

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

**REGULAR MEETING
MINUTES – October 26, 2010**

OPENING CEREMONIES

CALL TO ORDER:

Mayor Allan 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; Chair/Mayor Allan. Absent: None.

CLOSED SESSION

1. Closed Session

Mayor Allan recommended, with the consensus of the Town Council, that Closed Session be discussed at the end of the meeting.

OPENING CEREMONIES

INVOCATION: The invocation was led by Pastor Eldoris Bonner, Faith Ministries.

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

PRESENTATIONS:

1. Military Banner Presentation – Cristihan Flores (Marines)
2. 2011 Calendar Award Winners – Sierra Webb

SPECIAL ANNOUNCEMENTS: None

PUBLIC COMMENTS

Milt Holland, Apple Valley, played an audio tape for the benefit of the Council, of discussions held by PBID Board Members that he felt would clarify the sexual harassment charge made against him.

Chuck Hanson, Apple Valley, thanked the Mayor for his participation on the Tour de Apple Valley ride.

Pat Hanson, Apple Valley, commented on the success of the Tour de Apple Valley ride and the number of participants that attended. She thanked the vendors, both Farmer Boys and Del Taco for donating food to the participants and the Sheriff's Department.

Sharon Holland, Apple Valley, commented on the increase in taxes for property owners in the Village area. She gave a history of actions that have taken place since the PBID Board was formed that she believes show improprieties of the Board.

Lawrence McCarthy, Apple Valley, made comments regarding the dues, fee, and assessments of the former Apple Valley Country Club members. He expressed concern regarding the amount of funding that the Town has placed into the Country Club.

Richard Rorex, Apple Valley, stated that "Legal does not make Moral". He stated that he had stickers that stated this information for anyone who would like to have one.

David Mueller, Apple Valley, asked questions regarding the Commercial Warrants Schedule.

APPLE VALLEY CHAMBER OF COMMERCE – BUSINESS RETENTION UPDATE

Jim Gutierrez, Vice-Chairman, Apple Valley Chamber of Commerce, provided the Town Council and the public with updates regarding their past events and upcoming events that will take place within the next month.

HISPANIC CHAMBER OF COMMERCE UPDATE

Tamara Torres, Chairwoman, Hispanic Chamber of Commerce, provided the Town Council and public with updates regarding their past events and upcoming events.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Nassif apologized for not attending the Tour de Apple Valley due to conflicts in his schedule. He stated that he participated in the Rotary Chili Cook-off and was able to visit with many of the riders at that event.

Councilman Nassif commented on his attendance at the Desert Mountain League of California Cities Meeting in Hesperia, and he visited the new Hesperia Police Station opening.

Mayor Pro Tem Sagona commented on a special VVWRA meeting held yesterday. He also commented on attending a meeting at the MDAQMD where discussions were held regarding the environmental protection act.

Councilwoman Coleman stated that she attended the Hesperia Police Station Ribbon Cutting Ceremony, the Women's Expo at the Fair Grounds and the High Desert Opportunity.

Councilman Roelle commented on his attendance at the Mountain Desert SANBAG meeting where discussions were held regarding the Yucca Loma Bridge. He stated that the staff would be providing the Town Council with an update at the next meeting.

Mayor Allan commented on his attendance at the High Desert Opportunity and the excellent speech by Magic Johnson. He also announced he would be attending the ground breaking for the school district.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

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

A. Regular Meeting – Tuesday, November 9, 2010, 6:30 p.m. – Council Chambers

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

Mayor Allan announced that due to a potential conflict of interest, Councilman Nassif would be abstaining from voting on item number 7.

Motion by Councilwoman Coleman, seconded by Councilman Roelle, to approve and adopt the Consent Calendar items numbered 2 – 8, respectfully.

Vote: Motion carried 5-0-0-0

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

2. Approval of Minutes of the Town Council

A. Regular Meeting – October 12, 2010

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Change of Ownership, Release of Original Securities, Approve New Agreements and Securities for Tract Map 16134

Recommendation:

1. Release the original street improvement securities for Tract 16134.
2. Find that the construction of various improvements required for Tract Map 16134 are complete.
3. Approve new securities and agreements reflecting 50% maintenance level security for the work that is completed, and 100% security for the remaining improvements yet to be completed. The adjusted securities and agreements will remain in place until all public improvements within Tract Map No. 16134 are complete and eligible for the one year maintenance period to begin, subject to approval as to form by the Town Attorney and as to content by the Town Manager.

4. Award Contract for the Central Road Widening Project

Recommendation:

Award a contract to Sully-Miller Contracting Co., in the amount of \$202,243.53, (\$183,857.75 plus 10% for contingencies), for the Central Road Widening Project – Ottawa Road to Lucilla Road, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager;

5. Treasurer's Report – August 2010

Recommendation:

Receive and file.

6. **Payroll/Benefits Warrant Schedule – August 2010**
Recommendation:
Receive, ratify, and file the payroll/benefits warrants as presented.
7. **Commercial Warrants Schedule – August 2010**
Recommendation:
Receive, ratify, and file the commercial warrants as presented.
8. **Acceptance of Work, Notice of Completion and Release of Retention for the Town of Apple Valley Town Hall Annex and Conference Center**
 1. Accept the work of the attached two prime contractors for the work performed at the Town Hall Annex and Conference Center; release the total retention in the amount of \$44,856.45. 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
 2. 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.

PUBLIC HEARINGS

None.

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

9. Establishment of Consolidated Plan Priorities

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

Ms. Wong made a correction to the staff report. She stated that the anticipated CDBG allocation for 2011-2012 is \$690,835.

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilwoman Coleman, to approve the following list of Community Development Block Grant and HOME priorities, as established in the Strategic Plan, to be used as a guideline by the Community Development Citizens Advisory Committee in making funding recommendations to the Town Council for the 2011-2012 Action Plan.

1. Preserve the Existing Housing Stock (Single-Family Housing Rehabilitation)
2. Increase Affordable Homeownership Opportunities

3. Expand the Supply of Affordable Housing
4. Address Public Service Needs
5. Affirmatively Further Fair Housing to Ensure Equal Access to Housing Lower Income, Ethnic Minorities and Special Needs Groups (Fair Housing Program)
6. Provision of Public Facilities and Park Improvements
7. Create safer, more attractive and more accessible neighborhoods and stimulate economic growth through the improvement of infrastructure

Vote: Motion carried 5-0-0-0

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

10. A Resolution Of The Town Council Of The Town Of Apple Valley, California, Repealing Resolution Number 2007-03 And Creating Resolution No. 2010-49 Relating To Rules Of Procedure For Town Council Meetings And Related Functions And Activities.

Mayor Allan opened the public hearing at 7:33 p.m.

Frank Robinson, Town Manager, presented the staff report as filed with the Town Clerk.

David Mueller, Apple Valley, expressed concern regarding various rules listed in the Rules of Procedure.

There being no further requests to speak, Mayor Allan closed the public hearing at 7:40 p.m.

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, to approve Resolution No. 2010-49, a Resolution of the Town Council of the Town of Apple Valley, California, repealing Resolution Number 2007-03 and adopting Resolution Number 2010-49 Relating to Rules of Procedure for Town Council Meetings and related functions and activities.

Vote: Motion carried 5-0-0-0

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

11. Proposed Modified Holiday Schedule

Frank Robinson, Town Manager, presented the staff report as filed with the Town Clerk.

Discussion ensued regarding the length of time that this resolution would be in effect.

Mr. Robinson stated that the resolution would be in effect until the Council took action to modify the resolution.

MOTION

Motion by Councilwoman Coleman, seconded by Councilman Nassif, to adopt Resolution No. 2010-50, A Resolution of the Town Council of the Town of Apple Valley approving a Modified Holiday Schedule for the Town of Apple Valley, closing Town Hall for all normal working days between Christmas and New Year's Day.

Vote: Motion carried 5-0-0-0

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

The following item was added as an addendum to the agenda:

12. Initiation of a Development Code Amendment for Signage in the Village Area

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

COUNCILMAN NASSIF WAS EXCUSED FROM THE DAIS AT 7:47 P.M.

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

It was the consensus of the Town Council to forward this item to the Planning Commission.

COUNCILMAN NASSIF RETURNED TO THE DAIS AT 7:49 P.M.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on the food and beverage section at the Apple Valley Country Club. Mr. Robinson provided an update to the Town Council on upcoming events. He stated that there will be a presentation made to the Council regarding the Yucca Loma Bridge Project as well as presentations by Animal Control and Captain Belknap.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

1. Closed Session

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

COUNCILWOMAN COLEMAN WAS EXCUSED FROM THE MEETING AT 7:53 P.M.

Motion by Councilman Roelle, seconded by Mayor Pro Tem Sagona, and unanimously carried, to adjourn to Closed Session at 7:50 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 8:23 p.m., Mayor Allan announced the following:

Judge Ochoa issued a minute order yesterday and while the Towns motion for summary judgment was not specifically granted, the Judge granted one of our motions which confirmed Apple Valley Country Club's right to pump water as an owner of property recognized by the Mojave adjudication. The Court agreed that the Country Clubs overlay right - that is the right to pump water as the owner of the property overlying the basis - was properly recognized in the Mojave adjudication and remains intact. Although the Court ruling does not expressly indicate as to whether a trial is still needed, we believe and we have been advised by our Attorney's that at the hearing on November 4, the Court will further clarify its ruling and hopefully preclude a lengthy and unnecessary trial.

ADJOURNMENT

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:24 p.m.

Town Clerk

Mayor