

**TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING MINUTES
MAY 18, 2010**

Mayor Mayes called the regular meeting of the Town of Yucca Valley Council to order at 6:05 p.m.

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

Staff Present: Interim Town Manager Tooker, Deputy Town Manager Stueckle, Town Attorney Haubert, Administrative Services Director Yakimow, Community Services Director Schooler, Police Lt. Boswell, 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 April 2010

Battalion Chief Munsey gave the monthly Fire Department Statistical Report for April 2010

Chamber of Commerce

2. Monthly Report for April 2010

Mike Kelliher, Chamber President, gave the monthly statistical Chamber report for April 2010

Council Member Luckino asked if the business members have been surveyed by the Chamber for feedback regarding how members feel the economy is doing. Mr. Kelliher advised that is in the process.

APPROVAL OF AGENDA

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

CONSENT AGENDA

3. **Approve**, Regular Town Council Meeting Minutes of May 4, 2010, as presented.
4. **Waive**, further reading of all ordinances and read by title only.
7. **Adopt**, Ordinance No. 214, Amendment to Chapter 6.04, Section 6.04.050, Administrative Hearing to Confirm Nuisance and deletion of Section 6.40.060 Notice of Hearing

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING SECTION 6.04.050 OF CHAPTER 6.04 OF TITLE 6 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE RELATING TO ABATEMENT OF PUBLIC NUISANCES

8. **Approve**, engagement letter between the Town of Yucca Valley and RAMS (Rogers, Anderson, Malody & Scott, LLP), related to audit services for the year ending June 30, 2010 and authorize the Town's Director of Administrative Services to sign the engagement letter.
9. **Reject**, one claim filed against the Town of Yucca Valley submitted on behalf of Jody E, Willison, the Estate of Douglas Justin James Willison, James Russell Martin, and Joseph Martin.
10. **Declare**, certain property as surplus, and approve the sale of surplus supplies and equipment at an in-house public auction.
11. **Receive and file**, the AB 1234 Reporting Requirement Schedule for the month of April 2010.
12. **Accept**, the offer from Indemnity Company of California in the amount of \$50,000 to settle the claim against Surety Bond No. 828582S and authorize the Mayor, Interim Town Manager, and Town Attorney to execute all documents necessary to the settlement of the claim, Hi Desert Family Medical Clinic, CUP-01-02
13. **Ratify**, Warrant Registers in the amount of \$531,094.82 for checks dated April 29, 2010 through May 6, 2010. Ratify Payroll Register total of \$306,994.35 dated April 16, 2010 through April 30, 2010.

It was requested that Item 5 and 6 be pulled for a separate vote.

Council Member Neeb moved to adopt Consent Agenda Items 3, 4 and 7-13. Council Member Herbel seconded. Motion carried 5-0 on a roll call vote.

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

5. 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

Council Member Luckino moved to adopt Ordinance No. 210 relating to Special Events, Ordinance No. 211 relating to Swap Meets and Ordinance 212 relating to Definitions. Council Member Neeb seconded. Motion carried 4-0-1 on a roll call vote.

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

6. Traffic Speed Surveys

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 12 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE BY AMENDING SECTION 12.20.020 ENTITLED "CHANGES IN STATE LAW SPEED LIMITS" OF CHAPTER 12.20 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE ESTABLISHING SPEED LIMITS FOR EMERSON AVENUE AND YUCCA TRAIL

Council Member Huntington moved to adopt Ordinance No. 213. Council Member Neeb seconded. Motion carried 3-2 on a roll call vote.

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

PUBLIC HEARINGS

14. Development Code Amendment, DCA 01-07, Native Plant Ordinance, Environmental Assessment, EA 02-10;

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REPEALING AND REENACTING IN ITS ENTIRETY DIVISION 9 OF TITLE 8 OF THE SAN BERNARDINO COUNTY DEVELOPMENT CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY

Deputy Town Manager Stueckle reported when the process for this particular ordinance originally started grading was also being discussed. He recommended that Council consider specific direction on policy matters before significant staff time is allocated to those issues. It is important to note that there have been two distinct perspectives on the direction these regulations should go, one to tighten the native plant regulations in an effort to preserve those important assets in the community, and also a second perspective of reducing the Town’s regulations, streamlining the process and making it simpler. There have been petitions submitted supporting both of those perspectives. The process originated in December 2006.

Associate Planner Kirschmann advised of elements of the General Plan relating to the native plant ordinance such as Biological Resources Element Policy 6, Program 6a, and Slopes, Sediment Control and Soil Conservation Element Goal 2, program 3A, Policy 5 and Program 5A. He also went over the comparison and differences between existing Ordinance No. 140 and the proposed ordinance.

Mayor Mayes opened the public hearing

Jude Salamone, Yucca Valley, read a letter regarding native plants from Mike Branning on file at Town Hall.

Doug Thompson spoke in opposition to the ordinance.

Robin Kobaly, Morongo Valley, spoke in opposition to the ordinance noting removing native plants will cost more in water use, and the need for the use of a tree spade.

Bob Stadum, Yucca Valley, spoke in opposition to the ordinance stating it is unfair to make the developer pay the full cost of moving native plants for general community benefit.

Jim Boyle, Yucca Valley, spoke in opposition to the ordinance noting the environment is one of the major reasons people chose Yucca Valley.

Mike Poland, Yucca Valley, spoke in opposition to the ordinance stating it is very cumbersome, hard to understand and very technical. The Town already has an understandable ordinance. He is in favor of saving the environment but also in favor of private property rights. He would like to see a difference between how small business is treated compared to large developers.

Charles McHenry, Yucca Valley, spoke in opposition to the plant ordinance noting it is flawed in many ways and does not allow enough protection for smaller lots.

Claudia Sall, Pioneertown, spoke in opposition to the ordinance advising the state water plan has introduced land use planning to the document due to concern that the water supply won't be available and recommends that governmental agencies expand environmental stewardship. She would like a requirement for use of a tree spade, and a native plant expert.

Jamie Hall, Yucca Valley, spoke in opposition to the ordinance noting as written it does not protect native plants and needs to require a tree spade and use of a native plant expert.

Philip Fomotor, Palm Springs, spoke in opposition to the ordinance noting the incentives are no incentive to developers and requiring the developer to be responsible for the full cost related to moving the plants is prohibitive.

Mike Branning, Yucca Valley, submitted a petition with 795 signatures from people interested in native plants and noted it is clear that use of a tree spade is the only viable method of success to move the Joshua's.

David Fick, Joshua Tree, spoke in opposition to the ordinance stating the incentive program is weak and not an incentive and there is no cost to the developer for destroying trees if they are of a size beyond moving. Education is good idea but developers would treat like traffic school.

Joyce Metcalf, Yucca Valley, spoke in opposition stating a desert native plant expert needs to be included in the new ordinance. If there had been an expert at the Mesquite 55 project, we would not have had damage to the street from rains.

Eric Mueller, Pioneertown, spoke in opposition to the ordinance stated that not requiring the developers to have the responsibility of paying to have Joshua Trees moved with a

tree spade is not good for them in the long run. Offered to give \$5,000 to assist with the cost of moving the trees correctly.

Christine Williamson, Yucca Valley, spoke in opposition to the ordinance and read another portion of the letter from Mike Branning.

Samantha Morris, Yucca Valley, spoke in opposition to the ordinance requesting that Council not allow anyone to get rid of what makes this area great.

Bobby Flint, Yucca Mesa, spoke in opposition to the ordinance reading another portion of the letter from Mike Branning.

Carl Schmidt, Yucca Mesa, spoke in opposition to the ordinance requesting that Council do everything it can to improve and maintain the Joshua trees, noting they are very important for the future growth and economy of Yucca Valley.

Margo Sturges, Yucca Valley, spoke in opposition to the ordinance reading a statement regarding the Planning Commission minutes and the need to video tape the meetings.

Those not wishing to speak but in opposition to the ordinance included **Art Miller, Jr.**, Yucca Valley, **Cynthia Anderson**, Yucca Valley, **Barbara Renton**, Flamingo Heights, and **Nancy McHenry**, Yucca Valley.

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

Council Member Luckino commented this is not an easy issue and advised of his philosophy of not wanting to over regulate business and become a barrier for growth and jobs. People as a group do not want government involved in their day to day lives. Although he does recognize the value of the environment and its enhancement to the community, Council needs to look at its priorities of safety with Police and Fire, roads and parks. Most people are going to complain no matter what the Council puts in place because they will fee it is either too tight or too loose. The Town needs to look at everything we do that takes away money. Developers have numerous costs and this adds another one. The cost of moving plants probably isn't that much, but added to all the other costs it becomes big. Identification of the community is very important and we need uniqueness, but don't need overregulation.

Council Member Huntington commented the proposed ordinance does not reward or demand success, the education segment is not mandatory and allows for identification, transplanting and destruction of native plants without any knowledge level, the adoption program has no accountability, the incentives should recognize and be aligned with the cost of development. The draft ordinance is excessive in length and wordy, and does not meet the needs for the developer nor preservationists and as written is inviting failure. He noted he cannot support the draft without significant changes.

Council Member Neeb commented that the Town needs something that magnifies the character of Yucca Valley, and native plants do that, otherwise we are another Moreno Valley.

Council Member Herbel commented this native plant protection ordinance draft is less protective than the current ordinance. She read minutes from December 5, 2006 reflecting the issue that needed to be addressed as ground disturbance activity which is not addressed in the draft ordinance. Problems include the fact that there was no community forum or workshops to get input from community groups, the draft doesn't require native plant experts. She noted that one of the arguments was that there weren't enough native plant experts but the two available have stated they would train proposed native plant supervisors. Another argument was that there aren't enough tree spades, however there are 4 companies that can provide the services, and one has very large spade. These trees and plants have a monetary value. Other problems with the draft ordinance include the allowance of complete clear cutting of lots up to 2.49 acres, and a 30 day adoption period is not long enough. The Town hired a consultant firm to provide us with a native plant protection ordinance and hillside grading ordinance, paid for plans, and should be moving through both of those ordinances at the same time. We are stewards of the land, and if we pass this ordinance tonight we would be betraying the intent of the General Plan. She suggested the Council take a look at the Hogle-Ireland ordinance, and hold community workshops.

Mayor Mayes stated the Council has a lot of work to do this evening and he wants to make sure that discussion is very pointed and that all the concerns are stated.

Council Member Luckino questioned where the Council goes next, noting that all members have issues with the draft.

Council Member Neeb commented this is a tough complex issue, and moved to send the item back to the Planning Commission with Council Member Huntington's conditions for adding additional clarity. Motion died for lack of a second.

Mayor Mayes noted that he is adamantly opposed to some of the things Council Member Huntington pointed out. He stated that after hearing the public speak tonight it is clear the existing draft as recommended from the Planning Commission is not supported by either side, but the question is where we go from here.

Council Member Neeb suggested the Council hold a study session to sit down and work on this in order to boil it down.

Council Member Luckino commented the greater issue is that this is just one slice of the pie as far as costs go and noted he wants to be able to support something, but the magnitude of all the requirements of the Town are just too much, and we need to look at

priorities and take things out that are not a part of our priorities. He questioned if everything will be laid out when the development code is looked at. Deputy Town Manager Stueckle commented that not everything is included, for example the development fees are not a part of the development code.

Council Member Herbel suggested it would be appropriate to get community input.

Mayor Mayes suggested it might be appropriate to have a scientific survey performed to find out what the community feels is most important, noting there has not been one done since 2001 or 02. A lot of People are going to say they don't want to be told what to do on their private property but they do want developers to take off and clear off large pieces of property.

Council Member Herbel commented she does not have a problem with current native plant ordinance except for some enforcement issue problems. There is a loophole regarding ground disturbing activity.

Council Member Huntington agreed with Council Member Neeb that the issue needs to be addressed on the Council level at a study session. It has to be simplified, balanced and have community support. It has to work and provide incentives that are viable.

Council Member Luckino agreed to a study session and suggested it be held after the full time Town Manager is on board.

Mayor Mayes advised that Council can talk about the issue at a study session. As far as process is concerned the Planning Commission and staff have not gotten clear direction from Council. He questioned if Council wants to set up a process to go by.

Council Member Neeb stated that staff is clear on the study session process, noting he doesn't have a problem starting the process with the Interim Town Manager or with the new Manager. The idea is to sit down and get things sorted out.

Council Member Herbel stated she wants to make sure Council is not making decisions based on feelings, but making policy decisions based on fact, and bring in experts to tell us the proper way to preserve native plants.

Mayor Mayes reiterated the importance of getting community input. but there needs to be a process.

Council Member Luckino moved to bring the issue back in a study session at a future time after the new manager is in place. Council Member Neeb seconded. Motion carried 5-0 on a voice vote.

DEPARTMENT REPORTS

15. Development Code Update, Award of Professional Services Agreement, Budget Amendment.

Deputy Town Manager Stueckle reported the need to update the Development Code was identified as a priority during the strategic planning process. A Request for Qualifications/Proposals was circulated and eight firms responded to the notice. All the firms were found to be qualified to undertake this project for the Town so they were all interviewed by Town Staff and Charles LeClaire, Community Development Director for the City of Twentynine Palms. The process for the update is to be completed in two phases. Phase 1 is the Development Code Assessment that will include review of relevant documents, discussions with Town staff, interviews with all Town Council Members, all Planning Commission members, the Town Manager, representatives of the Chamber of Commerce and other stakeholders. A community survey is also included. The assessment will be presented to a joint workshop of Town Council and Planning Commissioners. Prior to initiating Phase 2 the Council will have the opportunity to provide direction to staff, the selected consulting firm and the Planning Commission for the rewrite and update of the code. It is estimated to take 12 to 18 months to complete. The bids ranged between \$128,975 to the highest of \$193,470 with 4 coming in the \$150,000 range. Staff's recommendation is to approve the budget amendment appropriating \$45,000 from the Town Council's Strategic Plan allocation.

Margo Sturges, Yucca Valley, commented she is glad the candidate is Hogle-Ireland because of the previous work they did for the Town.

Nelson Miller, Hogle-Ireland, advised he worked for the Town previously on a contractual basis so is familiar with it. The assembled team has a lot of experience with writing development codes.

Council Member Herbel questioned how the firm will get input from the community. Mr. Nelson advised they will do it in two phases including interviewing all stakeholders and performing a community survey. They will try to identify the critical issues in the code and recommend a joint workshop with the Council and Planning Commission. Council Member Herbel advised her concern is that the code be as simple as possible, easily read, understood and so that it doesn't need a lot of interpretation.

Mayor Mayes commented regarding the need make the document extremely simple.

Council Member Huntington questioned if the community survey will be satisfactory to meet Mayor Mayes requirements stated earlier. Mr. Nelson advised it will not be a scientific survey, it will be self selective.

Mayor Mayes commented the problem with those types of surveys is that they can be hijacked by those on the extreme sides. Mr. Nelson advised his firm does perform scientific surveys, but there is an additional cost.

Interim Town Manager Tooker commented if the Council wants to obtain a formal survey they should go through the formal bidding process.

Council Member Neeb moved to approve the budget amendment, appropriating \$45,000 from the Town Council’s Strategic Plan allocation for preparation of the Development Code update, approve the award of a professional Services agreement to Hogle-Ireland in an amount not to exceed \$155,000, and authorize the Town Manager, Town Attorney, and the Mayor to sign all necessary agreements to implement the project. Council Member Luckino seconded. Motion carried 5-0 on a roll call vote.

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

16. AB 32/SB375

Interim Town Manager Tooker reported the item was requested by the Council at the last meeting.

Council Member Neeb commented he brought this up after Council Member Luckino stated concerns about AB 32. A task force appointed by the League of California Cities Board came up with recommendations regarding the suspension of AB 32 and SB 375. The committee report was sent to the League Board who took no action. The Town needs to let the League know how we feel about both issues, and the fact that the recommendations have a lot of backing from people throughout the state.

Council Member Luckino advised that he had a discussion with Senator Dutton’s field representative last week advising that the Senator is looking for support to let the Governor know we support endorsing the repeal of this legislation.

Council Member Neeb added that the Environmental Quality Policy Committee of the League looked at approximately 146 environmental bills from the legislature, most having costs associated with them.

Council Member Huntington advised he supports the task force recommendations, noting it would be difficult to get the legislations repealed, but suspension is viable.

Council Member Herbel questioned if there is a need for an ad hoc committee to put together a resolution the Council can agree on.

Council Member Neeb commented there is a good recommendation from the League task force, and a lot of work has already been done. We need to let our State Senator know to slow this down to an affordable level that communities can deal with. He recommended the task force's recommendation be used and that we let the League, Governor, and State Senator know we are on hard economic times.

Council Member Luckino moved to put together a resolution with the specific recommendations from the League task force for the Mayor's signature, to be distributed to the County Supervisors and Senator Dutton. Council Member Huntington seconded. Interim Town Manager Tooker stated if Council wants a resolution it should return at the next meeting, but if you want a letter it can go out right away. He noted that a resolution has a little more formality to it, and sometimes letters are read more quickly.

Council Member Neeb commented there are probably some time issues with this noting he is fine with either a letter or resolution, whatever is most functional.

Council Member Luckino questioned if staff can follow up with the requestors and see if they want a letter or resolution.

Council Member Herbel commented regarding the resolution from the Air Quality Management District, noting she would like to see the reasons why spelled out. She suggested the possibility of a letter with a resolution to follow.

Council Member Luckino amended the motion to direct staff to put together a resolution and/or letter with the three specific recommendations from the League task force. Council Member Huntington accepted the amendment. Motion carried 5-0 on a voice vote.

17. Art Donation Offer – Simi Dabah

Community Services Director Schooler advised that Artist Simi Dabah has offered to donate a sculpture to the Town of Yucca Valley and make recommendations regarding location and installation of the piece. He also stipulated that if a different available piece from the collection was preferred, he would consider extending the offer to that piece. The Public Art Advisory Committee (PAAC) considered the offer and voted to decline the offer because the Town already has four sculptures by that artist on public display. The Parks Recreation and Cultural Commission reviewed the offer and the PAAC recommendation and voted to recommend acceptance of the piece because it would be a positive step for the Town's public art program. There was also a 30 day public review period. The offered piece is a plus sign.

Council Member Neeb questioned if there is a spot located for the placement. Community Services Director Schooler advised a spot hasn't been selected yet.

Council Member Herbel questioned how tall the piece is and expressed concern about the cross section. Community Services Director Schooler advised the piece is very tall.

Council Member Huntington stated that the Town will have to provide dollars to install the piece. Community Services Director Schooler advised the cost could be up to \$1,100.

Mayor Mayes stated he is a fan of Simi Dabah, but agrees with the Public Arts Advisory Committee and will have to vote no because the Town has too many of his pieces.

Council Member Luckino moved to accept the donation of artist Simi Dabah and add sculpture #10-20-06 to the Town's public art inventory contingent upon the execution of agreement between the artist and Town acceptable to the Town Attorney. Council Member Neeb seconded. Motion carried 4-1 on a roll call vote.

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

FUTURE AGENDA ITEMS

Mayor Mayes suggested an agenda item to discuss protocol of how to run a meeting. Council Member Huntington and Neeb agreed.

PUBLIC COMMENT

Margo Sturges, Yucca Valley, requested Council video tape the Planning Commission meetings and review charges for public information.

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

18. Council Member Luckino

Advised he will not be here for the June 1st meeting.

Wished everyone a safe Memorial Day weekend.

19. Council Member Huntington

Reported that the Animal Care JPA has narrowed the field to 6 architects from the original 16 applicants and will be meeting June 29th to interview those applicants.

20. Council Member Neeb

No reports

21. Mayor Pro Tem Herbel

No Reports

22. Mayor Mayes

No Reports

CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(b) 1 potential case

B. Closed Session pursuant to Government Code Section 54957, Public Employee Appointment (Town Attorney)

C. Closed Session pursuant to Government Code Section 54957, Public Employee Appointment (Town Manager Recruitment)

Mayor Mayes adjourned to Closed Session at 9:20 p.m., reconvened to open session at 9:45 p.m. and announced there was no reportable action taken. There were no members of the public present.

ANNOUNCEMENTS

Next Town Council Meeting, Tuesday, June 1, 2010.

ADJOURNMENT

There being no further business the meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Jamie Anderson, MMC
Town Clerk