

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

**REGULAR MEETING
MINUTES – July 26, 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 Coleman, seconded by Councilmember Emick, and unanimously carried, to adjourn to Closed Session at 5:10 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. Conference Involving a Joint Powers Agency: Victor Valley Wastewater Reclamation Authority - Conference with legal Counsel-Real Property Negotiator (Govt. Code Section 54956.8). Agency Negotiators: Logan Olds, General Manager/Piero C. Dallarda, General Counsel. Location: 20080 Helendale Road, Victorville; Negotiating Party/Parties: City of Victorville; Under Negotiation: Price and Terms.
- 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).
- D. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluations. Title: Town Manager.

Upon returning from Closed Session at 6:35 p.m., Mayor Nassif announced that there was no reportable action taken.

OPENING CEREMONIES

INVOCATION: The invocation was given by Mr. Jim Anderson, Code Enforcement Manager.

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

PRESENTATIONS: Presentation on the Illegal Use of Bath Salts/Mephadrone, Sergeant Shawn Henry

SPECIAL ANNOUNCEMENTS: None

PUBLIC COMMENTS

Reggie Lamson, Apple Valley Ranchos Water, spoke concerning the new Tariff Agreement with the AV Golf Course that would allow the Town to purchase water for the course at a reduced rate.

Mayor Pro Tem Stanton questioned and Mr. Lamson responded, on how the reduced fee rate was structured and also the actual cost of the water was fees and service charges were included.

Paul Morgan, Apple Valley, commented on his concern regarding Apple Valley Ranchos Water and his disapproval of their service to the community. He expressed concern regarding the increase in his water bills.

David Christman, Apple Valley, expressed concern regarding the increase in his water bills and respectfully requested the assistance from the Town Council on this issue.

David Mueller, Highdesertpolitics.org, stated that he had specific questions regarding the budget presentation given last night and the use of wastewater funds for Town spending. He asked a series of questions regarding where the money came from, what fund was used to take \$2.9 million to buy the Country Club water rights, and how do you loan money from a restricted fund to purchase those water rights that are not owned by the Town then consummate to buy the club with these restricted funds.

APPLE VALLEY CHAMBER OF COMMERCE – BUSINESS RETENTION UPDATE

Mayor Pro Tem Stanton presented some Apple Valley memorabilia to Mr. Guitierrez.

Jim Guitierrez, Chairman, Apple Valley Chamber of Commerce, provided an update to the Town Council regarding its business retention efforts.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilmember Roelle commented on the statements made by Mr. Mueller. He also announced that Deborah Barmack, Executive Director of the San Bernardino Association of Governments (SANBAG) will be retiring in August. He spoke of actions and approvals that were taken at the last SANBAG meeting.

Councilmember Coleman stated that she attended the Southern California Association Governments (SCAG) workshop regarding the Regional Transportation Plan. She commented on the State of the Town Address and thanked staff for their hard work on that project. She also commented on the Mountain Desert League of California Cities Meeting and the discussions that were held regarding the impact to redevelopment as a result of the state budget.

Mayor Pro Tem Stanton also commented on her attendance at the Southern California Association Governments (SCAG) workshop as well as the Fire Board Meeting and the State of the Town Address. She stated that she had an opportunity to meet with Sharon Runner where they discussed concerns regarding the RDA. Mayor Pro Tem Stanton also commented on her attendance at the Mojave Desert Air Quality Management District (MDAQMD) meeting and the Town's budget workshop.

Councilmember Emick thanked the Apple Valley Chamber of Commerce and staff for their work on the State of the Town Address. He announced that Victor Valley Economic Development Authority

(VVEDA) will hold a special meeting tomorrow at 5:00 p.m. He also commented on his attendance at the PBID meeting where they are moving forward with obtaining permits for their banners.

Mayor Nassif commented on his attendance at the Victor Valley Economic Development Authority (VVEDA) meeting where discussions held included future retirement benefits. He also announced he was selected as the new Chairperson for VVEDA. He also commented on his attendance at the Desert Mountain Division meeting where they provided a report on the Digital 395 project which is a fiber optic project to help facilitate businesses throughout that area. He stated that he attended the ground breaking for the new Super Wal Mart Center in the City of Hesperia.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Mayor Pro Tem Stanton requested a future item be presented regarding restricted funds and how those funds can be allocated.

Mayor Nassif requested a future item regarding the issuance of a Request for Proposal for Park Maintenance services.

Councilmember Roelle announced that he would not be at the next Town Council meeting.

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

- A. Regular Meeting – Tuesday, August 9, 2011, 5:00 p.m. – Council Chambers

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

Mayor Nassif announced that staff has requested that Agenda Item Number 4 be pulled from the agenda. He stated that the County of San Bernardino has not taken action on this item and they must act prior to the Town.

MOTION

Motion by Councilmember Roelle, seconded by Councilmember Emick, to approve and adopt the Consent Calendar items numbered 2, 3 and 5, respectfully, and that item number 4 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.

2. Approval of Minutes of the Town Council

A. **Special Meeting – July 6, 2011**

B. **Regular Meeting – July 12, 2011**

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Authorize the Submittal of A Proposition 1B State Local Partnership Program (SLPP) Competitive Grant Application

Recommendation:

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

5. Resolution No. 2011-41 Approving the Levy and Collection of Assessments for Fiscal Year 2011-12 Within the Apple Valley Village Property and Business Improvement District
Recommendation:

That the Town Council adopt Resolution No. 2011-41 approving the levy and collection of assessments for FY2011-12 within the Apple Valley Village Property and Business Improvement District.

PULLED FROM AGENDA

4. Approve and Authorize an Amendment to the Agreement with San Bernardino County Department of Public Works for Right-of-Way Acquisition within Town Jurisdictional Area

Recommendation:

1. That The Town Council Approve The Agreement Amendment With San Bernardino County Department Of Public Works For Right-Of-Way Acquisition Within Town Jurisdictional Area, Subject To Approval As To Form By The Town Attorney And As To Content By The Town Manager; and
2. That The Town Council Adopt Resolution 2011-40, "Declaring The Proposed Yucca Loma Bridge as A County Highway For That Portion Of The Yucca Loma Bridge That Lies Within The Town of Apple Valley For The Purpose of Acquiring Right-of-Way From The State".

BUSINESS OF THE COUNCIL

It was the consensus of the Town Council to discuss Agenda Item Number 9 at this time.

9. Discussion of Current Development Standards for Wind and Solar Energy Production

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

Mayor Pro Tem Stanton asked questions regarding the number of turbines needed to support a home.

Mayor Nassif also asked questions regarding the size of the roof mounted turbines.

Discussion ensued regarding the size, noise, and aesthetics included in the production of wind and solar energy.

Ms. Lamson commented on how this issue was handled in the past when wind turbines were being considered.

This was a receive and file item only.

PUBLIC HEARINGS

6. Conditional Use Permit No. 2011-005, Which is A Request to Allow the Installation of Six (6), Roof-Mounted Wind Turbines. The Property is Five (5) Acres in Size Within the Low

Density Residential (R-LD) Zoning District (Referred to Council by the Planning Commission).

Mayor Nassif opened the public hearing at 8:05 p.m.

Lori Lamson, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk. She provided clarification to the Council regarding the reason for denial from the Planning Commission. The item was denied with a 2-2 vote.

Steven Klopping, Applicant, thanked staff for their work on this project. He commented on the rendering distributed which showed aesthetically how the proposed wind turbine would look. He stated that he would be willing to work with the Town if the project is approved.

Councilmember Roelle questioned the cost of the proposed project.

Mr. Klopping stated that the cost after rebates is approximately \$12,500.

Mary Pritchett, Dycard, stated that she was present to answer any questions or concerns of the Town Council. She stated that the sound decibel was approximately four and they were approximately 4 feet tall.

Randy Brown, ACS Engineering, commented on the installation of wind turbines. He also commented on AB1207 and AB2789 and the affects of this legislation on the installation of wind turbines in cities.

There being no additional requests to speak, Mayor Nassif closed the public hearing at 8:23 p.m.

Mayor Pro Tem Stanton stated that the applicant was on five acres and based on the lot size and the size of the turbines, she recommended the item be approved.

Councilmember Emick stated that he too recommended approval of the project.

Councilmember Coleman expressed concern regarding the use of wind turbines and the affect this project will have on the standards that the Town has set.

Councilmember Roelle stated that he would support it at this level. He believes that other parcels could be reviewed on a case by case basis.

Mayor Nassif agreed that additional projects would be reviewed on a case by case basis.

MOTION:

Motion by Mayor Pro Tem Stanton, seconded by Councilmember Emick, to:

- A. Determine that the Project is Categorically Exempt from further environmental review under Section 15303(e) of the State Guidelines to Implement the California Environmental Quality Act (CEQA).
- B. Find the facts presented in the staff report support the required Findings for approval and adopt the Findings.
- C. Approve Conditional Use Permit, subject to the attached Conditions of Approval.

D. Direct staff to file a Notice of Exemption.

Vote: Motion carried 4-1-0-0

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

Absent: None.

7. Resolution 2011-39, To Record Delinquent Animal Control Fees, Utility Fees and Costs and Code Enforcement Fees Against Real Property Located In The Town of Apple Valley And Directing That Said Assessments Constitute A Lien Upon Said Properties

Mayor Nassif opened the public hearing at 8:31 p.m.

Marc Puckett, Director of Finance, presented the staff report as filed with the Town Clerk.

Richard Sheridan, Apple Valley, expressed concern regarding receipt of a notice for an animal that he did not own. He explained that he had a tenant which was evicted that may have owned an animal; however, he does not reside at that residence and does not own an animal. He respectfully requested assistance from the Town Council.

Mr. Puckett explained that pursuant to the code, all nuisance abatements are attached to the property and is the responsibility of the property owner. He stated that staff is willing to help work out any concerns by a resident prior to an attachment of a lien against their property.

Dennis Cron, Assistant Town Manager, Municipal Operations and Contract Services, stated that abatement issues are normally the responsibility of the property owner; however, staff is willing to meet with Mr. Sheridan to discuss this issue.

John Brown, Town Attorney, explained that the presumption, for purposes of this code, is that it all flows to the property owner; therefore, ultimately the control of animals is the responsibility of the property owner. He gave examples on how property owners can protect themselves.

Mr. Cron noted that the property owners receive the same violation notifications that the tenant receives.

Pat Cardamone, Apple Valley, commented on the citations he received from the Code Enforcement Department. He explained the reasons why he is unable to pay. He respectfully requested assistance from the Town Council to obtain a hearing to reduce the fees and receive a payment plan.

Edgardo Burguez, Apple Valley, expressed concern regarding whether or not a lien had been filed on his property.

There being no additional requests to speak, Mayor Nassif closed the public hearing at 8:59 p.m.

MOTION

Motion by Councilmember Emick, seconded by Councilmember Coleman, to adopt Resolution No. 2011-39, confirming delinquent utility fees and costs against real property located in the Town, and directing that said assessments constitute a lien upon said properties.

Vote: Motion carried 5-0-0-0

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

Absent: None.

8. Lighting and Landscape Assessment District #1 - Engineer's Annual Report and Levy of Assessment for FY 2011-2012

Mayor Nassif opened the public hearing at 9:01 p.m.

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 9:02 p.m.

MOTION

Motion by Councilmember Roelle, seconded by Mayor Pro Tem Stanton, to adopt Resolution No. 2011-38, "A Resolution of the Town Council of the Town of Apple Valley confirming diagram and assessment and levying assessment for Fiscal Year 2011-2012"

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

10. Referral of the Preliminary "Update of Feasibility Analysis of Acquisition of the Apple Valley Ranchos Water System" to the Blue Ribbon Water Committee for Review and Recommendations

John Brown, Town Attorney, presented the staff report as filed with the Town Clerk.

David Mueller, Highdesertpolitics.org, stated that he was not in favor of the Town purchasing Apple Valley Ranchos Water. He also stated that the cost of water will not be reduced by the Town purchasing the company.

MOTION

Motion by Councilmember Coleman, seconded by Councilmember Emick, and unanimously carried, to receive and file the preliminary Feasibility Analysis prepared by Bartle Wells Associates and refer the preliminary Feasibility Analysis to the Blue Ribbon Water Committee for Review and Recommendations regarding both the financial feasibility of acquiring Apple Valley Ranchos Water Company through public financing and the advantages and disadvantages of public ownership should public debt be used to finance such an acquisition.

The Blue Ribbon Water Committee is requested to provide its recommendations in writing to the Town Council within sixty (60) days.

Vote: Motion carried 5-0-0-0

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

Absent: None.

DEPARTMENTAL REPORTS AND BUSINESS:

Frank Robinson, Town Manager, commented on an upcoming meeting for the Homeless Consortium that will be held August 11, 2011 from 10:00 a.m. to 11:30 a.m. in the Conference Center.

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 9:18

Mayor

Town Clerk