

**TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING MINUTES
FEBRUARY 12, 2009**

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

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

Staff Present: Town Manager Takata, Deputy Town Manager Stueckle, Town Attorney Silvergleid, Community Services Director Schooler, Public Works Director da Rosa, Administrative Services Director Yakimow, Police Capt. Miller, and Town Clerk Anderson.

PLEDGE OF ALLEGIANCE

Led by Mayor Luckino

AGENCY REPORTS

Hi Desert Water District

1. Monthly Wastewater Treatment System Update

Joe Glowitz, Hi Desert Water District, gave the monthly report listing the accomplishments for the month.

Mayor Luckino questioned if the District is still on schedule for construction in 2010 and operation in 2012.. Mr. Glowitz advised they are looking at performing some pre construction activities with stimulus money.

Fire Department

2. Monthly Fire Department Report

Battalion Chief Munsey gave the monthly statistical fire department report and safety message regarding Fireplace safety inspections.

PRESENTATIONS, INTRODUCTIONS, RECOGNITIONS

3. Employee of the Quarter

Presented to Lynne Richardson, Museum Supervisor.

4. Introduction of new employee

Sue Earnest, Recreation Coordinator
Brittany Robles, Recreation Assistant

APPROVAL OF AGENDA

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

CONSENT AGENDA

5. **Approve**, Regular Town Council Meeting Minutes of January 8, 2009, Special Town Council Meeting Minutes of January 15, 2009 and January 26, 2009 as presented.

6. **Waive**, further reading of all ordinances and read by title only.

7. **Adopt**, Resolution No. 09-05, Revision of Administrative Policy No. 1.1.05

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REVISING ADMINISTRATIVE POLICY NO. 1.1.05 SETTING FORTH A REVISED REIMBURSEMENT POLICY

8. **Approve**, third amendment to the library lease agreement between the Town and the County at the current rate of \$2,000 per month, and authorize the Mayor, Town Manager, Town Attorney and Town Clerk to sign all necessary documents.

9. **Adopt**, Resolution No. 09-06, amending the Town of Yucca Valley Standard Plans and Specifications, modifying and updating Standards 200, 211, 213, 220 and 221.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING RESOLUTION NO. 97-7, STANDARD PLANS AND SPECIFICATION NUMBERS 200, 211, 213, 220 AND 221 BY ADOPTING AMENDED AND UPDATED PLANS AND SPECIFICATIONS AS ATTACHED TO THIS RESOLUTION

10. **Receive and file**, Capital Projects Status Report, Fiscal Year Budget 2008/2009 & 2009/2010

11. **Receive and File**, AB 1234 Reporting Requirement Schedule for the month of January, 2009

12. **Accept**, the grants offered to the Hi-Desert Nature Museum from the Hi Desert Museum Association and direct staff to designate and administer the funds for programs and projects in accordance with the intentions of the grantor, and amend the fiscal year 2008-09 General Fund budget (001) adding grant revenue in the amount of \$81,000 and establishing the accompanying projects and programs.

13. **Approve**, declaration of the 1971 Wenger Mobile Sound Stage (VIN # 1487, License

#308278) as surplus property and direct staff to dispose of the item in accordance with Government Code Sections 37350 and 37351.

14. **Approve**, Tolling agreement between the Town of Yucca Valley and the County of San Bernardino, relative to property tax administration fees charged by the County of San Bernardino, and authorize the Mayor, Town Manager, Town Attorney and Town Clerk to sign all necessary documents.
15. **Excuse**, three Youth Commissioners from further service on the 2008-09 Youth Commission
16. **Accept**, construction of the Yucca Valley Swimming Pool Filter Assembly Replacement, Town Project No. 8357 by Knorr Systems as substantially complete; **Authorize**, staff to file the Notice of Completion with the County Recorder; **Authorize**, staff to release the Performance Bond in the amount of \$33,266; and **Authorize**, staff to release the retention monies in the amount of \$3,326.60 due to the contractor thirty-five (35) calendar days after recordation of the Notice of Completion.
17. **Approve**, amendment to the contract with J. P. Striping for replacement of existing traffic striping and legends, with thermoplastic on designated streets, by increasing the contract compensation by \$48,000 to a total compensation of \$118,000 with no change in the contingency or administration fee; authorize the Town Manager, Town Attorney and Mayor to sign all necessary documents; and authorize the Town Manager to expend the contingency if necessary to complete the project.
18. **Adopt**, Ordinance No. 198, Development Code Amendment, DCA 01-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REPEALING AND REENACTING CHAPTER 6 OF DIVISION 7, OF TITLE 8, OF THE COUNTY OF SAN BERNARDINO DEVELOPMENT CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY (PARKING REGULATIONS)

19. **Adopt**, Ordinance No. 199, Rezone 01-08.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING THE OFFICIAL ZONING DISTRICT MAP FOR LANDS LOCATED AT THE SOUTHERN TERMINUS OF VALLEY VISTA DRIVE, AND IDENTIFIED AS ASSESSOR PARCEL NUMBER 587-252-12, FROM HILLSIDE RESERVE SPECIFIC PLAN (RHR SP) TO RURAL LIVING 2.5 (RL-2.5) ACRE MINIMUM

20. **Approve**, Agreement with Aleshire & Wynder to provide legal services for the Town of Yucca Valley and appoint Douglas P. Haubert as Town Attorney, Pam Kotchavong-Lee as Assistant Town Attorney and Eric Dunn as Redevelopment Agency Counsel.

- 21. Ratify**, Warrant Registers in the amount of \$456,884.71 for checks dated December 12, 2008 through January 30, 2009.

Council Member Neeb moved to adopt Consent Agenda Items 5-21. Council Member Mayes seconded. Motion carried 5-0 on a roll call vote.

AYES: Council Member Herbel, Huntington, Mayes, Neeb and Mayor Luckino
NOES: None
ABSTAIN: Council Member Huntington on item 5, Minutes of January 8, 2009 only.
ABSENT: None

PUBLIC HEARINGS

- 22. Community Development Block Grant (CDBG) Prioritization Hearing**

Community Services Director Schooler reported the allocation is expected to be \$125,041 which is an 8% decrease over last year. The amount requested for programs is \$307,268 of which \$18,756 can be allocated, and the amount requested for projects is \$301,000. The Council has expressed interest in exercising the option of using several years of CDBG funding, and the Parks, Recreation and Cultural Commission recommended in December that the Town apply for funding for replacement of playground equipment and installation of a zero-depth splash park at the Community Center. He added that the General Fund Budget for 2009/10 has an allocation for those non profit agencies that received funding from CDBG in the past.

Mayor Luckino opened the Public Hearing

Lynda Grove, Yucca Valley Library Branch Manager, requested funding for the adult literacy program.

Kathleen Radnich, Hi Desert Cultural Center, requested funding for rehabilitation of the playhouse.

Ann Sholtz, Morongo Basin Adult Health Services, requested funding for continuation of their services for seniors.

Sarann Graham, Yucca Valley, sent in a statement in opposition to using the CDBG dollars for a splash park rather than helping the non profits.

There being no one else wishing to speak, Mayor Luckino closed the Public Hearing

Council Member Mayes moved to recommend allocating the entire 2009-10 CDBG allocation of \$125,041 to accomplish the first phase of the Town of Yucca Valley's multi-year Community Center Playground & Splash Park project, and amend the 2009-2010 adopted budget to reflect the final anticipated revenue and establish the identified project. Council Member Neeb seconded. Motion carried 5-0 on a roll call vote.

AYES: Council Member Herbel, Huntington, Mayes, Neeb and Mayor Luckino
NOES: None
ABSTAIN: None
ABSENT: None

DEPARTMENT REPORTS

23. Sidewalk Maintenance and Repair Ordinance, Establishing Chapter 11.100 of Title 11, Peace, Morals and Safety

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA ESTABLISHING CHAPTER 11.100 OF TITLE ELEVEN OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE, ENTITLED SIDEWALK MAINTENANCE AND REPAIRS

Public Works Director da Rosa advised that the Town does not have an ordinance to regulate and clarify sidewalk maintenance responsibility. This ordinance will align Town maintenance practices for sidewalks with current practices as defined in the Streets and Highways Code, as well as with case law.

Council Member Huntington commented that this is a cleanup of potential liability issues, and questioned if curbs and gutters are included. Town Attorney Silvergleid advised that the state law only mentions sidewalks.

Council Member Herbel questioned how the fact that sidewalks are the property owner’s responsibility will be communicated to the citizens. Deputy Town Manager Stueckle advised that the Public Works Department can perform an inventory and staff could then send letters to those existing land owners who have a sidewalk on their property, and the information can be given to the local Realtors so that they can let new residents know of the responsibility.

Council Member Mayes expressed his dislike for the ordinance and questioned if there are any responsibilities if there is an easement but no sidewalk exists. Deputy Town Manager Stueckle advised this ordinance only applies to improved sidewalks.

Town Clerk Anderson read the title of the Ordinance.

Council Member Neeb moved to introduce the Ordinance. Council Member Herbel seconded. Motion carried 4-1 -0-0 on a roll call vote.

AYES: Council Member Herbel, Huntington, Neeb and Mayor Luckino
NOES: Council Member Mayes
ABSTAIN: None
ABSENT: None

24. Resolution setting Town Council Meeting Day and Time as the 2nd and 4th Tuesday of Each Month.

Town Clerk Anderson reported the change is recommended so that conferences and meetings that Council Members normally attend do not disrupt the meetings.

Council Member Neeb moved to adopt Resolution No. 09-07 changing the day and time for Town Council Meetings to the 2nd and 4th Tuesday of each month. Council Member Mayes seconded. Motion carried 5-0 on a voice vote.

25. Town Policy for Master Plan of Drainage Facilities for New Land Development Projects, Direction to Staff

Public Works Director da Rosa gave the staff report and advised that three possible alternatives for funding drainage facilities are as follows: the Town to impose conditions on developers to build the Master Plan of Drainage facilities; Town to impose full Development Impact Fees on developers; or formation of benefit assessment districts.

Council Member Neeb commented that the Town is \$123,000,000 in the hole for construction of drainage facilities and is not getting any closer to having the funding. He added any monies the Town receives from the Federal Government will require matching funds and if we don't collect from development, we won't have the funds to put towards these projects. He suggested the possibility of providing economic development funding to assist developers to help offset some of the costs.

Council Member Huntington commented he believes it is a matter of fairness, noting the developer should not be tasked with the full costs of infrastructure. It is up to all of us to pitch in, therefore an assessment district is a valid proposal.

Council Member Herbel commented that a vote of the people is required to form an assessment district and she sees a problem with getting that to pass with the current economic downturn and the cost of the proposed sewage treatment plant facing the community. She also questioned who could bear the cost for the engineering and election. She agreed with Council Member Neeb and commented that the formula for development impact fees has already been approved.

Council Member Mayes commented that there is no way the Town is going to build the facilities that are estimated to cost \$123,000,000 with its \$10,000,000 budget. He agrees with Council Member Herbel that the vote on an assessment district would probably be no, but he also agrees with Council Member Huntington that assessment districts are the fairest way to deal with the issue. He wondered if there was a true analysis of what the property that will be protected is actually worth and if it makes sense to spend perhaps \$200,000,000 to protect property that may be worth only \$100,000,000.

Mayor Luckino commented regarding the need to come up with something that is fair, noting developers will not build if they have to add too much to their construction. He noted he is not happy with any of the alternatives.

Council Member Neeb commented that presently the Town is only collecting \$0.33 for drainage facilities per square foot on commercial, nothing that if half of the full allowed amount was collected it would help. He noted the flooding situation is only going to get worse.

Council Member Mayes questioned the areas of Town that have seen damage from floods in the last 10 to 15 years. Deputy Town Manager Stueckle explained the various locations and advised of rain events that were declared both state and federal disasters. He requested that the Council step back from the discussion in terms of what level to charge and look at the overall framework. A couple of members have commented on what is fair and equitable, and noted that both impact fees and assessment districts provide the basis for the highest level of equity and fairness. The approach the Town has been using over the course of the last development cycle was not one that created equity and fairness because the Town was requiring the developer, if abutting a facility, to build or pay an in-lieu fee. He noted that in the example given, the ½ width cost of building a facility is \$366,000, whereas imposing the full development impact fee would be 1/3 the cost. He suggested that staff could return with a resolution for adoption with the following options: 1) Impose impact fees at a level desired by the Council or formation of an Assessment District as desired by the Council; 2) obtain the necessary easements for drainage facilities at the time of development; 3) only require construction where necessary for development of property or protection of adjacent or down stream property owners; or 4) require future participation in either a drainage area wide assessment, or a Town wide assessment district. Those points create equity and fairness, addressing health and safety issues, and finally address whether the Council wants to utilize assessment districts or impact fees.

Council Member Herbel commented that this item was brought before the Council because there is a need to have drainage facilities, and to say don't provide them or make sure there is some way to finance for them sidesteps the Council's responsibility. The Council needs to make sure it is taking care of the community. She is a proponent for the development impact fees.

Mayor Luckino commented that this is a big issue, but noted that as Council looked at priorities it was not on top of the list. He does not know if it is on the top of his list to raise fees. Council needs to re-look at the prioritizations that were established last year. He noted he believes that this was brought to Council not so much because the Town was talking about facilities, but because development that abuts drainage facility was asked to pay for the facility at an amount that made the project not feasible. Deputy Town Manager Stueckle advised there were a couple of things occurring; staff was struggling in terms of applying a fair policy consistently on all development projects, and it was not working for staff. Also, there were conversations or feedback from Council Members

hearing from members of the community about similar fairness and cost issues.

Council Member Mayes questioned if charging the full amount of impact fees will build all the facilities. Deputy Town Manager Stueckle advised that it will not and added that other funding sources will be needed. Council Member Mayes commented if the full impact fee is charged, there is still a possibility that an assessment district is needed, and if the voters vote no, it will show Council if it is a priority of the community or not.

Council Member Neeb commented that the fee is not going to build all the facilities and they will have to be picked off incrementally. But it seems the idea is that if we can't do all we throw up hands and do nothing.

Mayor Luckino commented that impact fees for drainage t won't be the only fees, considering all the Town's mandates, and the bottom line is that it is going to make it economically impossible to build. He noted he would prefer not to have that result.

Council Member Herbel commented that the discussion is about infrastructure for our community where there is a deficit. As new development comes into the community it brings jobs and economic development, but it also brings an impact, and new development needs to begin paying its own way.

Council Member Mayes moves to have the first priority be forming assessment districts. Council Member Huntington seconded. Motion failed 2-3 on a roll call

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

Deputy Town Manager Stueckle recapped the four items named earlier, noting that the approach that has been used in the last couple years requiring developers to build a small portion of a drainage facility in front of their project is not one of fairness and equity.

Council Member Mayes commented that he and Council Member Huntington are in favor of assessment districts and Council Member Herbel and Council Member Neeb are in favor of increasing development impact fees.

Mayor Luckino expressed concern regarding zones for assessment districts with a property being owned predominately by a single developer with only a few property owners in the area.

Council Member Neeb moved to charge the developer the actual cost of construction if the project abuts a channel. Council Member Herbel seconded. Deputy Town Manager Stueckle commented that is not an unusual requirement, noting it is usually tied into a reimbursement agreement when a developer has to pay their fair share.

Council Member Mayes made a substitute motion to postpone the item to the next meeting and direct staff to present Council with 4 motions. Council Member Neeb seconded. Substitute motion carried 5-0 on a roll call vote.

AYES: Council Member Herbel, Huntington, Mayes, Neeb and Mayor Luckino
NOES: None
ABSTAIN: None
ABSENT: None

FUTURE AGENDA ITEMS

Council Member Neeb requested that staff come back with a proposal to make available to small developers some economic development funds to help mitigate some of these fees or hurdles. He requests that staff determine what pot of money these funds can come from. He requested that this comes back to Council right away. Council Member Herbel agreed. Town Manager Takata stated he would prefer to take the matter to the Redevelopment Agency first because that is where the monies would come from.

Council Member Herbel requested the native plant and lighting ordinance come back to Council. Town Manager Takata advised that staff is trying to set up a meeting to discuss the native plant ordinance and looking at March 24th. With regard to the lighting ordinance, Deputy Town Manager Stueckle advised that staff was directed to work with the City of Twentynine Palms and the County to get a unified basin wide ordinance. No joint work has been done. Council Member Herbel advised that the national park is important to the economics here in the region, noting the reason to visit the park is to view the night sky, and the ordinance needs to be looked at and some other things need to be addressed to protect night skies. Council did not agree to revisit the lighting ordinance.

PUBLIC COMMENT

STAFF REPORTS AND COMMENTS

Town Manager Takata advised there has been a problem with the date for the Strategic Planning meeting, noting it is probably not going to take place until about the 4th week in April. Staff will return with a date. Reported that he attended a meeting regarding emergency preparedness and SR 62 at the Marine Corps Base and the General is willing to do what he can to help us get medians and widening of the highway, which will help his convoys. They want to be more involved in emergency preparedness basin wide, so Admin. Analyst Faoro is work with them on that. Council will be seeing some JPA's coming forward. Advised that the next meeting is Town Attorney Silvergleid's last meeting.

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

26. Council Member Huntington

Reported regarding attendance at the Miss Yucca Valley contest and congratulated the new Miss Yucca Valley and her court.

Reported regarding attendance at the Mojave Desert Solid Waste JPA Board meeting where they voted to support AB 68 and 57, which is legislation for plastic bag fees, noting a part of those fees would be collected by the State Board of Equalization and distributed to cities and counties for mitigation of clean up costs.

Congratulated Lynne Richardson on being selected as Employee of the quarter.

Welcomed Sue Earnest to the staff.

27. Council Member Neeb

Reported that SANBAG has requested a list of projects that might be eligible for bail out funding, noting that hopefully the Town is ready to go with projects.

28. Council Member Herbel

Congratulated Lynne Richardson.

Commented that the National Park is the crown jewel of the community and a national treasure. As we develop as a community we have to be sensitive to our national park because it brings economic resources to our community.

29. Council Member Mayes

Congratulated Lynne Richardson for being selected as Employee of the Quarter.

Welcomed the new employees.

Commented regarding the economy noting this community has been through tough times and he is certain we are going to get through it this time if we can work together.

30. Mayor Luckino

Congratulated the Miss Yucca Valley Court noting they go through a long process and are going to be the future leaders of our community.

Commented that non profit organizations are very important to our community.

Congratulated Lynne Richardson

Welcomed Sue Earnest and Brittany Robles.

CLOSED SESSION

31. Closed Session per Government Code Section 54957, Public Employee Performance Evaluation. (Town Manager)

32. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Subsection (a) of Section 54956.9(a), Ronald Green and Sharon Green vs. County of San Bernardino, City of Yucca Valley, Case No. CIVMS 800111, Center for Biological Diversity vs. Town of Yucca Valley, Town Council of Yucca Valley, Case No. CIVBS 800607; Coalition for Environmental Integrity in Yucca Valley vs. Town of Yucca Valley, Town Council of the Town of Yucca Valley, Case No. CIVSS 810232, Superior Court of California, County of San Bernardino.

Mayor Luckino adjourned the meeting to closed session at 8:05 p.m. and returned to open session at 8:58 p.m. with no reportable action taken. There were no members of the public present.

ANNOUNCEMENTS

Next Town Council Meeting, Thursday, February 26, 2009, 6:00 p.m.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:58 p.m.

Respectfully submitted,

Jamie Anderson, MMC
Town Clerk