

TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING MINUTES
August 18, 2009

Mayor Luckino called the regular meeting of the Town of Yucca Valley Council to order at 5:01 p.m.

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

CLOSED SESSION

A. 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
FDIC/Town of Yucca Valley
Shane Stueckle, Real Property Negotiator
Real Property Negotiations

Property: APN 595-071-03, 56525 Little League Drive
Boys & Girls Club of the Hi Desert/Town of Yucca Valley
Shane Stueckle, Real Property Negotiator
Real Property Negotiations

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

Mayor Luckino adjourned to Closed Session at 5:01 p.m. and returned to open session at 5:25 p.m. and announced there was no reportable action taken.

The meeting was recessed until 6:00 p.m.

Mayor Luckino reconvened the meeting at 6:00 p.m.

Staff Present: Town Manager Takata, Deputy Town Manager Stueckle, 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

INVOCATION

Led by Mike Kelliher, Joshua Springs Calvary Chapel

AGENCY REPORTS

Fire Department

2. Monthly Report

Battalion Chief Snow gave the monthly statistical Fire Department Report for July 2009 and safety message for older adults.

Chamber of Commerce

3. Monthly Report

Yucca Valley Chamber of Commerce President Mike Kelliher gave the monthly statistical Chamber of Commerce report for the month of July.

APPROVAL OF AGENDA

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

CONSENT AGENDA

4. **Approve**, Regular Town Council Meeting Minutes of August 4, 2009 as presented.
5. **Waive**, further reading of all ordinances (if any in the agenda) and read by title only.
6. **Ratify**, the Audit Committee's review and execution of the attached engagement letter between the Town of Yucca Valley and Rogers, Anderson, Malody & Scott, LLP (RAMS) concerning audit services for the year ending June 30, 2009.
7. **Authorize**, the purchase of asphalt maintenance supplies from Craftco, Inc. for fiscal year 2009-2010 in the not to exceed amount of \$20,000.
8. **Receive and file**, the AB 1234 Reporting Requirement Schedule for the month of July 2009

9. **Adopt**, Ordinance No. 203 Amending the Yucca Valley Municipal Code to Bring Curfew Regulations in Line with the San Bernardino County and City of Twentynine Palms Code.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING CHAPTER 11.40 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE RELATED TO CURFEW FOR MINORS

10. **Award**, a contract for construction services to Bond Blacktop, Inc., in the amount of \$873,680.91; establish a \$87,400 contingency and \$7,000 in project management costs; authorize the Town Manager, Deputy Town Manager, Town Attorney and Mayor to sign all necessary Documents; authorize the Town Manager to expend the contingency if necessary to complete the project; and adopt Resolution No. 09-27 amending the fiscal year 2008-09 & 2009-10 budget.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING THE FY 2008/2009 – 2009/2010 BUDGET

12. **Adopt**, Resolution No. 09-28, amending the annual Measure I, One-Year Capital Improvement Plan and Expenditure Strategy for Fiscal Year 2009/2010

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ADOPTING THE ONE-YEAR CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2009/2010

13. **Adopt, Resolution No. 09-29, amending the 2008/2009 through 2009/2010 Two-Year Capital Improvement Plan to include the changes to Fiscal Year 2008/2009**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING THE TWO-YEAR TRANSPORTATION PROJECT LIST FOR FISCAL YEARS 2008/2009 THROUGH 2009/2010

14. **Ratify**, Warrant Registers in the amount of \$634,782.51 for checks dated July 23, 2009 to August 7, 2009.

Town Manager Takata advised there is a correction to the Award of Contract for Slurry Seal staff report on page 31 of the agenda in that the project balance of budgeted funds should be \$220,941.09, not the \$22,094.10 as stated.

Council Member Herbel requested to pull Item No. 11

Council Member Neeb moved to adopt Consent Agenda Items 4-10, and 12-14. 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

11. Senior Home Repair Program

Administrative Services Director Yakimow advised the Town has participated in San Bernardino County's Senior Home Repair Program for the past 25 years. The program is funded through CDBG money and is completely administered by County Staff. In April the County Board placed \$939,724 of 2009-10 CDBG Funds originally intended for the Senior Home Repair program in a separate account pending review of the program, and expressed concerns about the method of financing, distribution of service, and funding allocations by community. County staff met with each of the participating cities, solicited comments, and completed their review of the program. The following recommendations were proposed as a result of that review: Permit the 12 cities and supervisorial districts to opt in or out of the program; restrict the use of funds allocated by a jurisdiction for use only in that jurisdiction on a first-come, first-served basis; cost of the repairs shall not exceed the funds allocated by each jurisdiction; county will partner with jurisdictions to develop a marketing plan; and city participation would be through a joint agreement covering fiscal years 2009-10, 2010-11 and 2011-12. The alternative to non participation would be the direct allocation of the Town's share of funds, and self-administration of the program. The Town's first year allocation is \$41,040.

Council Member Herbel advised she wanted the item pulled for informational purposes so that the public is aware of the program. She commented that the share of program delivery is \$11,544 and questioned if Council would be agreeable to put an additional \$11,544 from the General Fund back into the program at mid year, to bring the allocation back up to the \$41,010.

Mayor Luckino advised he has no problem bringing the issue back to look at it.

Council Member Mayes objected stating he does not think the Town should give taxpayer monies from the General Fund to other property owners.

Council Member Neeb questioned if there are checks and balances to make sure the money is spread around and not put into the same place year after year. Administrative Services Director Yakimow advised that this is a one time grant to participants.

Council Member Neeb moved to approve the Joint Agreement for Senior Home Repair Program – Community Development Block Grant, and authorize the Town Manager to execute the agreement for fiscal years 2009-10 through 2011-12. 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

PUBLIC HEARINGS

15. Public Facilities Development Impact Fees, Consideration of Fee Level Modifications, Direction to Staff.

Deputy Town Manager Stueckle reported that the Town Council established Public Facilities Development Impact Fees for new residential development in October 2005. The fees became effective on January 30, 2006 and annual review of those fees is required. A public hearing is required for considering amendments to the existing fees and any adjustments would be adopted by Resolution of the Town Council. Fees are collected for Commercial, Office and Industrial land uses at a rate of \$1.00 per square foot; Single Family Residential at \$5,200 per unit, and Multi Family Residential at \$3,600 per unit. Currently there is \$47,693.14 in the account for general facilities; \$4,275 for parks; \$255,608.38 for streets; \$205,912.48 for drainage; and \$16,563 for trails.

Mayor Luckino Opened the Public Hearing.

Margo Sturges, Yucca Valley, suggested raising the fees for pro development because higher impact fees will improve the town. She advised she likes the idea of phasing the fees in over 3 years.

Jeff Simonetti, BIA, requested that the Council keep the fees at the same level due to the economic times. Keeping them low will help spur growth. He noted they are just asking that they stay the same rate temporarily for one year.

Isaac Hagerman, Yucca Valley, commented that taxing this sector of our economy is the worse thing Council can do right now, noting he would like to see them lowered, but if not, keeping them the same at this time is a good idea.

Larry Burge, Yucca Valley, commented he is always opposed to Development Impact Fees, and advised the Town is incorporated incorrectly and should be general law so that it can charge a documentary transfer Fee. He noted the collected fees haven't been used for anything and should be used to improve the roads.

Ramon Mendoza, Yucca Valley, commented regarding the need for funding for incident command. Fire and Police need to remain fully staffed.

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

Council Member Huntington commented that Council is required to review the fees once a year, noting last year there were 7 residential permits pulled, for a gain of \$35,000 from the current fees. This is not going to improve this year or next, but by reviewing annually Council can address it. He recommended leaving the fees as they are and address the issue again next year.

Council Member Mayes commented there has been one single family home built this year and we have received just over \$5,000. With inflation, it is a waste to collect this money, because by the time it is used, the cost will rise to build the infrastructure needed. He recommended that if the fees are going to be charged at all, they should be kept the same and perhaps exempted for this year.

Council Member Neeb commented this is an incremental process, and agreed with keeping the fee the same this year because building is slow. He noted that some of the funds have been used for park planning for the south side community park.

Mayor Luckino agreed with Council Member Mayes noting that Yucca Valley is no different than the state and feds regarding what is going on with the economy. They are trying to get people to work, and the Town is being counter productive by putting the money in the bank and leaving it sitting there. He questioned if the fees can be programmed in increments, such as \$0.00 for 1-100 permits, a fee for 101-200 permits, a higher fee for 201-300 etc. Town Attorney Haubert stated he would not recommend doing anything without an Engineer's Analysis. Mayor Luckino questioned what happens if the money just stays in an account. Deputy Town Manager Stueckle advised that the money must be returned if it is not used within an allotted amount of time, unless findings are made. Mayor Luckino commented he does not think the money should be kept in our account, and should be leveraged to do something now.

Council Member Herbel commented she does not see that the impact fees as they stand at this time are cost prohibitive for a developer. The lack of a sewer system is what is prohibitive.

Mayor Luckino commented the impact fees, combined with other fees and requirements such as undergrounding utilities all add up.

Council Member Mayes commented if the fees are going to be kept at the same level, all of the money should go towards streets and roads, which is most paramount of the five items listed.

Council Member Huntington questioned if the funds can be combined. Deputy Town Manager Stueckle advised they can not, noting that Council Member Mayes is recommending that the Town only impose the traffic portion of the impact fees and set that portion of the fee to streets. Council Member Huntington advised he is amenable to

that.

Council Member Neeb questioned if that is possible. Town Attorney Haubert advised the maximum allowable fee for roads is \$5,600, so it is possible to reduce the fees for the other categories and charge the full \$5,200 for roads.

Town Manager Takata reminded Council that the funds collected can only be used for expansion, not maintenance, and the fact that there have been ongoing discussions regarding drainage and the use of impact fees for that issue.

Mayor Luckino agree to putting the \$5200 straight to streets and roads, but will probably disagree to even keeping impact fees where they area, noting that Government should reducing fees not keeping things the same or increasing them.

Council Member Neeb questioned if the Town is expanding the road system with this action. Town Manager Takata advised the money would have to be used for new streets or widening the existing streets.

Deputy Town Manager Stueckle clarified that members of the Council have indicated a desire to make adjustments to impact fees whereby fees remain the same but the fees generated be tied to the nexus study and contributed fully to the traffic fee portion, and direct staff to return to the first meeting in September with a resolution to adjust the fees allocating them to traffic only

Council Member Herbel commented she understands the thought behind the request, but noted that the Town still needs facilities, parks, trails, and drainage. Placing all the money into future streets is possibly depriving the public of all the other infrastructure needs.

Council Member Huntington commented that Development Impact Fees are never going to pay for all the infrastructure deficits and there will to be assessments.

Council Member Mayes moved to adjust impact fees whereby they remain the same, but attributing the fees generated fully to the traffic fee portion, and direct staff to return adjustments to the Town Council meeting of September 1, 2009, for final Town Council action. Council Member Huntington seconded. Motion carried 3-2 on a roll call vote.

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

Town Manager Takata advised that, since the fees went into effect in 2006, the Town has updated the Parks and Public Facilities Master Plans.

DEPARTMENT REPORTS

16. Amendment to Chapter 12.40, Section 12.40.010, Ordinance 122, 9-6-2001

AN ORDINANCE OF THE TOWN OF YUCCA VALLEY REPEALING AND REENACTING IN ITS ENTIRETY CHAPTER 12.40 OF TITLE 12 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE RELATED TO PARKING RESTRICTIONS

Code Compliance Supervisor Megli advised in 2001 the Council adopted an ordinance establishing new regulations for the parking of vehicles for sale. Under the current ordinance, staff is required to issue a warning notice for the first violation to the responsible party. The disadvantage for the Town is that responsible parties who are in violation of this code know the Town's system, and will go ahead and park their vehicles and put them up for sale knowing they will first receive only a warning. Staff recommends that in lieu of issuing a correction or warning notice for the first violation, enforcing agencies may issue either court and/or administrative citations. The knowledge that the citation will be issued for the first violation will become a deterrent for would-be violators in the future, with the end result being fewer vehicles parked for sale along the highway within the Town.

Larry Burge, Yucca Valley, advised that he doesn't have a problem with anyone putting their car on a vacant lot and is totally opposed to the ordinance.

Council Member Neeb commented this has been an issue over the year's noting he can remember when it first came up and the Town went with the warning system.

Council Member Mayes commented the Town should not do this at all.

Mayor Luckino commented if the Town is going to have ordinances it should be able to enforce them. Abuse is the problem that needs to be addressed, and it is unfair to the business operating as used car lots.

Council Member Neeb added a lot of the vehicles are on private property without permission.

Council Member Huntington agreed that the existing ordinance is not effective and there is a need to make it effective.

Council Member Herbel questioned if the ordinance includes private property. Code Compliance Supervisor Megli explained the provisions for those selling a private vehicle on one's own property.

Town Clerk Anderson read the title of the ordinance. Council Member Herbel moved to introduce the Ordinance, amending Section 12.40.010 of the Town of Yucca Valley Municipal Code by repealing Section 52.0120(d), eliminating the requirement to issue a warning citation prior to the issuance of an infraction citation. Council Member Neeb seconded. 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

17. Ordinance Amendment: Selection of Mayor and Mayor Pro Tempore

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING SECTION 2.05.210 OF THE YUCCA VALLEY MUNICIPAL CODE RELATING TO THE SELECTION OF MAYOR AND MAYOR PRO TEMPORE

Town Attorney Haubert advised of previous discussions gave two options for completing paragraph C of the ordinance as follows (1)... shall become the most junior member of those elected at the general election; or (2)... shall become eligible for nomination based on the number of votes received during the certified general election.

Ramon Mendoza, Yucca Valley, commented he would like to see the selection make based on the intent that everyone gets their chance in order with the complexity of whether somebody becomes a senior or junior member.

Margo Sturges, Yucca Valley, requested that the Council keep the present rotation in place.

William Swinnerton, Yucca Valley, commented regarding the ordinance.

Dan Munsey, Yucca Valley, commented that if leaders were chosen by rotation this country would be in deep trouble, noting it is important to have strong leaders. The Council should allow the rotation to occur as the public perceives it should.

Council Member Herbel read a statement regarding the issue, noting the intent of the ordinance is to rotate the position of Mayor and Mayor Pro Tem to provide each Council Member the opportunity to serve. In order to preserve the integrity of the intent, council should look at the precedence. She recommended that Council adopt the first choice.

Mayor Luckino expressed appreciation regarding the public comment as it relates to leadership, noting it is not legislated and never given, it is earned. The historical

precedent has been the rotation by the number of votes received in each election, and that should play out. It has nothing to do with who is more or less capable.

Council Member Huntington agreed with item 1 of the new language.

Council Member Neeb agreed with Council Member Huntington that the Mayor should go to the junior spot at the end of their term. He added that when it comes down to it, three votes are required for anyone to move into the position.

Council Member Mayes commented that this item has gotten blown out of proportion. This item resulted from confusion between staff and legal counsel about the rotation which is why it came to the forefront. The Ordinance is a guideline regarding how to select the next mayor pro tem, not an entitlement or right, but there does need to be a good guide to act on. The overriding consideration is that, by democracy, 3 members of the Council are going to chose who is mayor pro tem. The intent for him was to get rid of the ambiguous language and go back to historical precedence.

Council Member Mayes moved to introduce the ordinance with sentence no. 1 and Council will have to work it out at nomination time.

Town Manager Takata noted that this item arose because he had a discussion with a senior staff member and they disagreed with the way the ordinance read. He asked the Town Attorney at that time to review it, and once the interpretation was received he distributed it to Council who then asked that that the new Town Attorney also review it. We always have to clean up ordinances when there is a disagreement among staff. It has nothing to do with anyone in particular, it has to do with staff due diligence.

Town Attorney Haubert commented that based on discussion tonight he has made a minor amendment to the last part of paragraph C and the last 2 sentences shall read as follows: "A member serving as mayor pro tempore at the time of his or her election shall be nominated as mayor in accordance with paragraph (b)(1). Notwithstanding any other provision, any member upon completion of his or her term as mayor shall become the most junior member of those elected at the general election."

Council Member Mayes asked for clarification that Mayor Pro Tem doesn't automatically become Mayor. Town Attorney Haubert answered that the ordinance only deals with who has seniority as the next one to be nominated, but does change the fact that the person must still be selected by council majority. Council Member Mayes commented it is tantamount that 3 members chose who is mayor or mayor pro tem.

Town Clerk Anderson read the title of the Ordinance.

Council Member Neeb moved to introduce the Ordinance, selecting option (1) as amended. 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

POLICY DISCUSSION

18. Street Reconstruction for New Development or Expansion of Existing Development.

Deputy Town Manager Stueckle advised that common practice implemented for new development and expansion of existing development is the requirement to reconstruct pre-existing streets. The Town Engineer/Public Works Director is most commonly the technical expert who makes the determination as to what level of reconstruction and replacement is required. The question is what, if any, requirements should be established by policy of Town Council for those exiting streets. He noted there are situations where surrounding streets may not be in very good condition, and it may make more sense to collect an estimated fee for reconstruction of those streets.

Council Member Mayes commented he is opposed to this policy as a general matter and thinks the Town shouldn't impose the requirement on people eve though we can.

Mayor Luckino commented that in lieu fees are extortion, and a big portion of a project's total costs. If the Town is going to ask for off-site improvements, the developers should not have to pay for impact fees. He vehemently disagrees with charging in lieu fees.

Council Member Huntington stated that some improvements such as curb cuts and driveways are required in order for that development to do business. The Town should get both in lieu fees as well as impact fees.

Council Member Mayes stated that he does think onside improvements should be required, but he has a problem with how far that should go. The issue he has is that the adjacent roads are already pre existing roads and the town is going too far to ask the developer fix them. The Town isn't doing its job to take care of that road.

Council Member Neeb clarified that, as Council Member Huntington stated, curbs and drives have to be adjusted to give proper access, and even if the street is in excellent condition if the developer would still have to repair the road. Deputy Town Manager Stueckle stated if the road bed is new, they would not have to pave. Council Member Neeb advised he agrees with Council Member Huntington that we have got to do something.

Council Member Mayes commented that if someone builds on a good road they don't have to pay a fee, but if they build on a bad road they do have to pay that fee.

Deputy Town Manager Stueckle stated that if the recommended action in the staff report is not what the Council desires, for new development and expansion of existing development that fronts on existing paved improved public roads at their ultimate width, those developments would not be conditioned to make any improvements. Town Manager Takata clarified that when discussion is about Town maintained roads, we are not talking about SR 62.

Council Member Neeb questioned if curbs and gutter would still have to be done properly. Deputy Town Manager Stueckle advised that they would as that would fall under a different ordinance. Council Member Neeb questioned what effect that would have on something like a strip mall project or a Home Depot. Deputy Town Manager Stueckle stated that would not have changed anything.

Council Member Mayes requested that staff have more time to clarify the issue.

PUBLIC COMMENT

Ramon Mendoza, Yucca Valley, commented regarding the golf course stating that hopefully it will never become a course again. He feels the area would be good for small shops and a wetlands area.

STAFF REPORTS AND COMMENTS

Town Manager Takata commented regarding the budget and the state proposals to borrow some funds and take some funds from the Town.

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

19. Council Member Huntington

No reports

20. Council Member Neeb

Thanked Community Services Director Schooler and the Park and Recreation Staff for a great summer music festival.

21. Council Member Herbel

No reports

22. Mayor Pro Tem Mayes

YUCCA VALLEY TOWN COUNCIL MINUTES

August 18, 2009

No reports

23. Mayor Luckino

Commented regarding places he visited during his vacation and the various displays in the different towns. He questioned if Council had an interest in looking at placing military banners in old town to recognize our soldiers. Town Manager Takata advised that the Chamber of Commerce is looking into that at this time.

ANNOUNCEMENTS

Next Town Council Meeting, Tuesday, September 1, 2009.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Jamie Anderson, MMC
Town Clerk