

**TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING MINUTES
June 9, 2009**

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

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

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

Property: APN 594-061-08; Pioneertown Road, approximately 200' north of Yucca Trail Morongo Basin Humane Society/Town of Yucca Valley
Shane Stueckle, Real Property Negotiator
Real Property Negotiations

Mayor Luckino adjourned to closed session at 5:00 p.m. and returned to open session at 5:10 p.m. and announced there was no reportable action taken. There were no members of the public present.

Mayor Luckino recessed the meeting 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, Public Works Director da Rosa, Community Services Director Schooler, Administrative Services Director Yakimow, Police Lt. Mondary, and Town Clerk Anderson.

PLEDGE OF ALLEGIANCE

Led by Mayor Luckino.

PRESENTATIONS, INTRODUCTIONS, RECOGNITIONS

1. Employee of the Year

Presented to Kathy Ainsworth, Accountant

2. Recognition of Youth Commission

Certificates of appreciation given to the 2008/09 Youth Commission. Olivia Geeson advised of the accomplishments of the Commission.

AGENCY REPORTS

Fire Department

3. Monthly Report

Battalion Chief Snow gave the monthly statistical fire department report and safety message regarding pool safety.

APPROVAL OF AGENDA

Town Manager Takata requested that Item 10 be carried forward at the applicants request and staff requests to remove Item 14.

Council Member Mayes moved to approve the agenda as amended. Council Member Huntington seconded. Motion carried 5-0

CONSENT AGENDA

4. Approve, Regular Town Council Meeting Minutes of May 26, 2009.

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

6. Authorize, the Town Manager to enter into an agreement for federal lobbying services with Innovative Federal Strategies, LLC for a monthly retainer amount not to exceed \$4,250.00 plus authorized expenses for a one year term beginning August 1, 2009 and ending July 31, 2010.

7. Adopt, Resolution No. 09-17 finding severe fiscal hardship will exist if additional local property tax funds are seized and additional unfunded mandates are adopted by the State of California.

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

CALIFORNIA FINDING A SEVERE FISCAL HARDSHIP WILL EXIST IF ADDITIONAL TOWN PROPERTY TAX FUNDS ARE SEIZED AND ADDITIONAL UNFUNDED MANDATES ARE ADOPTED BY THE STATE OF CALIFORNIA

8. **Accept**, Electronic Scoreboard Improvements, Town Project No. 8358 constructed by D. Webb, Inc. as substantially complete; Authorize Town staff to file the Notice of Completion with the County Recorder; Authorize Town staff to release the Performance Bond in the amount of \$8,374.00; and Authorize staff to release retention monies in the amount of \$1,012.80 due the contractor thirty-five (35) calendar days after recordation of the Notice of Completion.

9. **Receive and file**, AB 1234 Reporting Requirement Schedule for the month of May, 2009
Council Member Huntington moved to adopt Consent Agenda Items 4-9. 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

10. **Appeal 04-08 of Site Plan Review 04-08, Car Quest (Public Hearing closed, item continued from May 12, 2009 Town Council Meeting.)**

Continued as requested by applicant.

11. **Council Seniority (carried over from May 26, 2009 Town Council Meeting)**

Town Attorney Haubert advised state law requires that after each election the Council shall select one of their members to serve as Mayor and another as Mayor Pro Tem. Most cities do not have a formal written policy concerning rotation of members to Mayor Pro Tem and Mayor. The Town Ordinance states that the Town Council shall consider the appointment of Mayor and Mayor Pro Tem annually, with the Mayor Pro Tem nominated for Mayor and the next senior Council Member eligible for Mayor Pro Tem. Seniority is determined by the number of votes each Council Member received at their perspective elections.

Council Member Huntington commented that any code or ordinance that is not clear and needs interpretation needs to be reworded. He added he has reservations with Section 2.05.010 A, where the intent is addressed in the ordinance, noting it may not necessarily be prudent or advisable for someone to serve as Mayor due to the demands of the position and timing of transition. The more relevant and important intent is to select a Mayor who can function as an effective parliamentarian, run effective meetings, can

provide a balanced and effective representation of the Town and Council in the public sphere, and is in concert with the policy movement and ideals of the majority of the Council. He agreed that the interpretation provided by legal Counsel is fundamentally sound and that there is great benefit in using seniority, as it breeds an experience level, which provides for stronger and better town representation. The intent to allow each Council Member to serve remains intact, but should not guarantee an appointment as Mayor or Mayor Pro Tem during one's tenure. The code needs revision to allow some wiggle room such that the rotation is not set in concrete. Also seniority needs to be defined in greater detail.

Council Member Mayes commented the Council is an elected body with the Mayor's job being to chair the meeting and represent the Towns at community events. If a legal opinion is required to define the ordinance, it needs to be changed.

Council Member Neeb agreed with Council Member Huntington noting in the end the Council does have to vote for Mayor and Mayor Pro Tem.

Council Member Herbel advised of background discussions regarding the issue and commented there needs to be some clarification as to how the Council is going to rotate, the nomination process, and what that means in general.

Mayor Luckino commented no one should be entitled to any position and agreed that the selection should be by a nomination process. Council can use historical data as guidance but he does not want to set policy and entitle the positions.

Council Member Huntington advised there is a need to define seated vs. reelected and elected, and there has to be some wiggle room in the ordinance where it is not a rite of succession.

Council Member Mayes questioned if Council can go back to the general guidelines as in the past.

Upon further discussion, direction was given to the Town Attorney to bring back an ordinance repealing Sections A, B and C of Section 2.05.210 of the Municipal Code, keeping the rotation on an annual basis, and clarifying language regarding the ability to place removal of the Mayor or Mayor Pro Tem on an agenda if necessary.

12. Public Facilities Development Impact Fees, Set Public Hearing for June 23, 2009, Direction to Staff

Deputy Town Manager Stueckle reported that in October 2005 the Town Council established Public Facilities Impact Fees for new residential development, effective January 2006. Annual review of those fees is required. At this time the fees set by Council are \$1.00 per square foot for commercial and industrial, \$5,200 per unit for

single family residential, and \$3,600 per unit for multi family residential. The balances of 5/29/09 are \$43,000 for general facilities; \$84,858 for parks, designated to the South Side Community Park; \$233,820 for streets; \$189,715 for drainage and \$15,186 for trails. Staff's recommendation is to schedule the public hearing for June 23, 2009.

Council Member Neeb moved to set a public hearing for June 23, 2008, to receive the annual report for 2008/2009 Public Facilities Development Impact Fees, and to consider any adjustments to the existing Public Facilities Development Impact Fees. Council Member Mayes seconded. Motion carried 5-0 on a voice vote.

Capt. Miller introduced Sheriff Rod Hoops. Sheriff Hoops commented he is honored to be able to fill out the last two years of Sheriff Penrod's term and advised he is visiting each of the 14 contract cities in San Bernardino County. He introduced Assistant Sheriff Warren Nobles and Deputy Chief Glenn Pratt.

Council Member Neeb questioned the impact of the State budget on the Sheriff's Department. Sheriff Hoops advised that the department has a large budget but many of the operations are mandated. Of the approximately \$400,000,000 budget, there is only about \$160,000 discretionary funding. There are going to be cuts, but the amount is unknown at this time.

13. Monthly Capital Projects Status Report, Fiscal Year Budget 2008/09 and 2009/10

Public Works Director da Rosa gave a power point presentation regarding the status of the current capital projects.

Sheldon Hough, Yucca Valley, stated he believes the state has adopted the smart street program which means that streets are suppose to be built for everyone to use including bicycles, and expressed his hope that bicycle lanes will be placed on SR 62.

Council Member Neeb commented that the project on SR 62 from La Honda to Dumosa has been around since Brett Grandlund was in the Assembly. Deputy Town Manager Stueckle advised when the state pulled the Prop 42 funds that project was stopped, and when the funding was returned the project has to be reinitiated. Staff is continuing to push this project as quickly as it can.

Mayor Luckino commented that within the next fiscal year the two significant projects are Camino Del Cielo and the SR 62/247 signals. Deputy Town Manager Stueckle advised in terms of construction that is correct.

Council Member Mayes questioned the proposed completion of the Old Town realignment in 2011. Public Works Director da Rosa advised that Caltrans has not completed the environmental documents.

Council Member Huntington questioned if staff has looked into "design build" for the

CDBG projects. Deputy Town Manager Stueckle advised that the Town is precluded under state law from using that process.

POLICY DISCUSSION

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

Removed from Agenda

15. Adult Business Ordinance, Council Discussion

Town Attorney Haubert advised there are some house cleaning items recommended for the adult business ordinance, including eliminating references o the County Code and update references to massage parlors. Also some concern has been expressed on part of Council saying the ordinance can be improved and made more stringent. In some respects, it may be possible to impose greater regulations on adult businesses provided that such regulations do not violate constitutional protections.

Council Member Neeb agreed with the Attorney’s recommended changes advising he doesn’t want children exposed to unwarranted influences. He expressed concern regarding whether or not there have been issues.

Council Member Herbel stated she would like to keep adult businesses off the main drag of SR 62. Town Attorney Haubert advised they are prohibited along the highway corridor, however 20% if the floor space can have adult books without the business being designated as an adult book store. Council Member Herbel advised she would like to be able to lower that limit down to 10%.

Council Member Mayes expressed concern regarding stricter regulation from a philosophical standpoint, and questioned what the Council is trying to accomplish, and what the specific issue is that has come up. He noted he hasn’t heard of one particular incident.

Mayor Luckino commented the Council has the responsibility of looking after our community and protecting those who need protecting. Council can’t control what goes on in individual homes, but can look at what is going on down our highway. He agreed with Council Member Herbel’s recommendation of having staff look at tightening up ordinance to be proactive.

Council Member Mayes questioned what reducing the allowable floor space from 20% to 10% would accomplish noting children can’t enter those types of business anyway. He doesn’t have a problem regulating what they display outside their building, but does not see limiting floor space as accomplishing anything.

Mayor Luckino advised the action sends a message that this body does not tolerate this type of activity.

Council Member Herbel moved to bring an ordinance back for future discussion with the Town Attorney informing the Council what percentage is legally defensible. Mayor Luckino seconded.

Town Attorney Haubert questioned if Council would like him to also address setbacks from the highway, noting it will depend on what the zoning map currently shows. Mayor Luckino advised that Council doesn't want to end up in court and wants something that is defensible.

Motion carried 4-1 on a roll call vote.

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

PUBLIC COMMENT

William Hampton, Landers, commented regarding the school district, spoke against having adult businesses in town.

STAFF REPORTS AND COMMENTS

None

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

16. Council Member Huntington

Congratulated Accountant Ainsworth for being selected as Employee of the Year.

Thanked the Youth Commissioners for their volunteer work throughout the year.

17. Council Member Neeb

Thanked the Youth Commissioners.

Thanked Accountant Ainsworth for the work she does.

18. Council Member Herbel

Thanked Accountant Ainsworth for all her hard work, noting the employees are very important

Thanked the Youth Commission for all their hard work.

19. Mayor Pro Tem Mayes

Commented regarding the earlier discussion noting people have fundamental rights and all sides of issues need to be defended.

Commented regarding proposed wilderness legislation by Senator Feinstein's for Sand to Snow National Monument, noting there are some concerns, and it is appropriate to spend some staff time looking at issues regarding public improvements.

20. Mayor Luckino

Congratulated and thanked Accountant Ainsworth for all her hard work and dedication.

Commended the Youth Commission.

Commented that the Council as a body will always take on tough issues and will not always agree, but can disagree and still work together.

ANNOUNCEMENTS

Next Town Council Meeting, Tuesday, June 23, 2009.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Jamie Anderson, MMC
Town Clerk