

**TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING MINUTES
August 28, 2008**

Mayor Leone called the meeting of the Town of Yucca Valley Council to order at 6:01 p.m.

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

Staff Present: Town Manager Takata, Town Attorney Silvergleid, Deputy Town Manager Stueckle, Administrative Services Director Yakimow, Public Works Director da Rosa, Capt. Miller, and Town Clerk Anderson

PLEDGE OF ALLEGIANCE

Led by Mayor Leone

INVOCATION

Led by Mike Kelliher, Joshua Springs Calvary Chapel

PRESENTATIONS, INTRODUCTIONS, RECOGNITIONS

- 1. Proclamation proclaiming the month of September as National Alcohol and Drug Addiction Recovery Month.**

Mayor Leone read and presented the proclamation to staff members from Panorama Ranch.

- 2. Longevity Award**

Presented to Peggy Pourtemour for 10 years of service.

AGENCY REPORTS

Fire Department

- 3. Monthly Fire Department Report for July, 2008**

Report available for review at Town Hall.

APPROVAL OF AGENDA

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

CONSENT AGENDA

- 4. **Waive**, further reading of all ordinances (if any in the agenda) and read by title only.
- 5. **Reject**, one Claim filed against the Town of Yucca Valley submitted by Arlisa K. Bagley.
- 6. **Reject**, one Claim filed against the Town of Yucca Valley submitted by Sandra Denise Gant-Nazarian.
- 9. **Authorize**, staff to advertise a bid notice for the 2008/09 Street Striping Project.
- 11. **Amend**, the 2008/2009 FY budget, appropriating \$50,000 from the un-appropriated General Fund reserve for the Town’s Property Acquisition Program.
- 12. **Ratify**, Warrant Registers in the amount of \$319,095.57 for checks dated August 8, 2008 through August 15, 2008.

Council Member Herbel asked to pull item No. 7 and 10. Council Member Luckino asked to pull No. 8

Council Member Mayes moved to adopt Consent Agenda Items 4, 5, 6, 9, 11 and 12. Council Member Neeb seconded. Motion carried 5-0 on a roll call vote.

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

7. Emergency Operations Plan – Adoption

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ADOPTING THE REVISED TOWN OF YUCCA VALLEY EMERGENCY OPERATIONS PLAN

Senior Management Analyst Faoro reported the Council first adopted the plan on August 22, 2002, and the latest revision occurred on August 11, 2005. The Plan is required to be updated every three years to be compliant with the State (SEMS) and with the Federal Government (NIMS). The process for development of the plan was explained, noting it has undergone a successful peer review and, if adopted tonight, will be sent to the State Office of Emergency Services for formal adoption.

Council Member Neeb questioned if adoption of the plan will enable the Town to get reimbursement from FEMA if there is an event. Senior Management Analyst Faoro advised that lack of a plan only impacts preparedness funding from Homeland Security, and should not impact reimbursement from FEMA if there is an event. Council Member Neeb questioned if our equipment is compatible with other agencies. It was noted that it is.

Council Member Herbel questioned if the Town has “reach out” opportunities to the community to help them prepare for the 7.8 earthquake on the San Andreas that the USGS states is imminent. Senior Management Analyst Faoro advised that the month of September is National Preparedness Month, and events are planned then, in addition to the Shake Out event planned for November. Council Member Herbel questioned if there is consideration for animals in the plan. Senior Management Analyst Faoro advised that discussions are beginning regarding animal evacuation and sheltering and they will probably embark on the planning process after the first of the year. Council Member Herbel discussed hazard mitigation goals and requested that the Native Plant and Grading Ordinances refer back to the Emergency Plan.

Council Member Luckino commented regarding the assistance the Town’s Street Crew gave the City of Twentynine Palms and thanks them for their efforts.

Mayor Leone commented regarding the networking that occurs with animal owners during events.

Council Member Mayes commented regarding the need for everyone to be prepared and having 5 to 7 days of food and water available in case of an emergency, noting the Town can not take care of all our 21,000 residents.

Council Member Mayes moved to receive and adopt by Resolution No. 08-30 the revised Emergency Operations Plan dated August 28, 2008. Council Member Luckino seconded. Motion carried 5-0 on a roll call vote.

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

8. Budget Amendment to advance reimbursable HOME funds for the Boys and Girls Club gym renovation project.

Community Services Director Schooler reported the County of San Bernardino allocated \$30,000 HOME funds for the Boys and Girls Club’s gymnasium re-roofing project. The project was completed with other funding, and on behalf of the club, staff received approval for re-allocation of the HOME funds to a broader gym renovation project. The

alternative project includes converting the boxing area into a teen center.

Council Member Luckino commented regarding the efforts of Tim Humphreville to accomplish the re-roofing project without using the HOME Funds and thanked him and all the other individuals who help the Club.

Council Member Neeb moved to amend the FY 2008-09 Capital Projects Budget by establishing Account No. 560-00-00-8310-8960 – Boys and Girls Club Gym Renovation Project in the amount of \$30,000, and increasing the CDBG HOME funds revenue line item by the same amount. Council Member Mayes seconded. Motion carried 5-0 on a roll call vote.

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

10. RFP for Diesel Engine Conversion, Authorization to Issue Request for Proposal

Public Works Director da Rosa reported the California Air Resource Board regulations for on-road diesel engines specifies that 60% of the vehicles within a municipal government will need to be retrofitted with devices to reduce emissions in order to comply with air quality standards. There is more than one option available to make the diesel engine compliant, so staff is requesting authorization to issue an RFP to evaluate and install the best option available. It is estimated that the cost of retrofit would be between \$10,000 and \$20,000.

Council Member Neeb commented regarding the need to thoroughly investigate the various methods and noted the Town always hopes there is funding available from the Air Quality Management district and that the Town is in the loop in the next funding cycle. He noted if we had to purchase a new piece of equipment it would probably be \$250,000.

Council Member Herbel advised the MBTA has stated there are grants available to convert dirty diesel engines to natural engines, and they are going to be building their own natural gas station that the Town will be able to utilize. She applauded the MBTA for their forward thinking to address the emission to be compliant with AB 32.

Mayor Leone advised that he believes there will be about \$90,000 available from the Air Quality Management District for things of this type.

Council Member Herbel moved to authorize staff to issue a Request for Proposal to retrofit the diesel engine of a dump truck for air quality compliance. Council Member Mayes seconded. Motion carried 5-0 on a roll call vote.

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

DEPARTMENT REPORTS

13. Ordinance adding a new Chapter 11.90 to Title 11 of the Yucca Valley Municipal Code Regulating Registered Sex Offenders

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 11 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE BY ADDING A NEW CHAPTER 11.90 RELATING TO REGULATION OF REGISTERED SEX OFFENDERS

Town Attorney Silvergleid advised the proposed Ordinance beefs up Proposition 83, Jessica’s Law, by adding Criminal penalties and further restricting locations where registered sex offenders may reside or remain. It would not find a registered sex offender to be in violation of the ordinance and thus subject to criminal penalties prior to the effective date of the Ordinance. It would also not require any sex offender to move if he/she lives within 300 feet of any park, school, or day care facility prior to the effective date of the Chapter, but would be required to proceed directly to his/her residence and not remain or loiter within the 300 foot zone. Additionally, should a school, park, or day care center establish itself within 2000 feet of the sex offender’s existing residence after the effective date of the Chapter, the person would not be required to move. There is no fiscal impact.

Council Member Luckino commented that the Ordinance gives Law Enforcement the teeth to protect children, and questioned how Law Enforcement would know there is a violation. Capt. Miller advised that the Officers would be proactive on the streets, and they would act on complaints. Council Member Luckino thanked Council for allowing him to push this important Ordinance to protect children forward. He requested that the Town also look at Assemblyman Cook’s legislation regarding ice cream trucks.

Council Member Neeb commented that he would think Prop 83 would apply as widely as possible and questioned why it is left to communities to adopt ordinances. Town Attorney Silvergleid advised that the existing law did not have actual penalties in it, and there have been no amendments to add teeth for Law Enforcement.

Council Member Mayes commented regarding the importance of the Ordinance to protect families.

Town Clerk Anderson read the title of the Ordinance

Council Member Mayes moved to introduce the Ordinance. Council Member Luckino seconded. Motion carried 5-0 on a roll call vote.

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

15. Brehm Youth Sports Park Status Report

Community Services Director Schooler advised a group of individuals representing various stakeholder agencies have been meeting periodically over the past several months to brainstorm the future development of the recreational area currently consisting of Brehm Park, Pop Rauch Park, and the Boys and Girls Club.

Cindy Melland distributed a handout showing the view of the proposed park, and explained the vision of the many groups involved. They are forming a new organization called The Miracle League and propose a Miracle League Field which is a handicapped field with special turf so that all children can play sports. Recommended that everyone go to miracleleague.com and review the video. There are many involved who are committed to building a park that will then be adopted into the Parks Master Plan and will be water wise. Tonight they are just bringing the information to the Council so that the Town can be in the loop.

Margo Sturges, Yucca Valley, commented this is very exciting for Brehm Youth Sports Park, and applauded everyone for the work they are doing.

Sarann Graham, Yucca Valley, commented this is really a stellar project and will have great benefits for our Town and children.

Council Member Luckino questioned when the first shovel will be put in the ground. Ms. Melland advised as soon as possible depending on when the Park Master Plan is approved.

Council Member Mayes commented that people almost always come to meetings to complain about something, and it is pretty fantastic to see a group of citizens who are going to make this happen. He can not say thank you enough.

Report for information only; no action requested.

16. South Side Community Park, Authorization to Issue Request for Proposals (RFP), Preparation of Construction Plans and Documents.

Public Works Director da Rosa reported at their meeting of March 13, 2008, the Town

Council authorized the allocation of all remaining HUD EDI park grants to the South Side Community Park. The next step in the process is the preparation of construction plans and documents. The Public Works/Engineering Department will prepare and release a RFP to retain an architectural consultant to prepare plans and specifications for the facility. The estimated cost is \$453,500 using \$108,540 HUD Grant Allocation, \$77,000 Impact Fee allocation, \$113,000 Quimby Fee allocation, \$35,000 Street Revenue allocation, leaving the need to fund the remaining \$117,960 from the General Fund.

Margo Sturges, Yucca Valley, requested that the Town follow the example of the Brehm Park and look into using artificial turf, noting the sole provider of artificial turf for Disney Land lives in Desert Hot Springs. She recommended the park be named the Bob Leone Park.

Council Member Neeb commented he is glad to see the Impact Fees and Quimby fees come into play, noting it is time to put those monies to use.

Council Member Herbel commented the complaint she hears from people is that the Town is always spending money on plans and doesn't build anything. She questioned if the money would have to be returned if it was not spent on plans. Town Manager Takata advised we would not have to return the money but our ability to get more money from the Federal Government would become less likely.

Council Member Neeb commented he thinks the Council needs to address the plan question again and again, noting if we don't have plans, our ability to go out and get money is not possible and will have to come out of tax payers pockets themselves. He stated he hopes if artificial turf is not going to be used, perhaps the purple lines can be installed so when there is a treatment system in place that will be available.

Council Member Luckino agreed with comments regarding development of plans, noting the Town has spent a lot of money with no result. He questioned that step 2 is to find the \$4.5 million to build the park, and requested that staff call Assembly staff to find information on a bill or legislation for funding. Town Manager Takata advised that there is a bill that sets aside funding for Park and Recreation activities for rural communities.

Council Member Mayes stated, in regards to the plans, he also shares the same frustration, but it is important to make the hard decisions and spend the money needed to do this. There are really only a couple of options if we want to build parks, such as raising property taxes, or having more commercial and retail built in the community to bring in funds. To get the South Side Community Park built it is going to take focus.

Council Member Mayes moved to authorize the Town Manager to issue a Request for Proposal for preparation of construction plans and documents for the South Side Community Park. Council Member Luckino seconded. Motion carried 5-0 on a voice vote.

17. Capital Improvement Program Update Report

Public Works Director da Rosa gave a power point presentation on the status of the Capital Improvement Program covering those projects that are funded in the current two-year adopted budget.

Council Member Neeb commented it is his understanding that the Town has to pick up the tab for the enlargement of the left turn pocket at SR 62 onto SR 247, and questioned if the median was originally the Town's responsibility. Deputy Town Manager Stueckle advised that originally the Town agreed to financially participate with Caltrans in amount of \$385,000 for the improvement and Caltrans was going to construct the median. At some point in the process Caltrans made the determination that the process to improve the medians was going to delay the construction of the signal and they dropped the median island on SR 247 and potentially the turn pocket. Staff is waiting to see if lengthening the turn pocket is going to be including in their process. As the busiest intersection in the Morongo Basin, those issues do need to be addressed.

Mayor Leone advised that he recently met with Caltrans and the intersection was a big part of the discussion.

Council Member Luckino questioned if Camino Del Cielo is funded. Public Works Director da Rosa advised that it is. Deputy Town Manager Stueckle advised that the design engineers have not presented the final cost estimate yet, and it is hoped that the Prop 1B funds are sufficient to fund the project. Council Member Luckino questioned how secure we feel that those funds will be available. Town Manager Takata advised that we have received over \$400,000 of the \$617,000 due to the Town. Council Member Luckino questioned what has been our experience as far as the project going through the system. Public Works Director da Rosa advised that Caltrans has a lot of rules that we have to follow, but we do have a good working relationship with them and we have to move through the system.

Mayor Leone commented regarding the need for additional striping for the intersection on the south side of SR 62 at the outer highway noting that is an area that gets plugged up and no one can move in any direction.

Council Member Mayes moved to receive and file the Capital Improvement Program Update Report. Council Member Neeb seconded. Motion carried 5-0 on a voice vote.

18. Review Draft Sphere of Influence Amendment Reports, Direction to Staff to File Local Agency Formation Commission (LAFCO), Applications for Amendments to the Town's Sphere of Influence.

A RESOLUTION OF APPLICATION BY THE TOWN COUNCIL OF THE TOWN OF

YUCCA VALLEY, CALIFORNIA, REQUESTING THE LOCAL AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS FOR A SPHERE OF INFLUENCE REVIEW FOR THE TOWN OF YUCCA VALLEY AS MORE SPECIFICALLY DESCRIBED BELOW

Deputy Town Manager Stueckle advised the Town Council authorized proceeding with the sphere of influence study on February 22, 2007 and the Council reviewed preliminary boundaries at the meeting of December 13, 2007. The Town of Yucca Valley established its current sphere coterminous with the Town boundary and has not amended it since incorporation. The evaluation process is complete and staff is requesting final Town Council direction for filing the Sphere Amendment Applications with LAFCO. The report only establishes the sphere of influence, and any future annexations are totally separate. Both staff and the Consultant have looked very carefully at the core issues such as recreation, animal care and control, fire services and police services.

Stan Hoffman, Stanley R. Hoffman Associates gave a power point presentation and advised the Yucca Mesa area follows the water district boundary, so if the Town wanted to combine the Water District under its authority there is a requirement to have property in its sphere, which is the rationale for the boundaries changes. He noted the sphere is not going into Joshua Tree. The Town is currently providing services to the people in the area.

Jim Sammons, Yucca Mesa, commented the only reason the Town would consider annexing them is so they can get involved in the sewer, and for the water that exists up there. He noted the Yucca Mesa Improvement Association has been in existence longer than the Town and has a good rapport with the County of San Bernardino County. The Mesa has no problem with dealing with the county and is not going to be interested in becoming part of the Town. They have always fought every movement to try to downzone or rezone anything up there and they are slow growth advocates.

Council Member Mayes questioned if the demographic projections are SCAG numbers. Mr. Hoffman advised the Town portion is from the Town and the numbers pertaining to the Mesa are taken from SCAG and SANBAG projections. He noted there is no proposal to change the zoning out there. Council Member Mayes agreed with Mr. Sammons noting that the Town does not want to annex the Mesa because it would cost a lot of money to provide services up there, however, when it comes to the sphere of influence, it is important for the Town to be able to do this. For planning purposes it is important for the Town to add the area to our sphere.

Council Member Neeb agreed.

Council Member Herbel questioned what the process is for annexation to take place. Mr. Hoffman advised there would have to be a vote of the voters. . Council Member Herbel commented that page 50 talks about annexation and the need for the Town to collect

special assessments, and questioned if this would be above what residents are now paying. Mr. Hoffman advised there are two county assessment districts and it would be possible for people out there to vote for a special assessment to pave roads.

Council Member Neeb commented that annexation to not going to happen tomorrow, this is just a sphere of influence. People are happy with how things are happening up there and this would not change even if we expand our sphere. The issue would have to come back before anything would ever happen and there is going to be a vote.

Deputy Town Manager Stueckle advised that staff has been working with LAFCO staff throughout the process and the Executive Director has indicated concurrence that the proposed boundaries make sense. Based on the Council's review staff recommends that the Council adopt a resolution authorizing the Town to file the application with LAFCO for sphere of influence review. Advised of a need to change the resolution to state "on the map attached to this resolution as Exhibit A".

Council Member Mayes moved to receive the reports, and adopt Resolution No. 08-31 requesting the Local Agency Formation Commission to undertake take proceedings for a Sphere of Influence Review. Council Member Neeb seconded. Motion carried 5-0 on a voice vote.

14. Public Art Proposal – Andrew Rogers

Community Services Director Schooler reported at the August 14th Meeting Mr. Spelman Downer gave a presentation to the Council proposing the installation of an earthworks sculpture on the Town's Section 11 property. The project would be part of a global series of related installations constructed by internationally renowned sculptor Andrew Rogers. The project is proposed for the blank mesa site west of SR 247 near Aberdeen. If the Council sees fit to approve the project the Town Manager should be authorized to enter into an agreement with the Artist that contains the planning requirements, maintenance and repair issues, insurance, indemnification, and liability considerations associated with the project.

Jim Sammons, Yucca Mesa, requested that they not be kept in the dark about what is going on.

Mike Alberg, Yucca Valley, advised that the Parks, Recreation and Cultural Commission, has reviewed the project, looks at it as a gift to the Town and supports it.

Council Member Neeb commented he thinks a few things still need to be addressed but he likes the project, and it has been recommended by the commission.

Council Member Herbel questioned if the liability issue has been addressed. Community

Services Director Schooler advised that staff has talked with PARSAC regarding this project and they recommend that a letter be provided by the artist to the Town assuring that the Town would not be responsible for reconstructing the site if it were damaged.

Council Member Luckino questioned how much land this is going to take up. Mr. Downer advised that they don't anticipate more than an acre or two. Council Member Luckino questioned if the artist is going to benefit financially at all and if there is a gift of public funds issue. Mr. Downer advised that the Artist will be paying for everything. Town Attorney Silvergleid advised there is not a gift of public funds issue.

Council Member Mayes commented that it has been stated that there will be 150 visitors per year and advised that seems awfully low. Mr. Downer advised that the first season it will be exciting and a lot of people will be viewing it, but over time that will slow down. Council Member Mayes commented that the only way he can support the project is if there is some sort of MOU stating that the Town can remove the sculpture if there is any reason to do so in the future. Town Attorney Silvergleid added that there should be a stipulation that the artist would put the property back to the condition it was in prior to construction. Mr. Downer stated he does not see a problem with that.

Council Member Neeb moved to authorize the installation of the proposed earthworks sculpture as proposed on the Town's Section 11 property and authorize the Town Manager to enter into an agreement with the artist that contains the planning requirements, maintenance and repair issues, insurance, indemnification, and liability considerations associated with the project. Council Member Luckino seconded. Motion carried 5-0 on a voice vote.

PUBLIC COMMENT

Fritz Koenig, Yucca Valley, read statement regarding his property.

Sarann Graham, Yucca Valley, commented regarding grants for rural communities, noting that the definition of rural in Sacramento is communities of 10,000 people or less. Encouraged Council and Staff to look at various options for development to include roof top solar, geothermal, purple water lines, etc.

Mike Alberg, Yucca Valley, commented regarding the number of parks and recreation issues discussed at tonight's meeting.

STAFF REPORTS AND COMMENTS

None

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

19. Council Member Herbel

Congratulated Peggy Pourtemour for her longevity award and her care of the collections.

Commented regarding issues that polarize the community and encouraged everyone to be civil and respectful to everyone's opinions.

20. Council Member Mayes

Commented regarding the "political season" and the need to refrain from personal attacks and treat everyone with respect regardless of his/her views.

21. Mayor Pro Tem Luckino

Thanked Peggy Pourtemour for her service to the Town.

22. Council Member Neeb

None

23. Mayor Leone

Congratulated Peggy Pourtemour for 10 years of service.

Congratulated all the people working out there on a volunteer level, noting we have a very active community that is not often recognized. . Gave kudos to all those people.

CLOSED SESSION

24. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Subsection (a) of Section 54956.9(a), Ronald Green and Sharon Green vs. County of San Bernardino, City of Yucca Valley, Case No. CIVMS 800111, Center for Biological Diversity vs. Town of Yucca Valley, Town Council of Yucca Valley, Case No. CIVBS 800607; Coalition for Environmental Integrity in Yucca Valley vs. Town of Yucca Valley, Town Council of the Town of Yucca Valley, Case No. CIVSS 810232, Superior Court of California, County of San Bernardino.

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

Property: APN 594-031-230; 55100 Martinez Trail
Blue Sky Golf LLC
Shane Stueckle, Real Property Negotiator
Real Property Negotiations

YUCCA VALLEY TOWN COUNCIL MINUTES

August 28, 2008

Property: APN 595-361-13, 14 & 15; 7028 Theater Road
Bobby D & Elizabeth R Carr//Town of Yucca Valley
Shane Stueckle, Real Property Negotiator
Real Property Negotiations

Property: APN 586-042-16, South side of SR 62, approximately 500' east of Camino Del Cielo
Antonio Olvera/Town of Yucca Valley
Shane Stueckle, Real Property Negotiator
Real Property Negotiations

Mayor Leone adjourned the meeting to closed session at 9:12 p.m. and returned to open session at 9:30 p.m. with no reportable action taken. There were no members of the public present.

ANNOUNCEMENTS

Next Town Council Meeting, Thursday, September 11, 2008, 6:00 p.m.

ADJOURNMENT

There being no further business, Mayor Leone adjourned the meeting at 9:30 p.m.

Respectfully submitted,

Jamie Anderson,
Town Clerk