

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

**REGULAR MEETING  
MINUTES – May 10, 2011**

**CLOSED SESSION**

With the consensus of the Town Council, Mayor Nassif announced that Closed Session would be moved to the end of the meeting.

**OPENING CEREMONIES**

**CALL TO ORDER:**

Mayor Nassif 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: Councilmember Coleman; Councilmember Roelle; Councilmember Emick; Mayor Pro Tem Stanton; Mayor Nassif. Absent: None.

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

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Mayor Nassif.

**PRESENTATIONS:**

**PUBLIC COMMENTS**

Scott Weldy, Apple Valley, handed to the Town Clerk for the Town Council copy of a transcript from the Public Utilities Commission hearings which he attended on Tuesday, May 3, 2011 at 1:00 p.m. Notices of the PUC hearings were sent to 19,000 customers and of those sent, 21 were in attendance. He believed 50% supported the transfer of Apple Valley Ranchos Water District to The Carlyle Group and the other 50% did not.

Richard Rorex, Apple Valley, asked the Town Council to pass a resolution supporting a viable functioning airport in Ontario, California.

Chuck Hanson, Apple Valley, thanked the Town of Apple Valley for their assistance and attendance with the Bike Ride for Bike Lanes event held on May 2, 2011. He also wanted to advise the Town of Apple Valley and the community that National Bike to Work Day will be held on May 20, 2011.

Tim Wimberly, Apple Valley commented on various issues within the Town of Apple Valley that he would like the Town Council to address.

## COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilmember Coleman commented on her attendance at various meetings, including a luncheon which honors the volunteers that assist the Town of Apple Valley on an annual basis. She also commented on her attendance at the City/County Conference in Lake Arrowhead as well as the SCAG meeting held in La Quinta where a presentation on adopting the new fiscal year budget and overall general housekeeping were taking place. Discussion also ensued regarding state and federal government funding for the transportation agencies within six counties.

Councilmember Roelle commented on his attendance at the City/County Conference in Lake Arrowhead. He also attended a marathon SANBAG meeting last week and requested Brad Miller, Town Engineer to provide an update.

Brad Miller, Town Engineer attended the SANBAG meeting and with the assistance of staff, prepared a packet for the Yucca Loma Bridge project to be reviewed by San Bernardino County and were successful in working out the final details to move forward with this project.

Ken Henderson, Assistant Town Manager, Economic and Community Development commented that San Bernardino County staff was impressed with the information provided by Town staff and a request was submitted with the County to have the Town serve as project manager for the Yucca Loma Bridge project on its behalf.

Councilmember Roelle thanked staff for all of their hard work.

Councilmember Emick attended the City/County Conference in Lake Arrowhead. In addition he stopped by the Hispanic Chamber of Commerce and in their discussions, found that there has been an upturn in occupancy rates with respect to commercial properties. He is excited about the future of the Yucca Loma Bridge.

Mayor Pro Tem Stanton commented on her attendance at various meetings including the Mojave Environmental Education Consortium and the City/County Conference in Lake Arrowhead which allowed her to hear the vision of San Bernardino County and to interact and network with other staff members and various state and county representatives.

Mayor Nassif commented on his attendance at the Town of Apple Valley's volunteer luncheon and acknowledged Pat Weldy as one of the first volunteers. He also commented on his attendance at various meetings including the upcoming Joint Powers Authority meeting to discuss commercial recycling. He discussed the Zone 4 Flood Control meeting, and advised the Town Council that discussions were taking place regarding the funds allocated for the Desert Knolls Wash being shifted to the Yucca Loma Bridge Corridor and drainage issues.

Mayor Nassif announced the San Bernardino County PAL Shock graduation ceremony is scheduled for May 13, 2011 at Phoenix Academy at 6:00 p.m. and would encourage all to attend in support of this rewarding program.

## TOWN COUNCIL ANNOUNCEMENTS

**Suggested items for next agenda:**

Councilmember Coleman would like an item placed on a future agenda regarding resolutions in support of Ontario International Airport.

Mayor Pro Tem Stanton would like to address the safety concern and lack of safety gear at the bike park. Mayor Nassif stated that this item is scheduled for the next agenda.

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

**A. Regular Meeting – Tuesday, May 24, 2011, 6:30 p.m. – Council Chambers**

**TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA**

Mayor Nassif announced 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 will be abstaining from voting on Agenda Item Number 8

**MOTION**

Motion by Mayor Pro Tem Stanton, seconded by Councilmember Coleman, and unanimously carried; to approve and adopt the Consent Calendar item numbered 2, 3, 4, 5, 7, 8 and 9, as submitted and that Item Number 6 be pulled for discussion.

Vote: Motion carried 5-0-0-0

Yes: Councilmembers Coleman; Emick; Roelle; Mayor Pro Tem Stanton; Mayor Nassif. Abstain: None. Absent: None.

**Mayor Nassif abstained from voting on Agenda Item Number 8**

**2. Approval of Minutes of the Town Council**

**A. Regular Meeting – April 26, 2011**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**3. Acceptance of Work, Notice of Completion and Release of Retention for Renovation and Extension of 3-Diamond Skate Park, Town Project 2010-PR01**

**Recommendation:**

1. Accept the work for the skate park improvements on Town Project 2010-PR01 for a total cost of \$239,956.00.
2. Direct the Town Clerk to file the Notice of Completion for the contract work, notify surety and to exonerate contract bonds.
3. Direct the Finance Director to release retained funds 35-days after the filing of the Notice of Completion, provided no claims are filed against the contractor.

**4. Adopt Ordinance No. 419, Modifying Chapter 6.20 of the Town of Apple Valley Municipal Code, Solid Waste Regulations**

**Recommendation:**

Adopt attached Ordinance No. 419, Modifying Chapter 6.20 of the Town of Apple Valley Municipal Code, Solid Waste Regulations

**5. Adopt Resolution Number 2011-14, A Resolution of the Town Council of the Town of Apple Valley, California, Amending Resolution No. 2010-49, Rule 1 And 11 of the Town of Apple Valley Rules of Procedure for Town Council Meetings**

**Recommendation:**

Adopt Resolution Number 2011-14, a Resolution of the Town Council of the Town of Apple Valley, California, amending Resolution Number 2010-49, Rule 1 and 11, of the Town of Apple Valley Rules of Procedure for Town Council Meetings.

**7. Treasurer's Report – Month of March 2011**

**Recommendation:**

Receive and file.

**8. Commercial Warrants Schedule – Month of March 2011**

**Recommendation:**

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

**9. Payroll/Benefit Warrants Schedule – Month of March 2011**

**Recommendation:**

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

**PULLED FOR DISCUSSION**

**6. Authorize Sewer Lift Station Capacity Analysis Study**

Mayor Pro Tem Stanton had questions regarding the actual improvements at the Jess Ranch Sewer lift station, where the money was coming from for the study and whether or not the study would become obsolete within the next couple of years.

Lance Miller, Public Works Manager, responded to the questions posed by Mayor Pro Tem Stanton.

Dennis Cron, Assistant Town Manager, Municipal Operations and Contract Services confirmed that the funds for this project are coming from the wastewater fund which was advance funded during the formation of the Jess Ranch Sewer Assessment District.

Councilmember Roelle questioned the cost for the study prepared by So & Associates.

Mr. Cron stated the calculated \$11,000.00 figure was provided based on their professional services in this area.

**MOTION**

Motion by Councilmember Coleman and seconded by Councilmember Emick, and unanimously carried, to approve and authorize payment in the amount of \$11,000 to So & Associates Engineers for costs associated with the preparation of a capacity analysis study for the AD3A system and authorize the attached budget amendment.

Vote: Motion carried 5-0-0-0

Yes: Councilmembers Coleman; Emick; Roelle; Mayor Pro Tem Stanton; Mayor Nassif.

Abstain: None. Absent: None.

**PUBLIC HEARINGS**

**10. Final Public Hearing - Consolidated Plan Fifth-Year Action Plan for the Community Development Block Grant (CDBG) and the Home Investment Partnerships (HOME) Programs for Fiscal Year 2011-2012**

Mayor Nassif opened the public hearing at 7:24 p.m.

Emily Wong, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk. She explained that the federal government is reducing the block grant funding by approximately 17% and the homes funds by approximately 12%. She stated that with the anticipated reductions, the Town will receive approximately \$575,000 for the block grant funding and \$268,000 in HOME funding.

Ms. Wong stated that this is the Fifth and final year of the Consolidated Plan. She explained that next fiscal year, the Town will begin a new five year Consolidated Plan and noted that some services may be contracted to a consultant.

Ron Barbieri, Chairman, Community Development Citizens Advisory Committee (CDCAC), introduced for the benefit of the Council and the public the members of the committee who were present at the meeting. He thanked staff for their hard work in preparing the committee members for the service they were able to provide for the Town. He briefly discussed the process that each applicant completes in order to apply for funding.

Mayor Pro Tem Stanton asked for explanations regarding several of the projects that were recommended for funding.

Ralph Wright, Parks and Recreation Manager, explained the application for funding for the enhanced security system for the parks department. He stated that funding for this application would assist the Town in reducing vandalism at James Woody Park, the PAL Center and other facilities located on the premises.

Ms. Wong explained the funding allocation for the landscape and median project in the Village area within the Town.

Mayor Pro Tem Stanton also asked questions regarding funding allocated to Happy Trails Villas. She questioned whether or not additional funding was being allocated.

Ms. Wong explained the funding listed within the staff report for the former Happy Trails Villas Project.

Mayor Pro Tem Stanton commented on whether or not the Town Council could be allocated \$5,000 each in discretionary funding to fund a non-profit.

Ms. Wong explained that in order to receive grant funding, the Town is required to have a citizen unit of participation to provide input into programs requesting funding and that the formation of CDCAC meets that requirement. She stated that this process also takes a large burden off of the Town Council. She also noted that the CDCAC adopted a policy this year to fund fewer organizations in order to provide larger funding amounts to create a more significant impact on the non-profits that do receive funding.

Suzie Hollenbeck, Director of High Desert Homeless Services, thanked the CDCAC and the Town Council for supporting her organization. She invited the Town Council to visit and observe the facility.

David Mueller, High Desert Politics.org commented on the funding listed in the report for the Happy Trails Villas. He expressed concern regarding funding being allocated for this project.

There being no additional requests to speak, Mayor Nassif closed the Public Hearing at 7:59 p.m.

Discussion ensued regarding funding allocated to Happy Trails Villas and whether or not all funds have been expended for this project. Also discussed was the current owner of record for this property.

The Town Council each thanked the CDCAC for their hard work and dedication working on this project.

### **MOTION**

Motion by Councilmember Coleman, seconded by Councilmember Emick, to approve the Community Development Citizen Advisory Committee recommendations for funding proposed projects under the 2011/2012 CDBG and HOME programs as part of the Town's Fifth-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

Yes: Councilmembers Coleman; Emick; Roelle; Mayor Pro Tem Stanton; Mayor Nassif.

Abstain: None. Absent: None.

### **11. A Resolution of the Town Council of the Town of Apple Valley, California, Establishing and Modifying Specified Program Fees for Certain Park and Recreation Services for 2011-2012 Fiscal Year**

Ralph Wright, Parks and Recreation Manager, presented the staff report as filed with the Town Clerk. He explained that the fee increases were for six different programs and those include increased operating costs. The increase in program fees is to cover direct increases and costs for the programs.

He noted that the proposed fee increase went to the Park & Recreation Commission on April 7, 2011 and was unanimously approved with Notice of Public Hearing published on April 29 and May 6, 2011.

Councilmember Roelle inquired whether or not during testimony at the Park & Recreation Commission meeting was there any opposition to the fee increases by any clubs or organization and was advised by Mr. Wright that there was no opposition.

Mayor Nassif opened the public hearing at 8:12 p.m.

Mayor Nassif closed the public hearing at 8:13 p.m.

### **MOTION**

Motion by Councilmember Roelle, seconded by Mayor Pro Tem Stanton, to adopt Resolution No. 2011-15, a resolution of the Town Council of the Town of Apple Valley, California, establishing and modifying specified park and recreation program fees for certain park and recreation services for 2011-2012 fiscal year.

Vote: Motion carried 5-0-0

Yes: Councilmembers Coleman; Emick; Roelle; Mayor Pro Tem Stanton; Mayor Nassif.

Abstain: None. Absent: None.

## **LEGISLATIVE MATTERS**

None.

## **REPORTS, REQUESTS AND COMMUNICATIONS**

### **BUSINESS OF THE COUNCIL**

#### **12. Discuss Development of Local Commercial Recycling Program to Meet New State Mandatory Commercial Recycling Regulations**

Diana McKeen, Environmental and Regulatory Compliance Manager, presented the staff report as filed with the Town Clerk. She stated that the Air Resources Board (ARB) was tasked with implementing AB32, and the agency produced a list of 72 separate action items with a time frame, some voluntary and some to be achieved through mandate. No ordinance is necessary to require recycling, however we are required to educate, outreach and monitor all of our local businesses. We have less than 24% of our businesses that have a voluntary recycle account and all businesses have a very large amount of recyclable materials that go to our landfills.

Mayor Nassif suggested designating a public relations person to work with our community and educate them on recycling without additional expense to the Town.

Ms. McKeen explained that it will be left up to the Town to inform and educate businesses about the requirements of recycling mandated by the state. The state can impose fines on cities they believe are not making a good faith effort implementing recycling programs.

Councilmember Coleman wanted to know if the Town knows how many businesses recycle without trash or recycling accounts and was advised that was unknown.

The item was for information only No action taken.

#### **13. SB 286 (Wright) – Redevelopment**

Ken Henderson, Assistant Town Manager, Economic and Community Development, presented the staff report as filed with the Town Clerk. He stated that he did not believe that the piece of redevelopment reform legislation sponsored by Mr. Wright, and supported by the California

Redevelopment Association (CRA) and the League of California Cities (LCC) was not good for local redevelopment agencies.

He stated from staffs perspective, we do not support the legislation and we encourage the Town Council to send a letter opposing the legislation. This legislation includes tightening blight restrictions. In 1993 AB1290 was passed and its purpose was to tighten the definition of blight for redevelopment agencies. That is the reform legislation under which the Town of Apple Valley operates.

Discussion ensued on how redevelopment plans affect cities, how the tax increment is based, and how the redevelopment funds are distributed.

Mayor Nassif, with the consensus of the Town Council, recommended Mr. Henderson prepare a two-page letter regarding the issues the Town has with this legislation and why we oppose it with copies going to CRA and LCC.

#### **14. Apple Valley Country Club Purchase Options**

Councilmember Coleman stated that she had a potential conflict of interest with this item and therefore excused herself from discussion of this item.

#### **COUNCILMEMBER COLEMAN WAS EXCUSED FROM THE DIAS AT 8:42 P.M.**

Marc Puckett, Director of Finance, presented the staff report as filed with the Town Clerk. He presented options to fund the payoff of the two loans outstanding on the Apple Valley Country Club that were assumed by the Town of Apple Valley.

Funding options were discussed at length including the sale of the adjudicated water rights, inter-fund loans, purchase the golf course and pay loans off out of the general fund, secure lease financing through an outside credit facility at a current rate of interest, along with reducing deficits and operating costs.

Mr. Puckett stated that staffs recommended option is to sell the water rights from the golf course fund to the wastewater fund for the appraised value of the adjudicated waters rights. Secondly, to adopt the inter-fund loan policy between the wastewater fund and the general fund.

Discussions ensued between staff and the Town Council regarding the golf course fund, wastewater fund, water rights, leasing the water rights and the general fund.

Councilmember Roelle expressed concerns regarding the use of the wastewater funds and operational issues with the golf course. He questioned how the Town will pay for the Apple Valley Country Club after close escrow along with the Town's deficits and subsidizing of the golf club along with how long it will take to break even.

Mayor Pro Tem Stanton discussed the lawsuit and history of the Town's ownership control of the Apple Valley Country Club.

Dennis Cron, Assistant Town Manager, Municipal Operations and Contract Services explained the production allowance of water rights that the Town is entitled to along with lease rates for temporary transfer.



Councilmember Roelle requested a current appraisal be obtained for the Apple Valley Country Club before moving forward with this item.

Mayor Pro Tem Stanton expressed concern regarding an inter-fund loan along with the Town Manager being able to transfer money from the general fund at his discretion without Town Council approval.

Councilmember Emick questioned the amount of funding it would take to water the golf course.

Mr. Cron explained how base production rights work with respect to irrigation.

David Mueller, High Desert Politics.org expressed concern with respect to the Town of Apple Valley's funds and the closing of escrow on the Apple Valley Country Club.

Lawrence McCarthy, Apple Valley discussed the cost that he that he believes the Town of Apple Valley will have to pay in association with the purchase of the Apple Valley Country Club.

Bernadette McNulty, Apple Valley expressed concern regarding this project and asked the Town Council not to purchase the Apple Valley Country Club.

Bob Sagona, Apple Valley made suggestions to the Town Council regarding the purchase of the Apple Valley Country Club.

John Brown summarized the wishes of the Town Council and advised stating that he believed their wishes were to review the land appraisal, examine maintenance expenses, review the potential of having to replace the well, take a much more in-depth look at how to bring the club up to reasonable standards, review the budget implications for the overall Town budget, review the previous task force recommendations, and review what the legal alternatives are if the Town elects not to close escrow. Also, answers to what happens to the land, what happens to the prior funds invested and what is the town's legal exposure if the Town does not close escrow.

Mayor Pro Tem Stanton requested a copy of the purchase and sale agreement. She also has concern regarding previous hazardous waste on the site.

Mr. Brown advised that the situation regarding the hazardous waste has been remediated and the evidence is more than sufficient to render that to a circumstance where it is not a contingent liability if escrow were to close.

Frank Robinson, Town Manager advised that this item can come back to the Town Council; however it all depends on when the appraisal will be completed.

It was the consensus of the Town Council that this item be tabled and brought back at a future date the following issues:

- Review the land appraisal,
- Examine maintenance expenses,
- Review the potential of having to replace the well,
- How to bring the club up to reasonable standards,
- Review the budget implications for the overall Town budget,

- Review the previous task force recommendations; and
- Review what the legal alternatives are if the Town elects not to close escrow

**COUNCILMEMBER COLEMAN RETURNED TO THE DAIS AT 10:18 p.m.**

**15. Group Home/Residential Care Facility Discussion**

Lori Lamson, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk. She presented a report that summarized what the Town of Apple Valley has done with respect to group homes since its incorporation. In 2007 the Town Council studied this issue and modified the Development Code to further restrict group homes while still complying with state law.

Mayor Pro Tem Stanton thanked staff for bringing the report forward. She stated that she has met with the Police Captain and he is comfortable with the ordinance as written.

This was a receive and file item only. No action was taken.

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

Frank Robinson, Town Manager, reminded the public that the next Blue Ribbon Water Committee meeting will be held on Thursday, May 12, 2011 at 6:00 p.m. He also commented on documents that he received from the SCAG Conference that he will be providing electronically to the Town Council and made available for the public.

Mr. Robinson also announced that the new population for the Town of Apple Valley is 69,135. He also commented on the Homeless Workshop that he and staff are currently working on. He anticipated the workshop being held in early June.

**Suggested items for next agenda:**

Councilmember Coleman requested staff separate from the report funding the purchase of the Apple Valley Country Club from the sale of the water rights from the golf club fund to the wastewater fund and establishing a policy to approve loans and advances between Town funds and bring back that portion of the report that addresses the inter-fund transfer policy.

**DEPARTMENTAL REPORTS AND BUSINESS:**

**STAFF REPORTS**

**CORRESPONDENCE**

**CLOSED SESSION**

**1. Closed Session**

**MOTION**

Motion by Councilmember Coleman, seconded by Councilmember Emick, and unanimously carried, to adjourn to Closed Session at 10:32 p.m. to discuss the following:

- A. Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Section 54956.9) California Public Utilities Commission Case No.(s) A.11-01-001 and A.11-01-019.

Upon returning from Closed Session at 11:20 p.m., Mayor Nassif announced that there was no reportable action.

**ADJOURNMENT**

Motion by Councilmember Coleman, seconded by Mayor Pro Tem Stanton, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 11:20 p.m.

Town Clerk

Mayor