

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

**REGULAR MEETING  
MINUTES – May 11, 2010**

**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 given by Pastor Doris Eddy, Valley Christian Fellowship

**PLEDGE OF ALLEGIANCE:** Color Guard Presentation by Boy Scout Troop 257, led by Ian Cherry

**SPECIAL SELECTION:** Mr. Brett Morgan, Town of Apple Valley – America The Beautiful

**PRESENTATIONS:**

Military Banner Presentations - Shaun Gordon Edwards and Danielle Krach

**SPECIAL ANNOUNCEMENTS:**

**CLOSED SESSION**

**1. Closed Session**

Councilwoman Coleman stated that she had a potential conflict of interest on this item because she owned property in the subject area. She excused herself from participating in Closed Session discussions.

**MOTION**

Motion by Councilman Roelle, seconded by Councilman Nassif, and unanimously carried, to adjourn to Closed Session 6:43 p.m. to discuss the following:

- A. 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 6:59 p.m., Mayor Allan announced that there was no reportable action taken.

#### **PUBLIC COMMENTS**

David Mueller, Apple Valley, expressed concern regarding a records request that he provided to the Town of Apple Valley. He asked questions regarding adding an item to the agenda.

Richard Rorex, Apple Valley, expressed concern regarding issues that have taken place at the Town Council meetings.

James Owens, Apple Valley, expressed concern regarding the Happy Trails Villas property. He would like to have an item added to the agenda to discuss the issue of who is speaking with Asset Management.

Chuck Hanson, Apple Valley, thanked the Mayor for his support at the annual Bike ride with approximately 100 people. He also thanked the Town Council for prayer day.

Gordon Higgins, Apple Valley, asked questions about the Happy Trail Villa project. He also requested to know when the Owner Participation Agreement will be available.

Jack Hall, Apple Valley, Happy Trail Villas, stated that he and others made several attempts to purchase this property; however, the project was sold to Mr. Hart to put in a project that no one wants. He stated that the project was originally built as an upscale project.

#### **COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION**

Councilman Nassif commented on his attendance at the bike ride and he also thanked staff for the excellent grand opening of the Animal Shelter.

Mayor Pro Tem Sagona stated that he visited the Animal Valley Shelter and its clinic. He commented that it is a marvelous addition to the Town. He stated that this project was conceived in prosperity. He stated that the MDAQMD will meet on the 24 of May where they will discuss the budget. He commented on a proposal to increase the rates. He stated that he would make the document public for interested parties.

Councilwoman Coleman commented on her attendance at the Animal Shelter Grand Opening. She also spoke of meetings that she participated in at SCAG where discussions held included AB32 and SP375 and their impacts on the community.

Councilman Roelle stated that he would not be in attendance at the next meeting due to a conference.

Mayor Allan commented on the bike ride. He expressed concern regarding children that were riding and weaving in and out of the traffic. He also announced that Apple Valley had to turn over approximately \$15 Million as our take of the RDA funds along with VVEDA.

Councilman Nassif asked questions about the funding that was taken by the State. He questioned if this would be a one-time shift or something that the State would do each year to our Redevelopment funds.

Ken Henderson, Assistant Town Manager, Economic and Community Development, stated that this would be a two-year take; however, the State has the ability to take Redevelopment funds if the court's decision stand. He also commented on the Poison Pill provision in the bill and the penalties should a Municipality fail to pay its share of Redevelopment money.

Councilman Nassif commended staff for having the vision to protect the Town's Redevelopment money with encumbered funds and projects throughout the community so that the amount of money to the State was greatly reduced.

### TOWN COUNCIL ANNOUNCEMENTS

#### **Suggested items for next agenda:**

Mayor Pro Tem Sagona questioned whether or not the issue of the Country Club item should be re-voted.

John Brown, Town Attorney, responded stating that it would be up to the Council, based upon the conclusions and the member items, as to whether they wish to entertain a new on that matter. His recommendation to the Council is that they seriously consider that.

Mayor Pro Tem Sagona would like to agendize a motion to re-consider the issue of closing escrow based on the legal opinion submitted by the Town Attorney. He would like to have this item on the agenda for the second meeting in June.

John Brown, Town Attorney, stated that typically a motion to reconsider has to be advanced by someone on the prevailing side. Mr. Brown pointed out that he is in the opinion that the Mayor can now vote on the matter.

Mayor Pro Tem Sagona also commented on the need to have an up or down vote on the Country Club. He also commented on the issues surrounding the Happy Trail Villa and asked staff to provide a report that answers each of the questions that were asked by the public speakers. He would also like a report on the response of the question from Asset Management.

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

**A. Regular Meeting – Tuesday, May 25, 2010, 6:30 p.m. – Council Chambers**

### TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

Councilman Nassif stated that he had a remote interest in certain warrants on tonight's commercial warrants for the Town of Apple Valley as the owner of NAPA Auto Parts. Therefore he abstained from voting on Agenda Item Number 4.

#### **MOTION**

Motion by Mayor Pro Tem Sagona, seconded by Councilwoman Coleman, to approve and adopt Consent Calendar Items numbered, 2 – 9, and that item number 10 be pulled for discussion

Vote: Motion carried 5-0-0-0

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

Abstain: **Councilman Nassif abstained from voting on Item #4.**

2. **Approval of Minutes of the Town Council**
  - A. **Special Meeting – Tuesday, April 27, 2010**
  - B. **Regular Meeting – Tuesday, April 27, 2010**

**Recommendation:**  
Approve the subject minutes as part of the consent agenda.
3. **Treasurer's Report – March**

**Recommendation:**  
Receive and file.
4. **Commercial Warrant Schedule – March 2010**

**Recommendation:**  
Receive, ratify, and file the payroll warrant schedule as presented.
5. **Payroll/Benefits Warrants Schedule– March 2010**

**Recommendation:**  
Receive, ratify, and file the payroll warrant schedule as presented.
6. **Adopt Ordinance No. 407 - 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.**

**Recommendation:**  
Adopt Ordinance 407
7. **Adopt 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 and Amending Chapter 5.02.010 Definitions**

**Recommendation:**  
Adopt Ordinance No. 408
8. **Adopt Resolution to Support California Jobs Initiative**

**Recommendation:**  
That the Town Council adopt Resolution No. 2010-19, Supporting the California Jobs Initiative.
9. **Resolution in Support of Extended Producer Responsibility (EPR) and Product Stewardship**

**Recommendation:**  
Approve and Adopt Resolution No. 2010-20 A Resolution in support of Extended Producer Responsibility.

**PULLED FOR DISCUSSION**

**10. A Resolution of the Town Council of the Town of Apple Valley Approving the Submittal of the Town of Apple Valley 2009 General Plan Annual Report to the Governor's Office of Planning and Research and the State Department of Housing and Community Development.**

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

Mayor Pro Tem Sagona spoke in opposition of this project. He expressed concern regarding the State intervening with the affairs of local government once it has incorporated and established a general plan.

**MOTION**

Motion by Councilwoman Coleman, seconded by Councilman Nassif, to adopt Resolution No. 2010-18, a Resolution of the Town Council of the Town of Apple Valley Approving the submittal of the Town of Apple Valley 2009 General Plan Annual Report to the Governor's Office of Planning and Research and the State Department of Housing and Community Development.

Vote: Motion carried 4-1-0-0

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

**PUBLIC HEARINGS**

**11. Final Public Hearing - Consolidated Plan Fourth-Year Action Plan for the Community Development Block Grant (CDBG) and the Home Investment Partnerships (Home) Programs for Fiscal Year 2010-2011.**

Emily Wong, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk. She commented on the new funding that they will receive for CDBG and HOME in the amounts of \$996,000.00 for the upcoming year.

Mayor Allan opened the public hearing at 7:37 p.m.

Susan Hollenbeck, Apple Valley Homeless Shelter, invited the Council to visit their facility. She commented on those that reside at the facility and thanked the Council for their funding. She also invited them for a pancake breakfast Open House to be held on June 5<sup>th</sup> from 8:00 am to 11:00 am located at 14049 Amargosa Road, Victorville.

Anita Gomez, A Better Way Services, commented on the services that they provide to the Community. She thanked the Town Council for their past support. She stated that so far this year, they have assisted Apple Valley residents with 1,599 nights of emergency shelter, 171 crisis hot line calls, 32 children received childcare, 31 attended the peer support counseling, 43 attended victim impact classes, and 21 outreach clients attended life skills classes. She stated that these classes are accepted by the courts and CPS. She respectfully requested continued support from the Town Council.

Bruce Young, High Desert Food Bank, commented on the services that they provide to the community. He respectfully requested assistance from the Town of Apple Valley.

Emily Wong, Assistant Director of Economic Development, commended the efforts of the five member Community Development Citizen's Advisory Committee for their hard work.

Paul Mammano, CDBG Committee Member, commented on the funding allocations that are done and the difficult decisions that have to be made to service as many organizations as possible.

There being no additional requests to speak, Mayor Allan closed the public hearing at 7:46 p.m.

### **MOTION**

Motion by Mayor Pro Tem Sagona, seconded by Councilwoman Coleman, to approve the Community Development Citizen Advisory Committee recommendations for funding proposed projects under the 2010/2011 CDBG and HOME programs as part of the Town's Fourth-Year Action Plan, which is an integral component of the Consolidated Plan, approve the draft Action Plan and authorize the Town Manager to execute all necessary HUD documents on behalf of the Town for submission to HUD.

Vote: Motion carried 5-0-0-0

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

12. **Appeal (No. 2010-01) of the Planning Commission's Approval of Conditional Use Permit No. 2009-06 And Deviation Permit No. 2010-01, a Request to Construct a Sixty-Five (65)-Foot Tall Wireless Telecommunication Monopole Designed as a Pine Tree. The Project Includes a Request for Approval of a Deviation Permit to Allow an Encroachment of Approximately 970 Feet Into the Required 1,000-Foot Separation Requirement Between the Monopole and a Single Family Residence and to Allow a Thirty (30)-Foot Setback Where a Minimum Setback of Forty-Nine (49) Feet is Required.**

Carol Miller, Senior Planner, presented the staff report as filed with the Town Clerk.

Mayor Allan opened the public hearing at 7:52 p.m.

Zena Ho, Attorney for the Appellant, commented on the appeal submitted to the Town Council. She believed that the virtual identical properties and towers show an abusive discretion. She also felt that the Planning Commission improperly favored the Hitt Road site over the Appellant's site. She respectfully requested that the Council remand both the Hit Road and Appellant's applications back to the Planning Commission for further review.

John Brown, Town Attorney, commented on the closing remarks by the Appellant's Representative. He clarified that the Council's only jurisdiction has to do with this particular Conditional Use Permit.

Ms. Ho stated that they did not submit an appeal because the Planning Commission had made it clear that their preferred site was the Animal Shelter; however, once they had discovered that the Animal Shelter had rejected the Tower, the appeal period had expired.

Councilman Roelle asked questions regarding the site that was selected for the wireless telecommunication tower.

Ms. Miller explained that process that took place for selection of the telecommunication tower.

Discussion ensued regarding whether or not a bias decision was made when the telecommunication site was selected.

John Brown, Town Attorney, made a recommendation to keep the public hearing open and remand this item back to the Planning commission so the Town Attorney can discuss the matter with the Planners and the Planning commission to make sure there is no appearance of improprieties.

**MOTION:**

To continue the public hearing and to remand this item back to the Planning Commission to allow the Town Attorney the opportunity to discuss the matter with the Planning Department and the Planning Commission to ensure there is no appearance of improprieties.

**ROLL CALL VOTE:**

Vote: Motion carried 5-0-0-0

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

**LEGISLATIVE MATTERS**

**13. Introduce Ordinance Number 409 of the Town Council of the Town of Apple Valley Amending Sections 3.12.230 And 3.12.270 of the Town of Apple Valley Municipal Code Relating to Purchasing Limits**

Kevin Smith, Interim Finance Director, presented the staff report as filed with the Town Clerk.

**MOTION**

Motion by Councilwoman Coleman, seconded by Councilman Nassif, and unanimously carried, to waive the reading of Ordinance No. 409 and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 409.

**MOTION**

Motion by Councilwoman Coleman, seconded by Councilman Nassif, to introduce Ordinance No 409, An Ordinance of The Town Council of the Town of Apple Valley, California, Amending Chapters 3.12.230 and 3.12.270.

**ROLL CALL VOTE:**

Vote: Motion carried 5-0-0-0

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

**REPORTS, REQUESTS AND COMMUNICATIONS**

**BUSINESS OF THE COUNCIL**

**14. Discussion of Legal Non-Conforming Designation in the North Apple Valley Industrial Specific Plan (NAVISP)**

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

\*Councilwoman Coleman made a recommendation to amend the specific plan for the area described to eliminate the legal non-conforming status of metal structures in order to allow for homeowners who desire to expand their properties.

Councilman Roelle requested to know the timeline for a development code amendment.

**MOTION**

Motion by Councilwoman Coleman, seconded by Councilman Nassif, to direct staff to prepare an amendment to the north Apple Valley Industrial Specific Plan for the area described to modify the legal non-conforming building use standards.

**ROLL CALL VOTE:**

Vote: Motion carried 5-0-0-0

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

**15. Request for Financial Assistance for the San Bernardino County Fair**

Kathie Martin, Marketing and Public Affairs Officer, commented on the previous sponsorship levels that the Town provided for the fair.

Mayor Allen opened the public hearing at 8:10 p.m.

Miguel Gonzalez, San Bernardino County Fair, stated that the fair is looking to obtain a sponsorship with the Town. He explained that approximately 40% of the attendees to the fairgrounds were from the Town of Apple Valley.

Mayor Allan closed the public hearing at 8:15 p.m.

Kenneth Henderson, Assistant Town Manager, Economic and Community Development, stated that due to limited resources of our marketing budget, his recommendation is that the Town forego sponsorship this year. He further stated that the 2010-2011 budget has already been presented to the Council and that this item is not included as a recommendation to the budget therefore, the Council would have to appropriate the funds and added to the budget if it so desired.

Kevin Smith, Interim Finance Director, commented on funding under Special Projects that could be used for this item if approved by the Town Council.

Mr. Gonzalez commented on what the sponsorship could be used for if the Town agrees to funding for the fair.

**MOTION**

Motion by Mayor Allan, seconded by Councilwoman Coleman, to assist the San Bernardino County Fair with \$5,000 and that it come from the Town's discretionary funds.

Vote: Motion carried 5-0-0-0

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

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

Councilwoman Coleman stated that she had a potential conflict of interest on this item because she owned property in the subject area.

**COUNCILWOMAN COLEMAN WAS EXCUSED FROM THE DAIS AT 8:28 P.M.**

Mayor Pro Tem Sagona recommended, with the consensus of the Town Council, that this issue be continued to Wednesday, May 19 at 5:00 p.m.

**COUNCILWOMAN COLEMAN RETURNED TO THE DAIS AT 8:29 P.M.**

**TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE**

Gina Schwin-Whiteside, Animal Services Manager, commented on the successful Grand Opening of the new Animal Shelter.

Frank Robinson, Town Manager, commented that the Town delivered \$14 million to the State on Monday for its take of Redevelopment Funds for both the Town and VVEDA.

Kenneth Henderson, Assistant Town Manager, Economic and Community Development, provided information to the public regarding the State's take of Cities Redevelopment funding. He explained that cities were unsuccessful in our efforts to keep our funding.

**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 8:40 p.m.

Town Clerk

Mayor