

**TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING MINUTES
OCTOBER 6, 2009**

Mayor Luckino called the regular meeting of the Town of Yucca Valley Council to order at 5:10 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), 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 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

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

Mayor Luckino adjourned to closed session at 5:10 p.m., reconvened to open session at 5:47 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, Town Attorney Haubert, Public Works Director da Rosa, Administrative Services Director Yakimow, Community Services Director Schooler, Police Lt. Mondary, and Town Clerk Anderson.

PLEDGE OF ALLEGIANCE

Led by Mayor Luckino

INVOCATION

Led by Mike Kelliher, Joshua Springs Calvary Chapel

PRESENTATIONS, INTRODUCTIONS, RECOGNITIONS

1. State of the Town Address

Mayor Luckino gave the State of the Town Address outlining the accomplishments of the year.

Town Manager Takata added that the State has taken 1.1 million of Town's funds, and we have a 15% reduction in staff. Staff projected that sales tax would be down 10% and property tax down 9%.

2. Introduce new employee

Town Manager Takata introduced Sue Earnest, Recreation Coordinator, noting she was introduced previously as a part time employee, and she is now full time.

Community Services Director Schooler introduced Wayneisha Lesley and Jesse Foy, Recreation Assistants.

3. Longevity Awards

Five year pins presented to Bill Pierce, Code Compliance Officer and Jennifer Doan, Animal Control Officer 1.

AGENCY REPORTS

Hi Desert Water District

4. Monthly Report

Joe Glowitz, HDWD, gave the monthly Wastewater update.

APPROVAL OF AGENDA

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

CONSENT AGENDA

Town Manager Takata advised that Item No. 8 is being pulled for consideration at a future meeting.

5. **Approve**, Regular Town Council Meeting Minutes of September 15, 2009.
6. **Waive**, further reading of all ordinances (if any in the agenda) and read by title only.
9. **Declare**, items as surplus property and direct staff to dispose of the items in accordance with approved methods.
10. **Ratify**, Warrant Register in the amount of \$536,833.60 for checks dated September 15 through 25, 2009. Ratify Payroll Registers in the amount of \$160,883.39 for checks dated September 18, 2009.

Council Member requested to pull Item 7.

Council Member Herbel moved to adopt Consent Agenda Items 5, 6, 9, and 10. 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: None
ABSENT: None

7. **San Bernardino Associated Governments (SANBAG), Regional Greenhouse Gas Inventory and Reduction Plan, Environmental Impact Report (EIR) Cost Sharing Plan**

Deputy Town Manager Stueckle advised that the passage of AB 32 and SB 375 ultimately require that every jurisdiction in the state address greenhouse gas emissions under the provisions of both pieces of legislation. The SANBAG board has agreed to take the lead role in coordinating a regional greenhouse gas inventory and reduction planning and environmental review process.

Council Member Herbel advised she pulled the item to give the general public information regarding the efforts to address AB 32 and SB 375 requirements to roll back greenhouse gas emissions to 1990 levels by 2020.

Council Member Neeb added the ability to join with SANBAG and other cities is a considerable savings for the Town.

Council Member Herbel moved to approve the Town of Yucca Valley's participation in the SANBAG Regional Greenhouse Gas Inventory & Reduction Plan and corresponding EIR preparation process. 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

PUBLIC HEARING

11. Interim Urgency Ordinance Prohibiting the Establishment of Medical Marijuana Dispensaries and Declaring the Urgency Thereof, Extending Ordinance No. 197 by one year.

AN INTERIM URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA IN ACCORDANCE WITH GOVERNMENT CODE SECTION 65858, ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES AND ON THE DISTRIBUTION OF MEDICAL MARIJUANA AT EXISTING BUSINESSES IN THE TOWN OF YUCCA VALLEY AND DECLARING THE URGENCY THEREOF

Senior Planner Kirschmann gave the background of the Ordinance, noting the staff has been working to develop an Ordinance prohibiting the establishment of medical marijuana dispensaries within Town boundaries. At their meeting of August 25, 2009, the Planning Commission requested that staff return with an Ordinance that will provide some opportunities for dispensaries to be established in Town . The title of the Ordinance has been amended by adding “extending the Moratorium” instead of “adopting a moratorium” and adding the word “commencement of” before distribution. In Section 2, “after the effective date of this ordinance” was added after “no medical marijuana dispensary shall locate or operate within the Town of Yucca Valley”

Mayor Luckino opened the Public Hearing.

Murray Hopkins, Yucca Valley, spoke in opposition to the ordinance, noting he is a caregiver and more dispensaries are urgently needed, not stall tactics.

Kathleen Flemming, Riverside, spoke in favor of the ordinance noting she is a cancer patient and has found alternative medications for her nausea, pain and glaucoma and does not need medical marijuana.

Brenda Chabot, Inland Valley Drug Free Coalition, Rancho Cucamonga, spoke in favor of the ordinance noting she is personally against these illegal storefronts. She stated it sends the wrong message to children, noting that more children enter rehab from marijuana. In addition, there is a very high increase in criminal activity around medical marijuana dispensaries.

Paul Chabot, Rancho Cucamonga, spoke in favor of the ordinance, noting their organization has been combating illegal store fronts. He advised he had to go into drug rehab when he was 12 years old and his primary addiction was Marijuana. The Town is at ground zero for dispensaries here. Marijuana is federally unlawful and there is nothing in the California legislation that says that the Town must allow dispensaries.

Barbara Taylor, Yucca Valley, spoke in favor of the ordinance, noting she does not need or want marijuana sold out of storefronts. It will lead to a generation growing up thinking smoking marijuana is good for your health, which is not true. Young people are entering treatment programs for addiction more than ever, and marijuana smoke has been found to cause cancer.

William Green, Yucca Valley, spoke in favor of the ordinance, noting marijuana is federally unlawful, and the State was treasonous when it passed the law on medical marijuana. It needs to be overturned.

Judith Thomas, Yucca Valley, spoke in favor of the Ordinance noting that she is speaking on behalf of those who work with high school students. Prop 215 only allows people who are sick to have marijuana with a Doctor's prescription, or their primary caregivers. The law never said marijuana could be sold for profit in a strip mall. She advised of the Attorney General's guidelines noting the dispensaries that have begun to operate are not recognized under state law.

Lori Green, Yucca Valley, spoke in favor of the Ordinance and encouraged the Council to extend the moratorium, and regulate the business that is already in place. She suggested restricting the operating hours so that it must be closed after 3:00 p.m. while children are present, do not allow patrons under 18 years of age, and do not allow an attending physician on site.

Mayor Luckino advised slips have been turned in from DJ Ross and Patrick Billings in favor of the ordinance, and from Elizabeth Loy, Robb Warner and Theresa Bulone in opposition to the Ordinance.

G Mark, 29 Palms, spoke in opposition to the ordinance noting that at the Planning Commission public hearing there were more people in the audience in favor of the dispensary and tonight there are hardly any pro dispensary people here.

Tom Bulone, Johnson Valley, spoke in opposition to the ordinance, noting if it is passed it is going to hurt a lot of people. He stated they were not given enough notice to allow the people to be here.

Chris Green, Yucca Valley, spoke in favor of the ordinance noting when he has children he would not want them growing up in a town where they are exposed to marijuana.

There being no one else wishing to speak, Mayor Luckino closed the public hearing.

Council Member Huntington commented he met with Mr. Ross this morning and discussed several issues. He expressed concern that the Council hasn't heard from the general citizens from Yucca Valley, and suggested that the Council might consider placing a ballot item in the June primary next year to determine if the residents want dispensaries or not. If they do, there are ramifications that will need work such as additional law enforcement. The Town would also need to apply some revenue income measures such as an extra tax and consideration of franchise fees, to cover the additional needs. He noted he is in favor of extending the moratorium.

Council Member Neeb advised he is in favor of extending the moratorium and could be interested in putting the issues on the ballot. He noted he is not sure if it would be in conflict with state law or not, and would need thorough analysis.

Council Member Mayes commented he would have liked to have made a decision by now and is in favor of extending the moratorium. He noted there needs to be some resolve on the federal level when comes to medical marijuana. He does not like being the only community in San Bernardino County that has a medical marijuana dispensary.

Council Member Herbel stated she is also in support of extension of the moratorium. With regards to the speaker who spoke regarding other regulations, she thinks requiring the dispensary to close at 3:00 p.m. is a good suggestion. It might also be a good idea to put the issue on the ballot to find out what our residents think.

Mayor Luckino advised he supports the moratorium noting he is a father of three, and our children are going to look at us as role models on issues like these. The ballot measure might solve the problem, but this issue has been before the Town for almost a year. This is a land use issue and he wants it to be completed this year. He questioned the timing with the Planning Commission. Deputy Town Manager Stueckle advised the original direction from the Commission was for prohibition, however, when staff returned with an Ordinance, the Commission modified their direction and gave direction to return with an ordinance to allow for allow for a dispensary or dispensaries. Because of the timing staff knew we would not be able to get a new ordinance written and hold public hearings before the current moratorium expired. As indicated, the Council may desire to give direction to staff and the Commission on what you desire to see in those regulations, or request that the matter come before you at one of your meetings in October or November so that you can provide direction.

Council Member Neeb commented there are a lot of loose ends on this issue which is why he is interested in continuing the moratorium. The idea of a ballot issue has been brought up, in addition to revenue issues. There are judicial rulings going on right now that could have a bearing on what the Town can do. He sees the time the Town has taken to go through this process as well spent.

Council Member Mayes stated this is a land use issue and the Council needs to give the Commission better direction. He suggested letting the Council explore the issue over the next month and make decisions, instead of pushing it to the Commission without enough direction.

Council Member Neeb questioned if there are some other revenue fees might be applied.

Mayor Luckino commented the issue has nothing to do with revenue, commented that no price tag can put on children's safety. This issue needs to be resolved this year, and in order to get closure on it sooner, it needs to come back to the Council. Council has received comments from the public and the Commission, and there is an ordinance that has been marked up from the Commission. To have them go through it again is slowing the process down. He would prefer that it comes back to the Council to get closure on the issue.

Town Manager Takata commented that the Council needs to continue the moratorium and if you want it to come directly to you let staff work on it and see how quickly it can be returned to Council.

Town Clerk Anderson read the title of the Ordinance.

Council Member Mayes moved to issue the report on measures taken by the Town of Yucca Valley to alleviate the condition which led to the adoption of Yucca Valley Ordinance No. 197, adopt Interim Ordinance No. 206, and declare the urgency thereof with an effective date of November 23, 2009. Council Member Neeb seconded. Motion carried 5-0 on a voice vote.

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

Council Member Neeb advised he would be fine with bringing the item back to the Council, noting there is a need to explore the ballot and revenue ideas.

Council Member Huntington commented this is not simple issue and the Council can't rush through it. There is a need to explore what the Town can do as far as limiting activities if we allow dispensaries at some point. The Town is in the limelight now what we do is very important.

Council Member Mayes commented he does not want to rush this, it has been about a year, and we need to engage more deeply as Council Members. If a date for the first

week in December is established he will be talking with the attorney. He wants to make sure the Council gets it done, but make sure it is right.

Town Manager Takata advised that staff has received direction.

DEPARTMENT REPORTS

12. Appointment to Interagency Council for Homelessness.

Town Manager Takata reported the Town is currently part of the San Bernardino County Homeless Partnership and they are seeking a member from the Council to be appointed to the Interagency Council on Homelessness for San Bernardino. Council Member Herbel is the member appointed to the Partnership.

Council Member Mayes move appoint Council Member Herbel to position. Council Member Neeb 2nd. Motion carried 5-0 on a voice vote.

13. Appointment of 2+2 Committee with the Homestead Valley Community Council

Town Manager Takata advised that Mr. Jim Harvey, President of the Homestead Valley Community Council would like to open communication lines between the Town and the Council and suggests that a 2+2 committee be formed.

Council Member Huntington commented he is in favor of this noting the Town's communications with surrounding communities has been lax, and also suggested consideration of committees with Morongo Valley and Joshua Tree.

Council Member Herbel volunteered to be on the committee.

Council Member Neeb suggested the Council accept Council Member Herbel's request and also appoint Council Member Huntington as the other member.

It was noted that the same members would also be a part of 2+2 committees with Morongo Valley and the Joshua Tree MAC

Council Member Mayes moved to appoint Council Member Herbel and Council Member Huntington to a 2+2 Committee with the Homestead Valley Community Council, Morongo Valley and Joshua Tree MAC. Council Member Neeb seconded. Motion carried 5-0 on a voice vote.

14. Town Participation in the Prop 1A Securitization Program sponsored by California Communities

Administrative Services Director Yakimow reported that as part of the fiscal year 2009-

10 budget, the State of California suspended Prop 1A, thereby allowing for the borrowing of 8% or \$437,764 of the Town’s property tax to the State. Participation in the securitization program sponsored by the California Cities will allow the Town to sell this receivable and in doing so will receive this amount in the current fiscal year, alleviating the Town of any cash flow difficulties arising from the borrowing. There is no downside to participating in the program, as all costs are borne by the State, and the Town is not a party to the external financing once complete. If the Council wishes to participate in the program, enrollment with California Communities is required. Staff will return at the next scheduled Council Meeting for formal action approving all necessary documents related to the sale of the receivable.

Council Member Mayes moved to approve participation in the Prop 1A securitization program sponsored by California Communities, authorize the Mayor, Town Manager or Director of Administrative Services to sign and transmit Prop 1A documents, and return with the necessary documents in the final form for Council approval as appropriate. 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

15. Capital Projects Status Report, Fiscal Year Budget 2009/10 through 2014/15

Public Works Director da Rosa presented the status of the Capital Projects for budget Year 2009/10 through 2014/15.

Council Member Neeb questioned if the water activity is incorporated into the CDBG project for the playground at the Community Center. Public Works Director da Rosa advised that it is.

Council Member Mayes moved to receive and file the capital projects status report. Council Member Huntington seconded. Motion carried 5-0 o a voice vote.

PUBLIC COMMENT

Tom Balone, Flamingo Heights, commented regarding the abundance of curb cuts on the roads with no sidewalks to keep people from being hit by cars.

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

16. Council Member Huntington

Congratulated Sue Earnest for becoming full time, welcomed Wayneisha Lesley and

Jesse Foy, and congratulated Bill Pierce and Jennifer Doan for their longevity awards.

Reported regarding attendance at the Sports Council Meeting and recognized the volunteers that help Community Services Director Schooler out. He especially recognized Gideon Smith who runs a great tennis program.

17. Council Member Neeb

Thanked Gideon Smith for all his work.

Congratulated Sue Earnest, and welcomed Wayneisha Lesley and Jesse Foy.

Congratulated Bill Pierce and Jennifer Doan for their longevity awards.

18. Council Member Herbel

Echoed previous comments regarding employees

Thanked the public for coming out and being a part of the process

Thanked the Mayor for the State of the Town address.

19. Mayor Pro Tem Mayes

Congratulated Sue Earnest for her new position, noting he did serve on the Council his first two years. She was a fantastic Council Member.

Welcomed Wayneisha Lesley and Jesse Foy. Speaking as a referee he recommended they keep their head up.

Commented regarding the lack of sidewalks, noting the Council is very concerned and more than aware of the problem.

20. Mayor Luckino

Echoed previous comments.

ANNOUNCEMENTS

Next Town Council Meeting, Tuesday, October 20, 2009.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:55 p.m.

YUCCA VALLEY TOWN COUNCIL MINUTES

October 6, 2009

Respectfully submitted,

Jamie Anderson, MMC
Town Clerk