

**TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING MINUTES
APRIL 14, 2009**

Mayor Luckino called the regular meeting of the Town of Yucca Valley Council to order at 5:00 p.m.

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

CLOSED SESSION

A. 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, People v. Green, Case No. CIVMS 800326; 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.

B. CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION
Subsection (c) of Section 54956.9, the legislative body is deciding whether or not to initiate litigation.

C. Government Code Section 54956.8, Conference with Real Property Negotiators.

Property: APN 586-031-36, 594-031-09 & 23, 595-041-34 & 35; 55100 Martinez Trail
Blue Sky Golf LLC/Town of Yucca Valley
Shane Stueckle, Real Property Negotiator
Real Property Negotiations

Property: APN 595-162-08 & 09 South West corner of Joshua Lane and Twentynine
Palms Outer Highway
Pomona First Federal/Town of Yucca Valley
Shane Stueckle, Real Property Negotiator
Real Property Negotiations

Mayor Luckino adjourned to Closed Session at 5:00 p.m. and reconvened at 5:25 p.m. with no reportable action taken. The meeting was recessed until 6:00 p.m.

Mayor Luckino reconvened the meeting at 6:00 p.m. with all members present.

Staff Present: Town Manager Takata, Deputy Town Manager Stueckle, Town Attorney Haubert, Community Services Director Schooler, Public Works Director da Rosa, Administrative Services Director

YUCCA VALLEY TOWN COUNCIL MINUTES

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Yakimow, Police Capt. Miller, and Town Clerk Anderson.

PLEDGE OF ALLEGIANCE

Led by Council Member Mayes

INVOCATION

Led by Mike Kelliher, Joshua Springs Calvary Chapel

PRESENTATIONS, INTRODUCTIONS, RECOGNITIONS

1. Employee of the Quarter

Presented to Facilities Maintenance Specialist McPheeters

2. Longevity Award

Awarded to Recreation Supervisor Sheckler for 10 years service and Payroll and Benefits Technician Parks for 5 years service.

AGENCY REPORTS

Fire Department

3. Monthly Fire Department Report.

Battalion Chief Munsey gave the monthly statistical Fire Department Report and advised of the “Every 15 Minutes” drunk driving event at Yucca Valley High School on Thursday and Friday.

APPROVAL OF AGENDA

Mayor Luckino advised that Item No. 19 is being pulled for consideration on a future agenda.

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

CONSENT AGENDA

4. Approve Regular Town Council Meeting Minutes of March 12, 2009 as presented.

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

6. **Award**, contract for construction services to D. Webb, Inc. for construction of the Community Center Softball Field Electronic Scoreboard which is described in the Contract Documents and Specifications (Bid Document dated March 7, 2009) in the amount of \$8,374; establish a \$1,000 contingency and authorize the Town Manager, Deputy Town Manager, Town Attorney, and the Mayor to sign all necessary documents; and authorize the Town Manager to expend the contingency if necessary to complete the project.
7. **Approve**, the proposed recreation fees policy and direct staff to begin implementation of the policy with the Summer 2009 schedule of activities.
8. **Approve**, Community Development Block Grant Delegate Agency Agreements with San Bernardino County for the administration of the Town's CDBG program.
9. **Approve**, governing body Resolution No. 09-10 for the 2008-2009 OHV grant application.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, APPROVING THE APPLICANT TO APPLY FOR GRANT FUNDS FOR THE STATE OF CALIFORNIA, DEPARTMENT OF PARKS AND RECREATION, OFF HIGHWAY VEHICLE GRANT FUNDS

10. **Award**, contract for architectural design services to Interactive Design Corporation, Reuel A. Young, AIA, Principal, in the amount of \$15,575 which includes the reimbursable expenses not to exceed \$3,500; and authorize the Town Manager, Deputy 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, Morongo Basin Adult Health Services (MBAHS) Patio Cover, CDH Project No. 123-32101, Case No. 2914, Town Project No. 8954.
11. **Approve**, Request for a Pawnbrokers License, SPL 06-09, Zarakov.
12. **Receive and file**, AB 1234 Reporting Requirement Schedule for the month of March 2009.
13. **Receive and file**, Monthly Capital Projects Status Report, Fiscal Year Budget 2008/09 and 2009/10
14. **Receive**, Fiscal Year 2009-10 Draft Capital and Operating Budget for review and comment as required by the Morongo Basin Transit Authority (MBTA) Joint Powers Agreement between the Town of Yucca Valley, the City of Twentynine Palms and the County of San Bernardino.
15. **Ratify**, Warrant Registers in the amount of \$1,298,235.91 for checks dated January 9,

2009 through March 27, 2009.

Council Member Neeb moved to approve Consent Agenda Items 4-15. Council Member Herbel 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

16. Morongo Basin Humane Society, Request for Funding.

Animal Care and Control Manager Crider reported that at the Town Council Meeting of March 12, 2009 the Morongo Basin Humane Society (MBHS) stated that due to lack of funds, they may need to close their animal shelter. They have requested \$17,000 each from the Town of Yucca Valley, the City of Twentynine Palms and the County.

Mayor Luckino opened the floor to public comment and noted that 8 people have turned in slips in favor of the request, but did not wish to speak.

Mimi Mitz, MBHS, advised that they have requested \$17,000 for 1/3 of their costs to help continue their services. Their facility is an alternative to the Town’s shelter which must put a limit on the length of time they can keep pets. They average taking in about 440 animals that would not have to go to other shelters in the basin. She noted that the community has been very generous and they will be able to stay open through April and May, but she can not project beyond that point.

Council Member Herbel questioned the cost to the Town’s shelter if the Humane Society were to close, whether or not the shelter is recouping all its costs with adoption fees, and how many animals have had to be put down. Animal Care and Control Manager Crider advised the adoption fee is set to cover most of the cost to keep an animal, noting last year the shelter had about 3,000 pets brought in, with about 30% returned to owners. Council Member Herbel asked questions of the Humane Society’s representative regarding their operating budget, how they receive their funding, what they really need from the Town to get by, and if they feel they can recover. Ms. Mitz stated it costs about \$6,000 per month to keep the shelter running, adding that the facility was recently placed into a FEMA flood zone costing them \$7,000 for flood insurance and they have absolutely no cushion to pay any extra costs. Funding comes from donations, membership, bingo, and the thrift store. It would help if the Town could buy the MBHS building, noting they need money and a way to have the animals spayed and neutered cheaply. They are hoping this is a one time request, and have a lot of activities coming up to try to raise money.

Council Member Huntington questioned the percentage of the animals coming into the Town's shelter from the County. Animal Care and Control Manager Crider advised it is about 50/50. Council Member Huntington questioned if staff is saying the adoption fees are roughly \$100 dollars to cover the costs per animal to keep the animal. Animal Care and Control Manager Crider advised that is approximate.

Council Member Mayes questioned if it will cost the tax payers any more if the Humane Society closes. Deputy Town Manager Stueckle advised that as the shelter has an increase in the number of animals coming into the public facility there will be increased costs. Staff analysis has not been able to determine if the overall operating budget will be increased to accommodate the closure of this facility. Council Member Mayes questioned if it would cost the town greater than \$17,000 per year to take care of the animals from the increased supply if MBHS were to close. Animal Care and Control Manager Crider advised she would not think so, noting that costs have not increased substantially with the significant increase of animals.

Council Member Neeb commended the people of MBHS for the services they give to the community, but does not see where the Town has the resources at this time, noting the Town Manager is looking at ways to trim the budget and deal with the money situation we see ourselves in, basically looking at cuts and trimming expenses where we can.

Council Member Herbel questioned if the Council could look into the possibility of purchasing the property in the old town area.

Mayor Luckino commented the Council needs to look into all the available properties out there, and perhaps should look at it to see if does fit into the Town's plans.

Council Member Huntington concurred that these are tough times and the Town must maintain the services it is required to provide. He knows that non profits are struggling, and these are tough decisions, but the money the Town has is dedicated to continuing required services and that \$17,000 could be put into our own kennel to provide those services.

Council Member Herbel questioned the impact on the budget if we gave \$5,000 to \$7,000. Administrative Services Director Yakimow advised that the next agenda item shows that the Town is projecting a budget shortfall of \$500,000 to \$1,000,000.

No action taken.

17. FY 2009-10 General Fund Budget Update and Service Level Impacts, Resolution.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,

CALIFORNIA, AMENDING THE FY 2008-09 BUDGET.

Town Manager Takata commented that the Town is looking at a shortfall of at least \$500,000, and staff has been discussing service levels. Staff is asking for authority to budget \$400,000 to bring the 2009/10 budget into alignment.

Administrative Services Director Yakimow advised the Town is going into the second year of its adopted two year budget. Based on the fourth quarter data received in late March, the Town's sales tax revenue declined by 10% on an unadjusted basis for the quarter. He noted this figure does not reflect the closure of the auto dealership in Town. The property tax will probably decline between 5% to 10%. Town Manager Takata advised the County has predicted it will be down 6 % this year and 3% next.

Administrative Services Director Yakimow advised at this time there is a balance of between \$20,000,000 to \$25,000,000 in LAIF, but the interest is down to about 2% this year and it is anticipated that next year it might be about 1%. He advised that the Town Manager has always made it a priority to have a balanced budget, so expenditures will have to come down between \$500,000 to \$1,000,000. The three main expenditures are staff, operating supplies and services, and the public safety contract. Operating Supplies have been scrubbed thoroughly, so the only two left are staff and public safety, of which public safety would be the last to have any cuts. If the Town wants to be pro active and not have to make cuts when forced to do it, we must look ahead and find solutions. Staff is requesting that the Council appropriate \$400,000 of the \$500,000 that has been set aside for the past 2 years for employee transitional assistance. Staff will return in late May with the specifics.

Mayor Luckino commented the Town is fortunate to have the staff and Council it has.

Town Manager Takata advised the Town does have enough reserves that it can use for the next two years, but that would not be fiscally responsible.

Council Member Neeb thanked staff, noting these are very tough decisions just as the one Council had to make previously, but staff has been working long and hard to solve the problem.

Council Member Mayes commented it seems like when private enterprise contracts, government grows, and when private enterprise grows government grows, noting unemployment in riverside is 12 ½%. We need to make sure our fiscal house in order when our citizens are hurting. He is proud of the tradition the Council has of being fiscally responsible.

Council Member Herbel commented that while attending the City County conference in Lake Arrowhead, it was revealed that the unemployment figure in San Bernardino County was 11.9%.

Council Member Herbel moved to receive the FY 2009-10 budget update and related service level impacts, and adopt Resolution No. 09-11, amending the fiscal year 2008-09 adopted budget by providing transitional assistance in an aggregate amount not to exceed \$400,000. Council Member Huntington 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

18. Appointment to Redevelopment Agency

Town Clerk Anderson advised the position has been advertised and applications were received from Shannon Goodpaster and Gregory Graham.

Gregory Graham, Yucca Valley, advised he would like to use his life experiences and knowledge to assist the Town in its growth.

Shannon Goodpaster, Yucca Valley, advised of his qualifications and that he can bring a lot of input.

Council Member Herbel stated that there are two very wonderful applicants and thanked them both for donating their time. She noted that when George Huntington was appointed to the RDA he had not been appointed to the Planning Commission by a sitting Council Member. It might be a good idea to have someone appointed to the RDA from the community who is well qualified and not nominated by a sitting Council Member. She nominated Gregory Graham. Council Member Mayes seconded. .

Mayor Luckino agreed that there are two great applicants, and either would be great addition to the agency with the foresight to move us forward. However, he believes the insight that Mr. Goodpaster has would be a better addition to the agency, due to his experience for the past two years on the Planning Commission and his 25 years in the community. He nominated Shannon Goodpaster,

Council Member Huntington commented that both applicants are exceptional individuals, and both would do excellent job. However, having the link between the RDA and the Planning Commission is a valuable asset.

Council Member Mayes commented that the decision is difficult, but noted having a Planning Commissioner on the RDA is good.

Council Member Neeb advised he is abstaining because he is not a member of the RDA.

Council Member Herbel commented a sitting Council Member nominated Mr. Goodpaster, and she feels it would be better not to have that connection, and to have somebody who is neutral. Mr. Graham has a wealth of life experience.

The Council was asked to vote on the two nominees. Council Member Herbel voted for Gregory Graham. Council Member Huntington, Mayes and Mayor Luckino voted for Shannon Goodpaster. Council Member Neeb abstained.

Shannon Goodpaster is appointed to the Redevelopment Agency by a 3-1 vote.

19. Town Council Request, Gateway Industrial Center Benefit Assessment Area, Recovery of Expenditures

Item pulled from agenda.

20. Continued from February 26, 2009 Town Council Meeting, Master Plan of Drainage, Construction Standards for New Development, Resolution

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ESTABLISHING A POLICY OF IMPLEMENTING THE MASTER PLAN OF DRAINAGE FOR LAND DEVELOPMENT PROJECTS

Deputy Town Manager Stueckle advised this item is the continuation of discussion focused on establishing a Town Council Policy regarding construction standards for master plan of drainage facilities for new development. In prior meetings 5 policy points were outlined which have been amended and are listed in the Resolution. He noted that the Council asked staff to return with impact fees after the Strategic Planning session. He explained the changes that were made to items 3-5, noting there may be times when the Town wants to require the construction of those master plan of drainage facilities, which is what is indicated in items 3 and 4, after staff review of the technical data. In No. 5 staff crafted language with the whole concept of capturing opportunity costs in the future. He noted this does not apply to ministerial projects such as single family infill etc.; it is only for projects that must go before the Planning Commission or the Commission and Council. The intent is to insure that new development fairly contributes to minimize its impacts of development. The policy shall be construed to insure that conditions are not imposed on new development where such development would be required to contribute more than its fair share as determined by impact studies or if the costs exceed the maximum legally defensible public facility development impact fee, the project proponent shall enter into a reimbursement agreement with the Town so that future development reimburses the project proponent for costs. Staff is very comfortable about being able to use policy on a consistent basis.

Margo Sturges, Yucca Valley, commented it is her hope that the Council can come to a conclusion tonight because of the importance of the drainage issue.

Council Member Mayes moved to adopt Resolution No. 09-12 establishing Town Council policy for the construction of Master Plan of Drainage Improvements for development projects that abut or that contain Master Plan of Drainage facilities. Council Member Neeb seconded. Motion carried 5-0 on voice vote

POLICY DISCUSSION

21. Town Council Request and Policy Discussion, Adult Entertainment Ordinance (Ord. #71) Direction to Staff

Deputy Town Manager Stueckle reported this item has been brought forward based on a request from Council to have opportunity to discuss regulations due to the appearance of several adult oriented businesses on SR 62. He noted that when the Town incorporated it adopted the County Codes in existence at that time. Senate Bill 731 regarding massage parlors is also attached to the staff report, which will take effect in September.

Council Member Herbel questioned the least amount of allowable floor space for a business to be termed an adult oriented business. Town Attorney Haubert advised there is no fixed set rate, the law regarding adult businesses is fluid and it may depend on many factors. Adult businesses and the sales of adult literature fall within the first amendment, and can be regulated but can't be prohibited or regulated so strictly that it makes it impossible to open a business. Many jurisdictions take a multi regulation approach by regulating location, concentration, and preventing placement near churches and schools, etc. He would need to review the existing ordinance to make certain that the Town does allow for enough of that activity.

Town Manager Takata questioned when a business becomes an adult oriented business. Deputy Town Manager Stueckle advised that the current code refers to an adult book store stating that a substantial portion shall mean 20% or more of the face value of the stock-in trade or 20% of the floor area of the store whichever is more.

Mayor Luckino questioned if Code Enforcement can take a proactive enforcement stance on these businesses. Town Attorney Haubert stated it would be an option to better enforce the regulations already existing. Mayor Luckino stated the code needs to be revised and actively enforced, and he would like a written policy.

Council Member Mayes expressed concern regarding a policy, questioning what happens when the character of the Town changes.

Council Member Neeb commented regarding issues in other communities and noted that the Council needs to listen to legal counsel and proceed according to law.

Council Member Herbel stated that she would like to see staff go back and give Council

options so the Town can keep adult oriented business off of the main strip. Town Attorney Haubert noted it is appropriate to come back with other options for Council to consider but he would need at least 30 days to look at it.

Council Member Mayes commented he was not aware that the state had passed legislation regarding massage parlors, noting it is good to have one standard. He feels it is not appropriate to have adult oriented activities across from a school, and there is a need to have zoning in place before activities occur.

Council Member Huntington commented that the ordinance is a good ordinance but we should ask the Attorney if he can tighten it up.

Town Manager Takata stated that staff has direction and has heard the Council's concerns. We will spend time making sure we don't violate anyone's rights.

22. Town Council Request & Policy Discussion, Review Utility Underground Ordinance, Direction to Staff

Deputy Town Manager Stueckle stated in 2005 the Council adopted the first undergrounding ordinance within the community, and there have been discussions lately regarding possible changes.

Kathy DeRosa, Southern California Edison, advised she will work with the Council in any way possible.

Council Member Neeb commented that a lot of hard work went into the existing ordinance, adding that overhead utilities are a blight on the community and some vistas have been destroyed. He noted that the working committee he and then Council Member Cook sat on included members of the community from the construction industry and businesses and work was not done in isolation.

Council Member Huntington commented after the committee work the ordinance went through the Planning Commission. It is a good fair ordinance.

Council Member Herbel questioned if the ordinance has been imposed on developers since it was adopted. Deputy Town Manager Stueckle advised that it has.

Council Member Mayes commented that the Ordinance does have problems such as in fill development where lots on either side have lines and the center house has to underground the lines. Also, the Town gave a variance to MBTA because of the cost, but won't give a variance to developers.

Mayor Luckino commented that looking at the community the intent of the ordinance made sense in that we didn't want to add to the poles that are already out there, but the

situation with the MBTA is an example. We are at a point in time where we have to tweak this. He noted there is no plan to bring down the existing poles, but we are asking for in lieu fees from developers. We are continually adding costs, and are our own worse enemy when it comes to the economy and trying to add jobs. He noted that when Parten Products built their project they wanted to put block wall around the facility, but it was a matter of putting up the wall or putting \$20,000 in lieu fee down, that is going to sit in bank for long time until we can bring down all these poles. If we are not going to have a plan why take the money. For new parcels it makes sense, but for in fill commercial and residential it doesn't.

Council Member Neeb commented that the possibility for a variance is there.

Council Member Neeb moved to leave the ordinance as it is. Council Member Huntington seconded.

Council Member Mayes made a substitute motion to direct staff to come back with a draft ordinance dealing with language to see just what the Town is talking about with in lieu fees and if there is some way to resolve that issue. Mayor Luckino 2nd. Substitute motion failed 2-3 on a roll call vote.

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

Original motion passed 3-2 on a roll call vote.

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

FUTURE AGENDA ITEMS

Council Member Herbel requested discussion regarding selection of Mayor and Mayor Pro Tem. Council Members Mayes and Neeb agreed to put it on a future agenda.

Mayor Luckino requested clarification on the timing for the item regarding incentivising business to get the economy moving. Staff advised that is an issue that will be coming before the RDA.

Council Member Herbel requested the Council look at the possibility of purchasing the Humane Society building.

PUBLIC COMMENT

Kathy DeRosa, SCE Regional Manager, reminded Council and the public of Edison’s Care program allowing for a 20% discount, and also Energy Audit Assistance. She encouraged the Council to attend the “Every 15 Minutes” program at the High School.

Margo Sturges, Yucca Valley, requested that the Council consider recognizing a citizen of our community on a quarterly basis, and wished Town Manager Takata a happy birthday.

STAFF REPORTS AND COMMENTS

Town Manager Takata reminded everyone that Earth Day is this weekend. He advised that staff has had a difficult time getting the Planning Commission and Council together to discuss the Native Plant ordinance. Mayor Luckino recommended that the Planning Commission work on the ordinance and then bring it back to the Council. Council Member Neeb agreed that the Commission should look at it and see what they think needs to be done, noting he has been happy with the existing Ordinance.

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

23. Council Member Huntington

Congratulated Facilities Maintenance Specialist McPheeters for being selected as Employee as the Quarter.

Congratulated Recreation Supervisor Sheckler and Payroll and Benefits Technician Parks for their longevity awards.

Congratulated Shannon Goodpaster for his appointment to the RDA

Reported regarding attendance at the Open Space briefing at the Marin Corps Base.

24. Council Member Neeb

Congratulated Facilities Maintenance Specialist McPheeters, Recreation Supervisor Sheckler and Payroll and Benefits Technician Parks.

Reported regarding attendance at the SANBAG meeting where it was reported that the stimulus monies are being used on the I 210/I 215 interchange and local agencies will get their funds through back fill with other monies.

25. Council Member Herbel

Congratulated Facilities Maintenance Specialist McPheeters, Recreation Supervisor

Sheckler, and Payroll and Benefits Specialist Parks.

Thanked Mara Cantalo for all the work she has done in the community.

Wished Town Manager Takata a Happy Birthday.

Encouraged everyone to come to the Earth Day Activities.

Reported regarding attendance at the Easter Sunrise Service at the Marine Corps Base.

26. Mayor Pro Tem Mayes

Echoed congratulations to everyone

27. Mayor Luckino

Echoed comments relating to Earth Day and staff recognition.

Commented that the basin is very blessed to have Mara Cantalo, noting the number of people she feeds during Christmas with her organization is 20% of our population.

Congratulated Shannon Goodpaster for being appointed to the RDA and thanked Mr. Graham for applying for the position.

Wished Town Manager Takata a Happy Birthday.

Reminded everyone that the Relay for Life coming up, and encouraged participation.

Council Member Herbel thanked Kathy DeRosa of Southern California Edison for attending the meeting.

COMMITTEE REPORTS

Council Member Huntington reported regarding the 2+2 meeting with Hi Desert Water District where they discussed septic tank regulations, road pavement and coordination with the Town, the wastewater project phase one; water supply, water reserves policy; landscape ordinance, water conservation, and the group decided to meet quarterly.

ANNOUNCEMENTS

Next Town Council Meeting, Tuesday, April 28, 2009, 8:00 a.m. to 5:00 p.m. Strategic Plan

YUCCA VALLEY TOWN COUNCIL MINUTES

April 14, 2009

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:21 p.m.

Respectfully submitted,

Jamie Anderson, MMC
Town Clerk