

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

**REGULAR MEETING
MINUTES – April 26, 2011**

OPENING CEREMONIES

CALL TO ORDER:

Mayor Nassif 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: Councilmember Coleman; Councilmember Roelle; Councilmember Emick; Mayor Pro Tem Stanton; Mayor Nassif. Absent: None.

INVOCATION: The invocation was led by Pastor Patrick Foy, United in Christ Baptist Church

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

TOWN COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION

1. Closed Session

MOTION:

Motion by Council Member Coleman, seconded by Council Member Roelle, and unanimously carried to adjourn to Closed Session at 6:33 p.m. to discuss the following:

- A. 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 7:08 p.m. Mayor Nassif announced that there was no reportable action taken.

PUBLIC COMMENTS

Mayor Nassif made an announcement regarding the homeless situation in the Town of Apple Valley.

Reggie Lamson, Rancho Water, announced that a Public Hearing would be held regarding Water Rates on Tuesday, May 3, 2011 at 1:00 p.m. and 7:00 p.m. He recommended that the community attend these hearings.

Pat Hanson, Apple Valley, announced that the bicycle ride would be held next Monday. She stated that the ride would begin at approximately 6:15 p.m. She also questioned the quote that was scheduled to be placed in the Council Chambers.

The following individuals spoke in support of a Homeless Shelter in Apple Valley.

Linda Walters, Apple Valley
Marina Sanchez, Apple Valley
Arthur Laza, Jr., Apple Valley
Steven Diaz, Apple Valley
Ted Cooper, Apple Valley
Debbie Corno, Apple Valley
Jessica Malcas, Apple Valley
Maria Sampson, Apple Valley
Gary Malcas, Apple Valley
Pastor Royce Bessera, Church for Whosoever
Sharon Roberts, Apple Valley

William Furnage, Apple Valley, thanked the Town Council for the bicycle park. He looks forward to the second phase of the bicycle park.

APPLE VALLEY CHAMBER OF COMMERCE – BUSINESS RETENTION UPDATE

Jim Gutierrez, Apple Valley Chamber of Commerce, spoke of upcoming events in the Town of Apple Valley. He commented on the Apple Valley Chamber luncheon held last week where they hosted the Student of the Semester Program. He stated there were eight students that were recognized for their excellent scholastic achievement. He also commented on their continued efforts to assist the Village Property owners with their marketing goals on Face Book. He thanked the Council for their continued support.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Mayor Pro Tem Stanton commented on her attendance at the Victor Valley Transit Authority Meeting where discussions held included the budget. She recommended that the Transportation Authority begin printing the warrants in the agenda. She also commented on her attendance at various other meetings including Victor Valley Wastewater Reclamation Authority Meeting where discussions held include the process of moving, cleaning and re-using water and the High Desert Republican Women Federated Meeting where Mayor Nassif was a guest speaker.

Mayor Pro Tem Stanton commented on her attendance at the luncheons for Apple Valley Chamber of Commerce and the Hispanic Chamber of Commerce. She briefly commented on the history of National Denim Day.

Council Member Emick commented on his attendance at the PBID Meeting and the beginning of Phase II. He recognized the Apple Valley Chamber of Commerce for their work with PBID. He also commented on his attendance at the Victor Valley Economic Development Authority Meeting.

Council Member Emick commented on Southern California Aviation where approximately 2,500 jobs will become available to the community.

Council Member Coleman commented on her attendance at various meetings including San Bernardino Association of Governments (SANBAG) Mountain Desert Measure I Committee Meeting and the Regional Housing Needs Assessment Sub-Committee Meeting. She also commented on her attendance at the LAFCO Meeting where the Board approved the annexation Specific Plan and the League Desert Mountain Meeting where a presentation was

made on the Public Safety Training Center. Council Member Coleman stated that she attended the ribbon cutting ceremony for skate park/bicycle park.

Mayor Nassif commented on his attendance at various meetings including the Desert Mountain Division League of California Cities Meeting where discussions held included the budget process in California. He also commented on his attendance at the Victor Valley Wastewater Reclamation Authority Meeting where discussions were held concerning the mitigation efforts in the river.

He also commented on his attendance at the luncheons for the Hispanic Chamber of Commerce and Apple Valley Chamber of Commerce.

TOWN COUNCIL ANNOUNCEMENTS

Mayor Nassif requested an item be added to a future agenda regarding the skate park/bicycle park and the options available to enforce the use of safety equipment.

Mayor Pro Tem Stanton would like an item to be added to the agenda regarding E-verify. She would like to use E-verify for businesses. She announced that an item on Group Homes will be on a future agenda.

Suggested items for next agenda:

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

A. Regular Meeting – Tuesday, May 10, 2011, 6:30 p.m. – Council Chambers

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

Mayor Pro Tem Stanton asked a question regarding Agenda Item Number 5.

Marc Puckett, Director of Finance, explained the use and funding for the Homeland Security Grant.

Motion by Council Member Coleman, seconded by Mayor Pro Tem Stanton, and unanimously carried, to approve and adopt the Consent Calendar items numbered 2 – 11, as presented.

Vote: Motion carried 5-0-0-0

Yes: Councilmembers Coleman; Emick; Roelle; Mayor Pro Tem Stanton; Mayor Nassif. Abstain: None. Absent: None.

2. Approval of Minutes of the Town Council

A. Regular Meeting – April 12, 2011

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Claimant – Barbara Sayed

Recommendation:

Reject the claim of Barbara Sayed

- 4. Adopt a Resolution Urging the Citizens Redistricting Commission to Keep the High Desert Region Unified**
Recommendation:
That the Town Council Adopt Resolution No. 2011-12.
- 5. Fiscal Year 2009 and 2010 Homeland Security Grant Program**
Recommendation:
 1. Approve acceptance of the FY09 HSG Program funds in the amount of \$22,470 and FY10 HSG Program funds in the amount of \$36,927,
 2. Authorize the Town Manager to sign the Sub-recipient Grant Agreements, and
 3. Adopt the attached Budget Amendment Number 11-34 appropriating the grant funding.
- 6. Fee Waiver Request for the American Cancer Society Relay for Life on June 25-26, 2011.**
Recommendation:
For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$2608 and Special Event Permit fee of \$49 for the American Cancer Society, totaling \$2657.
- 7. Southern California Edison's Request of Easement**
Recommendation:
That the Town Council approve Southern California Edison's Grant of Easement request.
- 8. Review And Approve Construction Specifications For The Slurry/Micro Seal 2010-11 Project, Appropriate Funds, And Authorize Staff To Proceed With Advertisement For This Project.**
Recommendation:
 1. Review and approve specifications for the Slurry/Micro Seal 2010-11 Project and direct staff to proceed with the project.
 2. Approve BA 11-35 appropriating \$1,000,000 into project account # 2020-5210-9525-0000.
- 9. Approve and Authorize an Agreement with San Bernardino County Department of Public Works for Final Design of Yates Road, Right-of-Way Design, Acquisition, and Capital, within County Jurisdictional Area**
Recommendation:
That the Town Council approve the Agreement with San Bernardino County Department of Public Works for Final Design of Yates Road, Right-of-Way Design, Acquisition and Capital within the County Jurisdictional Area, subject to approval as to form by the Town Attorney and as to content by the Town Manager.
- 10. Accept and Approve Agreement Reached with Property Owners for Acquisition of Road Right-Of-Way and Construction Easements for the Yucca Loma Road/ Yates Road/ Green Tree Blvd. Corridor Project**
Recommendation:
Approve and accept the acquisition agreements and authorize the Town Manager or Town Engineer to execute the Agreement and proceed with all necessary documents in connection therewith.

11. **Resolution No. 2011-01, A Resolution of The Redevelopment Agency of the Town of Apple Valley Providing for Payment of its Supplemental Educational Revenue Augmentation Fund (SERAF) Obligation for Fiscal Year 2010-2011 with funds from the Redevelopment Agency's Set-Aside Funds.**

Recommendation:

That the Redevelopment Agency of the Town of Apple Valley adopt Resolution No.2011-01, a Resolution providing for payment of its SERAF obligation for fiscal year 2010-2011 with funds from the Redevelopment Agency's housing set-aside funds totaling \$777,273 consisting of \$401,767 for the Apple Valley VVEDA Project Area No. 1 and \$375,506 for Apple Valley Project Area No. 2.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

It was the consensus of the Town Council that Item Number 13 be heard at this time.

13. **Wal-Mart Initiative Petition**

Council Member Emick stated that after speaking with the Town Attorney, he believed that he could have a potential conflict of interest and therefore excused himself from discussion of this item.

COUNCIL MEMBER EMICK WAS EXCUSED FROM THE DAIS AT 8:02 P.M.

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

Mayor Pro Tem Stanton questioned why the initiative was changed to a Specific Plan when it was presented to the voters.

Aaron Rios, Senior Manager of Public Affairs for Wal-Mart, explained that Wal-Mart elected to change the initiative to a Specific Plan in order to ensure that all of the mitigation measures and conditions of approval by the Planning Commission were included in the Specific Plan which became an attachment to the initiative.

Mr. Rios answered questions from the Council regarding Wal-Mart's security process as well as their efforts with the up keep of trash outside of the store. He stated that Wal-Mart was not prepared to pay for the election costs.

Donovan Collier, Wal-Mart Council, reiterated the comments made by Mr. Rios. He stated that the concept was to bring forward one package that was very specific to the needs to develop the property.

Mr. Henderson clarified that after discussions with the Town Attorney's office, the staff recommended motion should read to **"adopt"** the ordinance and not introduce.

Mayor Nassif read into the record a letter submitted by Mr. Pat Orr, Proponent.

The following individuals spoke in support of the project.

Alberta Ruthrauff, Apple Valley
Clint Air, Apple Valley
James Nickerson, Apple Valley
Elaine Childres, Apple Valley
Mel Futrell, Apple Valley
Richard Rorex, Apple Valley
Keith Melvin, Apple Valley
Marshall Hice, Apple Valley
Rick Cambridge, Apple Valley
Christopher Nolar, Apple Valley
Carmen Gutierrez, Apple Valley
Sean Lutterman, Phelan

The following individuals spoke in opposition of the project.

John Putko, Apple Valley
Joseph Fernando, Apple Valley
Richard Turnbull, Apple Valley
Barbara Davisson, Apple Valley
Sharon Whittle, Apple Valley
Chris Bush, Adelanto
Bob Sagona, Apple Valley

The following individuals made general comments regarding the project.

Milt Holland, Apple Valley
William Furmage, Apple Valley

Mr. Henderson commented on the number of similar businesses in Apple Valley that offer friendly competition.

Council Member Coleman commented on her belief and support for Wal-Mart.

Mayor Pro Tem Stanton also spoke in support of Wal-Mart. She felt that the community would benefit from the competitive shopping offered by Wal-Mart. She thanked staff for their vision and the growth they have brought to the Town.

Mayor Nassif also spoke in support of Wal-Mart. He believed that the project would help to create growth as well as job opportunities for the community. He commented on the importance of shopping locally.

Aaron Rios, Senior Manager of Public Affairs for Wal-Mart, answered questions from the Council regarding the bidding process and the ability for local companies to obtain contracts.

MOTION

Motion by Council Member Coleman, seconded by Mayor Nassif to adopt Ordinance No. 420 to approve project as represented in the initiative without alteration.

Vote: Motion carried 3-1-0-1

Yes: Council Members Coleman; Mayor Pro Tem Stanton; Mayor Nassif. Noes: Council Member Roelle; Abstain: None. Absent: Council Member Emick.

RECESS MEETING

Mayor Nassif recessed the meeting of the Apple Valley Town Council at 9:32 p.m.

RECONVENED MEETING

Mayor Nassif reconvened the meeting of the Apple Valley Town Council at 9:50 p.m.

PUBLIC HEARINGS

12. Adoption of Ordinance No. 419, Modifying Chapter 6.20 of the Town of Apple Valley Municipal Code, Solid Waste Regulations.

Diana McKeen, Environmental and Regulatory Compliance Manager, presented the staff report as filed with the Town Clerk.

Mayor Nassif opened the public hearing at 10:51 p.m.

There being no requests to speak, Mayor Nassif closed the public hearing at 10:52 p.m.

MOTION

Motion by Council Member Roelle, seconded by Council Member Coleman, and unanimously carried, to waive the reading of Ordinance No. 419 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 419.

MOTION

Motion by Council Member Roelle, seconded by Council Member Coleman, to introduce Ordinance No. 419, amending Chapter 6.20 of the Town of Apple Valley Municipal Code regarding solid waste and recycling.

Vote: Motion carried 5-0-0-0

Yes: Councilmembers Coleman; Emick; Roelle; Mayor Pro Tem Stanton; Mayor Nassif.

Abstain: None. Absent: None.

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

14. Discussion of Establishing a Set-Time on the RDA/Town Council Regular Agenda for Closed Session Matters

Council Member Roelle presented the staff report as filed with the Town Clerk. Discussion ensued regarding this item.

Bob Sagona, Apple Valley, recommended that Redevelopment Agenda items be separated from Town Council items on the agenda.

It was the consensus of the Town Council to direct staff to prepare an item amending the Rules of Procedure allowing the Council to hear Closed Session items at 5:00 p.m. and the remainder of the agenda to be heard at 6:30 p.m.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on his attendance at the Blue Ribbon Water Committee and the discussions that were held by both the committee members and members of Best, Best & Krieger.

Mr. Robinson provided the Council with an update regarding legislative issues and budgetary matters.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

TOWN COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION

MOTION

Motion by Council Member Roelle, seconded by Council Member Emick, and unanimously carried, to adjourn to Closed Session at 10:15 to discuss the following:

- B. Negotiations with Real Property Negotiator – Property located at 15200 Rancherias Road, Apple Valley; Negotiating Parties: David Tolsma, President, Apple Valley Country Club; Town Negotiator(s): Town Manager or Finance Director or Designee. Negotiations involve both price and terms of payment.
- C. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluations. Title: Town Manager.

Council Member Coleman stated that she had a potential conflict of interest on Item 1B and, therefore, would not be participating in Closed Session discussions on that item.

Upon returning from Closed Session at 11:22 p.m., Mayor Nassif announced that there was no reportable action.

ADJOURNMENT

Motion by Councilmember Coleman, seconded by Mayor Pro Tem Stanton, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 11:23 p.m.

Town Clerk

Mayor

