Apple Valley, spoke in support of the Golf Course.

Bernadette McNulty, Apple Valley, spoke in opposition of moving forward with the purchase of the Golf Course and felt it would be too costly to run it.

Alan Adams, Apple Valley, spoke in support of moving forward with the purchase of the Golf Course.

William Furmage, Apple Valley, spoke in opposition of the Golf Course.

Mike Yates, Apple Valley, spoke in support of the Golf Course.

Larry Cusack, Apple Valley, spoke in support of moving forward with the Golf Course.

Mayor Pro Tem Sagona asked questions of various members of the public. He requested to know if there was any action taken by the Board to affect the succession of the Club dues. He also requested to know what could be done by stakeholders of the Club for the betterment of the Golf Course.

Councilman Nassif commented on the Golf Club and felt it is an asset to the Community.

Councilman Roelle stated that he felt the Country Club is too risky and that he would not support the closing of escrow.

Mayor Pro Tem Sagona commented on the golf course and felt the Town should continue with the litigation regarding the water rights with guidance that the Town Council is to direct staff to negotiate a co-ownership agreement with the Country Club. He encouraged implementing the 14 recommendation and recommended that staff work with the Task Force, the bank, and the members with the view of continuing the club as a private operation.

Mayor Pro Tem Sagona proposed that we not vote tonight.

Mayor Allan believed that the Town should move forward with the Task Force recommendations.

MOTION

Motion by Councilman Nassif, seconded by Councilman Sagona, to implement the Task Force recommendations.

Vote: Motion carried 4-1-0-0

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

16. Award Contract for the Construction of a New Irrigation Well for the Apple Valley Country Club Golf Course

COUNCILWOMAN COLEMAN REMAINED EXCUSED FROM THE DAIS AT 11:05 P.M.

Dennis Cron, Assistant Town Manager, Municipal Operations and Contract Services, presented the staff report as filed with the Town Clerk.

Wilson So, So Engineering, provided the Town Council with his assessment of Bid Results for the AVCC Replacement Well Construction.

Discussion ensued regarding the water needs for the Golf Course and whether or not the Council should proceed with the well without owning the Golf Course.

MOTION

Motion by Councilman Nassif, seconded by Mayor Allan, to award bid for construction of a new irrigation well at Apple Valley Country Club Golf Course and authorize the Town Manager to sign a contract for the work with Southwest Pump & Drilling Inc., subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager; subject to easement and legal documents.

Vote: Motion carried 4-1-0-0

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

COUNCILWOMAN COLEMAN RETURNED TO THE DAIS AT 11:30 P.M.

17. January 17, 2010 – February 6, 2010 Severe Storm Event Update

Lance Miller, Public Works Supervisor, presented the staff report as filed with the Town Clerk.

This was a receive and file item only.

18. Assistant Town Manager, Finance and Administration

Councilman Rick Roelle presented the staff report as filed with the Town Clerk. He made a correction to the staff report and stated that he wanted staff to move forward with a complete review of all Town position and not just one position.

Dino Defazio, Apple Valley, commented on the need for the Town to review cutting costs and being fiscally responsible.

Discussion ensued regarding whether or not the Town Council should be involved with a proposed re-evaluation of management staff.

There was no action taken.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

ADJOURNMENT

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Mayor Allan, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 11:52 p.m. in memory of Mr. Lee Tucker and Mr. Bill Porter.

Town Clerk

Mayor