

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

**REGULAR MEETING  
MINUTES – July 12, 2011**

**TOWN COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION**

Mayor Nassif called to order the Regular Meeting of the Apple Valley Town Council at 5:00 p.m. All members of the Town Council were present.

**TOWN COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION**

**1. Closed Session**

**MOTION**

Motion by Councilmember Emick, seconded by Councilmember Roelle, and unanimously carried, to adjourn to Closed Session at 5:03 p.m. to discuss the following:

A. Conference With Legal Counsel-Existing Litigation (Subdivision (a) of Section 54956.9)  
Name of case: Application of Western Water Holdings, LLC, PWC Merger Sub, Inc., Park Water Company (U 134 W), and Apple Valley Ranchos Water Company ((U-346-W) for Authority for Western Water Holdings, LLC to Acquire and Control Park Water Company and Apple Valley Ranchos Water Company

B. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluations. Title: Town Manager.

C. Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Section 54956.9  
Name of case: Vandergriff (III and II) vs. Town of Apple Valley (Case No. CIVVS 70138).

Upon returning from Closed Session at 6:30 p.m., Mayor Nassif announced that there was no reportable action taken.

**OPENING CEREMONIES**

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

**PRESENTATIONS:** None.

**SPECIAL ANNOUNCEMENTS:** None

**PUBLIC COMMENTS**

David Mueller, Highdesertpolitics.org, made comments regarding previous transactions dealing with the Apple Valley Golf Course. He demanded that the inconsistencies be placed on a future agenda with answers and that the closing of escrow cease until answers have been given.

Jamie Tizzard, Apple Valley, thanked the Town Council for the various Parks and Recreation activities invested by the Town Council for the benefit of the community. He expressed concern regarding the need to better patrol the skatepark and allow students to be able to participate in the park.

Tracey Martin-Crane, Apple Valley, provided solutions to the Town Council that she believed would assist in the patrol of the park.

Judith Martin, Apple Valley, deferred time to tizzard, also provided additional solutions such as providing a kids club, monitoring a student's time in the park. Believes that by working with the students, can help turn kids in the right direction.

William Furmage, Apple Valley, commented on the need to staff the skatepark. He spoke on the staffing of the pool and the Golf Course. He stated that the skatepark should be staff as well.

#### **COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION**

Council Member Emick commented on the 4<sup>th</sup> of July celebration.

Council Member Coleman thanked the parents for attending the meeting and voicing their concern regarding the skatepark. She welcomed their input. She commented on attending various meetings including a mini-retreat with Southern California Association of Governments (SCAG). She announced that the Southern California Association of Governments (SCAG) Workshop for the Regional Transportation would be held tomorrow at the Development Services Building at 4:00 p.m.

Council Member Roelle reminded the public of the State of the Town Address that will be held Tuesday, July 19, 2011 at 5:00 p.m.

Mayor Pro Tem Stanton announced a Flapjack fundraiser at Applebee's that would assist the Town of Apple Valley Animal Shelter. She also commented on the budget workshop and the need to thoroughly review each line item due to the economy. She expressed concern regarding the skatepark and the lack of safety gear being used at the facility. She recommended that the citizens come together and possibly establish a citizens committee of parents and residence that are concerned about the use of the facility.

Mayor Nassif commented on his attendance at the 4<sup>th</sup> of July celebration and the Fireworks Show. He also commented on his attendance at the Disaster Preparedness Meeting. He spoke of upcoming meetings with the Desert Mountain Division Meeting for the League of California Cities where discussions will take place regarding the state budget.

#### **TOWN COUNCIL ANNOUNCEMENTS**

##### **Suggested items for next agenda:**

Mayor Pro Tem Stanton reminded the Council about her request for discussions on solar use and her concern regarding bath salts that are being sold at Smoke Shops. She recommended that a brief report be given on this issue in the near future.

La Vonda M-Pearson, Town Clerk, read the time, date and place for the next Town Council Meetings:

- A. Special Meeting – Monday, July 25, 2011, 3:00 p.m. – Council Chambers
- B. Regular Meeting – Tuesday, July 26, 2011, 5:00 p.m. – Council Chambers

**TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA**

Mayor Nassif announced that he had a remote interest in certain warrants on the commercial warrants for the Town of Apple Valley as the owner of NAPA Auto Parts. Therefore he stated that he will be abstaining from voting on agenda item number 6. He also stated that staff has requested that item number 3 be removed from the agenda. This item was approved at the last Town Council.

Council Member Coleman made a correction to the vote tally listed in the minutes on Page 2C-7.

**MOTION**

Motion by Council Member Roelle, seconded by Council Member Emick, to approve and adopt the Consent Calendar items numbered 2, 4, 5, 6, 7 and 8, as amended, and that item number 3 be removed from the agenda.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Coleman; Emick; Roelle; Mayor Pro Tem Stanton; Mayor Nassif.

Absent: None.

**Mayor Nassif abstained from voting on Agenda Item Number 6.**

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

**A. Special Meeting – June 20, 2011**

**B. Special Meeting – June 28, 2011**

**C. Regular Meeting – June 28, 2011**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**3. A Request For Adoption Of Resolution 2011-28 Of The Town Council Of The Town Of Apple Valley Accepting Reimbursement Of The Costs For Development Of Public Infrastructure Improvements Within The Town From The Victor Valley Economic Development Authority And Ratifying The Execution And Delivery Of A Proposed Amendment No. 1 To The Reimbursement Agreement.**

**Recommendation:**

That the Town Council Adopt Resolution No. 2011-28 and approve Amendment No. 1 to the Reimbursement Agreement between the Victor Valley Economic Development Authority and the Town of Apple Valley.

**4. Approve And Authorize A Memorandum Of Understanding With San Bernardino County Department Of Public Works, SANBAG, And The City Of Victorville For The La Mesa/ Nisqualli Interchange And The Yucca Loma/ Yates Road/ Green Tree Blvd Corridor Project.**

**Recommendation:**

That the Town Council approve and authorize a Memorandum of Understanding between San Bernardino County Department of Public Works, SANBAG, and the City of Victorville, subject to approval as to form by the Town Attorney and as to content by the Town Manager, and authorize the Mayor to execute said MOU.

5. **Treasurer's Report – Month of May 2011 and Schedule of Revenues, Expenditures and Changes in Fund Balance for the Parks & Recreation Fund and the Apple Valley Golf Club Fund**  
**Recommendation:**  
Receive and file.
6. **Commercial Warrants Schedule – Month of May 2011**  
**Recommendation:**  
Receive, ratify, and file the commercial warrants as presented.
7. **Payroll/Benefits Warrants Schedule – Month of May 2011**  
**Recommendation:**  
Receive, ratify, and file the payroll/benefits warrants as presented.
8. **A Resolution of the Town Council of the Town of Apple Valley, California, Adopting the 2011 Local Hazard Mitigation Plan Update, Authorizing Future Non-Substantive Amendments to the Plan, And Rescinding Resolution No. 2005-12.**  
**Recommendation:**  
Move to Rescind Resolution No. 2005-12 and approve Resolution No. 2011-37, A Resolution of the Town Council of the Town of Apple Valley, California, adopting the Town of Apple Valley (Local) Hazard Mitigation Plan, and its inclusion in the San Bernardino County Operational Area Multi-Jurisdictional Hazard Mitigation Plan.

## PUBLIC HEARINGS

### CONTINUED PUBLIC HEARING

9. **A Resolution Requesting That The Local Agency Formation Commission (LAFCO) Initiate Proceedings For The Annexation Of Parcels West Of Dale Evans Parkway, North Of Johnson Road, East Of U.S. Interstate 15, And South Of Morro Road, Also Known As The "Golden Triangle", Under Annexation No. 2008-001.**

Mayor Nassif announced that the public hearing was still open.

Lori Lamson, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk. She commented on an outreach program that would be conducted for the residents in the area to inform them of the process and to answer their questions and concerns.

Nicole Christi, Terra Nova, commented on the proposed annexation and the analysis that was completed on the parcels.

Council Member Coleman commented on the Economic and Community Development section of the report. She recommended that discussion on planning services be included. Council Member Coleman also asked questions regarding the percentage of sales tax.

Mayor Pro Tem Stanton asked if any of the land has been designated as off road designation.

Ms. Christi stated that the land had not been designated as off-road.

Discussion ensued regarding the dollar amount for Phase I annual revenues fire tax.

Anthony Thomas, Apple Valley, respectfully requested that this item not be approved. He stated that he and his family prefer living in the County limits.

George Mable, Apple Valley, believes that the annexation would increase the property values in the area and that change was good.

There being no additional requests to speak, Mayor Nassif closed the public hearing at 7:28 p.m.

**MOTION**

Motion by Council Member Coleman, seconded by Council Member Emick, to:

1. **Adopt** Town Council Resolution No. 2011-36, requesting initiation of annexation proceedings for Annexation 2008-001;
2. **Direct** staff to file all necessary application materials relating to Annexation 2008-001 with the Local Agency Formation Commission.
3. **Direct** Town Manager to sign Plan of Services.

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Coleman; Emick; Roelle; Mayor Pro Tem Stanton; Mayor Nassif.

Absent: None.

**CONTINUED PUBLIC HEARING**

**10. Underground Utility District No. 3, Along Yucca Loma Road Between Apple Valley Road and Rincon Road**

Mayor Nassif announced that the public hearing was still open.

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

There being no requests to speak, Mayor Nassif closed the public hearing at 7:32 p.m.

**MOTION**

Motion by Council Member Roelle, seconded by Council Member Coleman, to:

Adopt Resolution No. 2011-35 "A Resolution of the Town Council of the Town of Apple Valley, California, making a finding that the overhead facilities should be installed underground, declaring the formation of Underground Utility District No. 3 and ordering the installation of utilities underground".

Vote: Motion carried 5-0-0-0

Yes: Councilmember's Coleman; Emick; Roelle; Mayor Pro Tem Stanton; Mayor Nassif.

Absent: None.

**LEGISLATIVE MATTERS**

**REPORTS, REQUESTS AND COMMUNICATIONS**

## **BUSINESS OF THE COUNCIL**

### **11. “Happy Trails Villas” Update**

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

Barry Ephriam, AVHTLP, commented on the condominium project, including HOA’s, assessments and various improvements to the project.

Mayor Pro Tem Stanton questioned the timeframe to complete this project. She stated that it has been over a year since the project was last approved by the Town Council.

Mr. Ephriam answered questions and concerns expressed by Mayor Pro Tem Stanton regarding ownership of the property. He also briefed her on the history of the property regarding ownership and the involvement of the FDIC.

Council Member Emick thanked Mr. Ephriam for his patience with the project and recommended that he provide regular updates to the Town Council on the project.

David Mueller, Highdesertpolitics.org, expressed concern regarding the use of home funding for this project.

Mayor Pro Tem Stanton asked questions regarding statements made by Mr. Mueller.

Ms. Wong explained that part of the funding going into the project is coming from a federal source which is home funds. She further explained that under home regulations our jurisdiction must use a minimum of 15 percent for ACHODO activity which the Town has to provide to a secondary party that is ACHODO certified and meets all requirements from HUD in order to do an affordable housing activity. Ms. Wong also answered questions by the Council regarding government funding for luxury units.

This was a receive and file item only. There was no action taken.

### **12. Solicitation/Petition Gathering in Front of Businesses**

Dennis Cron, Assistant Town Manager, Municipal Operations and Contract Services, presented the staff report as filed with the Town Clerk.

Council Member Emick asked questions regarding the staff report and the proposed options made regarding solicitors. He recommended that Option 3 be considered that would direct staff to issue third party citations (citizen’s arrest) that would be signed by the business manager or owner.

The Town Council Members concurred with the recommendation made by Council Member Emick.

Captain Bart Belknap, Apple Valley Police Department, explained that solicitors do not have to have identification; however, if there is any question about whether or not they are telling the truth about their identity, they can be fingerprinted.

It was the consensus of the Town Council to direct staff to issue third party citations (citizen's arrest) that would be signed by the business manager or owner. A citation would be issued when the manager or owner from the business has told the solicitor/petition gatherer to leave the property. Upon their refusal to leave, Code Enforcement would respond and fill out a misdemeanor notice to appear court citation for the violation of trespass by refusal to leave. The store owner or manager would sign the citation as the arresting person and once in court would act as prosecutor while the Town itself would not be pursuing a criminal complaint, limiting the liability exposure to the Town.

### **13. Update of Safety and Security at 3-Diamond Skate Park**

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

Mayor Pro Tem Stanton again expressed her desire to form a citizens committee to assist with the policing of the skatepark.

Discussion ensued regarding the movement of the Teen Center to the James Woody Center.

John Brown, Town Attorney, provided suggestions to the Town Council to address this issue at tonight's meeting.

Frank Robinson, Town Manager, stated that staff would meet with the parents and citizens committee to address this issue.

William Furmage, Apple Valley, provided suggestions to the Town Council to assist with the enforcement of the skatepark.

This was a receive and file item only. There was no action taken.

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

Frank Robinson, Town Manager, introduced the following individuals to provide update to the Town Council.

Emily Wong, Assistant Director of Economic Development, announced that the Housing Division was awarded a \$1 million grant that would be used for the Rehabilitation Loan Program and the Down payment Assistance Program.

Kathie Martin, Marketing and Public Affairs Officer, commented on the State of the Town Address and the 4<sup>th</sup> of July Celebration and the Concert Series. She showed a brief clipping of a YouTube video designed by her department that showed highlights from a Concert in the Park.

Kenneth Henderson, Assistant Town Manager, Economic and Community Development, updated the Town Council on a CRA teleconference that he participated in today regarding Redevelopment Agencies.

Mr. Robinson updated the Town Council on future agenda items currently scheduled to be discussed at upcoming meetings. He also informed the Town Council that the Town would once again be receiving an award through the Finance Department for its CAFER report.

**DEPARTMENTAL REPORTS AND BUSINESS:**

**STAFF REPORTS**

**CORRESPONDENCE**

**ADJOURNMENT**

Motion by Mayor Nassif, seconded by Council Member Coleman, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 8:53

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Mayor

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Town Clerk