

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

**COMMEMORATIVE BRICKS ON PUBLIC PROPERTY**

**SUMMARY STATEMENT**

Commemorative bricks have become a popular fundraiser in communities. As a result, courts are wrestling with disputes involving religious expression on public property. Problems occur when there are no narrow, consistent guidelines and inscriptions are subject to review and approval.

When challenged by a lawsuit, research indicates that many of the cities removed the bricks bearing religious messages upon advice of legal counsel. Subsequently, these cities enacted substantive guidelines for commemorative bricks in public places. Not only did these cities prohibit political, religious or profane expressions, but these cities will only permit the names of donors or family members, or "in memory of" and a date commemorating a deceased relative. These guidelines arose from the Court's recommendation in *Tong v. The Chicago Park District*, where the Court explicitly stated that the Chicago Park District could avoid First Amendment challenges to buy-a-brick programs by "limiting inscriptions to names of donors and their immediate family...and by clearly communicating those limitations to potential donors..." In *Tong* the Court found that the Chicago Park District's policy of disallowing all religious or political inscriptions on bricks violated the First Amendment because the District allowed non-religious "commemorative messages." Therefore, the Court found that since the definition of "commemorative messages" was broad enough to allow individuals to express something important to their family, the District could not disallow messages just because what was important to the individuals had a religious theme.

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**Recommended Action:**

Creation of a policy that would limit the inscriptions on all commemorative bricks donated for the Mojave Aquatics Coalition to only allow names and/or dates, as well as firmly establishing the process for review of all brick applications including who determines whether or not a brick application is in compliance.

**Proposed by:** Linda Mayfield, Administrative Analyst

**Item Number** \_\_\_\_\_

**T. M. Approval:** \_\_\_\_\_

**Budgeted Item**  Yes  No  N/A

If the Town's policy was broad or vague enough to allow discretion in creating messages, it would have to permit religious messages, even if they were contrary to faith or from unpopular groups. Donors may see this as an attempt to control what is engraved on bricks. However, without explicit guidelines in place, the Town can be accused of discretionary enforcement when rejecting an unfavorable inscription, especially if the Town does not have a policy in place regarding how messages are approved and who is involved in the approval process. The Town cannot arbitrarily pick and choose on the basis of the content of the message and, therefore, the easiest way to avoid First Amendment challenges is to craft very narrow policies and restrict what may be placed on the bricks to only names or dates. Allowing any type of discretion in creating brick messages, such as allowing the messages to be "commemorative" or "inspirational" would require that all religious messages be allowed on the bricks, even those from unpopular groups.

Attachment:      Brick Application  
                         Outline for Guidelines

## **Brick Pavers Fundraiser**

### **Outline for Guidelines**

1. The Town of Apple Valley will approve the form of the Mojave Aquatics Coalition's brick application.
2. The Town of Apple Valley will produce and deliver to the Mojave Aquatics Coalition adopted guidelines.
3. All brick orders are subject to review and approval by the Town Manager or his designee. All applications will be submitted to the Town Manager by the Mojave Aquatics Coalition for the review process.
4. The Town of Apple Valley will install the bricks and will determine the location of brick placements.
5. The Town of Apple Valley reserves the right to relocate brick pavers when necessary to accommodate expansions, renovations, etc. of Town property.
6. Brick inscriptions may only include the names of businesses or individuals and dates.

**Mojave  
Aquatics  
Coalition**



# **Paving the way for a better way of life**

**Wish you could enjoy the pool all year long?  
You can make this dream a reality!**

# **Brick Pavers Fundraiser**

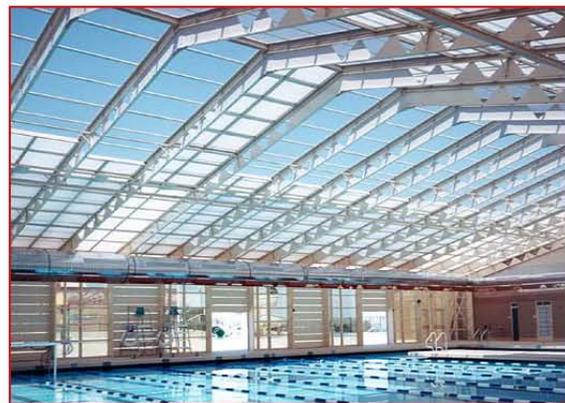
**Purchase a brick today,  
and be a part of tomorrow.**

**4" X 8" size \$65**

**8" X 8" size \$130**

**Brick may only include the names of  
businesses or individuals and dates.  
Placement within the pool site will be  
determined by the Town of Apple  
Valley.**

**Info: 240-6316**



**Funds will help build a  
retractable pool enclosure.**

**With the endorsement  
of the  
Town of Apple Valley**



