

**TOWN OF APPLE VALLEY  
TOWN COUNCIL – REGULAR MEETING  
MINUTES – April 8, 2008**

**CALL TO ORDER:**

Mayor Jasper 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: Councilman Nassif; Councilman Roelle; Mayor Pro Tem Sagona; Mayor Jasper. Absent: Councilman Allan.

**CLOSED SESSION**

Mayor Jasper announced that Closed Session would be discussed at the end of the agenda.

**OPENING CEREMONIES**

**INVOCATION**

Pastor Royce Bessera, Church for Whosoever

Pastor Bessera also invited the Town Council and the public to attend that Annual Outreach on Memorial Day in the Mountain Vista area. He stated that they have held the event for the last nine years.

**PLEDGE OF ALLEGIANCE:**

Mayor Pro Tem Sagona led the Pledge of Allegiance

**PRESENTATIONS:**

None.

**SPECIAL ANNOUNCEMENTS:**

None.

**PUBLIC COMMENTS**

Richard Rorex, Apple Valley, commented on the need for Code Enforcement to work on Sundays to enforce codes that are violated during the weekend.

Mayor Jasper noted that Code Enforcement does work on Sundays.

Chuck Hanson, Apple Valley, stated that next month is National Bike Month and he spoke of all the bicycle events that will be taking place.

Paul Hood, Apple Valley, commented on the signage for the road closure at Rancherias Road and Rincon Road. He recommended the signs be relocated so that motorists are aware of the closure before they reach Rancherias Road.

**COUNCILMAN ALLAN ARRIVED AT 6:41 P.M.**

**COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION**

Councilman Nassif stated that he attended the Housing and Economic Summit at the League of California Cities. He spoke of the discussions that took place regarding the state budget. He also commented on legislation being proposed regarding mortgage solutions. He noted that there are two bills currently being proposed that require lenders to notify cities and/or counties if they obtain homes due to foreclosure. He said the bills would also require the city and/or county to maintain the property and be reimbursed for reasonable costs.

Mayor Jasper invited the public to Community Clean-Up Day on Saturday, April 12, 2008. He also spoke of the Disaster Council Meeting and the need to educate the public on the use of emergency calls used to notify residents of disasters.

**TOWN COUNCIL ANNOUNCEMENTS**

**Suggested items for next agenda:**

Mayor Jasper would like to agendaize implementing a Military Banner Program for the Town of Apple Valley.

Mayor Pro Tem Sagona stated that he would like to discuss an exit strategy for the three major capital improvement programs currently being done at Town Hall during the budget workshop.

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

- A. Special Meeting – Monday, April 21, 2008, 1:00 p.m. – Conference Room A**
- B. Special Meeting – Tuesday, April 22, 2008, 4:30 p.m. – Council Chambers**
- C. Regular Meeting – Tuesday, April 22, 2008, 6:30 p.m. – Council Chambers**

**CONSENT AGENDA**

Mayor Pro Tem Sagona asked questions regarding item numbers 5 and 6.

Brad Miller, Town Engineer, briefed the Town Council on the paving that would be done during the construction of Town Center Drive. In reference to agenda item number 6, he stated that the construction for the Kiowa Road Project should begin in June.

Kenneth J. Henderson, Director of Economic and Community Development, answered questions regarding the Property Business Improvement District in the Village Merchant Area. He explained that the PBID would have an elective Board of Directors. He discussed the funding that was given to the district during this process and explained that the amount owed to the Town for the Town's assistance is approximately \$20,000 - \$30,000.

Richard Cambridge, Apple Valley, stated that the assistance to the PBID was a 50/50 agreement and that the Town would match the funds. He asked the Council to verify the amount of funds that they were owed per this agreement.

*After further research on this issue was conducted after the meeting, it was determined that the amount of funds currently owed the Town was \$25,000.*

## **MOTION**

Motion by Councilman Allan, seconded by Mayor Pro Tem Sagona, to approve and adopt the Consent Calendar items numbered 2 – 6, as recommended, and that item number 7 be removed for a separate vote, and item number 8 be removed for discussion.

Vote: Motion carried 5-0-0-0

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Pro Tem Sagona; Mayor Jasper. Absent: None.

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

**A. Regular Meeting – March 25, 2008**

**B. Special Meeting – March 28, 2008**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**3. Adopt Ordinance No. 379, Amending Chapter 6.20 of the Town of Apple Valley Municipal Code Relating to Solid Waste Regulations by Adding Section 6.21 Mandating Participation in the Town's Solid Waste Handling Services Program and Amending Municipal Code Section 6.20.160 0 Making a Violation for Said Chapter a Misdemeanor.**

**Recommendation:**

Adopt Ordinance No. 379

**4. Claimant – Carl E. Huffman**

**Recommendation:**

Reject the claim of Carl E. Huffman.

**5. Accept the Securities and the Agreement for the Construction of Town Center Drive**

**Recommendation:**

That the Town Council approve securities and agreements for the Construction of Town Center Drive subject to approval as to form by the Town Attorney and as to content by the Town Manager.

**6. Review and Approve Construction Specifications for the Kiowa Road Improvement Project, and Authorize Staff to proceed with Advertisement for this Project.**

**Recommendation:**

Review and approve specifications for the Kiowa Road Improvement Project and direct staff to proceed with the project.

**DUE TO A POTENTIAL CONFLICT OF INTEREST, A SEPARATE VOTE WAS TAKEN ON THIS ITEM.**

**7. Professional Services Agreement between the Town of Apple Valley and Edward Henning and Associates**

## **MOTION**

Motion by Councilman Allan, seconded by Mayor Pro Tem Sagona, to authorize the Town Manager to enter into a contract between the Town of Apple Valley and Ed Henning and Associates in an amount not to exceed \$7,500 for the purpose of providing technical assistance to the Apple Valley Village Business Improvement District.

Vote: Motion carried 4-0-1-0

Yes: Councilman Allan; Councilman Roelle; Mayor Pro Tem Sagona; Mayor Jasper. Abstain:  
Councilman Nassif.

### **PULLED FOR DISCUSSION**

#### **8. Approve and Adopt a Resolution in Support of the Mojave Water Agency Regional Recharge and Recovery Project**

Councilman Roelle expressed concern regarding supporting this resolution at this time. He believed that additional information should be obtained on this issue before recommending approval.

Art Bishop, Mojave Water Agency, stated that all high desert communities are voting on this issue at this time, with Apple Valley being the first to place it on the agenda. He spoke on the program that they are working on and noted that Mojave Water had been recharging water since 1972.

Councilman Nassif stated that we need to review this issue regionally and not locally. He stated that he thought it was the appropriate time to discuss this issue.

### **MOTION**

Motion by Councilman Allan, seconded by Councilman Nassif, to approve and adopt Resolution Number 2008-14, supporting the Mojave Water Agency Regional Recharge and Recovery Project ("R-Cubed").

Vote: Motion carried 4-0-0-1

Yes: Councilman Allan; Councilman Nassif; Mayor Pro Tem Sagona; Mayor Jasper. Noes:  
Councilman Roelle.

## **PUBLIC HEARINGS**

**(CONTINUED FROM JANUARY 8, 2008)**

#### **9. A Request Shall be Presented to the Town Council to Amend the Provisions of the Development Code Pertaining to Modifying Regulations for Snipe Signs in the Public Right-Of-Way, Modifying the Residential Kiosk Directional Sign Program and Limiting the Use of Human Operated Signs within Residential Neighborhoods.**

Mayor Jasper opened the public hearing at 7:15 p.m.

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

Councilman Roelle thanked the subcommittee for their work on this issue.

There being no requests to speak, Mayor Jasper closed the public hearing at 7:20 p.m.

### **MOTION**

Motion by Councilman Allan, 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), the project is exempt from environmental review, stating 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, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
2. **Find** the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code, 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. 367 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 367.

### **MOTION**

Motion by Councilman Allan, seconded by Councilman Nassif, to:

5. **Introduce** Ordinance No. 367, amending Chapter 9.74 "Signs and Advertising Displays" of the Development Code as it relates to modifying the regulations for snipe signs within the public right-of-way, modifying the Kiosk Sign Program regulations and limiting human operated signs within the Residential neighborhoods within the Town.
6. **Direct** staff to file a Notice of Exemption.

Vote: Motion carried 5-0-0-0

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Pro Tem Sagona; Mayor Jasper. Noes: None.

## LEGISLATIVE MATTERS

## REPORTS, REQUESTS AND COMMUNICATIONS

### **BUSINESS OF THE COUNCIL**

10. **Introduce Ordinance No. 380, an Ordinance of the Town Council of the Town of Apple Valley Repealing Ordinance No. 14 and relinquishing responsibility for the Enforcement of the Mobile Home Parks Act and Related Regulations to the State of California Housing and Community Development Department.**

Diana McKeen, Municipal Services Manager, presented the staff report as filed with the Town Clerk.

Mayor Pro Tem Sagona expressed concern about the residents who live in Mobilehome Parks. He did not believe that they would receive adequate assistance if needed.

Councilman Allan agreed with the concern expressed by Mayor Pro Tem Sagona. He felt that the residents of the park would not be properly represented if the Town approved this resolution.

Patty Saady, Deputy Town Manager, spoke on the type of enforcement requirements for mobilehomes.

Jim Cox, Town Manager, explained that the cost required to provide mobilehome enforcement exceeds the amount that the state would reimburse the Town. He recommended that the state continue to enforce the rules since they are the ones that set the rules.

Discussion ensued regarding whether or not the Town should be responsible for enforcing the mobilehome parks.

**MOTION**

Motion by Councilman Roelle, seconded by Councilman Nassif, to:

1. **Find** that pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) it can be seen with certainty there is no possibility the adoption of Ordinance No. 380 will have a significant environmental effect, and therefore is not subject to and is Exempt from CEQA;
2. **Waive** the reading of Ordinance No. 380 in its entirety and read by title only;

Additional discussion ensued regarding the rights of the mobilehome residents.

Vote: Motion carried 3-2-0-0

Yes: Councilman Nassif; Councilman Roelle; Mayor Jasper. Abstain: Noes: Councilman Allan; Mayor Pro Tem Sagona.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 380.

**MOTION**

Motion by Councilman Roelle, seconded by Councilman Nassif, to,

3. **Introduce** Ordinance No. 380, an Ordinance of the Town Council of the Town of Apple Valley, California, Repealing Ordinance No. 14 and Relinquishing Responsibility for the Enforcement of the Mobilehome Parks Act and the Special Occupancy Parks Act and Related Regulations to the State of California Housing and Community Development Department; and
4. **Direct** staff to file a Notice of Exemption.

Vote: Motion carried 3-2-0-0

Yes: Councilman Nassif; Councilman Roelle; Mayor Jasper. Abstain: Noes: Councilman Allan; Mayor Pro Tem Sagona.

Councilman Allan stated that he wanted the record to reflect that he would feel more comfortable voting on this issue if the public had been made aware of this issue being discussed tonight.

11. **Award of Professional Services Agreement for Construction Management Services to Swinerton Management and Consulting, for the Town Hall Expansion and Animal Control Facilities.**

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

Mayor Pro Tem Sagona recommended suspending action on this project until after the budget workshop on May 13. He believed that the Council could continue discussing this project at that time.

Richard Cambridge, Apple Valley, questioned why a local company was not retained. He respectfully asked the Town Council to look at local contracts and to also be cautious due to our economic times.

Mr. Henderson explained the bid process that was conducted and noted that the 2<sup>nd</sup> respondent which was a local firm, was approximately \$500,000 more than the 1<sup>st</sup> respondent.

### **MOTION**

Motion by Councilman Nassif, seconded by Councilman Roelle, to authorize staff to negotiate a Professional Services Agreement with Swinerton Management for Construction Management and related services for the Town Hall Expansion Facility and Animal Control Facility and bring back such agreement to the Town Council for review and approval. Further, that staff be authorized to negotiate a Professional Services Agreement with the #2-rated respondent in the event staff is unable to reach agreement with Swinerton Management.

### **MOTION**

Mayor Pro Tem Sagona made an amended motion, seconded by Councilman Allan, to table this matter until after the budget workshop on May 13, 2008 when we have had a chance to examine our financial situation.

Vote: Motion failed 2-3-0-0

Yes: Councilman Allan; Mayor Pro Tem Sagona. Noes: Councilman Nassif; Councilman Roelle; Mayor Jasper.

Councilman Allan stated for the record that he is in support of the animal control facility but not the Town Hall expansion.

### **MOTION**

Motion by Councilman Nassif, seconded by Councilman Roelle, to authorize staff to negotiate a Professional Services Agreement with Swinerton Management for Construction Management and related services for the Town Hall Expansion Facility and Animal Control Facility and bring back such agreement to the Town Council for review and approval. Further, that staff be authorized to negotiate a Professional Services Agreement with the #2-rated respondent in the event staff is unable to reach agreement with Swinerton Management.

Vote: Motion carried 4-1-0-0

Yes: Councilman Allan; Mayor Pro Tem Sagona; Noes: Councilman Nassif; Councilman Roelle; Mayor Jasper. Noes. Mayor Pro Tem Sagona.

Jim Cox, Town Manager, commented on the proposed meeting with the School District to discuss joint use agreements. He spoke of the proposed cutbacks facing the district this fiscal year due to budget constraints. He explained that Superintendent Seevers agreed that a meeting should take place to discuss budget implementations as soon as possible. The preliminary meeting will be held on Tuesday, April 15, 2008 at 9:00 p.m.

Mr. Cox stated that at this time, he was not aware of any board members attending the meeting; however, Council would be informed if a representative was needed.

## **DEPARTMENTAL REPORTS AND BUSINESS:**

### **STAFF REPORTS**

### **CORRESPONDENCE**

## **CLOSED SESSION**

### **1. Closed Session**

#### **MOTION**

Motion by Councilman Sagona, seconded by Councilman Roelle, to adjourn to Closed Session at 7:54 p.m. to discuss the following:

- A. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluation. Titles: Town Manager; Town Attorney.
- B. Negotiations with Real Property Negotiator – Parcel Number: 3087-391-04 located at 13450 Nomwaket Road, Apple Valley; Negotiating Parties: Borges, Edward G and Jean C.; Town Negotiator(s)--Town Manager or Finance Director or Designee. Negotiations involve both price and terms.
- C. Negotiations with Real Property Negotiator – Parcel Number: 3087-391-01 & 02 located at Powhatan and Quinnault Roads, Apple Valley; Negotiating Parties: Carl Jones; Town Negotiator(s) – Town Manager or Finance Director or Designee. Negotiations involve both price and terms.

Upon returning from Closed Session at 8:40 p.m., Mayor Jasper announced that there was no reportable action taken.

## **ADJOURNMENT**

#### **MOTION**

Motion by Councilman Allan, seconded by Councilman Roelle, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:41 p.m.