

**TOWN OF APPLE VALLEY
TOWN COUNCIL – SPECIAL/REGULAR MEETING
MINUTES – November 18, 2008**

OPENING CEREMONIES

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

CLOSED SESSION

1. Closed Session

MOTION

Motion by Councilman Allan, seconded by Mayor Pro Tem Sagona, to adjourn to Closed Session at 6:31 p.m. to discuss the following:

- A. Negotiations with Real Property Negotiator – Property located at 15200 Rancherias Road, Apple Valley; Negotiating Parties: Lana Dugan; Town Negotiator(s): Town Manager or Finance Director or Designee. Negotiations involve both price and terms of payment.
- B. Negotiations with Real Property Negotiator – Parcel Number: 441-33-01 located at the northwest corner of Dale Evans Parkway and Thunderbird, Apple Valley; Negotiating Parties: Quan and Pellissier; Town Negotiator(s)--Town Manager and Director of Economic and Community or Designee. Negotiations involve both price and terms.
- C. Conference with Legal Counsel-Existing Litigation under Government Code Section 54956.9(a) – Deep Creek Agricultural Association vs. Town of Apple Valley, HDC Group LLC, San Bernardino Superior Court Case No. CIVSS 709146.
- D. Conference with Legal Counsel-Existing Litigation under Government Code Section 54956.9(a) – Yolanda Alkawass, et al. (skyline villa) vs. Town of Apple Valley, San Bernardino Superior Court Case No. CIVSS 804723.
- E. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluation. Title: Town Manager.
- F. Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (b) of the Government Code Section 54956.9 (one or more potential cases).
- G. Conference with Legal Counsel – Anticipated Litigation
Initiation of litigation pursuant to subdivision (c) of Section 54956.9: one case.

Upon returning from Closed Session at 6:50 p.m., Mayor Jasper announced that there was no reportable action taken.

OPENING CEREMONIES

INVOCATION: Pastor Shaun Sloan, Victor Valley Worship Center

PLEDGE OF ALLEGIANCE: Led by Mayor Jasper

PRESENTATIONS:

1. Presentation from Supervisor Brad Mitzelfelt regarding Joint Initiatives and Projects affecting the Town of Apple Valley.
2. Introduction from Apple Valley Fire District Chief Doug Qualls – Laura Whitehead, Emergency Services Officer
3. Certificates of Appreciation – Apple Valley Teen Volunteer Program
4. Commendations to Apple Valley Police Officers and Public Citizen

SPECIAL ANNOUNCEMENTS: None.

PUBLIC COMMENTS

William Furmage, Apple Valley, suggested to the Town Council, locations for a proposed BMX Park.

Jim Kelley, Apple Valley, informed the Town Council of his new business in the community that he believed could benefit the Town of Apple Valley in the maintenance of its vehicles.

Sandra Munson, Apple Valley, thanked the Town Council for their previous support on the denial of the crematorium. She recommended that they continue this support when the item is discussed at a future meeting.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Councilman Roelle thanked Mayor Jasper for his service to the community. He welcomed Ginger Coleman to the Council and thanked his constituents for supporting him this past election.

Councilman Nassif congratulated the candidates who were successful in the election. He also thanked Mayor Jasper for his service on the Council.

Mayor Pro Tem Sagona thanked the past and future Council Members for their attendance at our 20th Anniversary Celebration. He congratulated Ginger Coleman and Councilman Rick Roelle on their successful campaigns. He also thanked Mayor Jasper for his service to the community.

Mayor Jasper also congratulated Councilman Roelle and Ginger Coleman on their success. He discussed the events he attended over the past two weeks.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

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

A. Regular Meeting – Tuesday, December 9, 2008, 6:30 p.m. – Council Chambers

CONSENT AGENDA

Chuck Hanson, Apple Valley, expressed concern regarding the decision to approve the General Plan Amendment that was on the last agenda regarding a proposed multi-project complex.

Mayor Pro Tem Sagona asked questions regarding Item Number 6 on the agenda.

Brad Miller, Town Engineer, answered questions of Mayor Pro Tem Sagona regarding the right turn lane on Highway 18.

MOTION

Motion by Councilman Allan, seconded by Councilman Nassif, to approve the consent calendar items numbered 2, 3, 4, 5, 6, 8, 9, 10, 11 and 12, as presented, and that item number 7 be voted separately.

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 – October 28, 2008

B. Special Meeting – November 12, 2008

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Accept the Final Map for Parcel Map No. 18790

Recommendation:

Move to accept the final map for Parcel Map No. 18790.

4. Release of Securities for Tract map No. 17093-1

Recommendation:

Find that the construction of various improvements required for Tract 17093-1 is complete, and approve the 50% reduction of the performance securities.

5. Review and Approve Construction Specifications for the Reconstruction of Various Town Roads, 2008-2009 Project, and Authorize Staff to Proceed with Advertisement for this Project

Recommendation:

Review and approve specifications for the reconstruction of various Town Roads 2008-2009 Project and direct staff to proceed with the project.

6. Award Contract for Environmental and Design Services of the Highway 18 and Apple Valley Road Intersection Realignment Project

Recommendation:

Award a contract to Dokken Engineering for Environmental Design Services in an amount not to exceed \$417,000 subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

8. **Adopt Ordinance No. 390, An Ordinance Of The Town Council Of The Town Of Apple Valley, California, Amending Title 9 "Development Code" Of The Town Of Apple Valley Municipal Code, By Amending Chapter 9.74 "Signs And Advertising Displays" Of The Development Code As It Relates To Modifying The Regulations For Human-Operated Signage Located Near Access Areas Of Public Safety Facilities Within The Town.**

Recommendation:

Adopt Ordinance No. 390.

9. **A Resolution Of The Town Council Of The Town Of Apple Valley, California, Creating A New Development Code Advisory Committee In Connection With The Comprehensive Update Of The Town's General Plan, And Prescribing The Functions And Duties Thereof**

Recommendation:

Adopt Resolution No. 2008-61 creating a new Town of Apple Valley Development Code Advisory Committee in connection with the comprehensive update of the Town's General Plan and prescribing the functions and duties of said Committee.

10. **Towerco II LLC Wireless Site Agreement**

Recommendation:

That the Town Council approve the transfer of the Lease Agreement from New Cingular to Towerco II LLC, and the Town for the purpose of installing a telecommunication facility at Corwin Park.

11. **Amendment To The Professional Services Contract For The Preparation Of An Update To The General Plan, Annexation Plan For Service And A CEQA Compliant Environmental Impact Report For The General Plan And Annexation.**

Recommendation:

Award the amended professional services contract in the additional amount of \$31,050.00 to Terra Nova Planning and Research, Inc., for professional services for the preparation of an update to the General Plan, Annexation Plan for Service and a CEQA-compliant Environmental Impact Report and Specific Plan, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

12. **Resolution Number 2008-62 Of The Town Council Of The Town Of Apple Valley, California, Amending Resolution No. 2002-43, Amending The Conflict Of Interest Code Pursuant To The Political Reform Act By Reference To The Standard Conflict Of Interest Code Set Forth In Section 18730 Of The Regulations Of The Fair Political Practices Commission As Amended**

Recommendation:

Adopt Resolution Number 2008-62.

7. **General Plan Amendment No. 2007-008 And Zone Change No. 2007-005 To Change The Current Land Use Designation From Single-Family Residential (R-SF, 1 DU 0.4 To 0.9 Net Acres) To Medium Density Residential (R-M, Two (2) To Twenty (20) Dwelling Units Per Acre); And A Corresponding Rezoning Classification From Residential Equestrian (R-EQ, 1 DU Per 0.4 To 0.9 Net Acres) To A Residential Multi-Family (R-M, Two (2) To Twenty (20) Dwelling Units Per Acre) Zoning Classification. The Project Is Located At The Southwest Corner Of Ottawa And Nomwaket Roads; APN(S) 3087-401-02, -03, -04, -05.**

Motion by Councilman Allan, seconded by Councilman Nassif, to adopt Ordinance No. 389.

Vote: Motion carried 3-2-0-0

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

PUBLIC HEARINGS

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

Mayor Jasper noted that Item Number 13 is not a public hearing, and therefore, would be heard under Business of the Council.

13. Five-Year Consolidated Plan Amendment, to Include Neighborhood Stabilization Program (NSP) Funds

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

Discussion ensued regarding ways the funds could be used.

MOTION

Motion by Councilman Roelle, seconded by Councilman Nassif, to approve the proposed amendment to its 2008-2009 Action Plan to incorporate the Neighborhood Stabilization Program; and authorize and direct the Town Manager to execute any necessary contract related documents on behalf of the Town.

Vote: Motion carried 5-0-0-0

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

14. Commemorative Bricks on Public Property

Councilman Roelle made a motion, seconded by Councilman Nassif, to direct staff to create a policy that would broadly protect everyone's first amendment rights, allowing not only names and dates, but all other forms of protected speech as appropriate

Esther Roberts, Mojave Aquatics Coalition, briefed the Town Council on the commemorative bricks program.

Leslie Vaughn, Mojave Aquatics Coalition, clarified comments made by the public regarding the brick program.

Marianna Coleman, Apple Valley, asked for clarification on the proposed motion.

Nancy Hiles, Apple Valley, stated that she supported the position of the Mojave Aquatics Coalition. She stated that there was never a direct intention to deny any one their rights.

Pat Hanson, Apple Valley, commented on religious affiliations.

Vote: Motion carried 5-0-0-0

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

15. Introduce Ordinance No. 391 – An Ordinance of The Town Council of the Town of Apple Valley Amending Chapter 2.60 (Personnel) of Title 2 of the Town of Apple Valley Municipal Code Relating to Compensation of All Town Employees

Frank Robinson, Town Manager, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Councilman Nassif, seconded by Councilman Allan, and unanimously carried, to WAIVE reading of Ordinance 391 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title of Ordinance No. 391.

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, to INTRODUCE Ordinance No. 391 amending Chapter 2.60 (Personnel) of Title 2 of The Town of Apple Valley Municipal Code By Amending Section 2.60.070 Relating to Compensation of Town Employees.

Vote: Motion carried 5-0-0-0

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

16. Proposed Six (6) Month Moratorium Relating to the Town of Apple Valley Sign Code

Frank Robinson, Town Manager, presented the staff report as filed with the Town Clerk.

Holly Noel, Baskin Robbins, spoke on the need to advertise in a professional manner to attract business during tough economic times. She informed the Council that she has experienced a 20% decline in business.

Patricia Woodul, Postnet, also commented on the need to advertise her business in order for it to grow.

MOTION

Motion by Mayor Pro Tem Sagona, seconded by Councilman Nassif, to approve a six month moratorium on the enforcement of the placement of temporary signs on private property of retail business establishments during business hours and authorize the Town Manager to take all necessary steps to implement this action.

Vote: Motion carried 5-0-0-0

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

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Kathie Martin, Public Information Officer, announced the Winter Wonderland Event that will be held on December 6, 2008. She also announced that Target has increased its sponsorship to the Town of Apple Valley to \$24,000 to cover the costs of the Summer Concert Series. She stated that thanks to their support, the series will be extended by an additional week.

Frank Robinson, Town Manager, stated that Victor Valley Wastewater Reclamation Authority (VWVRA) will be giving a presentation to the Town on Tuesday, December 9.

Brad Miller, Town Engineer, commented on the public's concern regarding bicycle paths in Apple Valley. He distributed a map that showed the numerous bicycle paths that the Town has built. He stated that the Town has approximately 30 miles of bicycle lanes.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

1. Closed Session

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, to adjourn to Closed Session at 8:40 p.m. to discuss the following:

- A. Negotiations with Real Property Negotiator – Property located at 15200 Rancherias Road, Apple Valley; Negotiating Parties: Lana Dugan; Town Negotiator(s): Town Manager or Finance Director or Designee. Negotiations involve both price and terms of payment.
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- F. Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (b) of the Government Code Section 54956.9 (one or more potential cases).
- G. Conference with Legal Counsel – Anticipated Litigation
Initiation of litigation pursuant to subdivision (c) of Section 54956.9: one case.

Councilman Allan announced that he had a potential conflict of interest on Items 1A, 1F, 1G and therefore excused himself from discussion of those items.

COUNCILMAN ALLAN WAS EXCUSED FROM THE REMAINDER OF THE MEETING AT 8:50 P.M.

Upon returning from Closed Session at 9:42 p.m., Mayor Jasper announced the following:

Mayor Jasper stated that the Town Council has instructed the Town's legal counsel to initiate litigation to acquire title to the water rights attached to the Apple Valley Country Club.

John Brown, Town Attorney, explained that the Brown Act permits the Town to add items to the agenda when the need to act arose after the posting of the agenda. He explained that the agreements for the purchase of the Country Club were just secured yesterday. He noted that it is important that the Town take action on the Purchase and Sale Agreement and the Interim Management Agreement.

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, and unanimously carried, that there is an immediate need to take action on an item that arose after the posting of the agenda. Motion to add item 17 - Purchase and Sale Agreement and Interim Management Agreement

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Sagona, to approve and adopt the Purchase and Sale Agreement and the Interim Management Agreement for the Apple Valley Country Club.

Vote: Motion carried 4-0-0-1

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

ADJOURNMENT

Motion by Councilman Nassif seconded by Mayor Pro Tem Sagona, and unanimously carried, to adjourn the meeting at 9:45 p.m.

Town Clerk

Mayor