

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

**REGULAR MEETING
MINUTES – April 27, 2010**

CLOSED SESSION

1. Closed Session

MOTION

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

OPENING CEREMONIES

CALL TO ORDER:

Mayor Allan 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/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 Diana McKeen.

PRESENTATIONS:

The following individuals were recognized for their donation of over 600 volunteer hours with the Teen Zone Program.

Leslie Weaver
Kevin Clift
Mandy Damico
Sara Campion

SPECIAL ANNOUNCEMENTS:

Captain Bart Belknap, Apple Valley Police Department, recognized deputies within the department for their quick identification of individuals involved in a homicide in the Town of Apple Valley. He stated that thanks to the work of these deputies and surrounding communities, they apprehended the suspects in a timely manner.

Captain Bart Belknap recognized the following employees for their tireless work in bringing the suspect to justice.

Sergeants Sean Henry, Frank Bell and Van Putnam.

Detectives Tony Garcia, Neal Rodriguez, Armando Castillo, Scott Landen, Lucas Niles.

Deputies Kirsten Mitchell, Caroline Chadwell, Eddie Bachman, Scott Nobles, Fernando Munoz, Brian Roper, Jeff Moran, Jeff Monroe.

PUBLIC COMMENTS

Flora Windsor, Apple Valley, expressed concern regarding the empty condominiums located in her area. She did not believe these units would be rentable for 55+ residents.

Sharon Holland, Apple Valley, commented on the Property Business Improvement District and the vote that was taken to approve the district. She commented on the investment of the Town of Apple Valley for this process to be completed.

Chuck Hanson, Apple Valley, announced that Monday night is the Bicycle Ride. He encouraged everyone to participate.

Carl Williams, Apple Valley, expressed concern regarding barking dogs in his neighborhood. He respectfully requested assistance from the Town.

Ernst Hardies, Apple Valley, expressed concern regarding the proposed Happy Trails Villas. He stated that he did not want this project converted into low-income condominiums.

Lawrence McCarthy, Apple Valley, asked questions of the Town Council regarding the Apple Valley Golf Course.

Dave Mueller, Apple Valley, would like two items on a future agenda. He is requesting the status of the VVWRA purchase and Victorville's seizing of all wastewater. He is also requesting an update on the financial condition of VVEDA and SCLA.

William Furmage, Apple Valley, read a statement regarding the lack of a BMX Park. He believed that the Town should use the funding allocated for the Apple Valley Golf Course to construct a BMX Park for the youth of Apple Valley.

Eugene Buchanon, Apple Valley, expressed concern regarding decisions that he believed were made by the Town Council that do not benefit the community.

APPLE VALLEY CHAMBER OF COMMERCE – BUSINESS RETENTION UPDATE

Jason Barker, Chairman, Apple Valley Chamber of Commerce, updated the Town Council on recent and upcoming events at the Apple Valley Chamber. He thanked the Town Council for supporting the Apple Valley Chamber of Commerce.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilwoman Coleman commented on her attendance at the League of California Cities – Mountain Desert Division Meeting in Yucca Valley. She informed the Council and the public that Antelope Valley hospital has been designated as a Trauma Center. She also commented on presentations that were made by attendees regarding issues such as the Desert Protection Act 2010 and the banning of Marijuana Dispensaries.

Councilman Nassif commented on the League of California Cities – Mountain Desert Division Meeting and the discussions held at the league level regarding AB32. He also announced that today is the one year anniversary of the passing of Sue Cusack. He asked if the meeting could be closed in her memory.

Mayor Pro Tem Sagona announced that the next Victor Valley Wastewater Reclamation Authority meeting is scheduled Thursday, April 29, 2010.

Mayor Allan announced that last Thursday he attended the Friends of the Hispanic Chamber lunch and he commented on the attendance at that meeting. He also commented on a meeting held in the City of Victorville regarding the E-220 that will be a highway from Interstate 14 to Interstate 18. He stated that Highway 395 and Interstate 15 would also be part of this project.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Councilwoman Coleman would like to agendize an item to discuss amending the North Apple Valley Industrial Specific Plan (NAVISP) to deal with issues of calling buildings that have metal on the sides non-conforming. She explained that it is difficult for them to get loans with that designation attached to them. She wants to review changing the design standards or changing the wording under legal non-conforming.

Mayor Allan requested a future item be prepared supporting a resolution for the California Jobs Initiative from Supervisor Brad Mitzelfelt. The Mayor also said that he received a request from the manager of the San Bernardino County Fair asking Apple Valley for a financial contribution. He would like to agendize an item to bring back to the Council for a vote on this issue.

Mayor Pro Tem Sagona gave a chronology of events that occurred during Council's discussions of the Apple Valley Golf Course. He proposed that we have an up or down vote on whether or not we should pull out of the arrangements with the Country Club.

Councilman Nassif suggested that the Council allow the Task Force to work on implementing the recommendations brought forth at the last meeting before discussing this item.

Mayor Pro Tem Sagona responded stating that he would wait until that time; however, he requested that the Town Council also hold in abeyance the actions on the well.

Discussion ensued regarding the vote taken on the Country Club.
Councilwoman Coleman clarified that she did not vote on this item due to a conflict of interest when it was originally discussed.

Mayor Pro Tem Sagona asked that an item be brought back at the next meeting for a revote on the irrigation well.

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

A. Regular Meeting – Tuesday, May 11, 2010, 6:30 p.m. – Council Chambers

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

MOTION

Motion by Councilman Roelle, seconded by Councilman Nassif, to approve and adopt Consent Calendar Items numbered, 2, 3, 4, 5, 6, 7, 8, 9 and 12, and that items numbered 10 and 11 be removed from the Consent Calendar.

Vote: Motion carried 5-0-0-0

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

2. Approval of Minutes of the Town Council

A. Regular Meeting – April 13, 2010

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Claimant – Harriette Fisher

Recommendation:

Reject the claim of Harriette Fisher.

4. Claimant – Jackie Parsons

Recommendation:

Reject the claim of Jackie Parsons.

5. Expenditure Transfers

Recommendation:

Approve the transfers as submitted.

6. Adopt Resolution No. 2010-15, a Resolution Approving the Application for Grant Funds for the Urban Greening Grant Program

Recommendation:

That the Town Council Adopt Resolution No. 2010-15 Approving the Application for Grant Funds for the Urban Greening Grant Program.

7. Adopt Resolution No. 2010-16, a Resolution of the Town Council of the Town of Apple Valley Authorizing Submittal of Used Oil Payment Program Applications to the California Department of Resources Recycling and Recovery (CALRECYCLE), and Designating the Town Manager as Authorized Signatory on Behalf of the Town.

Recommendation:

Approve Resolution No. 2010-16, authorizing submittal of applications for payments under CalRecycle's Oil Payment Program, and designating the Town Manager as the authorized signer on behalf of the Town.

8. **Adopt Resolution No. 2010-17, a Resolution Authorizing Certain Individuals to Execute for and on Behalf of the Town of Apple Valley for the Purpose of Obtaining Financial Assistance in the Event of an Emergency**

Recommendation:

Move to adopt Resolution No. 2010-17, a Resolution of the Town Council of the Town of Apple Valley, California, authorizing certain individuals to execute for and in behalf of the Town of Apple Valley for the purpose of obtaining financial assistance in the event of an emergency.

9. **Accept the Final Map for Parcel Map No. 19191**

Recommendation:

Approve the final map for Parcel Map No. 19191.

12. **Development Code Amendment 2009-005: Adopt Ordinance No. 405 Regarding 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.**

Zone Change 2009-003: Adopt Ordinance No. 406, Regarding Changes to the Zoning Map to Assure Consistency with the General Plan Map Adopted in 2009.

Recommendation:

Adopt Ordinance Nos. 405 and 406.

PULLED FROM CONSENT

10. **Review And Approve Construction Plans And Specifications For The Highway 18 Landscaped Median Project (Phase 1), And Authorize Staff To Proceed With Advertisement For This Project.**

Councilman Nassif disqualified himself due to his interest in real property located within 500 feet of the proposed project

COUNCILMAN NASSIF WAS EXCUSED FROM THE DAIS AT 7:34 P.M.

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk.

Sharon Holland, Apple Valley, expressed concern regarding the tax assessment on the PBID. She commented on the Management District Plan and stated that Highway 18 falls outside of the PBID District.

Eugene Buchanon, Apple Valley, commented on the public records request made for the legal map and description of the PBID District. He also commented on what he felt are conflicts of interest among the Council.

Emily Wong, Assistant Director of Economic Development, explained the financing used for this project.

Mr. Miller clarified that Highway 18 is considered a public right-of-way. Mr. Miller stated that the plans are in the process of receiving approval by Caltrans. He recommended that the Council move forward with approval of the project.

John Brown, Town Attorney, responded to the concerns expressed by the previous speaker. He briefly explained that typically roadways are not described when they fall within the boundaries of an assessment district. He also commented on the zoning of the PBID district as it relates to Hwy 18 and addressed Government owned parcels that are subject to assessments.

MOTION

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to review and approve specifications for the Highway 18 Landscaped Median Project (Phase 1), and direct staff to proceed with the project.

Vote: Motion carried 4-0-0-1

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

Absent: Councilman Nassif.

COUNCILMAN NASSIF RETURNED TO THE DAIS AT 7:55 P.M.

11. Review and Approve Construction Plans and Specifications for the new Public Works Facility and Authorize Staff to Advertise for Bids for Construction of this Project

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

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Nassif, to review and approve construction plans for Public Works Facility and direct staff to proceed with advertising for bids on the project.

Vote: Motion carried 5-0-0-0

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

Absent: None.

Mayor Allan, with the consensus of the Town Council, recommended that Agenda Item number 19 be presented at this time.

19. Happy Trails Villas

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

*Mayor Pro Tem Sagona requested clarification regarding the need to approve the Owner Operation Agreement prior to voting on the project.

John Brown, Town Attorney, responded stating that the Owner Operation Agreement has to be properly amended and voted on by the Council.

Mayor Allan announced that public comments can be made tonight; however, no action will be taken by the Town Council on tonight's agenda.

Mr. Henderson clarified that the developer has placed the project in escrow in anticipation of the Council approving an Owner Participation Agreement and closing escrow once public assistance is assured. He stated that only at such time that the Council favorably considers the Owner Participation Agreement will this project be formally approved and allowed to move forward.

Mayor Allan recognized the following individuals who wished to speak to this item.

Ken Lieper, Apple Valley, spoke in opposition of the proposed project.

Marilyn Reid, Apple Valley, spoke in opposition of the proposed project.

Chris Grey, Apple Valley, spoke in support of the proposed project as was originally approved.

Chris Owens, spoke in opposition of the proposed project.

David Mueller, spoke in opposition of the proposed project. He is requesting copies of public records pertaining to any code violations that exist for the Happy Trails Villas.

Helen Greco, spoke in opposition of the proposed project.

Deborah Light, Parker Properties, Apple Valley, spoke in opposition of the proposed project.

Charles Collarini, Apple Valley, spoke in opposition of the proposed project.

Gordon Higgins, Apple Valley, spoke in opposition of the proposed project.

Jack Hall, Apple Valley, spoke in opposition of the proposed project.

Mr. Brown stated that the previous speaker, Mr. Lieper, expressed additional concern regarding the circulation element in relationship to Hwy 18 and the closed roads. He also questioned who would be responsible for paying for the improvements.

RECESSED MEETING

Mayor Allan recessed the meeting of the Apple Valley Town Council at 8:35 p.m.

MEETING RECONVENED

Mayor Allan reconvened the meeting of the Apple Valley Town Council at 8:40 p.m.

There was no action taken.

18. Leasing Space in Town Facilities

Mayor Pro Tem Sagona stated that he believed space was available in Town owned facilities that could be leased to the public.

Councilwoman Coleman commented on the office and storage space needed for staff.

Kenneth J. Henderson, Assistant Town Manager, Economic and Community Development, requested that Items 17 and 18 be discussed consecutively.

17. Proposed Retrofit Program for Town Hall and Police Department Buildings

Frank Robinson, Town Manager, introduced the item for discussion.

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

Lori Lamson, Assistant Director of Community Development, presented a PowerPoint highlighting the Town Hall Retrofit.

Mr. Robinson thanked staff for their hard work.

MOTION

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to ratify the actions of the Town Manager and direct staff to proceed with obtaining Town Hall/Police Department retrofit cost estimates and return to Town Council for project approval.

Vote: Motion carried 5-0-0-0

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

Absent: None.

THERE WAS NO ACTION TAKEN ON AGENDA ITEM NUMBER 18.

PUBLIC HEARINGS

13. A Request To Consider An Amendment To Title 9 "Development Code" Of The Town Of Apple Valley Municipal Code By Amending Sections 9.28 "Residential Districts", 9.37 "Commercial And Office Districts Design Standards" And 9.47 "Industrial Design Standards" Of The Code By Establishing Storm Water Runoff Provisions For All New And Existing Development Within The Town Of Apple Valley.

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

Mayor Allan opened the public hearing at 9:13 p.m.

There being no requests to speak, Mayor Allan closed the public hearing at 9:14 p.m.

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Roelle, 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. 407 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 407.

MOTION

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

5. **Introduce** Ordinance No. 407, amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code of the Town of Apple Valley Municipal Code by amending Sections 9.28 "Residential Districts", 9.37 "Commercial and Office Districts Design Standards" and 9.47 "Industrial Design Standards" of the Code by establishing storm water runoff provisions for all new and existing development 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.

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

14. Consideration of Support Position for Extended Producer Responsibility (EPR) and Product Stewardship

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

It was the consensus of the Town Council to authorize staff to prepare a resolution of support for Extended Producer Responsibility and Product Stewardship.

Vote: Motion carried 5-0-0-0

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

Absent: None.

15. Introduce Ordinance No. 408 – An Ordinance Of The Town Council Of The Town Of Apple Valley Adding Chapters 5.02.330-5.02.360 Investigation, Inspection And Reporting Of Junk Dealers, Adding Chapters 5.02.370-5.02.450 Tobacco Retailers Permit Regulations, Amending Chapter 5.02.010 Definitions, Of The Apple Valley Municipal Code

Sergeant Newton, Apple Valley Police Department, presented the staff report as filed with the Town Clerk. He removed from consideration the amending of Chapter 11.24 regarding Nighttime Curfews.

MOTION

Motion by Councilman Nassif, seconded by Councilwoman Coleman, to

1. Find that the proposed adoption of Ordinance No. 408 is not subject to and is Exempt from CEQA, based upon findings under CEQA Guidelines, Section 15061 Sub (b)(3) that can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.
2. Move to waive the reading of Ordinance No. 408 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 408.

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, to:

3. Move to Introduce Ordinance No. 408 adding Chapters 5.02.330-5.02.360 investigation, inspection and reporting of junk dealers, adding Chapters 5.02.370-5.02.450 tobacco retailers permit regulations, amending Chapter 5.02.010 definitions, of the Apple Valley Municipal Code
4. 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.

16. Healthy Apple Valley Update

Linda Mayfield, Manager of Legislative Affairs and Grants, presented the staff report as filed with the Town Clerk.

This was a receive and file item only. There was no action taken.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, distributed a thank you letter to the Town Council received by Mr. Malcolm Riley regarding the development of the Burlington Coat Factory in Apple Valley.

Gina Whiteside, Animal Control Manager, commented on the new Animal Shelter and the services they provide to the community. She stated that due to a new State law that went into effect that does not

consider Saturday as a regular business day and low revenue, she is recommending a new work schedule beginning May 1, 2010, Monday – Friday 7:30 – 5:30 pm and Wednesday 7:30 am - 7:00 pm.

Kathie Martin, Marketing and Public Affairs Officer, briefed the Town Council on upcoming events. She also commented on the success of the Town's Social Media pages

Mr. Robinson, Town Manager, commented on the dissolution of CSA-17 stating that it was approved by the Supervisors last month. He announced that the new Summer Recreation Guide is available and specially recognized the Park and Recreation Department for their work.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

1. Closed Session

MOTION

Motion by Councilman Nassif, seconded by Councilwoman Coleman, and unanimously carried to adjourn to Closed Session at 10:00 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 10:30 p.m. Mayor Allan reported that the a Motion was made by Councilwoman Coleman, seconded by Councilman Nassif, to waive the attorney client privilege on the document, "Conflict of Interest Questions Concerning Apple Valley Country Club". The motion passed 4-0-1-0, with Mayor Allan abstaining.

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 10:34 p.m. in memory of Susan Cusack.

Town Clerk

Mayor