

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

**REGULAR MEETING
MINUTES – September 14, 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

Motion by Councilman Roelle, seconded by Mayor Pro Tem Sagona, and unanimously carried, to move Closed Session to the end of the meeting.

OPENING CEREMONIES

INVOCATION: The invocation was led by Diana McKeen

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Pro Tem Bob Sagona

PRESENTATIONS:

High Desert Corridor Presentation - Doug Failing, Executive Director, Highway Program, Los Angeles County Metropolitan Transportation Authority

SPECIAL ANNOUNCEMENTS:

PUBLIC COMMENTS

Paul Hood, Apple Valley, expressed concern regarding the pool hours of operation. He noted that the pool does not open if less than 10 people are present. He requested that the Town Council review this policy.

Chuck Hanson, Apple Valley, distributed flyers to the Town Council for the annual bicycle ride scheduled for October 23, 2010.

Pat Hanson, Apple Valley, expressed concern regarding the Town's actions as it relates to the Apple Valley Country Club. She commented on the recommendations of the Task Force regarding the operations of the Country Club.

Chief Art Bishop introduced the new Interim Battalion Chief Jim Hulbert. He also commented on changes within the Fire District that will help benefit the community.

William Furmage, Apple Valley, commented on pictures of the history of Apple Valley at the local library. He believed that Apple Valley has a history of bicycle riders in the community.

Bernadette McNulty, Apple Valley, expressed concern regarding the high cost of water for the Town of Apple Valley. She questioned the cost to water the Apple Valley Golf Course stated that she was still seeking an answer from the Town on that questions.

Kim Scully, Apple Valley, expressed concern regarding what she believes is harassment to merchants within the Town of Apple Valley.

Milt Holland, Apple Valley, expressed concern regarding the tax on merchants in the Apple Valley Village area. He also expressed concern regarding comments made against him by members of the Town Council.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilwoman Coleman stated that she attended the Annual Water Conference at the Ontario Convention Center. She also noted that the Victor Valley Transit Authority (VVTA) hired Kevin Kane as its Executive Director. She stated that she also attended the Grand Opening of the Siane Cuisine Restaurant and a SANBAG Meeting.

Councilman Nassif stated that he attended a meeting of the Mojave Desert Solid Waste Authority (MDSWA). He noted that discussions were held regarding rates for the landfill. He stated that the county is asking for a 5-7 year agreement. He also commented on his attendance at the Groundbreaking for the public safety training facility at Victor Valley College, and the ribbon cutting at America's Tire. He announced that the Town of Apple Valley was ranked #4 in retail sales in the State of California.

Councilman Nassif also announced that Burlington Coat Factory opened on Saturday.

Mayor Pro Tem Sagona commented on discussions that were held at the Victor Valley Waste Water Reclamation Authority (VWRA) regarding the cost of reclaimed water.

Mayor Allan stated that he attended the SANBAG meeting in support of Councilwoman Coleman for her successful appointment to LAFCO. He also attended the Hispanic Chamber of Commerce Dinner in support of first responders on September 11 and the Career Institute Graduation Ceremony. He noted that the Victor Valley Museum is scheduled to re-open in October.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Councilwoman Coleman – business friendly principles resolution
Mayor Pro Tem Sagona – agenda for discussion pulling out of the Apple Valley Country Club
Mayor Allan possibility of waiving sign fee for the museum

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

A. Regular Meeting – Tuesday, September 28, 2010, 6:30 p.m. – Council Chambers

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

Mayor Allan announced that Councilman Nassif has 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 would be abstaining from voting on agenda item number 14.

Mayor Allan also announced that we have a request to speak on agenda item number 16. He requested this item be removed from the Consent Calendar.

Motion by Councilwoman Coleman, seconded by Mayor Pro Tem Sagona, to approve and adopt the Consent Calendar items numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 17, respectfully, and that item number 16 be pulled for discussion.

Vote: Motion carried 5-0-0-0

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

Councilman Nassif abstained from voting on Item #14.

2. Approval of Minutes of the Town Council

A. Regular Meeting – August 10, 2010

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Adopt Ordinance No. 412 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.

Recommendation:

Adopt Ordinance No. 412.

4. Award Contract for the Traffic Signal at Bear Valley Road and Deep Creek Road, Project Number 2010-02

Recommendation:

Award a contract to Cooley Construction, Inc. in the amount of \$175,380.15 for the traffic signal at Bear Valley Road and Deep Creek Road Project, subject to the "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

5. Review and Approve Construction Plans and Specifications for the Central Road Widening Project and Authorize Staff to Proceed with Advertisement for this Project.

Recommendation:

Review and approve the project documents for the Central Road Widening Project – Ottawa Road to Lucilla Road and direct staff to proceed with the project.

6. Award Contracts for the Construction of the New Public Works Facility

Recommendation:

Award construction bid(s) as highlighted on the attached bid summary for those trades indicated and authorize staff to contract with those firms subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

7. Acceptance of Work, Notice of Completion and Release of Retention for the Town of Apple Valley Town Hall Annex and Conference Center

Recommendation:

1. Accept the work of the 29 prime contractors for the work performed at the Town Hall Annex and Conference Center; release the total retention in the amount of \$573,870.92.
2. Direct the Town Clerk to file a Notice of Completion for their contract work, notify surety, exonerate bonds and notify prime contractors escrow account holders to release with held retention funds provide no claims are filed against the contractor or Town
3. Direct the Finance Director to release retained funds 30 days after the acceptance of work and filing of the Notice of Completion, or notify prime contractors escrow account holders to release the withheld retention funds provided no claims are filed against the contractor or Town.

8. Claimant – Anthony Anaya

Recommendation:

Reject the claim of Anthony Anaya.

9. Claimant – Kate Silverstein

Recommendation:

Reject the claim of Kate Silverstein.

10. Claimant – Loretta Alexander-Smith

Recommendation:

Reject the claim of Loretta Alexander-Smith

11. Public Hearing No. 1 (Consolidated Plan – 5th Year Action Plan) – Establishing Date and Time Certain - Emily

Recommendation:

That the Town Council establish October 12, 2010 at 6:30 p.m., as the date and time certain for the purpose of conducting the first of two Community Development Block Grant and HOME Investment Partnerships programs public hearings necessary to develop the Town's Consolidated Plan – Fifth Year Action Plan.

12. Treasurer's Report – Month of June 2010

Recommendation:

Receive and file.

13. Payroll/Benefits Warrant Schedule – June 2010

Recommendation:

Receive, ratify, and file the payroll/benefits warrants as presented.

14. Commercial Warrants Schedule – June 2010

Recommendation:

Receive, ratify, and file the commercial warrants as presented.

15. Approve Plans and Authorize Advertising for Construction Bids for Photovoltaic System and Parking Lot Shade Structure.

Recommendation:

Review and approve construction plans and direct staff to proceed with advertising for bids on the construction of photovoltaic power system and parking lot shade structure or provide other direction to staff.

17. Happy Trails Villas Release of Bonds

Recommendation:

Find that the construction of sewer improvements required for the Happy Trails Villas project are complete, and approve the release of the performance and labor and material securities.

PULLED FROM CONSENT

16. Award the Contract for the Highway 18 Median Improvement Project 2010-01: Navajo Road to Pawnee Road

Councilman Nassif announced that he had a potential conflict of interest on this item and therefore would abstain from voting on this item.

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

Milt Holland, Apple Valley, expressed concern regarding the contract award listed in this report.

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Roelle, to award a contract to Cooley Construction, Inc. in the amount of \$298,557 for the Highway 18 Median Project, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

Vote: Motion carried 4-0-1-0

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

Abstain: Councilman Nassif.

PUBLIC HEARINGS

18. A Resolution of the Town Council of the Town of Apple Valley, California, Establishing Specified Facility Rental Fees

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

Mayor Allan opened the public hearing at 7:34 p.m.

There being no requests to speak, Mayor Allan closed the public hearing at 7:34 p.m.

MOTION

Motion by Councilman Roelle, seconded by Councilwoman Coleman, to adopt Resolution No. 2010-44, a Resolution of the Town Council of the Town of Apple Valley, California, Establishing Specified Park and Recreation User and Program Fees for Certain Park and Recreation Services for 2010-2011 Fiscal Year.

Vote: Motion carried 5-0-0-0

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

19. A Request To Consider An Amendment To The North Apple Valley Industrial Specific Plan Eliminating The Designation Of Non-Conforming For The Use Of Exposed Metal Within The North Apple Valley Industrial Specific Plan.

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

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

There being no requests to speak, Mayor Allan closed the public hearing at 7:37 p.m.

MOTION

Motion by Councilman Roelle, seconded by Councilman Nassif, 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 Specific Plan No. 2005-001 Amendment No. 4 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. 413 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 413.

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilwoman Coleman, to introduce Ordinance No. 413.

Vote: Motion carried 5-0-0-0

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

20. **A Request to Review and Approve a General Plan Amendment to Change the Current Land Use Designation from Medium-Density Residential (R-M; 4 To 20 DU/Net Acres) to Mobile Home Park (MHP; 5 To 15 DU/Acres); and a Corresponding Rezoning Classification from Multi-Family Residential (R-M; 4 To 20 DU/Net Acres) to Mobile Home Park (MHP; 5 To 15 DU/Acres); and a Request to Approve a Conditional Use Permit (CUP) for a Forty-Five (45)-Mobile Home Unit Expansion of an Existing Seventy-Five (75)-Unit Mobile Home Park. The Vacant 4.69-Acre Project Site is Located on The Northerly Adjacent Property of an Existing Mobile Home Park, Approximately 1,000 Feet Northwest from the Intersection of Nisqually and Quinnault Roads; APN: 3087-372-06.**

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

Mayor Allan opened the public hearing at 7:44 p.m.

There being no requests to speak, Mayor Allan closed the public hearing at 7:44 p.m.

MOTION

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

1. **Determine**, in conformance with the requirements of the State Guidelines to Implement the California Environmental Quality Act (CEQA), that the proposed General Plan Amendment No. 2010-001, Zone Change No. 2010-00 and Conditional Use Permit No. 2009-002 will not have a significant effect on the environment with adherence to the Mitigation Measures recommended by the Planning Commission.
2. **Adopt** the Mitigated Negative Declaration and Mitigation Monitoring program prepared for General Plan Amendment No. 2010-001, Zone Change No. 2010-001 and Conditional Use Permit No. 2009-002, finding that on the basis of the whole record before the Town Council there is no substantial evidence that the project will have a significant effect on the environment and that a Mitigated Negative Declaration reflects the Town's independent judgment and analysis.
3. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for June 2, 2010, support the required Findings for approval of the proposed General Plan Amendment No. 2010-001, Zone Change No. 2010-001 and Conditional Use Permit No. 2009-002 amendment of the Development Code and adopt the Findings.
4. **Adopt** Town Council Resolution No. 2010-43, approving General Plan Amendment 2010-001, changing the land use designation from R-M (Medium-Density Residential) to MHP (Mobile Home Park).

Vote: Motion carried 5-0-0-0

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

MOTION

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

5. **Find** that Ordinance No. 414 is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and, as such, shall promote the health, safety and general welfare of the citizens of Apple Valley and that Ordinance No. 414 is consistent with the General Plan.
6. **Move** to waive the reading of Ordinance No. 414 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 414.

MOTION

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

7. **Introduce** Ordinance No. 414 amending that portion of Title 9 (Development Code) of the Town of Apple Valley Municipal Code, Section 9.05.040 "Adoption of the Official Zoning Map" subsection "B" by approving the conforming rezoning from Multi-Family Residential (R-M, 4 to 20 du/net acres) to Mobile Home Park (MHP, 5 to 15 du/net acres); APN 3087-372-06.
8. **Direct** staff to file a Notice of Determination with the San Bernardino County Clerk of the Board.

Vote: Motion carried 5-0-0-0

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

LEGISLATIVE MATTERS

None.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

21. **Memorandum of Understanding between the Town of Apple Valley and The County of San Bernardino regarding future Development within the Town's Sphere of Influence**

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, explained for the benefit of the Council, the understanding of the Memorandum of Understanding with the Town.

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, to authorize and direct the Mayor, Town Clerk and Town Attorney to execute the Memorandum of Understanding and direct staff to forward the agreement to the County Board of Supervisors for its signature.

Vote: Motion carried 5-0-0-0

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

22. Community Choice Aggregation Feasibility Study Request

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

Mr. John Dalessi, Navigant Consulting, Inc. presented a PowerPoint presentation on municipal utilities and community wide electricity districts.

Discussion ensued regarding the benefit of this program to the Town of Apple Valley and new businesses to the community.

Bernadette McNulty, Apple Valley, recommended that the Town Council move forward with this project. She believed it would be a benefit to the community.

David Mueller, Apple Valley, spoke in opposition of this program. He believed that the cost for the initial study was excessive.

Mr. Henderson responded to concerns addressed by the public regarding this issue. He stated that this issue would benefit the entire Town of Apple Valley.

MOTION

Motion by Councilman Nassif, seconded by Councilwoman Coleman, to approve the agreement with Navigant Consulting for a Community Choice Aggregation feasibility study within the Town for an amount not to exceed \$30,000, and authorize the Town Manager to execute the agreement on behalf of the Town.

Vote: Motion carried 5-0-0-0

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

23. Discussion Regarding Offsite Storage for the Town of Apple Valley

Mayor Pro Tem Sagona presented the staff report as filed with the Town Clerk.

It was the consensus of the Town Council to maintain status quo as it relates to the storage of records.

24. Happy Trails Villas Update

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

Barry Ephraim, Apple Valley Happy Trails Villa, updated that Town Council on the progress of the Happy Trails Villa project.

David Mueller, Apple Valley, expressed concern regarding this item. He believed that this issue should have been handled through a public hearing.

Mayor Pro Tem Sagona asked a series of questions regarding this project and the changes that have occurred since the origination of this project.

Mr. Henderson answered questions of the Council regarding the concerns expressed by Mayor Pro Tem Sagona.

No action is required at this time.

25. Report on the Impact of Closing Fire Station #336

Councilman Roelle asked questions of Chief Bishop regarding the staffing at Fire Station #336.

Chief Art Bishop, Apple Valley Fire Protection District, stated that although the station is not manned 24-7, the use of Paid Call firefighters are used at that location.

Receive the report from the Apple Valley Fire District. No action required.

26. Naming of the Town Hall Annex

Mayor Pro Tem Sagona presented the staff report as filed with the Town Clerk.

Kenneth J. Henderson, Assistant Town Manager, Economic and Community Development, stated that staff is working on a campus wide signage program for the Civic Center Complex.

Discussion ensued regarding names currently listed on Town facilities.

MOTION

Motion by Mayor Allan, seconded by Councilman Nassif, and unanimously carried, to add "Town of Apple Valley" to the Development Services Building.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Kathie Martin, Marketing and Public Affairs Officer, commented on the upcoming Fall Festival that will be held September 25. She listed numerous events that will take place at the festival. She also noted that the Annual Air Show would be held on the same date and the Equine Festival would be held on October 16.

Gina Schwin-Whiteside, Animal Services Manager, commented on the success of the Pet Fair. She showed a brief video of the highlights of the event and presented each of the Council Members with a goodie bag that was distributed at the event.

Frank Robinson, Town Manager, commented on the road repair taking place on Dale Evans Road.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

1. Closed Session

Councilwoman Coleman announced that due to a potential conflict of interest as a homeowner in the subject area, she would not be participating in Closed Session discussions.

COUNCILWOMAN COLEMAN WAS EXCUSED FROM THE MEETING AT 9:35 P.M.

Motion by Councilman Roelle, seconded by Mayor Pro Tem Sagona, and unanimously carried, to adjourn to Closed Session at 9:35 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 or more potential cases).
- B. 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 10:23 p.m., Mayor Allan announced the following:

Under Closed Session Item 1A, direction was given to the Town Manager to give Landmark Golf Management a notice of non-renewal under Section 2.2 of the Management Agreement.

ADJOURNMENT

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilman Roelle, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 10:24 p.m.

Town Clerk

Mayor