

**TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING MINUTES
MARCH 16, 2010**

Mayor Mayes called the regular meeting of the Town of Yucca Valley Council to order at 5:36 p.m.

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

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.

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code Section 54956.9(b) 1 potential case

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

Property: 586-031-36, 594-031-23, 594-041-34, Golf Course, 3 parcels totaling 99.42 acres located on the NW corner of Yucca Tr. and Kickapoo Tr.
Blue Skies Golf, LLC/Town of Yucca Valley
John Tooker/Shane Stueckle, Real Property Negotiator
Real Property Negotiations

D. Closed Session pursuant to Government Code Section 54957, Public Employment (Town Manager Recruitment)

Mayor Mayes adjourned to closed session at 5:36 p.m., returned to open session at 5:58 p.m. and advised there was no reportable action taken.

Mayor Mayes reconvened the meeting at 6:04 p.m.

Staff Present: Interim Town Manager Tooker, Deputy Town Manager Stueckle, Town Attorney Haubert, Administrative Services Director Yakimow, Community Services Director Schooler, Police Capt. Miller, and Town Clerk Anderson.

PLEDGE OF ALLEGIANCE

Led by Council Member Neeb

INVOCATION

Led by Mike Kelliher, Joshua Springs Calvary Chapel

AGENCY REPORTS

Fire Department

- 1. Monthly Report for February 2010.

Chief Stocker gave the monthly statistical Fire Department report for February, 2010. He announced he is retiring and introduced the new Chief, Gary Benedict. Chief Benedict advised he is honored to be working in the Town gave the safety message reminding everyone to check their smoke detectors when the time changes.

Chamber of Commerce

- 2. Monthly Report for February 2010.

Mike Kelliher, Chamber President, gave the monthly statistical report for February.

APPROVAL OF AGENDA

Council Member Huntington moved to approve the agenda. Council Member Neeb seconded. Motion carried 4-0-1 on a voice vote with Council Member Herbel absent.

CONSENT AGENDA

- 3. **Approve**, Regular Town Council Meeting Minutes of March 2, 2010 as presented.
- 4. **Waive**, further reading of all ordinances and read by title only.
- 5. **Adopt**, Ordinance No. 207, Development Code Amendment, DCA 01-09. Ordinance Repealing and Restating Chapter 3 of Division 3, Title 8 Relating to Land Use Design Procedures.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REPEALING AND RESTATING TITLE 8, DIVISION 3, CHAPTER 3 OF THE TOWN OF YUCCA VALLEY DEVELOPMENT CODE RELATING TO LAND USE DESIGN PROCEDURES

- 6. **Receive and file**, AB 1234 Reporting Requirement Schedule for the month of February, 2010.

- 7. **1) Approve**, Change Order No. 2 in the amount of \$28,473.35 to contract for the reconstruction of Fortuna Avenue from San Andreas Road to Santa Barbara Drive, Town Project No. 8351 to Palm Canyon Contractors, Inc. and authorize the Interim Town Manager, Town Attorney, and the Mayor to sign all necessary documents; and authorize the Interim Town Manager to expend the contingency if necessary to approve the project; and **2) Approve**, an additional \$16,909 expenditure of budgeted funds to complete the project.
- 8. **Authorize**, to increase the purchase order for the purchase of asphalt maintenance supplies from Crafc0, Inc., to a new not-to-exceed amount of \$28.000 for fiscal year 2009/2010
- 9. **Accept**, HSIP grant funding for Traffic Congestion Relief Project (TCRP) 129 and SSR 62/247 projects; Authorize Interim Town Manager and Town Attorney to sign all necessary documents and applications to meet Caltrans key milestones and delivery deadlines for HSIP funding.
- 10. **Award**, a contract for construction services for Morongo Basin Adult Health Services (MBAHS) Patio Cover and Doors, CDH Project No. 123-32101, Case No. 2914, Town Project No. 8954, subject to San Bernardino County Community Development and Housing (CDH) approval of award of bid, and transfer of \$20,000 of the \$34,000 originally allocated to Desert Christ Park, to Joe Putrino General Contractor of \$46,875 and establish a \$9,375 contingency and authorize the Interim Town Manager, Town Attorney, and the Mayor to sign all necessary documents; and authorize the Interim Town Manager to expend the contingency if necessary to complete the project.
- 11. **Ratify**, Warrant Registers in the amount of \$197,974.14 for checks dated February 25, 2010, Ratify Payroll Registers total of \$350,055.34 dated February 19, 2010 through March 5, 2010.

Council Member Neeb moved to adopt Consent Agenda Items 3-11. Council Member Luckino seconded. Motion carried 4-0-1 on a roll call vote.

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

PUBLIC HEARINGS

- 12. **Development Code Amendment, DCA 01-10, Ordinances Repealing and Restating Chapter 15 of Division 1, Title 4 Relating to Special Events; Repealing and Restating Section 84.0410 of Chapter 4 of Division 4, Title 8 relating to additional uses; and Repealing and Restating Chapters 1 through 27 of Division 12, Title 8**

relating to definitions

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REPEALING AND RESTATING CHAPTER 15 OF DIVISION 1, TITLE 4 OF THE COUNTY OF SAN BERNARDINO CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY RELATING TO SPECIAL EVENTS

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 8, DIVISION 4, CHAPTER 4, SECTION 84.0410 OF THE COUNTY OF SAN BERNARDINO CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY RELATING TO SWAP MEETS

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REPEALING AND RESTATING TITLE 8, DIVISION 12, CHAPTERS 1 THROUGH 27 OF THE COUNTY OF SAN BERNARDINO CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY RELATING TO DEFINITIONS

Deputy Town Manager Stueckle reported this item is a continuation of the public hearing from March 2nd. At that meeting you received a recommendation from the Planning Commission to amend three separate ordinances, including a change to the Special Events Ordinance to provide for expansion of events such as art shows to be permitted up to 12 times a year and additional uses was recommended to be modified to eliminate the prohibition of Certified Farmers Markets from certain areas of the highway and allow them in all commercial use districts, and to add a definition for Certified Farmers Markets to the definitions ordinance. Council asked staff to return with information regarding the regulations for non-certified farmers markets vs. certified farmers markets.

A non certified farmers market would need to follow locally established regulations, whereas a certified market regulations are established through the County Agricultural Commission's office.

Eric Mueller, Pioneertown, spoke in support of removing the distinction of certified farmers market from the ordinances.

Council Member Luckino expressed concern regarding over regulating events when we have people who don't want to follow the rules going out on weekends and selling their wares on street corners, and we can't enforce these issues. He is not in favor of separating out the certified farmers market when there are so many other worthy events. The Town should be open for all events, and not be exclusive.

Mayor Mayes commented that Mayor Pro Tem Herbel is not able to be with us this evening, and questioned if Council thinks it can come to a resolution tonight or if the item should be postponed until she is able to attend. Council agreed to continue with the item.

Council Member Neeb agreed that he does not think the town should be exclusive by having different rules for certified farmers markets and non certified markets.

Council Member Huntington concurred.

Deputy Town Manager Stueckle advised that the Planning Commission recommendation is to amend the ordinances placing a definition for certified farmers market. If it is the Council's desire to eliminate that requirement, staff would recommend that the Council direct staff to take these ordinances back, making the necessary modifications to meet Council's direction, and to bring the item back to Council for final action.

Council Member Neeb questioned why we can't just remove the term certified and make it farmers markets. Town Attorney Haubert advised that would be inserting a term that is not defined, and staff's recommendation is based on the need to have farmers market defined. If you take out the word certified, which has a specific definition and regulations, and if you put in a vague term it could be interpreted to extend all the way to what some people think of as a swap meet, and he does not believe it is Council's intent to open it up to swap meet activities, but to open it up to what is thought of as a farmers market, but not so restrictive as to require it to be a certified farmers market. If it is not the Council's intention to allow a swap meet, then the term farmers market needs to be defined.

Council Member Luckino expressed concern regarding the inequity between the number of farmers markets allowed at 2 per week with a permit that is good for one year and art show being limited to 12 events per year.

Council Member Neeb recommended sending the ordinances back to staff because he wasn't talking about swap meets, he was just referring to the sale of food whether it is certified or not.

Town Attorney Haubert advised that staff will try to draft a definition to meet the Council's needs that is broad enough to allow farmers market type events but not so restrictive as to only allow markets that are certified.

Council Member Neeb moved to refer the matter to staff and bring it back to the Council with the appropriate language. Council Member Luckino seconded. Motion carried on a voice vote 4-0-1 with Council Member Herbel absent.

DEPARTMENT REPORTS

13. Solid Waste Franchise Agreement Update.

Administrative Services Director Yakimow commented that at the first meeting in February of this year Council requested an update on the solid waste franchise agreement

update process we are currently undergoing with Burrtec, the franchise waste hauler. At this time the franchise with Burrtec is through four separate agreements, and one of the objectives in the franchise update is to consolidate those into one agreement for clarity efficiency and uniformity. Secondly there is a big emphasis now at the state level of insuring that municipalities are meeting their diversion goals, and what kind of programs they have and approach they are taking to insure they have an appropriate level of reuse and recycling, so our approach is to engage our franchise waste hauler to make sure it is a cooperative approach to make sure we have the programs in place, the education programs with the youth and the unified school district, making this a collective approach to insure that we have the programs that are intended to help the town meet its goals. Finally we will be looking at commercial recycling for our businesses in town trying to incentivize that so that it is a voluntary process and makes sense for them to be involved in recycling at a higher level than we are seeing now. It is anticipated that the internal draft review will be completed in April with a final draft to the franchisee in late April. Final negotiations will move forward in May and June and staff anticipates returning to Council for final review and action by August.

Council Member Huntington advised this is of importance because of the state requirements for reducing refuse going into land fills and one of our biggest holes right now is commercial recycling and that also includes mobile home parks which have no recycling. Also, looking to the future, it has been identified that almost 80% of the waste going to the landfills right now is organic materials from supermarkets and such, so in the long run we are going to have to look at composting and having supermarkets separate out their wet garbage so that it can be hauled separately and composted at the landfill. That will be a major relief and extend the life of the landfill for many years.

Council Member Neeb moved to receive and file the update report. Council Member Luckino seconded. Motion carried 4-0-1 on a voice vote with Council Member Herbel absent.

14. Ordinance amending Chapter 2.05, Section 180 (A) Council Agenda, of Title 2 of the Town of Yucca Valley Municipal Code.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING SECTION 180(A) OF CHAPTER 2.05 OF TITLE 5 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE RELATING TO COUNCIL AGENDA

Town Clerk Anderson read the title of the Ordinance, noting that the item was requested by Mayor Mayes at the December 1, 2009 Town Council Meeting.

Mayor Mayes commented that now that there is "Future Agenda Items" on every agenda, it seems that it is appropriate for the Council to decide what goes on the agenda and not to have the mayor to have the power over the other Council Members. However, the

Mayor should be the individual who is able to call special meetings and place items on the agenda concerning hiring or discipline of the Town Manager. The other thing that would be difficult for the Town Manager to do would be to place agenda items for at will appointments for board commissioners.

Council Member Neeb commented that he does not have a problem with limiting it, noting that Council has ample opportunity to put things on the agenda, but does agree that the Mayor should have some latitude for putting on items regarding the Manager or commissioners.

Mayor Mayes commented as the ordinance is recommended paragraph A reads “the Town Clerk or his/her designee shall prepare an agenda for each Council Meeting. Items of business may be placed on the agenda at the direction of the Town Manager or three affirmative votes of the Town Council during discussion of Future Agenda Items at a Town Council Meeting. Items of business regarding personnel matters may be placed on the agenda at the direction of the Mayor.” He suggested that the last sentence be amended to read “Items of business regarding personnel matters, including appointment or replacement of Commissioners, may be placed on the agenda at the direction of the Mayor.”

Council Member Huntington questioned if individual Council Members could push an issue regarding a commissioner forward to an agenda, since each one recommends a commissioner for appointment. Mayor Mayes advised that they could come to the Mayor and request the item be put on the agenda, noting that placement discussion during Future Agenda Items could become awkward if it had to be discussed there.

Mayor Mayes commented that often times there is misinformation as to what Mayor can actually do, noting the Town is a Council/Manager form of government and it is the Council together that makes policy decisions and gives direction to staff to implement. The Mayor does not have any ability over other Council Members other than chairing the meetings and ceremonial events.

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

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

FUTURE AGENDA ITEMS

Council Member Luckino commented about a letter received from a citizen regarding adding a garage to her property and the size restriction, and requested that the issue be placed on an

agenda for discussion. Interim Town Manager Tooker commented that request is being processed. Deputy Town Manager Stueckle advised that individual has made contact with a contractor, who is working with staff. Our understanding is that they are moving forward with plans for a 500 sf. garage. Council Member Luckino commented that shrinking structures is not appealing to eye, and the way the code is written is hurting the Town aesthetically.

Mayor Mayes talking reminded Council that the entire development code is being looked at. Interim Town Manager Tooker requested that if individual Council has concerns about particular areas of the Code, they let staff know so that it can be incorporated into the review process.

Council agreed to wait until the development code review process.

PUBLIC COMMENT

None

STAFF REPORTS AND COMMENTS

Administrative Services Director Yakimow advised that as the result of a FEMA declaration of disaster, the Town is now eligible for some reimbursement from the flood damage in January.

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

15. Council Member Luckino

Congratulated Chief Stocker on his retirement, and congratulated and welcomed Chief Benedict.

Commented that the 2010 Census information is starting to hit mail boxes and requested that everyone turn it in.

Announced that his wife was given a Woman of the Year Award by 65th Assemblyman Paul Cook. He added it is great for his generation to become involved in serving the community and recommended everyone step up and become an active member of the community.

16. Council Member Huntington

Congratulates Chief Stocker and welcomed Chief Benedict back to Yucca Valley.

Reported regarding the Animal Care JPA meeting.

Commented regarding attendance at a 2+2 meeting with the homestead valley group noting he will let Mayor Pro Tem Herbel report at the next meeting.

17. Council Member Neeb

Congratulated Chief Stocker and welcomed Chief Benedict.

Reported regarding attendance at the Battle Color Ceremony at the Marine Corps Base.

18. Mayor Pro Tem Herbel

Absent

19. Mayor Mayes

Commented regarding a citizen complaint and comment that the roads in town are an embarrassment. He agreed they are an embarrassment and the Town can not keep kicking the can down the road.

Congratulated Chief Stocker, and advised that Chief Benedict has been a member of this community for a long time and congratulated him on his appointment.

ANNOUNCEMENTS

Next Town Council Meeting, Tuesday, April 6, 2010.

ADJOURNMENT

There being no further business the meeting was adjourned at 6:45 p.m.

Respectfully submitted,

Jamie Anderson, MMC
Town Clerk