

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

**REGULAR MEETING
MINUTES – June 22, 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.

CLOSED SESSION

1. Closed Session

Councilwoman Coleman noted that she had a potential conflict of interest and therefore excused herself from participating in Closed Session.

Motion by Councilman Nassif, seconded by Councilman Roelle, and unanimously carried to adjourn to Closed Session at 6:36 p.m. to discuss the following:

- B. Negotiations with Real Property Negotiator – Property located at 15200 Rancherias Road, Apple Valley; Negotiating Parties: Ned Curtis; Town Negotiator(s): Town Manager or Finance Director or Designee. Negotiations involve both price and terms of payment.

Upon returning from Closed Session at 6:38 p.m. Mayor Allan stated that they will discuss the instructions given regarding this issue during Agenda Item Number 23.

INVOCATION : The invocation was led by Pastor Doris Eddy, Valley Christian Fellowship

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Councilwoman Coleman

PRESENTATIONS: Doug Qualls, Fire Chief, Apple Valley Fire Protection District

SPECIAL ANNOUNCEMENTS: None.

PUBLIC COMMENTS

David Mueller, Apple Valley, expressed concern regarding the lack of response he has received from Council regarding questions he has asked about reportable action after Closed Session hearings. He also expressed concern because his request to have a VVEDA item placed on the agenda has not been satisfied.

Sharon Holland, Apple Valley, commented on public comments made at the last meeting regarding apologies to an individual made by another individual at the podium. She expressed concern regarding accusations made about her husband. She also expressed concern regarding the amount of property taxes she and her husband are paying.

Milton Holland, Apple Valley, expressed concern regarding the PBID Audit. He commented on the position he would take against the Town if the issues surrounding the PBID are not addressed.

Eugene Buchanon, Apple Valley, stated that he was an advocate for the Scully Family Trust. He asked a series of questions regarding the forensic audit.

John Brown, Town Attorney, commented on the legal compliance and maps of concerns expressed by Mr. Holland and Mr. Buchanon during the public comments. He believes that the Town acted properly on this issue.

APPLE VALLEY CHAMBER OF COMMERCE – BUSINESS RETENTION UPDATE

Jason Barker, Apple Valley Chamber of Commerce, commented on past and upcoming events at the Chamber of Commerce. He stated that the Chamber has completed the year with over 40 ground breakings and grand openings throughout Apple Valley. He announced that the Chamber will launch their new website in July 2010 as well as a free listing on their High Desert online business directory.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Nassif stated that last week he attended the League of California Cities Legislative Days. He stated that discussions were held about the State running out of funding and issuing IOU's as done in the past.

Councilman Nassif respectfully requested that the meeting be adjourned in memory of Mr. Earl Cusack, a founding father of the Town of Apple Valley.

Mayor Pro Tem Sagona commented on a report from the Victor Valley Water Reclamation Agency. He stated that VVWRA continues to work with member agencies on the budget. He also stated that the Town is assisting the City of Adelanto by processing 800,000 gallons of raw sewage per day until they are able to get their new system on line.

Councilwoman Coleman commented on various meetings she attended including a Special District and Local Seminar in Administration dealing with a variety of issues including gaining community support, Council meetings, and the legal requirement of agenda formatting. She also attended a League of California Cities Policy Committee Meeting dealing with environmental quality where the committee took a position on mandatory commercial recycling and plastic bags at grocery stores. She also attended a Victor Valley Transit Authority meeting where the 2010/2011 budget was adopted.

Councilman Roelle commented on a SANBAG meeting he attended where the Board elected Brad Mitzelfelt as President and Bea Cortes as the Vice-President. He also attended an open house hosted by the Town regarding the sub regional plant at Brewster Park. He noted that the financing for our portion of the Yucca Loma Bridge is complete.

Brad Miller, Town Engineer, said barring any difficulties we will be able to proceed with our portion of the bridge this year.

Mayor Allan noted that Senator Feinstein's office did not include the Town of Apple Valley on their list of approved projects.

Kenneth J. Henderson, Assistant Town Manager, Director of Economic and Community Development, explained the funding process for transportation and reauthorization funding.

Mayor Allan addressed the comments made by Mr. Mueller regarding the Victor Valley Economic Development Authority (VVEDA). He noted that the Town of Apple Valley serves as a Treasury function for VVEDA and recommended that Mr. Mueller meet with staff with any questions he may have regarding VVEDA.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Mayor Allan has announced that he will not be available in August.

Mayor Allan suggested an item be added to a future agenda to discuss going dark in August.

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

A. Regular Meeting – Tuesday, July 13, 2010, 6:30 p.m. – Council Chambers

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

Motion by Mayor Pro Tem Sagona, seconded by Councilwoman Coleman, to approve and adopt Consent Calendar Items numbered, 2 through 14, and that item number 9 be removed from the Consent Calendar.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's/Boardmember's Coleman; Nassif; Roelle; Vice-Chairman/Mayor Pro Tem Sagona; Chairman/Mayor Allan. Absent: None.

2. Approval of Minutes of the Town Council

A. Special Meeting – June 8, 2010

A. Regular Meeting – June 8, 2010

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Legislation Requiring Local Agencies to Review its Conflict of Interest Code to Comply with the Political Reform Act.

Recommendation:

Direct the Town Manager to review its code and submit a notice, by October 1, 2010, to the Town Council that either amendments are required or that no amendments are necessary.

4. **Adopt Resolution No. 2010-28, Calling and Giving Notice of The Holding of A General Municipal Election to be Held on Tuesday, November 2, 2010.**
Recommendation:
Adopt Resolution No. 2010-28 of the Town Council calling and giving notice of the holding of a General Municipal Election for the election of certain officers as required by the provision of the laws of the State of California relating to General Law Cities.
5. **Resolution No. 2010-29, Adopting Regulations for Candidates for Elective Office Pertaining to Candidates Statements for the General Municipal Election, November 2, 2010**
Recommendation:
Adopt Resolution No. 2010-29 adopting regulations for candidates for elective officer pertaining to candidate's statements submitted to the voters at an election, November 2, 2010.
6. **Claimant – Leonard Gee**
Recommendation:
Reject the claim of Leonard Gee.
7. **Review and Approve Construction Specifications for the Slurry Seal 2010 Project, and Authorize Staff to Proceed with Advertisement for this Project**
Recommendation:
Review and approve specifications for the Slurry Seal 2010 Project and direct staff to proceed with the project.
8. **Authorize Buyout of Xerox Copiers and Enter into Lease Agreement with Konica Minolta**
Recommendation:
Authorize the buyout of the Xerox copiers and enter into the lease agreement with Konica Minolta. Approve the allocation of rebate funds to 1001-1090-7330-0000 for purchase of additional system upgrades.
10. **Resolution of the Town Council of the Town of Apple Valley Amending the Personnel Policies and Procedures Manual**
Recommendation:
Adopt Resolution No. 2010-32, a Resolution of the Town Council of the Town of Apple Valley Amending the Personnel Policies and Procedures Manual.
11. **Fee Waiver Request for the Salvation Army Thanksgiving Day Dinner November 25, 2010 at the James Woody Community Center.**
Recommendation:
For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$110.80.
12. **Fee Waiver Request for the Phoenix Foundation Candlelight Vigil July 9, 2010 at the Civic Center Amphitheater.**
Recommendation:
For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$279.60.
13. **Adopt- A-Shelter-Cat-Month**
Recommendation:
Ratify the implementation of the Adopt-A-Shelter-Cat-Month Program

14. Award of a Professional Services Agreement between the Town of Apple Valley and McGregor Shott for Marketing Services

Recommendation:

That the Town Council approve a professional services agreement between the Town of Apple Valley and McGregor Shott, Inc. for marketing services in an amount not-to-exceed \$30,000.

PULLED FROM CONSENT

9. Change Order for Community and Conference Room and Audio Visual

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

MOTION

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

1. Approve Change Order to RDM Electrical Contractors for an amount not to exceed \$119,100.18.
2. Approve additional expenditures of \$144,490.00 to Eberhardt Construction.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's/Boardmember's Coleman; Nassif; Roelle; Vice-Chairman/Mayor Pro Tem Sagona; Chairman/Mayor Allan. Absent: None.

PUBLIC HEARINGS

15. Town of Apple Valley Climate Action Plan: A Request to Adopt the Town's Climate Action Plan.

Lori Lamson, Assistant Director of Community Development, recommended that this item be continued to the next meeting.

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilwoman Coleman, and unanimously carried, to continue this item to the next meeting.

16. Appeal (No. 2010-003) Of The Planning Commission's Denial Of Conditional Use Permit No. 2009-007 And Deviation Permit No. 2010-002, A Request To Construct A 62-Foot Tall Wireless Telecommunication Monopole Designed As A Pine Tree. A Fenced Area Is Proposed To Enclose The Proposed The Tower And Six (6) Equipment Cabinets Within A 752 Square Foot Lease Area. The Project Includes A Request For Approval Of A Deviation Permit To Allow An Encroachment Of Approximately 500 Feet Into The Required 500-Foot Separation Requirement Between The Monopole And A Single Family Residence And To Allow A Zero Setback Where A Minimum Setback Of 23.25 Feet Is Required.

Mayor Allan announced that he believed he had a potential conflict of interest on this item and therefore excused himself from the dais.

MAYOR ALLAN WAS EXCUSED FROM THE DAIS AT 7:24 P.M.

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

Mayor Pro Tem Sagona opened the public hearing at 7:25 p.m.

Susan Chong, Applicant on behalf of T-Mobile, commented on the meetings held by the Planning Commission where discussions included the preferred location for the tower. She felt that there is some inconsistency with the staff reports and questioned the findings gathered by the Planning staff to deny the preferred location based on the ordinance.

Councilman Nassif asked questions regarding the lack of coverage to some areas of the Apple Valley Country Club.

Carol Miller, Senior Planner, clarified for the benefit of the Town Council that it is policy that once the Planning Commission directs staff to come back with their findings it then becomes staff's recommendation and that is the difference between the two staff reports.

Norman Kaute, Apple Valley, spoke in opposition of the appeal. He expressed concern regarding the amount of territory that the monopole would consume.

Caroline Rume, Apple Valley, spoke in opposition of the appeal. She thanked the Commission for voting to deny this project.

Paul Morgan, Apple Valley, spoke in opposition of the proposed project.

Marie Schmidt, Widow of Norman Schmidt, spoke on the history of Norm Schmidt and his life as a commanding officer. She stated that the tower is not a real pine tree and felt that her husband deserves better than that.

Bill Batts, Apple Valley, spoke in opposition of the proposed project.

Marie Russell, Apple Valley, spoke in opposition of the proposed project.

Chester Tolson, Apple Valley, spoke in opposition of the proposed project. He thanked the Council and staff for keeping the park beautifully maintained.

Patricia Smith, Apple Valley, spoke in opposition of the proposed project. She expressed concern regarding the possibility of other cell phone companies being allowed in the same location under the federal communications act.

Judy Ma, representing T-Mobile, explained that it was not their intent to take the park away from the neighborhood, only to enhance cellular service.

Discussion ensued regarding the amount of space that would be taken up by the equipment in an area that is used by so many residents.

There being no additional requests to speak, Mayor Pro Tem Sagona closed the public hearing at 7:58 p.m.

The Town Council Members each commented on the proposed appeal presented by T-Mobile and the comments made by the applicant and the speakers.

MOTION

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

1. Find that Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270 (a), that a project which is denied is Exempt from CEQA.
2. Find the Facts presented within the staff report for the Council hearing of June 22, 2010, including the comments of the public and the Planning Commissioners as reflected in the Minutes of the Planning Commission Meetings of April 21, 2010 and May 5, 2010, and the record as a whole as discussed and considered by the Council, including the negative findings that, due to the small size and park configuration, the proposed wireless facility would negatively impact the function and quality of the neighborhood park/retention basin and visually impact the surrounding neighborhood.
3. Deny Conditional Use Permit No. 2009-007 and Deviation No. 2010-002

Vote: Motion carried 5-0-0-0

Yes: Councilmember's/Boardmember's Coleman; Nassif; Roelle; Vice-Chairman/Mayor Pro Tem Sagona. Absent: Chairman/Mayor Allan.

17. **Appeal No. 2010-002 Of The Planning Commission's Approval Of An Amendment To A Previously Approved Development Permit No. 2006-039; Amendment No. 1 For 126 Single-Family Residential Homes. The Amendment Includes Minor Architectural Revisions And A Reduction Of The Square Footage Of The Remaining Ninety-Six (96) Single-Family Residences. The Subject Site Is Approximately Eighty-One (81)-Acres In Size Within Recorded Tract Map 14154-1, And Has A Zoning Designation Of Equestrian Residential (R-Eq).**

Doug Fenn, Senior Planner, presented the staff report as filed with the Town Clerk.

Kevin Smith, Interim Finance Director, explained the financing for mello roos.

John Brown, Town Attorney, recommended that Mayor Pro Tem Sagona address the Council from the podium since he is the applicant.

MAYOR PRO TEM SAGONA WAS EXCUSED FROM THE DAIS AT 8:20 P.M.

Mayor Allan opened the public hearing at 8:21 p.m.

Mayor Pro Tem Sagona gave a brief explanation for his reason to file the appeal. He stated that the likelihood of further depreciation of the existing homes is a concern of the residents. He noted that the proposed amendment is to build smaller homes with fewer amenities.

Roxanne Roberson, Apple Valley, stated that she was in agreement with the comments made by Mayor Pro Tem Sagona and thanked the Council for their support.

Matt Valdez, Apple Valley, commented on the stability of the housing market in Apple Valley. He felt that it is important to maintain the quality and integrity of the neighborhood.

David Lindbloom, Apple Valley, spoke in support of the appeal.

Joel Buckingham, Apple Valley, spoke in support of the appeal.

Kathleen Oriet, Apple Valley, spoke in support of the appeal.

Phyllis White, Apple Valley, thanked Mayor Pro Tem Sagona for his support and urged the Council to support the appeal.

Bob Rife, Apple Valley, spoke in support of the appeal.

Rebecca Rickey, Apple Valley, showed renderings of their homes and the proposed homes.

Shawn Rickey, Apple Valley, also spoke in support of the appeal.

Maurice Kragness, Apple Valley, spoke in support of the appeal.

Therese Kragness, Apple Valley, spoke in support of the appeal. She stated that the Home Owners Association made a promise to the residents that their community would remain as it was when they purchase their homes. She respectfully requested that the Council support her community by upholding the appeal.

Kim Magana, Apple Valley, showed a rendering of an advertisement for Hovnanian Homes in Apple Valley.

Dennis Lucero, Apple Valley, invited the Town Council members to visit their community. He respectfully requested that they support the appeal.

Dyan Lucero, Apple Valley, commented on the Town's Vision 20 Statement. She requested the Town Council uphold the appeal.

Dr. Paul White, Apple Valley, commented on the environmental impact of the new amendment and how much it has changed since the initial application. He distributed a letter to the Town Council written by his brother, an Attorney, after he looked further into the matter.

Steve Sherbarth, representing K. Hovnanian Homes, stated that he was available to answer questions of the Council.

Councilwoman Coleman questioned whether or not the proposed new homes would have as much "treatments" as the existing homes.

Mr. Sherbarth answered questions of Ms. Coleman regarding the proposed project.

Mr. Brown also made comments regarding the Town Council's ability to take into consideration the property values. He read a section from the Agenda regarding the impacts which could result from the proposed development and the conditions under which they would be maintained will not be detrimental to the public health, safety or welfare of the community.

Discussion ensued regarding the proposed new homes including mello roos.

Mayor Allan closed the public hearing at 8:43 p.m.

Mayor Pro Tem Sagona expressed his appreciation for the spirit of Vista Del Sol and stated he would stand by the residents in support of the appeal.

Councilman Nassif strongly encouraged the developer to work with the community. He stated that he would support the appeal.

Councilwoman Coleman does not believe that that the property values would be affected; however, she believed the architecture and treatments should be changed to closely match the existing homes.

Councilman Roelle stated that he agrees with the comments made by Councilman Nassif and therefore supported the appeal.

Mayor Allan stated that he and Councilman Roelle had taken a tour of the community when the homes were first built. He also stated that it is very clear that the residents of this community have serious concerns regarding their property values and sympathized with the people and the expectations they had when they purchased their homes. He stated that he would support the appeal.

Kenneth J. Henderson, Assistant Town Manager, Director of Economic and Community Development, explained that the recommendation would come from the Planning Commission and provided his recommendation to the Town Council.

MOTION

Motion by Mayor Allan, seconded by Councilman Roelle, that the Town Council uphold the appeal with the understanding of denying the Planning Commission staff's recommendation of approval to the Town Council.

Vote: Motion carried 4-0-0-1

Yes: Councilmember's/Boardmember's Coleman; Nassif; Roelle; Vice-Chairman/ Chairman/Mayor Allan. Absent: Mayor Pro Tem Sagona.

MAYOR PRO TEM SAGONA RETURNED TO THE DAIS

ADD ITEM ON THE AGENDA

Mayor Allan announced that the Town Attorney would like to propose an addition to the Agenda.

Consideration of Bid Protest Award Contract For The Construction Of The New Public Works Facility.

John Brown, Town Attorney, stated that since the last Council meeting where a number of contracts were awarded by the Town Council for various trades relating to the construction for the new public works facility, the Town has received a bid protest from RDM Electric for deficiencies in the bid of PTL Electric's contract awarded by the Council. He is recommending to the Council that they add the bid protest to tonight's Agenda which arose subsequent to the posting of the Agenda and that they act immediately.

MOTION

To add an item to the Agenda for the bid protest by RDM Electric for deficiencies in the bid of PTL Electric's contract awarded by the Council.

MOTION

Motion by Mayor Allan, seconded by Councilwoman Coleman, that the immediate need to add an item to the Agenda arose after the posting of the agenda. Motion to add item 17A Consideration of Bid Protest Award Contract For The Construction Of The New Public Works Facility.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's/Boardmember's Coleman; Nassif; Roelle; Mayor Pro Tem/Vice-Chairman Sagona; Chairman/Mayor Allan. Absent: None

17A Consideration of Bid Protest Award Contract For The Construction Of The New Public Works Facility.

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Nassif, to reject RDM Electric Bid Protest, waive the discrepancy in PTL Electric's Bid as immaterial, and ratify the award of the contract for Bid Package Number 31 to PTL Electric, Inc. as the lowest responsive responsible bidder.

Vote: Motion carried 4-1-0-0

Yes: Councilmember's/Boardmember's Coleman; Nassif; Roelle; Chairman/Mayor Allan.
Noes: Mayor Pro Tem/Vice-Chairman Sagona. Absent: None

John Brown, Town Attorney, noted that in the current economic environment it is not uncommon for competitors to scrutinize bids; therefore, bid protests such as this are not uncommon and they are generally done in a spirit of fair play raising any issues they can possibly raise.

LEGISLATIVE MATTERS

18. A Resolution Setting the Time and Place for a Public Hearing on Sewer User Fees Increase in an Amount of Three Dollars and Seventy Three Cents (\$3.73) per Equivalent Dwelling Unit per Month and Directing Staff to Proceed with the Special Notice Proceeding as Required by Law

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

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, to adopt Resolution No. 2010-31, stating its intention to hold a Public Hearing to increase sewer user fees in an amount of \$3.73 per equivalent dwelling unit per month and direct staff to proceed with the special notice as required by law.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's/Boardmember's Coleman; Nassif; Roelle; Vice-Chairman/Mayor Pro Tem Sagona; Chairman/Mayor Allan. Absent: None.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

CONTINUED ITEM

19. Review and Approve Report Examining the Processes and Procedures of the Village Area Property Business Improvement District (PBID)

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

COUNCILMAN NASSIF WAS EXCUSED FROM THE DAIS AT 8:34 P.M.

Eugene Buchanan, Apple Valley, expressed concern regarding the actions of the PBID Board and the tax assessments.

Larry Cusack, PBID Chairman, commented on the Audit that was conducted and the clearing of the organization. He requested that the Town provide copies of the documents submitted by the PBID members to Vicenti Lloyd & Stutzman LLP in order to clarify some sections of the Audit that he felt were inconsistent.

Milt Holland, Apple Valley, expressed concern regarding the treatment that he has received from the Town of Apple Valley. He also expressed concern regarding the forensic audit.

Richard Cambridge, Apple Valley, commented on the document he distributed to the Council at the last meeting in response to the forensic audit that he felt contained errors.

John Brown, Town Attorney, believed that the Town has done everything possible to try and bring transparency to the PBID. He made the following three recommendations:

1. Approve the attached Confidential Report of Investigation prepared by Vicenti Lloyd & Stutzman LLP concerning the Apple Valley Property and Business Improvement District adding written and oral testimony into the report.
2. Refer to District Attorney to Public Integrity Unity
3. Waive the Attorney Client Privilege

MOTION

Motion by Mayor Allan, seconded by Councilman Roelle, to:

1. Receive and file the attached Confidential Report of Investigation prepared by Vicenti Lloyd & Stutzman LLP concerning the Apple Valley Property and Business Improvement District and include all written and oral testimony;
2. Refer this matter to the Public Integrity of Unit to the District Attorney;
3. Waive the Attorney Client privilege

Vote: Motion carried 5-0-0-0

Yes: Councilmember's/Boardmember's Coleman; Nassif; Roelle; Vice-Chairman/Mayor Pro Tem Sagona; Chairman/Mayor Allan. Absent: None.

COUNCILMAN NASSIF RETURNED TO THE DAIS AT 9:25 P.M.

20. Naming of Civic Center Park Amphitheatre

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

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Nassif, and unanimously carried, to direct staff to bring back to staff work for such sponsorship.

21. Happy Trails Villas – Owner Participation

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

Mayor Pro Tem Sagona asked questions of staff regarding the Owner Participation Agreement as proposed.

Emily Wong, Assistant Director of Economic Development, answered questions of Council regarding homeowner association dues.

Marilyn Reed, Apple Valley, spoke in opposition of this project.

David Mueller, Apple Valley, stated that he submitted an email to the Town Attorney that has not been answered at this time. He commented on the negotiations between the Town and FCIC regarding the funding for this project.

James Owens, Apple Valley, questioned who the person was that spoke to the FDIC.

Gordon Higgins, Apple Valley, spoke in opposition of this project. He requested that the Council not support this project.

Mr. and Mrs. Hanson, Apple Valley, did not wish to speak but requested to go on record that they are in opposition of this project.

Jack Hall, Apple Valley, commented on being prepared to purchase the property.

Mayor Allan asked what would happen to the property if it was not sold.

Mr. Henderson stated that the property would remain vacant. He stated that staff has not had any contact or discussion with FDIC on this project.

Council Member discussion was conducted regarding the proposed project.

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Nassif, to approve the Happy Trails Villas Owner Participation Agreement between the Town of Apple Valley and AVHTV, LP; and authorize the Town Manager to execute the agreement on behalf of the Town and approve any minor non-substantive changes.

Vote: Motion carried 3-2-0-0

Yes: Councilmember's/Boardmember's Coleman; Nassif; Chairman/Mayor Allan. Noes: Councilman Roelle; Mayor Pro Tem Sagona; Absent: None.

22. Review and Consider Renewal of the Agreement for Business Retention Services with the Apple Valley Chamber of Commerce

Mayor Pro Tem Sagona presented the staff report as filed with the Town Clerk. He asked questions of Mr. Jason Barker, President of the Chamber of Commerce, regarding political activity associated with the Chamber.

Mr. Barker stated that the Chamber understood the concerns of the Council and noted that they would not involve themselves in politics such as Council endorsements.

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilman Nassif, and unanimously carried, to place on its July 13, 2010 agenda for approval the business retention professional services agreement between the Town and the Apple Valley Chamber of Commerce.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's/Boardmember's Coleman; Nassif; Roelle; Vice-Chairman/Mayor Pro Tem Sagona; Chairman/Mayor Allan. Absent: None.

23. Reconsideration of Golf Course

Councilwoman Coleman stated that she had a potential conflict of interest and therefore excused herself from voting on this item.

COUNCILWOMAN COLEMAN WAS EXCUSED FROM THE DAIS AT 10:21 P.M.

Frank Robinson, Town Manager, commented on the discussion of this item in Closed Session and the proposed amendment that was discussed.

David Mueller, Apple Valley, commented on the purchases and OPA's that have been placed on the agenda. He believes that government has no businesses in business.

Councilman Nassif said he has been cleared by the Town Attorney to participate in voting on this item.

Ned Curtis, Apple Valley Golf Course, commented on the Task Force recommendations that will help the Golf Course reach solvency. He recommended that the Town Council not continue voting on this issue.

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilman Roelle, to revisit the close of escrow.

Vote: Motion failed 2-2-0-1

Yes: Councilmember's/Boardmember's Roelle; Vice-Chairman/Mayor Pro Tem Sagona. Noes: Boardmember/Councilman Nassif; Chairman/Mayor Allan. Absent: Councilwoman Coleman.

Mayor Pro Tem Sagona read a motion into the record to have considered by the Town Council the following:

1. That the Town Council give notice to the Apple Valley Country Club Board of Directors of the Council's intent to terminate its purchase and management agreement with the Country Club effective October 1, 2010
2. That the Council encourage and assist the Apple Valley Country Club Board in reorganizing the club as a public benefit non-profit organization and that the Club be renamed the Apple Valley Public Country Club and Golf Course.
3. To continue the litigation of the water rights
4. That this motion, when adopted, will supercede and terminate any/all previous agreements entered into by the Town Council and the Apple Valley Country Club Board of Directors.

Councilman Nassif requested clarification regarding the motion that was read into the record by Mayor Pro Tem Sagona.

Motion died due to lack of a second.

Mr. Brown stated that the topic of the item is reconsideration of golf course. He stated that it interprets the item broad enough to discuss any and everything on the golf course.

MOTION

Motion by Councilman Nassif, seconded by Mayor Allan, to accept the recommendation of the Council to continue escrow and accept the amended terms approved by the Board of Directors.

Vote: 5-0-0-0

Yes: Councilmember's/Boardmember's Roelle; Nassif; Coleman; Vice-Chairman/Mayor Pro Tem Sagona; Chair/Mayor Allan. Absent: None

COUNCILWOMAN COLEMAN RETURNED TO THE DAIS AT 10:40 P.M.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

MOTION

Motion by Councilman Nassif, seconded by Councilman Roelle, and unanimously carried, to adjourn to closed session at 11:10 p.m. to discuss the following:

- A. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluations. Title: Town Clerk.

Upon returning from Closed Session at 11:39 p.m. Mayor Allan announced the following reportable action: The Town Council unanimously recommended that the Personnel Director develop a matrix to be used to evaluate the Town Clerk and that the Town Clerk's evaluation be continued to September 14, 2010.

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 11:40 p.m in memory of Mr. Earl Cusack, a founding father of the Town of Apple Valley.

Town Clerk

Mayor