

**TOWN OF YUCCA VALLEY  
TOWN COUNCIL MEETING MINUTES  
September 13, 2007**

Mayor Neeb called the regular meeting of the Town of Yucca Valley Council to order at 6:00 p.m.

Council Members Present: Herbel, Leone, Luckino, Mayes, and Mayor Neeb.

Staff Present: Town Manager Takata, Town Attorney Silvergleid, Deputy Town Manager Stueckle, Administrative Services Director Yakimow, Community Development Director Best, Community Services Director Schooler, Lt. Willis, and Town Clerk Anderson

**PLEDGE OF ALLEGIANCE**

Led by Council Member Herbel

**APPROVAL OF AGENDA**

Council Member Leone moved to approve the agenda. Council Member Luckino seconded. Motion carried 5-0 on a voice vote.

**CONSENT AGENDA**

1. **Approve**, Regular Town Council Meeting Minutes of August 23, 2007 as presented.
2. **Waive**, further reading of all ordinances (if any in the agenda) and read by title only.
3. **Appoint**, Garrett Alpin, Lauren Bushong, Krystal Geeson, Olivia Geeson, Riley Geeson, Joey Jackson, Kelsey Licata, Tanner Littrell, Brent Murphy, Ariana Rodriguez, Megan Stueckle, Samatha Stueckle, Katey Webb and William Wingate to the 2007-08 Youth Commission, as recommended by the Parks, Recreation and Cultural Commission, and authorize the PRCC to review applications and make future provisional appointments on behalf of the Council, subject to Council ratification
4. **Appoint**, Tanner McGuire to the Town of Yucca Valley's Public Art Advisory Committee.
5. **Accept**, construction of Town Wide Slurry Seal Improvements, Town Project No. 8340 by Pavement Coatings Company, Inc. as substantially complete; **authorize**, Town staff to file the Notice of Completion with the county recorder; and **authorize**, staff to release retention monies due the contractor thirty-five (35) calendar days after recordation of the Notice of Completion.

7. **Ratify**, Warrant Registers in the amount of \$484,677.42 for expenses dated August 17, 2007 through August 31, 2007.

**AYES:** Council Member Leone, Luckino, Mayes, and Mayor Neeb.  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**6. Budget Amendment, September 2007 Storm Event, Catastrophic Events Reserve Fund**

Deputy Town Manager Stueckle advised that portions of the Town experienced a short duration high intensity rain storm on Saturday, September 1<sup>st</sup>, causing the need for removal of a large amount of sand and debris, followed by street sweeping. The Council has established a reserve fund to provide financial resources for catastrophic events such as floods, fires and earthquakes.

Council Member Luckino questioned if the need for additional funds would be eliminated if the Town had a better flood control infrastructure. Deputy Town Manager Stueckle advised the Town has a Master Plan of Drainage that contains 7 detention / debris basins, that play a significant role in capturing storm water, sand, silt, and debris and retaining water and letting it out at slower pace. As the system is developed, down stream debris problems will begin to be reduced, but the street system will always to be a conveyance system for storm water runoff and will always suffer some degree of sand deposits. Council Member Luckino urged that funds be allocated to the Surface Water Master Plan. Town Manager Takata stated that item is not on the agenda, so Council would have to request that the item be brought back. Council Member Luckino made the request.

Council Member Mayes questioned the amount of money that would be needed to deal with an earthquake. Deputy Town Manager Stueckle advised it would vary on a number of factors, pointing out that the 7.7 Landers earthquake in 1992 caused very little damage to the Town's infrastructure. Town Manager Takata added that many times the Town would receive funding from FEMA in the case of a flood and/or earthquake.

Mayor Neeb questioned the status of the flood master plan. Town Manager Takata advised it was in the top 10, and as soon as the Town receives the other two master plans back, staff will be coming back to discuss the animal shelter, etc. and then some of the capital improvement monies can be allocated.

Council Member Herbel commented it is her understanding that the County owns the wash basins and has responsibility for them, not the Town. Deputy Town Manager Stueckle advised that is correct.

Council Member Mayes moved to amend the 2007/2008 FY Budget, appropriating \$150,000.00 from the Catastrophic Events Reserve Fund and establish Public Works – Professional Services line item (001 55-59 7110) in that amount. Council Member Leone seconded. Motion carried 5-0 on a roll call vote.

Council Member Luckino requested a future agenda item to reallocate funds for flood control. Council Member Leone agreed that it should be placed on the agenda for future discussion.

**AYES:** Council Member Leone, Luckino, Mayes, and Mayor Neeb.  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**DEPARTMENT REPORTS**

**8. Public Art Exhibition Proposal**

Community Services Director Schooler reported the Town has been offered an opportunity to participate as a co-sponsor or patron of a marble sculpting exhibition planned in conjunction with the upcoming Desert Arts Festival. The proposal is that the Town either waives permit fees and requirements for the sculpting exhibition and includes the event under Town insurance, or participates as a patron whereby the Town would commission and own the finished artwork as part of the public art program. The sculptor is Mr. John Fisher, a world class artist with commissions in notable places around the world. The stone comes from the same quarry as stone that Michelangelo used for his sculpture.

**Charles McHenry**, Yucca Valley, encouraged the Town to come up with the funding to commission the sculpture, but expressed concern regarding the proposed location.

**Ramon Mendoza**, Yucca Valley, spoke in support of the proposal, noting if the Town does involve itself in public art such as this, the process should be open and competitive.

**Linda Schrader**, Yucca Valley, spoke in favor of the project.

Council Member Leone commented that he would agree with the first recommendation to co-sponsor the exhibition by waiving permit fees.

Council Member Luckino expressed concern regarding the cost and questioned the economic benefit to the community if the Council starts investing in the arts community. Mr. Mueller suggested that the council invite Linda Schrader to make a presentation at a future meeting. Ms. Schrader advised that the American for the Arts website shows how to create an economic study in your community, noting that she will donate her time and

look into that process.

Council Member Herbel questioned how to capture visitors to Joshua Tree National Park to make them stop and spend their money in Yucca Valley. Mr. Mueller advised the Town will get a lot of press as co-sponsors, and added that the Old Town property owners are happy to have this event here, and they will be setting up shade shelters for people to watch. The sculpturing process event could generate a lot of interest both locally and outside the town. Council Member Herbel expressed support to participate as an event patron and find the \$17,600 to commission this work.

Mayor Neeb commented that Town beautification is critical to Yucca Valley development, noting that one sculpture will not change us, but will start a pattern of change. Expressed concern there isn't more time in order to select a subject, and questioned whether or not other artists have been given a fair opportunity.

Council Member Mayes commented that a public art is important but the question is who should pay for it, and what kind of public benefit the Town would get. In regards to the budgeting process, he suggested if public art is important the Council should set aside a certain amount and have the Public Arts Advisory Committee commission art. He questioned if this is something that should be postponed until the Old Town Specific Plan is completed. Mr. Muller advised that Mr. Fisher has stone stored at his facility and wants to come up here to carve it. Mr. Mueller came up with the idea to do it in coordination with the arts tour, and it was on the Mayor's suggestion that he proposed that the Town might want to be a patron of this project.

Mayor Neeb advised he heard about the issue through Community Services Director Schooler and thought it sounded like a good idea, however he is not sure if there is enough time to let this fully sink in. He questioned the costs of major art pieces. Community Services Director Schooler advised it does seem to be a bargain at \$17,000 for this piece. Mayor Neeb advised he thought this would be a worthwhile discussion for our Town.

Council Member Herbel questioned if there are funds available. Town Manager Takata recommended funds be taken out of the contingency fund.

Council Member Mayes questioned if it is possible for the Town to purchase art for its investment portfolio. Town Attorney Silvergleid stated that it is appropriate if the Town gets an appraisal on the piece. Council Member Mayes questioned if it would be possible to sell the piece for the amount put into it if necessary, noting the thought of expending \$17,000 is difficult, but if it is possible to take the cash and apply it to something else that has the same value, then it is appropriate to make that transaction.

Mayor Neeb questioned if the matter would come back to Council at the next meeting if approved. Town Manager Takata suggested that two members of the Council work with

Staff and Mr. Mueller due to the short time period.

Council Member Mayes commented that he feels that other artists will pick up on this if the Council allocates the resources, and noted this needs to be an exception, but because of the circumstances, it is appropriate. If there are plans to do this in the future, there should be a line item in the budget, and the Public Arts Advisory Committee should make the decision.

Council Member Herbel moved to approve Town participation in the event as a patron, and the allocation of contingency funds in the amount of \$17,600, to include the costs of the commission and event insurance. Council Member Mayes seconded. Motion carried 5-0 on a roll call vote.

- AYES:** Council Member Leone, Luckino, Mayes, and Mayor Neeb.
- NOES:** None
- ABSTAIN:** None
- ABSENT:** None

**8A. Facility Use agreement - Hi Desert Aquatics.**

Community Services Director Schooler advised the Hi Desert Aquatics Team contacted the Town and requested use of the pool for the fall. Under a pervious understanding with the Town, the Team is required to pay the cost of chemicals and heating incurred in the months during which it was the only user of the pool, and a pro rated amount during months of multiple user groups. The team also paid a monthly user fee based on the number of swimmers. In response to this request, staff entered into discussions with the team officials about the organization’s ability to address a delinquency in previous billings prior to incurring additional expense this fall. They have responded by making a significant payment on the balance and by working with staff to defer community partnership funds toward the debt. The draft agreement requires specific action toward resolving the remaining indebtedness within a year.

**Martha Ostrander**, Representing Hi Desert Aquatics, Inc. advised they are expecting to have 25 swimmers through the fall and winter. The team has done a tremendous job developing their skills, and 5 of them qualified for the Junior Olympics.

Council Member Luckino questioned if the team can pay the remaining \$12,000 in arrears. Ms. Ostrander advised the board is planning fund raisers.

Mayor Neeb questioned if it would be prudent to go to the end of the fall season to see how successful their fund raising is, noting he would like to see them continue the program, but doesn’t know how far to go without checking on their ability to pay.

Council Member Mayes commented he does have some concern about the unpaid

balance, and questioned if the fees for Hi Desert Aquatics is on the same scale as other activities. Community Services Director Schooler commented if the swim team was not using the pool, the Town would not have the chemical and heating expense, they are the only users at that time.

Council Member Luckino moved to approve the facilities use agreement between the Town of Yucca Valley and Hi Desert Aquatics, Inc. Council Member Herbel seconded. Motion carried 5-0 on a roll call vote.

- AYES:** Council Member Leone, Luckino, Mayes, and Mayor Neeb.
- NOES:** None
- ABSTAIN:** None
- ABSENT:** None

**POLICY DISCUSSION**

**9. Policy Discussion and Direction Posting Speed Signs on Private Dirt Roads.**

Deputy Town Manager Stueckle stated this item is a Council request for consideration of placing some form of regulatory or warning signs on non maintained dirt roads. Gave the background of the matter.. Key issues which must be evaluated as part of consideration of taking actions on non-maintained roads include trespass, gift of public funds, dominion and control, performing maintenance on roads not in the maintained system, and increased risk exposure. There are approximately 100 miles of unpaved, non-maintained roads within the Town limits. A significant portion of those roads are private property. Indication from PARSAC is there is a potential for increased risk or liability if the Town takes actions on the dirt roads.

**Bill Souder**, Yucca Valley, advised that he lives on a dirt road in Rancho Mesa and they maintain them privately. They would like a lower speed limit on those roads. He encouraged the Council to try to find a way to post and enforce a lower speed limit.

**Charles McHenry**, Yucca Valley, commented that putting speed limit signs on non maintained roads would be a good intention with bad results, and expressed concern about assuming the liability on the roads.

**Ramon Mendoza**, Yucca Valley, suggested placing signs stating the roads are private roads, don't raise dust, and please travel at safe speeds.

**Darril Becker**, Yucca Valley, questioned if there is a mandated speed limit within the County as a whole, and whether the Town is considering the idea because it was decided by the County in the past.

Deputy Town Manager Stueckle advised this is a Council policy discussion and not based on anything in the County. This is strictly a policy discussion in regard to this community. The Vehicle Code states that where no radar speed survey is done, the speed limit is not posted, and as long as the speed is safe, the limit is 55 mph.

Council Member Leone commented this has been issue for a long time noting he lives on a dirt road but does not own it. If someone gets into an accident it is not his responsibility because it is for public use, and he can't do anything with it. This request is basically for health and safety reason for residents who live on dirt roads. An un-posted road has a speed limit of 55 mph, but there are also common sense rules dealing with blind intersections. He proposes having 15 mph speed signs at these intersections. The residents do not want to have the roads maintained, just posted for health and safety reasons. He noted the Police Department will not cite for going over the speed limit if the road is not posted, and added that a posted speed limit is the maximum speed one can drive under ideal conditions. The Mojave Desert Air Quality Management District will pay for the signs, so there will be no cost to the Town.

Council Member Luckino questioned if it is possible to place signs where Town owned and maintained streets end and dirt roads start. Deputy Town Manager Stueckle advised that the common placement of signs by jurisdictions where maintained roads end is something to the effect of "end of maintained road system". Council Member Luckino questioned if a speed limit sign could be placed at the end of the maintained road before the dirt road begins. Deputy Town Manager Stueckle advised the sign would have no legal standing. Town Attorney Silvergleid agreed.

Council Member Mayes stated he feels the Council wants to be able to put speed limits on dirt roads, but the question is whether the liability would be too great for the Town to assume.. Stated the Vehicle Code speed limit of 15 mph does apply to dirt roads, and questioned where the prima facia speed limit comes into play. Town Attorney Silvergleid advised at blind intersections. Council Member Mayes commented regarding the provision of immunity pursuant to Government Code Section 831.4 for a road that provides access to fishing, hunting, camping, hiking, riding, water sports, recreational or scenic areas, and questioned if the Council could establish findings the dirt roads provide access to hunting. Town Attorney Silvergleid advised that would be a little difficult.

Council Member Herbel commented regarding the Appellate Court decision listed in the staff report, noting she interpreted it to mean that the liability might not be increased as long as the road is not being made any worse than it was before. She can not see that putting up signs would make a road any worse than it was. Town Attorney Silvergleid explained dominion and control, noting the odds are if somebody was paralyzed in an accident where the Town had exercised some dominion and control, the case would have significant settlement value.

Mayor Neeb questioned what would happen if the Town accepted dedication of the roads

but did not take the roads into the maintained system. Town Attorney Silvergleid stated if the Town exercised some dominion and control it would lose its absolute immunity even if the road was not in the maintained system.

Council Member Leone questioned if roads can be taken into the system where they are not maintained but safety devices can be put up without increasing the liability. Town Attorney Silvergleid advised that if a road has been taken into the maintained system, the Town has an obligation to maintain the road in a appropriate manner. It becomes a question of fact, such as whether or not proper engineering studies were performed. The issue is a matter of increased liability. Council Member Leone advised he is just advocating speed limits at blind intersections. Town Attorney Silvergleid advised that the Council has adopted a resolution allowing the California Vehicle Code to be enforced on dirt roads, so speed limits on dirt roads would be applicable. Council Member Leone commented that the Sheriff's office can not enforce the speed limit unless the road is posted. Lt. Willis advised that the California Vehicle Code applies. The estimated speed would be based on observations by the Officer at the time. Council Member Leone commented there wouldn't have to be a survey on intersections because they are blind.

Council Member Luckino commented this is a liability issue, and the Town has to come to grips with the long term issue, which is bringing all the roads into the maintained system. Council has a responsibility and in the long term has to figure out a funding mechanism to maintain them.

Council Member Mayes questioned the Town's liability on the maintained roads. Town Attorney Silvergleid advised it assumes full responsibility, but if the roads have been maintained properly the liability is mitigated. The Town is not responsible for insuring that no accidents occur. Council Member Mayes questioned the increased liability in taking in the un-maintained roads, if the Town is willing to take on liability for maintained roads. Town Attorney Silvergleid advised the dirt roads would have to be maintained at a certain level. Deputy Town Manager Stueckle advised there is a significant difference between existing conditions on dirt roads and paved roads. All the actions on the maintained system are created through engineering studies of one form or another. If the non maintained roads are not approached in that same fashion the risk exposure is increased dramatically. Council Member Mayes questioned if PARSAC would provide coverage and if the Town was found to be liable would the cost of insurance go up, and what that cost would that be. Town Attorney Silvergleid advised that PARSAC has advised that if the road was burdened by an offer, it would be covered,, but as with any insurance, if there are more claims, the insurance premiums would increase.

Mayor Neeb stated he likes Mr. Mendoza's idea for signs. Town Attorney Silvergleid advised that signs could be placed at the beginning of the non maintained roads stating that the roads are not maintained by the Town of Yucca Valley, and the property owners could put up cautionary signs.

Council Member Leone proposed that certain roads be surveyed for traffic and implied consent of dedication. He stated this is an issue of safety and the Town is short changing people, as far as safety and health reasons, for those on dirt roads. It is a matter of people getting their fair share for the taxes they are paying.

Council Member Mayes requested help forming a motion noting he does feel there are a few dirt roads in the community where speed limit signs could be put up after performing a survey, on a case by case basis. Town Manager Takata advised that he and Deputy Town Manager Stueckle have discussed the possibility of looking at some major arterials in the dirt road areas and bringing some of them into the maintained system that the Town could pave, however at this time Staff does not have answers as far as the cost to do that and can bring that issue back in the future. Council Member Mayes commented that maybe that could apply in some areas, if the Council had a policy in place where the Town would look at certain areas.

Council Member Luckino advised he likes the staff recommendation to look at the major arterials within the dirt road system, noting it would accomplish Council Member Mayes objective of not taking them all in, but at least looking at the main arterials. Town Attorney Silvergleid noted there would also be a set of standards for taking the major dirt arterials into the system. Town Manager Takata added there is always the possibility of assessment districts that residents could choose if they want.

Deputy Town Manager Stueckle stated that what staff has laid out this evening is a policy for Council to consider. Council Member Mayes stated as a Council Member he does not feel the Town can take on the liability for all of the dirt roads, but maybe it can take on some on a case by case basis.

Council Member Luckino moved staff's recommendation to look at the dirt roads that could be taken into the maintained system but remain as dirt roads. Council Member Mayes seconded. Motion carried 5-0 on a voice vote.

## **PUBLIC COMMENT**

**Bill Souder**, Yucca Valley, advised of the Lighting Conference and Starry Nights Festival, and Sky's the Limit groundbreaking coming up at the end of month.

**Charles McHenry**, Yucca Valley, commented regarding the widening of Acoma Trail and the effect on home owners. Questioned what the Town will do to compensate those property owners for their lost property and landscaping.

**Ramon Mendoza**, Yucca Valley, commented regarding the need to get legislation to allow the Town to solve the dirt road issues.

**Darril Becker**, Yucca Mesa, commented regarding a request to have a street light placed west of Hilton across from the Arco station.

**STAFF REPORTS AND COMMENTS**

Town Manager Takata commended the Public Works crew for the wonderful job they did cleaning the streets after the last storm. Advised that the Home Depot opening will be on October 25<sup>th</sup>, and advised that staff did forward Council’s request to carry lights that will comply with the Town’s night sky ordinance.

Deputy Town Manager Stueckle commented regarding the road widening on Acoma, noting that the decision to widen Acoma was not made a few years ago with the subdivision approval, it was made over the course of a 3 ½ year period with the General Plan Advisory Committee. Identification of Acoma needing to be 4 lanes has existed since adoption of the general plan. There was either a preexisting easement or the current owner granted an easement. The two properties mentioned had pre-existing easements when the homes were built.

**MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS**

**10. Council Member Herbel**

Applauded Council for taking the step to commission a work of art, noting it shows the Town is being progressive and looking at tourism as an economic engine. Thanked Mr. Mueller for attending the meeting and for the money he is putting into the project.

Thanked Bill Souder for putting together the Lighting Conference.

Reported regarding attendance at the League of California Cities Meeting in Sacramento, where much of the discussion centered on climate change. Requested that the Town look into a “green” building ordinance.

Thanked her mom and brother for attending the meeting.

**11. Mayor Pro Tem Leone**

Stated he was not happy with the results of speeds on dirt roads discussion tonight, and read a portion of 1998 memorandum from the Town Attorney regarding dirt road maintenance, and a paragraph regarding implied common law dedication.

**12. Council Member Luckino**

Echoed Town Manager Takata’s comments about the street crew and staff, and noted that both he and Deputy Town Manager Stueckle were on top of the situation assessing damage.

Commented regarding the importance of being proactive regarding the flooding issue.

Requested that staff reach out to Copper Mountain College and set up communications to see how the Town and College can work together as a partnership in response to Dr. Husing's comments regarding the small percentage of basin residents going on to college.

Reported regarding attendance at the League of California Cities Annual Conference in Sacramento along with Mayor Neeb, Council Member Mayes and Council Member Herbel. Noted that the Mayor was the voting representative. The workshops were all informative, and as always it was a good experience.

**13. Council Member Mayes**

Commended staff, noting the Town Manager was just saying what a blessing it is to work with the staff here. There is cohesiveness here with staff and the morale is very strong. Thanked them for all their hard work.

Reported that he had the honor of being able to meet and sit down with Attorney General Jerry Brown, while attending the League meeting last week. He was very interesting.

Suggested the Council look at the Development Code and a way to address citizens when they come before the Planning Department, to find a way to streamline the process and make it more user friendly.

Council Member Mayes requested that a meeting be set up with Caltrans in the near future.

**14. Mayor Neeb**

Commented the Public Art dedication is an important step forward, but is only one step of many. Stated that hopefully in the future when opportunities, such as the one discussed tonight, present themselves, there will be some kind of procedure to help the Council better facilitate acquiring art.

**CLOSED SESSION**

**15. CONFERENCE WITH LEGAL COUNCIL – ANTICIPATED LITIGATION**

Initiation of litigation pursuant to subdivision (c) of Section 54956.9(c) 1 potential case.

Town Attorney Silvergleid advised there is no need to hold a closed session on this matter at this time

**16. Closed Session pursuant to Government Code Section 54957, Public Employee**

**YUCCA VALLEY TOWN COUNCIL MINUTES**

**September 13, 2007**

**Performance Evaluation (Town Manager)**

Mayor Neeb adjourned to closed session at 8:47 p.m. and returned to open session at 10:41 p.m. with no reportable action taken. There were no members of the public present.

**ANNOUNCEMENTS**

Next Town Council Meeting, Thursday, September 27, 2007, 6:00 p.m.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:41 p.m.

Respectfully submitted,

Jamie Anderson,  
Town Clerk