

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

**REGULAR MEETING
MINUTES – August 10, 2010**

OPENING CEREMONIES

CALL TO ORDER:

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

Roll call was taken with the following members present:

Roll Call

Present: Boardmember/Councilwoman Coleman; Boardmember/Councilman Nassif;
Boardmember/Councilman Roelle; Vice Chair/Mayor Pro Tem Sagona. Absent: Chair/Mayor Allan

CLOSED SESSION

1. Closed Session

None.

INVOCATION : None.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Fire Chief Art Bishop

PRESENTATIONS:

1. Military Banner Presentation – Magen Unthank; Sponsor: Apple Valley Citizens on Patrol
2. Animal Services Recognition – Gina Schwin-Whiteside, Animal Services Manager

SPECIAL ANNOUNCEMENTS:

PUBLIC COMMENTS

Lisa Walm, Apple Valley Wave Swim Team, thanked the Town Council for their support. She commented on the benefit that the Swim Team has on the students.

Shawn Jones, Apple Valley Wave Swim Team, also thanked the Town Council for their support.

John Dunigan, Apple Valley Wave Swim Team, spoke on the benefits of the program to his son.

Allan Dillon, Apple Valley Wave Swim Team, also thanked the Town for their support and commented on upcoming events that will take place at the pool including attendance by former Olympians.

David Zook, Field Representative for Supervisor Brad Mitzelfelt, commented on changes within the Office of the First District. He introduced Wally Linn, the new Community Liason Officer, representing the Town of Apple Valley.

Christina Estela, Apple Valley, commented on the need to provide a BMX Bike Park for the youth of Apple Valley.

Milt Holland, Apple Valley, expressed concern regarding actions that took place at a PBID Meeting in which he believed violations occurred regarding a conflict of interest. He also expressed concern regarding the funds used to build the entry way sign in the Village.

Sharon Holland, Apple Valley, stated that she was protesting the Property Business Improvement District. She also stated that she believed the Town misused funds when forming the district.

David Mueller, Apple Valley, commented on the minutes for the Town Council Meeting of July 27, 2010. He also commented on the contributions made to Councilman Nassif's 2006 campaign. He stated that he felt Councilman Nassif should have recused himself from voting on various projects including the Happy Trails Villas.

APPLE VALLEY PROPERTY BUSINESS IMPROVEMENT DISTRICT UPDATE

Rick Cambridge, Apple Valley Property Business Improvement District, commented on activities currently taking place within the district.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Nassif stated that he attended the Grand Opening of Designs by Den. He also clarified statements made by the public indicating that the \$19,000 referenced by a speaker was an Independent Expenditure and did not go toward his campaign.

Councilman Nassif announced that Thursday there will be a groundbreaking for the Fire Safety Training Facility at the Victor Valley College.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Councilman Roelle believed that Fire Station 6 has been closed for storage. He would like staff to come back to the Council with a report to determine if the emergency response times have suffered as a result of the closure.

Mayor Pro Tem Sagona announced that there would not be a Town Council Meeting on the second Tuesday of this month. The next meeting would be dark.

Mayor Pro Tem Sagona requested an item be added to the next Agenda to discuss offsite storage and retrieval of records. He would also like to set a date in September for a Special Meeting that would follow the court decision regarding the water rights litigation.

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

A. Regular Meeting – Tuesday, September 14, 2010, 6:30 p.m. – Council Chambers

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to approve and adopt Consent Calendar Items numbered 2 through 8, respectfully.

Vote: Motion carried 4-0-0-1

Yes: Councilmembers/Board members Coleman; Nassif; Roelle; Vice-Chairman/Mayor Pro Tem Sagona. Absent: Chairman/Mayor Allan.

2. Approval of Minutes of the Town Council

A. Special Meeting – July 27, 2010

B. Regular Meeting – July 27, 2010

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Submission of Proposition 1B State Local Partnership Program SSLP Competitive Grant Applications

Recommendation:

That the Town Council Authorize the Town Manager to Submit Three Applications for the Proposition 1B State Local Partnership Program Competitive Grant.

4. Redevelopment Agency Budget Adjustments and Personnel Re-allocations

Recommendation:

Approve the allocation of \$30,000 for Marketing Services and the Re-allocation of personnel.

5. Fee Waiver Request for the Apple Valley Lion's Club Eye Clinic November 13, 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 \$116.60.

6. Fee Waiver Request for The Annual Chili Cook Off Held by The Rotary Club of Apple Valley.

Recommendation:

For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of Special Event Permit and park rental fees for the Rotary Club of Apple Valley.

7. Adopt Ordinance No. 411, An Amendment To Title 9 "Development Code" Of The Town Of Apple Valley Municipal Code By Amending Section 9.74.060 "Exempt Signs" By Establishing Regulations Related To Temporary Portable Signs.

Recommendation:

Adopt Ordinance No. 411.

8. Request to Vacate a Road Easement on Parcels 1 and 3 of Parcel Map 10088 -

Recommendation:

1. Find that the road easement located on the parcel 1 and 3 as shown on Parcel Map 10088, is determined to be excess, and not required for street or highway purposes;
2. Adopt Resolution No.2010-39, a Resolution of the Town Council of the Town of Apple Valley, California, vacating the street easement at parcels 1 and 3, Parcel Map 10088, pursuant to the Streets and Highways Code Section 8334 (a);
3. Instruct the Town Clerk to cause the Resolution vacating the street easement to be recorded in the office of the County Recorder of the County of San Bernardino, pursuant to Section 8336 of the Streets and Highways Code.

PUBLIC HEARINGS

9. A Request To Consider An Amendment To Title 9 "Development Code" Of The Town Of Apple Valley Municipal Code By Amending Section 9.28.030 "Permitted Uses", Adding Section 9.29.150 "Photovoltaic Solar Farms" And Amend The North Apple Valley Industrial Specific Plan (NAVISP) No. 2005-001 Amendment No. 3 By Establishing Regulations Related To Photovoltaic Solar Farms.

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

Mayor Pro Tem Sagona opened the public hearing at 7:37 p.m.

Robert Phillips, Apple Valley, expressed concern regarding the potential glare that he may receive at his residence due to the solar panels.

Harshan Jeyalsumar, representing Amonix, Inc., commented on the product that they will be installing and the benefit it will have on the community.

Kirk Riding, Board Member of the College Foundation, spoke in favor of solar orchards. He encouraged the Council to move forward with the amendment.

There being no additional requests to speak, Mayor Pro Tem Sagona closed the public hearing at 7:48 p.m.

Discussion ensued regarding the height limitation of the panels.

It was the consensus of the Town Council to modify the Ordinance to state that it would not exceed a permanent height of 35 feet and not exceed a movable height of more than 50 feet.

MOTION

Motion by Councilman Roelle, seconded by Councilwoman Coleman, and unanimously carried, to:

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that 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 may have a significant effect on the environment, the activity is EXEMPT from further CEQA review.

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. 412 in its entirety, as modified, and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 412.

MOTION

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

5. **Introduce** Ordinance No.412, amending Section 9.28.030 "Permitted Uses" and adding Section 9.29.150 and amending Specific Plan No. 2005-001 Amendment No. 3 by establishing regulations related to photovoltaic solar farms, as modified.

Vote: Motion carried 4-0-0-1

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

William Rorick, Apple Valley, commented on possible electro-magnetic radiation from photovoltaic power systems of significant sizes.

10. A Resolution of the Town Council of the Town of Apple Valley, California, establishing Sewer Fees and Establishing an Operative date Therefore

Kevin Smith, Interim Finance Director, presented the staff report as filed with the Town Clerk. He explained that the actual increase to customers will be .75 cents. He also explained how the increased was reduced.

Mayor Pro Tem Sagona opened the public hearing at 7:56 p.m.

A speaker from the public, thanked staff for working to reduce the proposed fee increase.

There being no additional requests to speak, Mayor Pro Tem Sagona closed the public hearing at 7:57 p.m.

MOTION

Motion by Councilman Nassif, seconded by Councilwoman Coleman, to adopt Resolution 2010-40, revising the sewer user fees for the use of Town sewers.

Vote: Motion carried 4-0-0-1

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

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

11. Annual Budget Report of the Apple Valley Village Property and Business Improvement District (PBID) Association

Councilman Nassif stated that he had a potential conflict of interest on this item and therefore excused himself from voting on this item.

COUNCILMAN NASSIF WAS EXCUSED FROM THE DAIS AT 8:03 P.M.

Emily Wong, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk.

Milt Holland, Apple Valley, made comments regarding the proposed budget. He expressed concern regarding the line items listed in the budget report.

Sharon Holland, Apple Valley, also expressed concern regarding line items in the budget including refreshments and meals. She made comments regarding the PBID tax assessments. She also commented on the loan programs to improve properties and felt they should not be part of the budget.

Councilwoman Coleman responded to statements made by the public regarding budget line items.

MOTION

Motion by Councilwoman Coleman, seconded by Mayor Pro Tem Sagona, to approve the Annual Budget Report of the Apple Valley Village Property and Business Improvement District Association.

Vote: Motion carried 3-0-0-2

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

COUNCILMAN NASSIF RETURNED TO THE DAIS AT 8:12 P.M.

12. Victor Valley Enterprise Zone Application

Emily Wong, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk.

Councilman Nassif questioned the boundaries of the proposed Enterprise Zone.

Ms. Wong explained that all of Apple Valley's parcels, either commercial or industrial zoned, would be included in the Enterprise Zone. She also made a correction to the resolution to include "Town of Apple Valley" to the last paragraph.

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Nassif, to approve the proposed Local Incentives Exclusive to Enterprise Zone Businesses and adopt Resolution No. 2010-41, as corrected, a resolution authorizing the submission of an application to the State of California Department of Housing and Community Development for designation of the Victor Valley Enterprise Zone.

Vote: Motion carried 4-0-0-1

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

13. North Apple Valley Infrastructure Financing Plan

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

David Mueller, Apple Valley, expressed concern regarding the use of tax payer money to fund the installation of sewer and water infrastructure.

MOTION

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

- 1) Resolution Number 2010-42 of The Town Council of The Town of Apple Valley Approving The Submittal Of An Application For Allocation For Recovery Zone Economic Development Build America Bonds To Finance Water Mains And Sewer Infrastructure Improvements In The North Apple Valley ISP Area Through The Issuance, Sale And Delivery of Wastewater Revenue Bonds To Be Issued By The Apple Valley Public Financing Authority
 - 2) Resolution Number 2010-03 of The Redevelopment Agency of The Town of Apple Valley Authorizing The Preparation of A Loan Agreement For The Loan of Proceeds of The Apple Valley Public Financing Authority Wastewater Revenue Bonds, Series 2010 To The Agency To Finance Water Mains And Sewer Infrastructure Improvements In The North Apple Valley Area
 - 3) Resolution Number 2010-01 of The Apple Valley Public Financing Authority Indicating The Intent To Issue Its Wastewater Revenue Bonds, Series 2010 To Assist In Financing Water Mains And Sewer Infrastructure Improvements In The North Apple Valley Area
- and**
- 4) That the Town Council appropriate and allocate the anticipated revenue from the dissolution of County Service Area No. 17 to the North Apple Valley Infrastructure Financing Plan.

Vote: Motion carried 3-1-0-1

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

14. Update on the BMX Bike Park

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

Robert May, Risk Manager, California Joint Powers Insurance Authority, answered questions of the Town Council regarding municipality liability for skate parks and bike parks. He recommended that the parks remain separate. He also recommended that guidelines be established for the bike park including the required use of protected gear.

Kenton Russell, Action Sport Development, discussed the proposed design of the park and provided renderings for review by the Town Council.

Christina Estele, Apple Valley, questioned the number of claims that the JPIA has had regarding incidents that occurred at the park. She requested to know when the bike park will be available to the youth.

William Furmage, Apple Valley, commented on the need to staff the park. He respectfully requested that the Council consider naming the park The Furmage Free-Style Park for his contributions to the sport.

Mr. Russell commented on his role working with the Town of Apple Valley to design a skate park.

Josh Richling, Apple Valley, commented on the difference between a skate park and bicycle park. He also made comments regarding the statements made by the CJPIA representative and the need to wear safety helmets.

Discussion ensued regarding the need to provide instructions to staff on this project.

Mr. Wright commented on the timeline needed to complete a Request for Proposal for this project.

John Brown, Town Attorney, explained that for agenda purposes, Phase I and II should be defined by the Town Council.

It was the consensus of the Town Council to direct staff to proceed with Phase I and II of the project.

15. Letter of Agreement Authorizing the Opening of Escrow for the Sale of the Towerco Cell Site CA2979, James Woody Park

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

Mr. Smith answered questions of the Council regarding what would become of the easement at this site.

MOTION

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to authorize the Town Manager to sign the Letter of Agreement authorizing the opening of Escrow for the Sale of the Cellular Site at James Woody Park and further authorize the Mayor to sign final Escrow sale documents when complete.

Vote: Motion carried 4-0-0-1

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

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, announced the groundbreaking for the new training facility.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

ADJOURNMENT

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilwoman Coleman, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:48 p.m

Town Clerk

Mayor