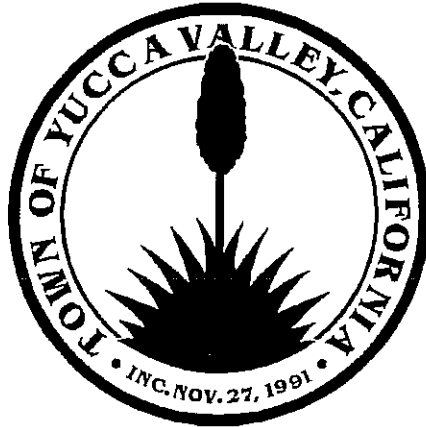


TOWN OF YUCCA VALLEY  
TOWN COUNCIL MEETING



*The Mission of the Town of Yucca Valley is to  
provide a government that is responsive to its citizens  
to ensure a safe and secure environment  
while maintaining the highest quality of life.*

**TUESDAY, FEBRUARY 1, 2011  
TOWN COUNCIL: 6:00 p.m.  
YUCCA VALLEY COMMUNITY CENTER  
YUCCA ROOM  
57090 - 29 PALMS HIGHWAY  
YUCCA VALLEY, CALIFORNIA 92284**

**CLOSED SESSIONS  
YUCCA VALLEY TOWN HALL CONFERENCE ROOM  
57090 - 29 PALMS HIGHWAY  
YUCCA VALLEY, CALIFORNIA 92284**

\* \* \* \*

**TOWN COUNCIL**  
*George Huntington, Mayor  
Frank Luckino, Mayor Pro Tem  
Isaac Hagerman, Council Member  
Chad Mayes, Council Member  
Dawn Rowe, Council Member*

\* \* \* \*

**TOWN ADMINISTRATIVE OFFICE:  
760-369-7207  
[www.yucca-valley.org](http://www.yucca-valley.org)**

**AGENDA  
MEETING OF THE  
TOWN OF YUCCA VALLEY COUNCIL  
TUESDAY, FEBRUARY 1, 2011, 6:00 P.M.**

*The Town of Yucca Valley complies with the Americans with Disabilities Act of 1990. If you require special assistance to attend or participate in this meeting, please call the Town Clerk's Office at 760-369-7209 at least 48 hours prior to the meeting.*

*If you wish to comment on any subject on the agenda, or any subject not on the agenda during public comments, please fill out a card and give it to the Town Clerk. The Mayor/Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.*

**(WHERE APPROPRIATE OR DEEMED NECESSARY, ACTION MAY BE TAKEN ON ANY ITEM LISTED IN THE AGENDA)**

**OPENING CEREMONIES**

**CALL TO ORDER**

**ROLL CALL:** Council Members Hagerman, Luckino, Mayes, Rowe and Mayor Huntington.

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

**PRESENTATIONS, INTRODUCTIONS, RECOGNITIONS**

**AGENCY REPORTS**

**APPROVAL OF AGENDA**

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Voice Vote \_\_\_\_\_

**CONSENT AGENDA**

- 1-10 1. Regular Town Council Meeting Minutes of January 18, 2011.

**Recommendation: Approve minutes as presented.**

2. Waive further reading of all ordinances (if any in the agenda) and read by title only.

**Recommendation: Waive further reading of all ordinances and read**

by title only.

- 11-19 3. Utility Undergrounding Districts, Southern California Edison, Rule 20A Funds, Ordinance

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ESTABLISHING A PROCEDURE FOR THE CREATION OF UTILITY UNDERGROUNDING DISTRICTS AND REGULATIONS REGARDING SUCH DISTRICTS

**Recommendation: Adopt the Ordinance, establishing procedures for the creation of utility undergrounding districts**

- 20-22 4. FY 2011-12 Budget Preparation Calendar

**Recommendation: Review and approve the proposed Budget Calendar**

- 23-28 5. Authorized Financial Signatory Update

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AUTHORIZING DEPOSIT AND WITHDRAWAL IN THE STATE LOCAL AGENCY INVESTMENT FUND

**Recommendation: Adopt the US Bank Resolution of Authority updating the Town's authorized signatories concerning all Town accounts at US Bank and Trust; and Adopt the Resolution updating the Town's authorized signatories at the Local Agency Investment Fund (LAIF)**

- 29-32 6. AB 1234 Reporting Requirements

**Recommendation: Receive and file the AB 1234 Reporting Requirement Schedule for the month of November and December 2010.**

- 33-34 7. Claim Summary – July 1, 2010 through December 31, 2010.

**Recommendation: Receive and file Summary of Claims from 07-01-2010 through 12-31-2010.**

- 35-42 8. Fourth Amendment to Waste Disposal Agreement with County

**Recommendation: Review and approve the fourth amendment to the Waste Delivery Agreement between the County of San Bernardino**

**and the Town of Yucca Valley.**

- 43-46 9. Resolution in Opposition to the Proposed Elimination of Redevelopment Agencies in California

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, IN OPPOSITION TO THE ADMINISTRATION'S PROPOSAL TO ABOLISH REDEVELOPMENT AGENCIES IN CALIFORNIA

**Recommendation: Adopt the Resolution in opposition to the Administration's proposal to abolish Redevelopment Agencies in California and direct staff to communicate its opposition to the appropriate parties**

- 47-67 10. Lease Agreement – High Desert BMX Incorporated

**Recommendation: Approve the lease agreement between the Town of Yucca Valley and High Desert BMX, Incorporated for use of specified Town property for bicycle motocross activities and events, subject to receipt of a certified record that the non-profit corporation is in good standing with the State of California.**

- 68-71 11. Resolution Amending Established Parking Penalties.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ESTABLISHING PARKING PENALTIES

**Recommendation: Adopt the Resolution, approving a Revised Schedule of Parking Penalties.**

- 72-107 12. Bureau of Reclamation Funding Opportunity Announcement, Authorization to Submit Grant Application, Resolution.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE BUREAU OF RECLAMATION

**Recommendation: Adopt the Resolution, authorizing the submittal of a Bureau of Reclamation, WaterSMART Development of Feasibility Studies grant application under the Title XVI Water Reclamation and Reuse Program, and authorize the Town Manager to enter into all necessary agreements for program implementation.**

- 108-121 13. Warrant Register – February 1, 2011

**Recommendation: Ratify the Warrant Registers total of \$195,344.26**

for checks dated December 22, 2010. Ratify Payroll Registers total of \$303,188.26 dated December 10, 2010 to December 22, 2010.

*All items listed on the consent calendar are considered to be routine matters or are considered formal documents covering previous Town Council instruction. The items listed on the consent calendar may be enacted by one motion and a second. There will be no separate discussion of the consent calendar items unless a member of the Town Council or Town Staff requests discussion on specific consent calendar items at the beginning of the meeting. Public requests to comment on consent calendar items should be filed with the Town Clerk/Deputy Town Clerk before the consent calendar is called.*

**Recommendation: Adopt Consent Agenda (items 1-13)(roll call vote)**

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Roll Call Vote \_\_\_\_\_

## PUBLIC HEARINGS

## DEPARTMENT REPORTS

- 122-142 14. Amendment to Title 12, Adding Chapter 12.50, Vehicles and Traffic of the Municipal Code, Administrative Adjudication Procedures, Ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 12, VEHICLES AND TRAFFIC OF THE MUNICIPAL CODE, ADDING CHAPTER 12.50, ADMINISTRATIVE ADJUDICATION PROCEDURES

Staff Report

**Recommendation: Introduce the Ordinance amending Title 12, adding Chapter 12.50, Administrative Adjudication Procedures.**

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Roll Call Vote \_\_\_\_\_.

- 143-202 15. Sign Ordinance Enforcement, Temporary Signs, Banners & Flags for Commercial Enterprises.

Staff Report

**Recommendation: Suspend enforcement of the time periods established for temporary commercial and industrial signs as established in Section 87.07130(c), for a period of one year, ending on February 1, 2012.**

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Voice Vote \_\_\_\_\_.

## POLICY DISCUSSION

203-247 16. Town Council Policy Discussions

Staff Report

**Recommendation: Provide Town Staff direction on possible changes to the current policies.**

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Voice Vote \_\_\_\_\_.

## FUTURE AGENDA ITEMS

## PUBLIC COMMENTS

*In order to assist in the orderly and timely conduct of the meeting, the Council takes this time to consider your comments on items of concern which are on the Closed Session or not on the agenda. When you are called to speak, please state your name and community of residence. Notify the Mayor if you wish to be on or off the camera. Please limit your comments to three (3) minutes or less. Inappropriate behavior which disrupts, disturbs or otherwise impedes the orderly conduct of the meeting will result in forfeiture of your public comment privileges. The Town Council is prohibited by State law from taking action or discussing items not included on the printed agenda.*

## STAFF REPORTS AND COMMENTS

## MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

17. Council Member Mayes
18. Council Member Hagerman
19. Council Member Rowe
20. Mayor Pro Tem Luckino
21. Mayor Huntington

## ANNOUNCEMENTS

Time, date and place for the next Town Council meeting.

**Next Town Council Meeting, Tuesday, February 15, 2011, 6:00 p.m.**

**CLOSED SESSION**

22. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
Subsection (a) of Section 54956.9(a) Bagley, et al. vs. Town of Yucca Valley,  
Case No. CIVMS900133; Tim Todd vs. Town of Yucca Valley, Case No.  
CIVMS10000379.

**CLOSING ANNOUNCEMENTS**

**ADJOURNMENT**

**TOWN OF YUCCA VALLEY  
TOWN COUNCIL MEETING MINUTES  
DECEMBER 21, 2010**

Mayor Huntington called the regular meeting of the Town of Yucca Valley Council to order at 6:00 p.m.

Council Members Present: Hagerman, Luckino, Mayes Rowe and Mayor Huntington.

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

**PLEDGE OF ALLEGIANCE**

Led by Mayor Huntington

**PRESENTATIONS, RECOGNITIONS, INTRODUCTIONS**

**1. Employee of the Quarter**

Presented to David Johnson, Lead Maintenance Worker I

**2. Longevity Awards**

Longevity awards presented to Maintenance Worker Keith Katchmark, for 15 years of service, Animal Control Officer Dale Davis, for 5 years, and Public Works Inspector Dave Behrens, for 5 years.

**AGENCY REPORTS**

**Fire Department**

**3. Monthly Report for December 2010**

Battalion Chief Benfield gave the monthly statistical Fire Department Report for December 2010 and echoed accolades given to the Public Works crew, noting they did a great job with the storm cleanup.

**Chamber of Commerce**

**3. Monthly Report for December 2010.**

No one present to give the report.



**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**

- 5. **Approve**, Regular Town Council Meeting Minutes of December 21, 2010 as presented.
- 6. **Waive**, further reading of all ordinances (if any in the agenda) and read by title only.
- 11. **Approve**, the 2009/2010 Annual Redevelopment Report and the 2009/2010 Annual Redevelopment Agency Financial Report
- 13. **Adopt**, Resolution No. 11-03 changing the Planning Commission meeting start time from 7:00 p.m. to 6:00 p.m.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ESTABLISHING THE TIME OF THE REGULAR MEETINGS OF THE PLANNING COMMISSION

Council Member Rowe requested to pull Item 8. Mayor Huntington advised he would like to pull Items 7, 9 10 and 12 together as one item.

Council Member Mayes moved to adopt Consent Agenda Items 5, 6, 11 and 13. Council Member Hagerman seconded. Motion carried 5-0 on a roll call vote.

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

**8. Maintenance of Vacant and Abandoned Real Property.**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ADOPTING CHAPTER 6.08 OF TITLE 6 ESTABLISHING MAINTENANCE OF ABANDONED PROPERTIES REGULATIONS

Council Member Rowe advised she pulled the item in order to abstain.

Council Member Luckino moved to adopt Ordinance No. 219, establishing regulations for the maintenance of vacant and abandoned real property. Council Member Mayes

seconded. Motion carried 4-0-1-0 on a Roll Call Vote.

**AYES:** Council Member Hagerman, Luckino, Mayes, and Mayor Huntington  
**NOES:** None  
**ABSTAIN:** Council Member Rowe  
**ABSENT:** None

7. **Amend**, FY 2010-11 Adopted Budget, and adopt Resolution No. 11-01 appropriating \$200,000 from the Catastrophic Events Fund Designation for storm cleanup expenditures

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,  
CALIFORNIA AMENDING THE FY 2010-11 BUDGET

9. **Approve**, fourth Amendment to the Service Agreement with Clark Construction Co., in the amount of \$82,380, authorizing the Town Manager to sign all necessary documents related to the agreement.
10. **Approve**, first Amendment to the Service Agreement with Quality Street Services, Inc., dated September 27, 2005, increasing the Storm Recovery Compensation from \$25,000 to \$50,000, and increasing the base level services compensation from \$50,000 to \$75,000, authorizing the Town Manager to sign all necessary documents.
12. **Receive** and file, report regarding the emergency repair to private dirt roads, based upon the findings contained in the staff Report and **adopt** Resolution No. 11-02.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,  
CALIFORNIA, FINDING THAT PRIVATE NON MAINTAINED DIRT ROAD  
REPAIRS WERE NECESSARY FOLLOWING THE DECEMBER 2010 STORM  
EVENTS

Deputy Town Manager Stueckle gave a power point presentation regarding the storm events and describing the individual items.

Mayor Huntington advised that he wanted to point out that the \$200,000 comes out of the contingency fund drops the available amount to \$800,000 adding that, hopefully, the Town can get some FEMA funding to backfill that account. He commended the contractors and Town employees who made the roads passable again.

Council Member Luckino questioned how the Catastrophic Event account is funded. Administrative Services Director Yakimow advised the Council will be discussing that under a subsequent item on the agenda. In this particular case FEMA will likely provide some level of reimbursement which will be used to backfill the fund.

Council Member Rowe move to approve Item 7, 9, 10, and 12. Council Member Luckino seconded. Motion carried 5-0 on roll call vote.

**AYES:** Council Member Hagerman, Luckino, Mayes, Rowe and Mayor Huntington  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**PUBLIC HEARINGS**

**14. 2010 California Building Codes Published by the California Building Standards Commission, Council Request for Further Discussion, Ordinance**

AN ORDINANCE OF THE TOWN OF YUCCA VALLEY CALIFORNIA, AMENDING TITLE 8 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE BY AMENDING CHAPTER 8.02 ADOPTING AS MODIFIED THE CALIFORNIA BUILDING CODE, 2010 PART 2 EDITION VOLUMES 1 AND 2, WITH APPENDICES A, C, G, I, AND J AND REFERENCED STANDARDS; THE CALIFORNIA RESIDENTIAL CODE, PART 2.5; THE CALIFORNIA GREEN BUILDING STANDARDS CODE 2010 EDITION; THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2009 EDITION; THE CALIFORNIA ELECTRICAL CODE, 2010 EDITION; THE CALIFORNIA PLUMBING CODE, 2010 EDITION; THE CALIFORNIA MECHANICAL CODE, 2010 EDITION; AND THE CALIFORNIA ENERGY CODE 2010 EDITION

Deputy Town Manager Stueckle gave the background of the item and a power point presentation outlining the local amendments including the impacts without them, and summarizing the significant changes resulting from the 2010 Codes.

Mayor Huntington opened the Public Hearing

**Margo Sturges**, Yucca Valley, commented in favor of the ordinance and amendments to give staff tools to be able to enforce the codes and protect the citizens.

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

Council Member Hagerman questioned if the Town's code requires new construction to contain water on site. Patrick Carroll, Charles Abbott & Associates, advised that is the goal on infill lots, adding that development projects can have engineer designed drainage systems for the development. Deputy Town Manager Stueckle advised of the formula staff uses to calculate the amount of water to be maintained on the site based on roof area and hard surfaces, however, one of the first things a new home owner often does is fill in

the retention area with patio or pool area.

Council Member Rowe questioned the justification for requiring an engineered grading plan for movement of 2,500 cubic yards on infill lots and questioned what would be required if the lot was flat. Mr. Carroll advised that there would typically not be that amount of grading on a flat lot. Council Member Rowe questioned if it would be better to refer to percentage of slope rather than cubic yardage, noting that the cost of engineering these plans for 2,500 yards becomes very expensive. Just because the grading is engineered doesn't mean it will solve the problems. Deputy Town Manager Stueckle advised there is not a perfect number that will work for this particular policy in question, noting that many communities do not use a cubic yard standard or a slope standard, it is mandatory regardless of how much earth you are moving. Staff is trying to address what we believe is a relatively large amount of material that needs to be looked at carefully.

Council Member Luckino commented that staff has done a good job to minimize the additional impacts.

Mayor Huntington advised he is in favor of the recommendation alternative A, noting the amendments takes the discretion of the Building Official out of the equation and sets standards.

Council Member Mayes thanked staff for the report, noting his main concern with this was that the Council hadn't seen it before and he doesn't want people to say the Council rubber stamps what staff says without looking at it. He noted he is irritated with the state for mandating adoption of the codes.

Council Member Mayes moved to adopt Ordinance No. 220, adopting the California 2010 Building Codes as listed and amended. Council Member Luckino seconded.

Council Member Hagerman objected to cutting the state minimum requirement for an engineered grading plan in half.

Council Member Rowe presented a substitute motion to delete the requirement for an engineered grading plan for the movement of 2,500 cubic yards of material and using the State Code requirement of 5,000 cubic yards. Deputy Town Manager Stueckle advised that the State code does not give a requirement for an engineered grading plan of 5,000 cubic yards, noting it is totally at the discretion of the Building Official.

Council Member Mayes advised he was concerned about the need for the grading plan for 2,500 cubic feet of material until he saw an example of what a significant amount of dirt that was, noting he is now comfortable with the requirement knowing that the state doesn't have any requirement making it total the discretion of the Building Official.

Council Member Luckino questioned how long the requirement for 2,500 cubic yards has been in effect. Deputy Town Manager Stueckle advised it has been on the books since 1994.

Town Manager Nuaimi questioned how often this requirement is impacting development. Deputy Town Manager Stueckle estimated that from observations he could comfortable say less than 10% of all single family infill lots have had engineered grading plans as a requirement. He noted there are several contractors who walk in with engineered grading plans without being asked to because they know it will make the approval process easier.

The substitute motion died for lack of a second.

- AYES: Council Member Luckino, Mayes, and Mayor Huntington
- NOES: Council Member Hagerman and Rowe.
- ABSTAIN: None
- ABSENT: None

**DEPARTMENT REPORTS**

**15. Annual Reserve Policy Review.**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AUTHORIZING THE NECESSARY INTERFUND TRANSFERS IN ACCORDANCE WITH THE TOWN'S RESERVE POLICY**

Administrative Services Director Yakimow advised at this time staff doesn't have good visibility into future as far as revenues are going to be, because of that staff is recommending a conservative approach in managing the Town's general fund financial reserves. The proposed budget resolution will provide for a one-year exception to the reserve policy by suspending the capital projects reserve fund transfer and increasing the general fund reserve cap from 45% to 58%. It was noted that in February 2009 the Governmental Accounting Standards Board issued Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions effective FY 2011. The objective of the statement is to enhance the usefulness of fund balance information and provide clearer fund balance classifications that can be more consistently applied, and by clarifying the existing governmental fund type definitions.

Council Member Luckino commented the Town has done a great job being very conservative and probably has a larger reserve balance than most.

Council Member Mayes commented that knowing the revenues have been declining is strong argument for keeping the reserves as high as possible and making sure the Town

has a balanced budget without using those reserves to balance it.

Council Member Mayes moved to adopt Resolution No. 11-04 modifying the Town's Reserve Policy by amending the fiscal year 2010-11 budget by amending the designated reserve balances as indicated on Exhibit A to the Resolution, including a one-year suspension of the capital projects reserve fund transfer and a corresponding one-year increase in the general fund reserve cap to 58%. Council Member Hagerman seconded. Motion carried 5-0 on a voice vote.

**16. Utility Undergrounding Districts, Southern California Edison, Rule 20A Funds, Ordinance**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ESTABLISHING A PROCEDURE FOR THE CREATION OF UTILITY UNDERGROUNDING DISTRICTS AND REGULATIONS REGARDING SUCH DISTRICTS

Deputy Town Manager Stueckle read the title of the ordinance and gave the background of Rule 20A funds. Currently the amount allocated to the community is approximately \$1.67 million. There are no projects identified at this time.

**Margo Sturges**, Yucca Valley, asked questions regarding the use of the funds.

Council Member Luckino questioned if the \$1.67 million is the Town's money. Town Manager Nuaimi advised it is money that has been collected from customer's bills over time and is not our money, but is allocated to this community to allow Edison to underground their facilities in our community. The districts must be formed to advise property owners and other utilities that undergrounding is going to proceed.

Council Member Hagerman questioned if any proposed project is prohibited from using these funds. Town Manager Nuaimi advised that this is the first step to be able to utilize the funding for potential projects, noting that no projects are precluded from consideration.

Council Member Rowe commented when the Council enacts ordinances it is the Council's job to represent the citizens. She advised the Council is sensitive to costs to homeowners questioned what cost they bear. Deputy Town Manager Stueckle advised that this ordinance can be used for tapping into rule 20 A funds, and for property owner initiated undergrounding districts. Regarding Rule 20 A funds, those dollars will pay for undergrounding for service drop up to 100 feet onto private property and not beyond. Staff is working with the utility companies and will be identifying those properties within a proposed district boundary that is beyond that 100 foot distance, and would be coming forward to Council with alternative means of how those construction projects will be

funded. Staff foresees a very significant public outreach process with all entities holding educational meetings.

Council Member Mayes commented it is his hope to look at portions of the undergrounding utility ordinance noting the Brehm Park is a small project that would use all the available funds.

Council Member Mayes moved to introduce the Ordinance, establishing procedures for the creation of utility undergrounding districts. Council Member Rowe seconded. Motion carried 5-0 on a roll call vote.

**AYES:** Council Member Hagerman, Luckino, Mayes, Rowe and Mayor Huntington  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

#### **FUTURE AGENDA ITEMS**

Council Member Luckino requested discussion regarding underground utilities for infill lots. Council Member Rowe and Mayes agreed if it is limited to just discussion regarding infill lots.

Council Member Hagerman requested future discussion regarding Planning Commission liaisons and how appointment works. Town Manager Nuaimi advised there is an item coming forward for a future agenda to talk about Council protocols, one portion of which will be the appointment of commissioners.

#### **PUBLIC COMMENT**

**Margo Sturges**, Yucca Valley, commented regarding changing the time of Planning Commission Meetings and requested that they be video taped. She also recommended freshening up the podium.

**Richard Harlan**, Yucca Valley, commented regarding illuminated road signs and the cost to replace them.

**David Rivera**, Unincorporated San Bernardino County commented regarding crime in his neighborhood and thanked the Town Manager and Sheriff's Office for their assistance.

#### **STAFF REPORTS AND COMMENTS**

Town Manager Nuaimi reported regarding attendance at the Chamber of Commerce "Fam" tour, advised that staff is continuing to move forward with a number of items discussed during the Strategic Planning session, thanked the Council and employees who participated in the process,

Thanked Mr. Rivera for his kind comments and advised that, during these difficult economic times, funding will not be spent to fix the podium.

**MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS**

**17. Council Member Mayes**

Commented regarding the fact that Mr. Rivera lives outside the Town's boundaries and recommended that he also talk to Alan Rasmussen from County Supervisor Derry's office regarding the issue.

Commented regarding the tragedy in Arizona and the need for civility in political discourse.

**18. Council Member Hagerman**

Thanked Streets Skilled Maintenance Worker Johnson for the excellent job he did after the rains and congratulated him for being selected as Employee of the Quarter.

Thanked Maintenance Worker Katchmark for taking such pride in his work and for the time he has given the Town as well as Animal Control Officer Davis and Public Works Inspector Behrens.

**19. Council Member Rowe**

Echoed Council Member Hagerman's sentiments thanking the employees who received longevity awards for their service and congratulating Streets Skilled Maintenance Worker Johnson for being awarded Employee of the Quarter

**20. Mayor Pro Tem Luckino**

Agreed with statements regarding the awards given tonight and noted that employees being recognized are always recognizing their co workers for their success. It is nice to see the camaraderie

Commented regarding attendance at a soccer tournament in Las Vegas and the draw those types of events bring to a community.

**21. Mayor Huntington**

Echoed kudos to employees.



**ANNOUNCEMENTS**

The next Town Council Meeting is Tuesday, February 1, 2011 at 6:00 p.m.

**CLOSED SESSION**

22. **Closed Session pursuant to subdivision (c) of Government Code Section 54956.9, Initiation of Litigation, one potential case.**

Mayor Huntington adjourned to Closed Session at 7:30 p.m., reconvened to open session at 7:55, and advised there was no reportable action taken. There were no members of the public present.

**ADJOURNMENT**

There being no further business the meeting was adjourned at 8:54 p.m.

Respectfully submitted,

Jamie Anderson, MMC  
Town Clerk

**ORDINANCE NO.**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ESTABLISHING A PROCEDURE FOR THE CREATION OF UTILITY UNDERGROUNDING DISTRICTS AND REGULATIONS REGARDING SUCH DISTRICTS**

The Town Council of the Town of Yucca Valley, California, ("Town") does ordain as follows:

**SECTION 1. CODE AMENDED.** Title 8 of the Town of Yucca Valley Municipal Code ("Municipal Code") is hereby amended to create Chapter 8.90, establishing a procedure for the creation of Utility Undergrounding Districts and regulations regarding such districts as follows:

**Chapter 8.90  
UNDERGROUND UTILITY DISTRICTS**

**Sections:**

- 8.90.010 Definitions.
- 8.90.020 Hearings - Notification.
- 8.90.030 Report.
- 8.90.040 Designation.
- 8.90.050 Unlawful acts.
- 8.90.060 Exceptions - Emergency or unusual circumstances.
- 8.90.070 Exceptions - Non-emergency.
- 8.90.080 Notice requirements.
- 8.90.090 Utility company responsibility.
- 8.90.100 Property owner responsibility.
- 8.90.110 Authority to Discontinue Overhead Service, Perform Installation, & Lien
- 8.90.120 Town responsibility.
- 8.90.130 Time extension.
- 8.90.140 Violation - Penalty.

**Section 8.90.010 Definitions**

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them unless otherwise noted:

**"Commission"** means the Public Utilities Commission of the state of California.

**"Person"** means and includes individuals, firms, corporations, partnerships, and their agents and employees.

**"Poles, overhead wires and associated overhead structures"** means poles, towers, supports, wires, conductors, guys, stubs, platforms, cross arms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground within a district and used or useful in supplying electric, communication or similar or associated service.

**"Underground utility district" or "district"** means that area in the town within which poles, overhead wires and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of this chapter.

**"Utility"** means and includes all persons or entities supplying electric, communication such as telephone and cable television, or similar or associated service by means of electrical materials or devices.

#### **Section 8.90.020 Hearings-Notification.**

The town council may from time to time call public hearings to ascertain whether it is in the general public interest to remove the poles, overhead wires and associated overhead structures within designated areas of the town and to perform the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The town clerk shall notify all concerned utilities and property owners within the proposed district as shown on the last equalized assessment roll by regular mail of the time and place of such hearings at least fifteen days prior to the date thereof. Failure to give such notice by mail, or of the persons addressed to receive same, shall not affect the validity of such ordinance nor the authority of the town to proceed under this chapter. Each hearing shall be open to the public and may be continued from time to time. At each such hearing all property owners within the proposed district, and all members of the public, shall be given an opportunity to be heard.

#### **Section 8.90.030 Report.**

Prior to holding such public hearing, the town manager shall consult all affected utilities and shall prepare a report for submission at such hearing containing, among other information, the extent of such utilities' participation and estimates of the total costs to the town and affected property owners. Such report shall also contain an estimate of the time required to complete such underground installation and removal of overhead facilities.

#### **Section 8.90.040 Designation.**

If, after a public hearing, the town council finds that it is in the general public interest to remove the poles, overhead wires, and associated overhead structures within the designated area and to perform such underground installation within the area, the council shall, by resolution, declare such designated area an underground utility district

and order such removal and underground installation. The decision of the town council shall be final and conclusive. Such resolution shall include a description of the area comprising such district and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

If the undergrounding is to be completed pursuant to Rule 20A of the California Public Utilities Commission, the Town Council shall make any findings required by Rule 20A.

If necessary, the creation of such district shall comply with all applicable provisions of Article XIID of the California Constitution (Proposition 218).

#### **Section 8.90.050 Unlawful acts.**

Whenever the council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein as provided in this chapter, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when such overhead facilities are required to be removed by such resolution, except as such overhead facilities may be required to furnish temporary service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in this chapter, and for such reasonable time required to remove such facilities after such work has been performed, and except as otherwise provided in this chapter.

#### **Section 8.90.060 Exceptions - Emergency or unusual circumstances.**

A. Notwithstanding any other provisions of this chapter, the town council may grant special exceptions on a permanent or temporary basis to the provisions of this chapter on such terms as the town council may deem appropriate in cases of emergency or unusual circumstances to any person to erect, construct, install, maintain, use or operate poles and overhead lines and associated overhead structures within any underground utility district provided that prior thereto the town council shall have made a finding that granting of such special exception does not violate the general purposes of this chapter, will not be detrimental to the public interest, welfare, safety, peace or health, and that such action will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the underground utility district.

B. Notwithstanding the provisions of this section, the town manager in cases of emergency only, may grant permission for overhead facilities to be installed for such period of time as will permit the town council, at its next regular meeting, to consider the granting of a special exception under the terms of this section.

**Section 8.90.070 Exceptions – Non-emergency.**

The provisions of this chapter shall not apply to the following types of facilities:

- A. Poles used exclusively for police and fire alarm boxes, traffic control facilities, street lighting, or any similar municipal equipment installed under the supervision and the satisfaction of the town engineer and approved by the town manager. Service to those facilities shall be underground;
- B. Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;
- C. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of thirty-four thousand five hundred volts;
- D. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street or alley;
- E. Antennas, associated equipment and supporting structures, used by a utility for furnishing communication services;
- F. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts;
- G. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects.

**Section 8.90.080 Notice requirements.**

A. Within thirty days after the effective date of a resolution adopted pursuant to this chapter, the town clerk shall notify all affected utilities and all persons owning real property within the district created by such resolution of the adoption thereof. The town clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or such occupant shall, within the period of time specified in the resolution, provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to the applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission or as authorized by the council.

B. Notification by the town clerk shall be made by mailing a copy of the resolution adopted pursuant to this chapter together with a copy of the ordinance codified in this section to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities. Failure to give such notice by mail or of the persons addressed to receive same shall not affect the validity of such ordinance nor the authority of the town to proceed under this chapter.

**Section 8.90.090 Utility company responsibility.**

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to this chapter, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the commission and the electric rules and regulations of the town.

**Section 8.90.100 Property owner responsibility.**

A. All utilities and every person owning property within a district shall comply with the requirements specified in the notice under section 8.90.080 of this chapter.

B. Every person owning property within a district shall be responsible for paying such person's proportionate share of the cost of the underground facilities constructed in the public right-of-way or easements to serve that property within the district, to the extent such costs are not covered by a Utility or the Town. All such costs shall be in conformance with applicable rules, regulations and tariffs of the respective utilities on file with the commission and the electric service rules and regulations of the town, and if necessary all assessments shall comply with the provisions of Article XIID of the California Constitution (Proposition 218).

C. Every person owning, operating, leasing, occupying or renting a building or structure within a district shall, at such person's own expense, construct and provide that portion of the service connection on such person's property between the facilities referred to in this chapter and the termination facility on or within such building or structure being served, all in accordance with the applicable rules, regulations and tariffs of the respective utilities concerned and applicable rules and regulations of the town.

**Section 8.90.110 Authority to Discontinue Overhead Service, Perform Installation, & Lien.**

A. If the aforesaid property owner responsibilities are not accomplished within the time specified in the resolution, the Town shall give written notice by mail or personal service to the owner of record and to the person in possession of the affected property, to perform the required property owner responsibilities within thirty days after receipt of notice. Mailed notice shall be deemed to have been received by the addressee within forty-eight hours after mailing. Where notice is mailed to either the owner or occupant, a

notice not less than eight by ten inches in size shall also be posted in a conspicuous place on the premises within forty-eight hours after the mailing thereof.

B. The notice shall specify with particularity what work is required to be done and shall state that if such work is not completed by the affected property owner within thirty days after receipt of notice, the Town will perform the required work and the costs and expenses therewith will be assessed against the affected property and become a lien thereon.

C. The notice shall include the statement that thirty days after posting of the notice all utility companies are authorized to discontinue electric, communication, community antenna television, or similar or associated service from poles, overhead wires, and associated overhead structures.

D. Thirty days after such posting, all utility companies are hereby authorized to discontinue electric, communication, community antenna television or similar or associated service from poles, overhead wires, and associated overhead structures.

E. If, upon the expiration of the thirty-day period, the required work is not performed, the Town shall cause the work to be performed. If, however, the premises are unoccupied and no utility services are being furnished thereto, the Town may authorize the disconnection and removal of any and all overhead service wires and associated facilities to such property. Upon completion of the work a written report shall be provided for the Town Council setting forth the properties disconnected and from which overhead service was removed, and the properties where required underground facilities work has been performed by town, together with a legal description of the property against which the cost is to be assessed, and the costs to be assessed. The council shall fix a time and place for hearing protests against the assessment of the cost of such work, which hearing shall not be less than ten days after the filing of such report.

F. The Town shall notify the owner and the person in possession of the premises of the time and place of such protest hearing. Notice shall be given in the same manner as provided in subsection A of this section and shall set forth the amount of the proposed assessment.

G. At the hearing, the council shall hear and consider the report and any protests and may affirm, modify or reject the assessment.

H. Unless the payment of the assessment is authorized to be payable in installments, the amount of each such assessment shall become due and payable to town upon confirmation by the Town Council. If any assessment is not paid within thirty days, interest shall be added to the unpaid balance at the rate of eight percent per year commencing on the thirty-first day after such assessment becomes due.

- I. 1. The council may authorize, by motion, that the payment of any assessment of more than one hundred dollars may, at the assessee's option, be made in not to exceed ten annual installments, provided, however, that installment payments shall not be permitted where the assessment is one hundred dollars or less.
2. The first installment shall be paid on or before the thirtieth day after confirmation by the Town Council. Subsequent installments and interest shall be paid on or before the successive anniversary dates.
3. The unpaid balance of the assessment shall bear interest at the rate of eight percent per year.
4. If any installment is not paid on or before the anniversary date, the entire unpaid balance of such assessment shall become due and payable immediately.

J. Any assessment or installment not paid within six months from the date it is due and payable is delinquent. A delinquent penalty of six percent of the unpaid balance, including principal and interest, shall be added thereto.

K. If any assessment is not paid in full within thirty days after confirmation of the assessment, a lien shall be impressed against the property so assessed for the total unpaid balance of such assessment, together with interest and penalties thereon, if any, effective as of the time of recordation of a notice of lien, which lien shall continue until the assessment, together with interest and penalties thereon, has been paid in full, or until such lien has been discharged of record.

L. The town clerk is authorized to record in the office of the county recorder of San Bernardino County a certificate of lien in the following form:

#### NOTICE OF LIEN

The Town Manager did on \_\_\_\_\_, 20\_\_, cause certain work to be performed, and the Council of the Town of Yucca Valley did on \_\_\_\_\_, 20\_\_, by Resolution No. \_\_\_\_\_ in the files of the Town Clerk, assess the cost of such construction upon the real property in the Town of Yucca Valley hereinafter described, and the same has not been paid nor any part thereof, and the said Town of Yucca Valley does hereby claim a lien on said real property in the total sum of \$ \_\_\_\_\_ less the sum of \$ \_\_\_\_\_ which has been paid, leaving the principal sum of \$ \_\_\_\_\_ now due, owing and unpaid, and the same shall be a lien upon said real property until the said sum, with interest at the rate of 8 percent per annum, from \_\_\_\_\_, 20\_\_, and any penalties which may become due, has been paid in full and discharged of record.

The real property hereinbefore mentioned and upon which lien is claimed is that certain parcel of land in the Town of Yucca Valley, County of San Bernardino, State of California, described as follows:



(DESCRIPTION OF PROPERTY)

Dated:

Town Clerk of the Town of Yucca Valley

**Section 8.90.120 Town responsibility.**

The town shall remove all town-owned equipment from all poles required to be removed under this chapter in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to this chapter.

**Section 8.90.130 Time extension.**

In the event that any act required by this chapter or by a resolution adopted pursuant to this chapter cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation.

**Section 8.90.140 Violation-Penalty.**

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any provision of this chapter or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each such person shall be deemed guilty of a separate offense for each day during any portion of which any violation of any of the provisions of this chapter is committed, continued or permitted by such person, and shall be punishable therefore as provided for in this chapter.

**SECTION 2. NOTICE OF ADOPTION.** Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

**SECTION 3. EFFECTIVE DATE.** This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Town Attorney



**TOWN COUNCIL STAFF REPORT**

**To:** Honorable Mayor & Town Council  
**From:** Curtis Yakimow, Administrative Services Director  
**Date:** January 24, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** FY 2011-12 Budget Preparation Calendar

**Recommendation:** Review and approve the proposed Budget Calendar

**Order of Procedure:**

- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Roll Call Vote (Consent Agenda)

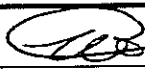
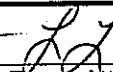


**Discussion:** Annually the Town completes a fiscal-year budget document identifying both the priorities and programs of the Town, as well as the related financial resources required to accomplish these identified programs. The budget process specifically coordinates the proposed goals, objectives, and programs with the Town's existing General Plan, Town policies, and other strategic planning guidance documents.

The development of the annual budget is completed in phases, with each phase subject to a management review process. These phases are identified in the attached budget calendar. Upon completion of the individual phases, the budget is then assembled as a draft consolidated forecast of the next fiscal year's operations. It is at this stage that the draft budget is presented to Council for public hearing, review, and receipt of input and direction relative to budget priorities.

The proposed budget calendar identifies review of the Special Revenue Fund Budgets with Council as part of the May 3<sup>rd</sup>, 2011 Town Council Meeting. Secondly, the General

Fund budget review and public hearing is scheduled for the Council meeting of June 7<sup>th</sup> 2011, and finally, a consolidated review and adoption scheduled for the Council Meeting of June 21<sup>st</sup>, 2011.

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Reviewed By:	 Town Manager	 Town Attorney	 Mgmt Services	 Dept Head
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|---|---|--|---|
| <input type="checkbox"/> Department Report  | <input type="checkbox"/> Ordinance Action         | <input type="checkbox"/> Resolution Action | <input type="checkbox"/> Public Hearing |
| <input checked="" type="checkbox"/> Consent | <input checked="" type="checkbox"/> Minute Action | <input type="checkbox"/> Receive and File  | <input type="checkbox"/> Study Item     |

As always, any member of the Council is invited to meet with staff at any time during the budget process if there are questions or concepts that need further clarification. Such a meeting may be beneficial in helping to understand the general language and structure of the upcoming budget.

**Alternatives:** No alternative action is recommended.

**Fiscal impact:** None.

**Attachments:**

FY 2011-12 Budget Calendar



# Town of Yucca Valley

## FY 2011-12 Budget Calendar

Week of	Topic	Responsibility
*January 31st	Budget Kick-Off Distribution of Budget Material	Administrative Services
*February 18th	Mission Statements Due Goals & Objectives Due Staffing Documents Due	Administrative Services Community Services Community Development/PW
*March 4th	Special Revenue Fund Budgets Due	Community Services Community Development/PW
March 14th	Draft Special Revenue Funds Budget Due	Administrative Services
March 21st	Special Revenue Funds Review	Town Management
*March 24th	General Fund Budgets Due	All Departments
April 4th	Draft General Fund Operating Budget Due	Administrative Services
April 15th	General Fund Review	Town Management
April 21st	Final Draft Special Revenue Funds	Administrative Services
<b>*May 3rd</b>	<b>Special Revenue Funds Budget Review</b>	<b>Town Council</b>
May 16th	Final Draft General Fund	Administrative Services
<b>*June 7th</b>	<b>General Fund Budget Public Hearing</b>	<b>Town Council</b>
<b>*June 21st</b>	<b>Budget Adoption</b>	<b>Town Council</b>

*\*Indicates confirmed due date. All other dates indicate "week of", with finalization to come.*



**TOWN COUNCIL STAFF REPORT**

**To:** Honorable Mayor & Town Council  
**From:** Curtis Yakimow, Director of Administrative Services  
Kathy Ainsworth, Senior Accountant  
**Date:** January 19, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** Authorized Financial Signatory Update

**Recommendation:** That the Town Council adopt the following resolutions: Resolution 11- and Resolution 11-

1. The Resolution of Authority updating the Town's authorized signatories concerning all Town accounts at US Bank and Trust.
2. The Resolution updating the Town's authorized signatories at the Local Agency Investment Fund (LAIF).

**Order of Procedure:**

- Request Staff Report
- Request Public Comment
- Council Discussion / Questions of Staff
- Motion/Second
- Discussion on Motion
- Call to Question
- Roll Call Vote (Consent, Consent Agenda)

**Discussion:**

Signatory Resolutions

The Town last updated its financial signatories in January 2009 with the adoption of Resolution 09-01. Since that time, there have been personnel changes within both Town staff and Council. The proposed resolution updates the signatories to reflect current personnel and council members with the Town. In keeping with the current authorization level, the following positions are authorized signatories in the respective accounts:

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Reviewed By:	 Town Manager	 Town Attorney	 Admin Services	 Dept Head
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<input type="checkbox"/> Department Report	<input type="checkbox"/> Ordinance Action	<input checked="" type="checkbox"/> Resolution Action	<input type="checkbox"/> Public Hearing
<input checked="" type="checkbox"/> Consent	<input checked="" type="checkbox"/> Minute Action	<input type="checkbox"/> Receive and File	<input type="checkbox"/> Study Session

US Bank and Trust - General, Payroll, Money Market  
LAIF

Town Council Members  
Town Manager  
Deputy Town Manager  
Director of Administrative Services  
Senior Accountant (LAIF only)

As a reminder, there are two signatures required on all financial transactions of the Town, with the Mayor and Town Manager as primary signatories.

**Alternatives:** None at this time.

**Fiscal Impact:** None at this time.

**Attachments:** US Bank Resolution  
LAIF Resolution

RESOLUTION NO. 11-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,  
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AUTHORIZING  
DEPOSIT AND WITHDRAWAL IN THE STATE LOCAL AGENCY INVESTMENT  
FUND

WHEREAS, Pursuant to Chapter 730 of the statutes of 1976 Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer: and

WHEREAS, the Town Council does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein as in the best interests of the TOWN OF YUCCA VALLEY.

NOW THEREFORE, BE IT RESOLVED, that the Town Council does hereby authorize the deposit and withdrawal of the Town of Yucca Valley's monies in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein, and verification by the State Treasurer's Office of all banking information provided in that regard.

BE IT FURTHER RESOLVED, that the following Town of Yucca Valley officers or their successors in office shall be authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund.

George Huntington  
(NAME)

Mark Nuaimi  
(NAME)

Curtis Yakimow  
(NAME)

Councilmember  
(TITLE)

Town Manager  
(TITLE)

Dir. Of Admin Services  
(TITLE)

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(SIGNATURE)

Shane R. Stueckle  
(NAME)  
Deputy Town Manager  
(TITLE)

Kathy Ainsworth  
(NAME)  
Senior Accountant  
(TITLE)

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(SIGNATURE)



PASSED AND ADOPTED by the Town Council of the Town of Yucca Valley, County of San Bernardino, State of California on February 1, 2011.

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MAYOR

ATTEST:

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TOWN CLERK



CORPORATE AUTHORIZATION TO OPEN ACCOUNT,  
MAKE DEPOSITS, WITHDRAW FUNDS & PROCURE LOANS

Account No.: 1659 8105 3953 (3532)(3870)

I, Mark Nuaimi, hereby certify that I am the duly elected, qualified and acting <sup>Town Manager</sup> ~~Secretary~~ of Town of Yucca Valley, a corporation organized, validly existing and in good standing under the laws of the State of California (the "Corporation").

I further certify that the Corporation is authorized to conduct business in the following states:

California

I further certify that the following individuals:

\_\_\_\_\_

have been authorized by all required corporate action to:

1. Deposit funds of the Corporation in the name of the Corporation with U. S. Bank, N.A. (the "Bank"), subject to the present and future rules and regulations of the Bank;
2. Execute checks, drafts, bills of exchange, acceptances and other instruments and orders for the payment of money on behalf of the Corporation for the withdrawal of the Corporation's funds so deposited, including those checks and other instruments or orders for the payment of money drawn to the individual order of any such officer and/or person signing the same, without further inquiry or regard to the authority of said officer or the use of said checks or other instruments or orders for the payment of money, or the proceeds thereof; and
3. Give instructions with respect to the account(s) of the Corporation and to enter into agreements relating to the account(s) of the Corporation on behalf of the Corporation upon such terms and conditions as they may deem appropriate.

I further certify that the following individuals:

\_\_\_\_\_

have been authorized by all required corporate action to apply for and receive letters of credit and to borrow from time to time from the Bank, on behalf of the Corporation, such sums of money, for such times and upon such terms as may be advisable to such officer(s) or person(s); to pledge any property belonging to the Corporation as security to the Bank under such terms and conditions as may be advisable to such officer(s) or person(s); and to execute and deliver any and all notes, agreements or other documents necessary for such borrowing or security on behalf of the Corporation.

I further certify that the forgoing authorities vested in the said individuals or offices have not been revoked, modified, annulled or amended in any manner whatsoever; the foregoing authorities shall remain in full force and effect until revoked in writing by the Corporation; the foregoing authorities do not conflict with the articles of incorporation, by-laws or code of regulations of the Corporation; and that all documents executed or orders issued by said individuals or officers on behalf of the Corporation represent valid and binding obligations of the Corporation.

I further certify that each person listed below holds the office in the Corporation indicated opposite his/her name on the date hereof and that the signature appearing opposite his her name is a genuine specimen signature of each such person:

<u>Name:</u>	<u>Title:</u>	<u>Signature:</u>
<u>Mark Nuaimi</u>	<u>Town Manager</u>	_____
<u>Shane Stueckle</u>	<u>Dep. Town Manager</u>	_____
<u>Curtis Yakimow</u>	<u>Dir of Admin Serv.</u>	_____
<u>George Huntington</u>	<u>Councilmember</u>	_____
<u>Chad Mayes</u>	<u>Councilmember</u>	_____
<u>Frank Luckino</u>	<u>Councilmember</u>	_____
<u>Dawn Rowe</u>	<u>Councilmember</u>	_____
<u>Isaac Hagerman</u>	<u>Councilmember</u>	_____

Note: Additional corporate officers and their signatures may be noted on an attachment, if required.

IN WITNESS WHEREOF, this Corporate Authorization has been executed this 1st day of February, 2011.

\_\_\_\_\_  
Secretary Town Manager



**TOWN COUNCIL STAFF REPORT**

**To:** Honorable Mayor & Town Council  
**From:** Curtis Yakimow, Director of Administrative Services  
**Date:** January 17, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** AB1234 Reporting Requirements

**Prior Council Review:** Current reimbursement policy for Council members and Redevelopment Agency members reviewed and approved by Council August 2006.

**Recommendation:** Receive and file the AB1234 Reporting Requirement Schedule for the month of November and December 2010.

**Order of Procedure:**

- Request Staff Report
- Request Public Comment
- Council Discussion / Questions of Staff
- Motion/Second
- Discussion on Motion
- Roll Call Vote

**Discussion:** AB1234 requires members of a legislative body to report on "meetings" attended at public expense at the next meeting of the legislative body. "Meetings" for purpose of this section are tied to the Brown Act meaning of the term: *any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.* Qualifying expenses include reimbursement to the member related to meals, lodging, and travel.

An example of when a report is required is when a Town Council member represents his or her agency on a joint powers agency board and the Town pays for the official's expenses in serving in that representative capacity. Additionally, in the spirit of AB1234, the Yucca Valley Town Council also reports all travel related to conference and training attended at public expense.

Although the AB1234 report can be either written or oral, this report must be made at the next meeting of the legislative body that paid for its member to attend the meeting.

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Reviewed By:      
Town Manager      Town Attorney      Admin Services      Dept Head

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Department Report       Ordinance Action       Resolution Action       Public Hearing  
 Consent       Minute Action       Receive and File       Study Session

**Alternatives:** None.

**Fiscal impact:** There is no anticipated financial impact associated with the recommended approval of AB1234 reporting requirements.

**Attachments:** AB1234 Reporting Requirement Schedule

# Town of Yucca Valley

## Councilmember AB1234 Meetings Schedule Month of November 2010

<u>Date of Travel</u>	<u>Organization</u>	<u>Description</u>	<u>Location</u>
Mayor Mayes	No Reportable Meetings		
Mayor Pro Tem Herbel	No Reportable Meetings		
Councilmember Huntington	No Reportable Meetings		
Councilmember Luckino	No Reportable Meetings		
Councilmember Neeb	No Reportable Meetings		

# Town of Yucca Valley

## Councilmember AB1234 Meetings Schedule Month of December 2010

<b>Date of Travel</b>	<b>Organization</b>	<b>Description</b>	<b>Location</b>
	<b>Mayor Huntington</b>	No Reportable Meetings	
	<b>Mayor Pro Tem Luckino</b>	No Reportable Meetings	
	<b>Councilmember Hagerman</b>	No Reportable Meetings	
	<b>Councilmember Mayes</b>	No Reportable Meetings	
	<b>Councilmember Rowe</b>	No Reportable Meetings	

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Dani Lassetter, Human Resources Manager  
**Date:** January 25, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** Claim Summary – July 1, 2010 through December 31, 2010

**Recommendation:** Receive and File Summary of Claims from 07-01-2010 through December 31, 2010

**Order of Procedure:**

1. Request Staff Report
2. Request Public Comment
3. Council Discussion/Questions of Staff
4. Motion/Second
5. Discussion on Motion
6. Call the Question (Roll Call Vote for consent agenda items)

**Background:** When the Town receives a claim, a review is conducted regarding the charge(s) of the claim. Based upon legal review and/or review by our insurer (Public Agency Risk Sharing Authority of California – PARSAC), a claim is either recommended for rejection or a settlement is attempted. The Town's Code allows for the Town Manager to settle claims under \$25,000. Town Council approval is required for any claims in excess of \$25,000.

Exhibit A presents the claims that were settled or rejected during the period from July 1, 2010 through December 31, 2010.

**Alternatives:** Take no action

**Fiscal impact:** None

**Previously Reviewed by:** Deputy Town Manager  
Town Attorney

**Attachment:** Exhibit A

Reviewed By:

  
Town Manager

  
Town Attorney

  
Admin. Services

  
Dept Head

Department Report  
 Consent

Ordinance Action  
 Minute Action

Resolution Action  
 Receive and File

Public Hearing  
 Study Item



EXHIBIT A

Status of Claims 07/01/2010 through 12/31/2010

ID	Date Received	Claimant Last Name	Type of Claim	Comments	Status	Date Sent to Council	Date Notice of Council Action Mailed
66	7/22/2010	Downer	Property	Cracked Windshield after major rain	Rejected, Notified, Have heard nothing more		
67	9/17/2010	Morrison	Property	Damage to trailer sitting in front of house by paving equipment	Quick settlement for \$73.28		

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Curtis Yakimow, Director of Administrative Services  
**Date:** January 25, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** Fourth Amendment to Waste Disposal Agreement with County

**Prior Council Review:** On May 5, 1998, the Town entered into a Waste Disposal Agreement with the County of San Bernardino. Over the course of the past 13 years, this agreement was amended to address specific changes in February 25, 2002, August 19, 2003 and October 11, 2007.

**Recommendation:** Review and approve the fourth amendment to the Waste Disposal Agreement between the County of San Bernardino, and the Town of Yucca Valley.

**Summary:** The Town of Yucca Valley utilizes the Waste Disposal Agreement (WDA) between the Town and County as the principle operating agreement related to the landfill disposal of solid waste generated within the Town. This agreement provides for the annual adjustment of disposal rates in accordance with certain cost of living factors. The proposed amendment to the Waste Disposal Agreement will adjust the dates of the cost of living factors used in the annual review and adjustment of the Contract Rate. While this revision will not change the effective date of any annual adjustment, it will provide both the Town and the County with an earlier calculation of the required annual cost of living adjustment, and will provide both parties with increased notice of any such related rate adjustment.

**Order of Procedure:**

- Request Staff Report
- Request Public Comment
- Council Discussion / Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Voice Vote, Consent Agenda)

**Discussion:** The County of San Bernardino owns, manages and operates a landfill system for solid waste disposal. Through the Town's participation in the Waste Disposal Agreement (WDA), the county has made this landfill system available for the disposal of municipal solid waste generated by the Town of Yucca Valley.

This agreement provides for the annual adjustment of disposal rates in accordance with

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Reviewed By:

  
Town Manager

  
Town Attorney

  
Mgmt Services

  
Dept Head

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Department Report  
 Consent

Ordinance Action  
 Minute Action

Resolution Action  
 Receive and File

Public Hearing  
 Study Session

certain cost of living factors. The WDA identifies the publication date of the specific indices used to calculate the annual cost of living adjustment as the quarterly Employment Cost Index (ECI) for December and the annual Producer Price Index (PPI) for February of each year. Under this scenario, the next fiscal year's rates cannot be announced until after the start of the fiscal year due to the timing of the release of the index data. This delay causes notification difficulties for both the Town and the County.

The proposed amendment will change the index dates used to September for both indices, with finalization of the data by February or March of the next year. This will allow for the final landfill rate to be announced with adequate time for the Town and County to post the necessary notices.

While the Town and County are currently underway with the process to consider a new WDA (the current WDA terminates in FY 2013), the proposed revision will greatly improve the rate adjustment process. As with any amendment to the WDA, the amendment will only be effective if all 16 WDA entities agree to it and the County is able to adopt it by March 1, 2011.

**Alternatives:** No alternative is recommended.

**Fiscal impact:** There is no fiscal impact to the Town as a result of this proposed amendment.

**Attachments:** Amendment Four to the Town's Waste Disposal Agreement with the County of San Bernardino

WASTE DISPOSAL AGREEMENT

BETWEEN

THE COUNTY OF SAN BERNARDINO, CALIFORNIA

AND

THE TOWN OF YUCCA VALLEY

DATED: May 5, 1998

County Authorization Date:

\_\_\_\_\_

Town Authorization Date:

\_\_\_\_\_

County Notice Address:

Solid Waste Management Division  
222 Hospitality Lane, 2<sup>nd</sup> Floor  
San Bernardino, CA 92415-0017

Town Notice Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Emergency Contact:

Gerry Newcombe  
Deputy Administrative Officer  
(909) 386-8703

Emergency Contact:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AMENDMENT NO. 4 TO THE  
WASTE DISPOSAL AGREEMENT

On May 5, 1998 the Town of Yucca Valley ("Town") and the County of San Bernardino ("County") entered into a Waste Disposal Agreement ("WDA"). The parties hereby amend the WDA, on the Effective Date as provided herein, by their respective execution of this agreement (hereinafter "Amendment").

Recitals.

- A. Following the adoption of the WDA, changes in law occurred relating to the length of the required notice to be given prior to the adoption of certain fees.
- B. Recently, the County has adopted a new policy of enacting its revised fees earlier in the calendar year.
- C. Based on the forgoing, it will assist both the Town and the County if the annual cost of living adjustment to the Contract Rate, provided for in Section 4.2(B) of the WDA, is calculated earlier in a given calendar year. To accomplish this goal, the parties have agreed in this Amendment to adjust the dates used to establish the change in the cost of living to an earlier date, thus allowing the earlier calculation of the required annual cost of living adjustment.
- D. While this Amendment changes the date of the calculation of the change in the cost of living, it does not change the date that such change is effective. The change in the Contract Rate to reflect the annual cost of living adjustment will continue to be effective on July 1 of each year.

NOW THEREFORE, in consideration of the forgoing recitals and the following covenants and promises the parties agree as follows:

- 1. Amended Section 4.2(B) of the WDA. Section 4.2(B) of the WDA is amended to read:

(B) Calculation of Escalation. For purposes of Section 4.2(A)(ii), the Contract Rate shall be adjusted in accordance with the formula described in this Section each July 1 during the term hereof, commencing July 1, 1999. The adjustment shall be calculated in accordance with the following formula:

$$\text{Contract Rate} = \text{Fixed Portion} + [\text{Escalating Portion} \times \text{Index}]$$

Where,

$$\text{Fixed Portion} = \$10.87$$

$$\text{Escalating Portion} = \$17.63$$

Index = Price Index, which shall be determined in accordance with the following formula:

$$I = .7[\text{PPI}_1/\text{PPI}_2] + .3[\text{EI}_1/\text{EI}_2]$$

PPI<sub>1</sub> = The Producer Price Index, Industrial Commodities, as published by the United States Department of Labor Statistics in the publication *Producer Price Indices*, Table 6, for the month of February in the year the adjustment is being made (e.g., the first adjustment will use the February, 1999 value)

PPI<sub>2</sub> = Producer Price Index, Industrial Commodities for the month of February, 1998

EI<sub>1</sub> = Employment Cost Index, Compensation, Private Industry Workers, as published by the United States Department of Labor Statistics in the publication *Monthly Labor Review*, Table 22, for the last quarter of the year preceding the year the adjustment is being made (e.g., the first adjustment will use the last quarter, 1998 value)

EI<sub>2</sub> = Employment Cost Index, Compensation, Private Industry Workers established for the last quarter of 1997

The adjustment effective on July 1, 2011, and all subsequent adjustments, will be calculated as provided above, except that the parameters of the Index (i.e., I) shall be defined as follows:

PPI<sub>1</sub> = The Producer Price Index, Industrial Commodities Commodity Data, as published at the United States Department of Labor, Bureau of Labor Statistics web site, Series ID WPU03 thru15 for the month of September in the year prior to the year for which the adjustment is being made (e.g., the adjustment effective July 1, 2011 will use the September 2010 value)

PPI<sub>2</sub> = Producer Price Index, Industrial Commodities Commodity Data for the month of September, 1997

EI<sub>1</sub> = Employment Cost Index, Total Compensation, Private Industry All Workers, as published at the United States Department of Labor, Bureau of Labor Statistics web site, Series ID: CIU2010000000000I for the last quarter of the year preceding the year for which the adjustment is being made (e.g., the adjustment effective July 1, 2011 will use the third quarter, 2010 value)

EI<sub>2</sub> = Employment Cost Index, Compensation, Private Industry All Workers, as published at the United States Department of Labor, Bureau of Labor Statistics web site, Table 3, established for the third quarter of 1997

If at any time either the Employment Cost Index or the Producer Price Index is no longer published, or are otherwise unavailable, then the Cost of Living Adjustment shall be determined by using standard official statistics measuring changes to, respectively, labor costs and cost of materials, as the parties shall mutually agree.

All other terms and conditions of Section 4.2 shall remain in full force and effect and are not amended by the provisions of this Amendment.

/

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

TOWN OF YUCCA VALLEY

COUNTY OF SAN BERNARDINO

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Print Name

, Chairman, Board of Supervisors

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

SIGNED AND CERTIFIED THAT A COPY OF THIS CONTRACT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors  
Of the County of San Bernardino

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
TOWN ATTORNEY

APPROVED AS TO FORM:  
COUNTY COUNSEL SAN BERNARDINO  
COUNTY, CALIFORNIA

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



EXHIBIT A

CITIES/TOWNS WITH A WASTE DELIVERY AGREEMENT  
WITH THE COUNTY OF SAN BERNARDINO

1. ADELANTO
2. APPLE VALLEY
3. BARSTOW
4. BIG BEAR LAKE
5. COLTON
6. FONTANA
7. GRAND TERRACE
8. HESPERIA
9. HIGHLAND
10. LOMA LINDA
11. RIALTO
12. SAN BERNARDINO
13. TWENTYNINE PALMS
14. VICTORVILLE
15. YUCAIPA
16. YUCCA VALLEY

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor and Town Council  
**From:** Curtis Yakimow, Director of Administrative Services  
**Date:** January 20, 2011  
**For** Council February 1, 2011  
**Meeting:**

**Subject:** Resolution in opposition to the proposed elimination of redevelopment agencies in California

**Prior Council Review:** None

**Recommendation:** Adopt the Resolution in opposition to the Administration's proposal to abolish redevelopment agencies in California and direct staff to communicate its opposition to the appropriate parties.

**Order of Procedure:**

- Department Report
- Request Staff Report
- Request Public Comment
- Council Questions of Staff
- Council Discussion
- Motion/Second
- Discussion on Motion
- Call the Question (consent agenda roll call vote)

**Discussion:** As part of the 2011-12 State budget proposal, the Governor has proposed permanent elimination of California's more than 400 local redevelopment agencies. While the details of any such proposal are not certain at this time, what is clear is that the proposal will have little financial benefit to the State. According to the State Controller's office, redevelopment agencies have more than \$87 billion in bond and other contractual obligations that legally must be repaid before revenues are available for any other purpose. Even the State Department of Finance indicates there will be no savings in out years from the elimination of redevelopment agencies.

More important however, is the negative impact the proposal will have on local municipalities, such as the Town. The elimination of redevelopment agencies such as the Yucca Valley Redevelopment Agency (RDA) will remove one of the few tools municipalities have in meeting numerous state planning and development requirements, transit-oriented development, housing, jobs and infrastructure. Equally damaging would

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Reviewed By:      
Town Manager      Town Attorney      Mgmt Services      Dept Head

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Department Report       Ordinance Action       Resolution Action       Public Hearing  
 Consent       Minute Action       Receive and File       Policy Disc.

be the Town's inability to provide affordable housing within the Town limits, such as the Town's newly proposed senior housing development at the Town Hall complex. While in no way comprehensive, the proposed elimination of the Town's RDA would negatively impact the following list of current and future Town efforts:

- Senior Housing Project at Dumosa/SR 62
- Future Affordable Housing Projects Town wide
- Potential Acquisition and Rehabilitation of Low/Mod housing units
- Various Infrastructure Development and Construction in the project area
- Highway 62 Improvements
- Old Town Specific Plan Implementation
- Waste water system related development and connection
- Potential waste water connection assistance for income eligible businesses
- Potential waste water connection assistance for income eligible individuals

While the elimination of these and other projects would be significant, even more damaging would be the ancillary effects on jobs and the local economy, as many of the identified projects either directly or indirectly employ the construction and building industry in Yucca Valley.

With the passage of this resolution and accompanying recommendation, the Council will be opposing the Administration's proposal to abolish redevelopment in California, and providing staff direction to communicate its opposition to Governor, Legislature, business groups and citizens.

**Alternatives:** Do not approve the Resolution.

**Fiscal impact:** The potential elimination of the Town's Redevelopment Agency will result in the elimination of over \$60 million in available tax increment for Agency projects over the course of the project life. This does not include the economic damage that would be placed on the community at large. Such damage would easily be in the tens of millions over the course of the project life.

**Attachments:** Resolution

## RESOLUTION NO. 11-

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA IN OPPOSITION TO THE ADMINISTRATION'S PROPOSAL TO ABOLISH REDEVELOPMENT AGENCIES IN CALIFORNIA**

WHEREAS, as part of its 2011-12 budget proposal, the Governor has proposed permanently abolishing California's more than 400 local redevelopment agencies; and

WHEREAS, this proposal represents more of the same misguided and illegal State budget raids of local government funds that voters have repeatedly sought to end, most recently in November 2010 when an overwhelming 61% of voters elected to stop State raids of local government funds, including redevelopment funds; and

WHEREAS, this proposal will bring very little financial benefit to the State. According to the State Controller's Office, redevelopment agencies have more than \$87 billion in bond and other contractual obligations that legally must be repaid before revenues are available to any other purpose. In fact, according to the State Department of Finance's own budget documents, there will be zero State savings in out years from shutting down redevelopment; and

WHEREAS, this proposal will destroy local economic development, including hundreds of thousands of jobs and billions of dollars in local economic activity throughout California. In fact, in the Town of Yucca Valley, abolishing redevelopment will seriously impact or eliminate the following projects among others:

- The elimination of over \$60 million in available tax increment to the Agency
- Senior Housing Project at Dumosa/SR 62
- Future Affordable Housing Projects Town wide
- Potential Acquisition and Rehabilitation of Low/Mod housing units
- Various Infrastructure Development and Construction in the project area
- Highway 62 Improvements
- Old Town Specific Plan Implementation
- Waste water system related development and connection
- Potential waste water connection assistance for income eligible businesses
- Potential waste water connection assistance for income eligible individuals

WHEREAS, throughout California, redevelopment activities support 304,000 jobs annually, including 170,600 construction jobs, contribute over \$40 billion annually to California's economy in the generation of goods and services, and generate more than \$2 billion in state and local taxes in a typical year; and

WHEREAS, eliminating redevelopment will take away one of the few tools local governments have to comply with state requirements to plan for more compact urban development supported by transit-oriented development, housing, jobs and

infrastructure; and

WHEREAS, eliminating redevelopment will destroy the development of affordable housing in California. Redevelopment agencies are the second largest funder of affordable housing, behind only the federal government, responsible for over 98,000 units of affordable housing since 1993; and

WHEREAS, shutting down redevelopment agencies is a violation of multiple State and Federal constitutional provisions.

THEREFORE, BE IT RESOLVED that the Town of Yucca Valley formally opposes the Administration's proposal to abolish redevelopment in California.

THEREFORE, BE IT FURTHER RESOLVED, that the Town of Yucca Valley authorizes its council and city staff to communicate its opposition to this proposal to the Governor, the Legislature, business groups, and citizens.

**PASSED AND ADOPTED** this 1<sup>st</sup> day of February, 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
TOWN CLERK

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Jim Schooler, Director of Community Services  
**Date:** January 26, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** Lease agreement – High Desert BMX Incorporated

**Prior Council Review:** The Council has approved previous lease agreements for operation of the bicycle motocross (BMX) track.

**Recommendation:** Move to approve the lease agreement between the Town of Yucca Valley and High Desert BMX, Incorporated for use of specified Town property for bicycle motocross activities and events, subject to receipt of a certified record that the non-profit corporation is in good standing with the State of California.

**Summary:** The Coyote BMX track is located on Town property north of the Yucca Valley Community Center. With a proposed change of track operator, the Council is requested to approve the new lease agreement with High Desert BMX, Inc.

**Order of Procedure:**

- Request Staff Report
- Request Public Comment
- Council Discussion / Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (roll call vote – consent item)

**Discussion:** In 1994, the Town assisted a volunteer effort in the development of the BMX track located on Town property north of the Community Center. Since that time, the track has been leased to various non-profit organizations for the purpose of staging local, regional and national bicycle motocross activities and events. The practices and events have regularly attracted substantial local participation as well as many participants from out of town.

In July of 2010, staff served notice to the track operator that, due to ongoing issues of non-compliance with the terms of the lease agreement, the track access would be suspended and the lease would be terminated. The activities ceased and the track has been closed since that time.

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Reviewed By:

  
Town Manager

  
Town Attorney

  
Mgmt Services

JAS  
Dept Head

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Department Report

Ordinance Action

Resolution Action

Public Hearing

Consent

Minute Action

Receive and File

Study Session

Staff was subsequently contacted by several individuals and groups who expressed interest in assuming the track operator responsibilities. Background information was collected, proposals were formalized and interviews were conducted with the interested parties. As a result, staff narrowed the field and pursued the issue with a local couple (Kevin and Leanka Winters) who are active in the BMX sport locally and nationally. Mr. and Mrs. Winters have since established a track operator relationship with the American Bicycle Association (ABA) and have concluded the process of becoming officers of High Desert BMX, Inc., a California non-profit corporation. ABA provides national networking and organizational resources to track operators, including insurance coverage for the participants and events.

Staff has worked with the new leadership of the organization to develop the terms of a lease agreement so that the track operations can resume. The operators intend to undertake a significant amount of renovation prior to re-opening the track, but they anticipate beginning the effort as soon as the new lease agreement is approved. A soft opening could occur within 60 days of the new lease agreement.

Staff recommends approving the lease agreement with High Desert BMX, Inc., with Kevin and Leanka Winters acting as track operators on behalf of the organization. The term for the lease agreement extends to December 31, 2011 with automatic annual renewals, allowing the operators sufficient opportunity to establish programming at the facility and demonstrate their value to the community.

**Alternatives:** Decline to approve the lease agreement

**Fiscal impact:** The agreement requires a lease payment to the Town of \$1.00 per year. The operators would be responsible for all costs associated with the ongoing operation of the facility.

**Attachments:** Lease agreement

## LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into this 1st day of February, 2011, by and between THE TOWN OF YUCCA VALLEY, a General Law California municipality ("TOWN"), and HIGH DESERT BMX, INC., a California non-profit corporation ("BMX").

### RECITALS

**WHEREAS**, TOWN is the owner of that real property described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter referred to as "Premises"; and

**WHEREAS**, BMX provides programs for bicycle motocross activities including practices, competitive races and special events (the "Program"). The Program is further described in Exhibit "B" hereto; and

**WHEREAS**, BMX has an immediate need for space for its Program and TOWN has an interest in BMX's provision of Program services to the community and in providing a facility suitable for the administrative operations of BMX; and

**WHEREAS**, TOWN hereby desires to Lease the Premises to BMX for the conduct of BMX Programs. BMX shall have the right to the use of the Premises and of the facilities and equipment therein during the term of this agreement, including any extensions thereof. Providing, however, that during the term of this Lease TOWN shall have the right to relocate the Premises to another similar location and parties shall execute the Amendment to this Lease stating the relocation of the Premises.

### AGREEMENT

**NOW, THEREFORE**, the parties incorporate the Recitals as set forth herein and agree as follows:

#### ARTICLE 1. Term and Termination

A. This Lease shall commence on February 1, 2011 and end on the 31<sup>st</sup> day of December, 2011, ("Initial Term") unless sooner terminated or extended as hereinafter provided.

B. Provided that BMX is not in default under this Lease, the Lease shall be renewed annually for a one (1) year term unless either party gives ninety (90) days notice in writing to the other party of its intention not to renew.

C. Notwithstanding any provisions to the contrary in this Lease, TOWN may terminate this Lease before the expiration of the stated term if (i) BMX does not receive approval by the appropriate governmental authority to continue to occupy the Premises; (ii) if such approval has been granted, but is subsequently withdrawn by such governmental authority due to budgetary constraints, or (iii) BMX fails to continue to operate the BMX Program for which the Premises were originally Leased, or (iv) either party elects to terminate this Lease by notice delivered to the other party at least sixty days (60) prior to such termination. In the event of the occurrence of any of the forgoing, TOWN may, in its sole discretion, give written notice to BMX, to terminate this Lease and neither party shall have any further obligation to the other hereunder.



## **ARTICLE 2. Lease**

D. TOWN hereby Leases to BMX, and BMX hereby rents from TOWN, all of those certain Premises, which are specifically identified on "Exhibit A" and incorporated herein by this reference, on the terms and conditions contained in this Lease. BMX shall have the right to develop, operate, and provide facilities for bicycle motocross activities including practices and special events. Further, BMX shall have the right to develop and operate snack bars and concessions within the Premises. The operator(s) of snack bars and food concessions must obtain all proper permits which may apply to these facilities, and maintain compliance with all State, County and local regulations pertaining to such operations.

E. TOWN shall provide BMX with exclusive use of the Premises during the term of this Lease and shall not unreasonably interfere with or disrupt BMX's occupation and quiet enjoyment of the Premises.

## **ARTICLE 3. Minimum Rent**

This Lease is entered into for good and valuable consideration for the period commencing on the Initial Term and ending as described in Article 1 above. BMX shall pay to TOWN as and for consideration of leasing the Premises the yearly rental amount of one dollar (\$1.00).

## **ARTICLE 4. Utilities**

BMX shall be responsible for the timely payment of all utility bills (water, electric, gas, phone, cable) associated with the use of the Premises.

## **ARTICLE 5. Taxes**

A. BMX recognizes and understands that this Lease may create a possessory interest subject to property taxation and that BMX may be subject to the payment of property taxes levied on such interest.

B. BMX covenants and agrees to pay all taxes, including possessory interest tax, and assessments upon all improvements, fixtures, furniture, and other property owned by BMX and used in the exercise of BMX's rights under this Lease or levied by reason of BMX's rights under this agreement or levied by reason of BMX's operations and Program pursuant to this Lease.

## **ARTICLE 6. Use of Premises**

A. BMX will occupy and use the Premises exclusively and solely for the purpose of conducting the Program described in Exhibit "B" hereto and for no other use or purpose. BMX shall not use, or permit the Premises, or any part thereof, to be used for any purposes other than the purposes for which the Premises are hereby Leased.

B. BMX shall open for business on the Premises no later than the date of April 1, 2011 and shall thereafter operate continuously for business to the public in the Premises. BMX shall conduct its business in the Premises during the usual and customary days and hours for such type of business. BMX's obligation to continuously operate its business in the Premises shall not apply if the Premises should be closed and the business of BMX temporarily discontinued therein for not more than three (3) days out of respect to the memory of any deceased officer or employee of BMX, or the relative of any such officer or employee.

C. BMX shall not commit any acts on the Premises, nor use the Premises in any manner that will increase the existing rates for or cause the cancellation of any fire, liability, or other insurance policy insuring the Premises or the improvements on the Premises. BMX shall, at BMX's own cost and expense, comply with all requirements of TOWN's insurance carriers that are necessary for the continued maintenance at reasonable rates of fire and liability insurance policies.

D. BMX, at its sole cost, shall comply with any and all laws concerning the Premises or BMX's use of the Premises, including, without limitation, the obligation at BMX's cost to alter, maintain or improve the Premises in compliance with and conformity with all laws relating to the condition, use or occupancy of the Premises during the term (including the Americans With Disabilities Act).

E. BMX agrees not to use the Premises for any immoral or unlawful purpose.

F. BMX shall not commit any waste or any public or private nuisance upon the Premises.

G. BMX shall comply with all laws, rules, and orders of all federal, state and municipal governments or agencies that may be applicable to use of the Premises. BMX shall conform to and abide by all rules and regulations relating to the operation herein authorized and shall be subject at all times to applicable rules, regulations, resolutions, ordinances, and statutes of the Town of Yucca Valley, County of San Bernardino, State of California, the federal government, and all other governmental agencies where applicable; and where licenses, permits, or approvals are required for such operations, the same must first be had and obtained from the regulating body having jurisdiction thereof, before such operation is undertaken. BMX shall at all times during the term of this Lease be a member in good standing of the American Bicycle Association ("ABA"), the national sanctioning body or its successor organization and abide by all rules and regulations promulgated by ABA.

H. BMX shall at all times keep the Premises in a neat and attractive appearance. BMX shall furnish all labor, services, materials, supplies, and equipment necessary to maintain the Premises in a clean, orderly, and inviting condition satisfactory to TOWN. BMX will provide or obtain sufficient and regular trash removal services for the Premises throughout the term of this Lease.

I. BMX's use of the Premises is subject to: (i) the effect of any covenants, conditions, restrictions, easements, development agreements, mortgages or deeds of trust, ground Leases, rights of way, and other matters or documents of record now or hereafter recorded, (ii) the effects of any zoning laws of the TOWN, county and state where the Premises are situated. BMX covenants and agrees, any provision in this Lease to the contrary notwithstanding, that it will not use or permit the Premises to be used for any purpose inconsistent with any of the existing grants, reservations, conditions, leases, restrictions an trusts upon or under which said lands are held by TOWN, the terms of which are hereby incorporated into this Lease as if set forth in full.

J. BMX agrees (i) that as to its leasehold estate it, and all persons in possession or holding under it, will conform to and will not violate said matters of record, and (ii) that this Lease is and shall be subordinate to said matters of record and any amendments or modifications thereto.

K. BMX shall employ no person in a position involving preparation or serving of food or direct contact with members of the public unless such persons has a current Food Industry Retail and Service Training (FIRST) card of file with the County of San Bernardino.

#### **ARTICLE 7. Condition of Premises**

BMX acknowledges that as of the date of this sub-Lease, BMX has inspected the Premises and all improvements on the Premises and that the Premises and improvements are in good order, repair, and condition expect for the HVAC System which need to be completed and activated, and except as otherwise required herein in Section 9 as BMX's Work.

The parties agree that any additional improvements or alterations to the Site, not otherwise specified herein, must be authorized by TOWN in writing and performed at the sole cost and expense of BMX.

#### **ARTICLE 8. Repairs and Maintenance**

A. BMX agrees to maintain the Premises and improvements in a professional manner acceptable to TOWN. BMX also agrees to repair any damage to the Premises commencing within twenty (20) days of such damage, except that BMX shall perform its obligations immediately if the nature of the problem presents a hazard or emergency. If BMX does not perform its obligations within the time limitations in this paragraph, TOWN can perform the obligations and have the right to be immediately reimbursed for the sum it actually expends, including the cost of TOWN employees and equipment, in the performance of BMX's obligation.

B. BMX further agrees that it will make no major alterations, repairs or improvements to said Premises without, in each case, the written consent of TOWN having first been obtained, including, but not limited to, carpentry, electrical, and painting; further, that in the event any major alterations, repairs or improvements in or to said Premises or made necessary for any reason whatsoever, BMX will submit plans and specifications to TOWN for approval thereof. If TOWN determines that improvements are acceptable, BMX will pay to the contractor all cost involved in completion of the approved requests. TOWN reserves the right for its authorized agents, employees or representatives to enter the Premises and the improvements located thereon to inspect the same or any part thereof at any time and to attend to and protect the TOWN's interest under this Lease.

#### **ARTICLE 9. BMX Improvements and Alterations**

A. Prior to making any improvements or alterations to the Premises, BMX shall prepare and submit to TOWN a detailed plan showing location, layout and specification of planned improvements. No improvements are authorized until the plans are reviewed and written approval is given by the TOWN Planning Division. Under no circumstances shall such approval be interpreted as TOWN endorsement of the accuracy or sufficiency of the plans submitted. BMX will indemnify and defend TOWN for all liens, claims, or damages caused by remodeling, improvements, additions, alterations, and major repairs.

B. BMX shall, at its own expense, construct, perform, complete and maintain all construction and installations covered by this Lease in a good and workmanlike manner and with high quality materials, and shall furnish all tools, equipment, labor and material necessary to perform and complete the same, and hereby expressly warrants that all said materials and

workmanship will be free from defects. BMX understands and agrees that all site approvals and any environmental approvals will be the responsibility of BMX.

C. BMX shall be responsible for constructing any improvements necessary to use the Premises for the purpose of facilitating the conduct of its Program at its sole cost and expense (the "BMX's Work"). BMX shall have sole responsibility for all architectural and space planning involved in BMX's Work.

D. Except as set forth in this section, all alterations and improvements made to the Premises shall become the property of TOWN and shall remain on and be surrendered with the Premises at the expiration or sooner termination of this Lease, including any renewals or extensions.

E. It shall be BMX's duty to keep the Premises free and clear of all liens, claims, and demands for work performed, materials furnished, or operations conducted on the Premises at the request of BMX.

F. BMX will not at any time permit any mechanics', laborers, or material men's liens to stand against the Premises for any labor or material furnished to BMX or claimed to have been furnished to BMX or BMX's agents, contractors, or sub-BMXs, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of BMX; provided, however, that BMX shall have the right to contest the validity or amount of any lien or claimed lien, upon giving to TOWN a letter executed by BMX assuring that the lien or claimed lien will be paid, when and to the extent that the lien is finally determined to be valid and owing. BMX's right, however, to contest these liens shall not extend beyond the point where TOWN's title to the Premises could be lost. On final determination of the lien or claim of lien, BMX will immediately pay any final judgment rendered, with all property costs and charges, and shall have the lien released or judgment satisfied at BMX's own expense. If BMX fails to pay the judgment promptly or otherwise fails to prevent any sale, foreclosure, or forfeiture of the Premises because of a lien, TOWN shall have the right, upon five (5) days' written notice to BMX, to pay or prevent this action, and the amount paid by TOWN shall be immediately due and payable to TOWN. TOWN shall have at all times the right to post and keep posted on the Premises such notices as may be provided for under and by virtue of the laws of the State of California for the protection of the Premises from mechanics liens or liens of the similar nature.

#### **ARTICLE 10. Signs & Trade Fixtures**

A. BMX may place and maintain signs on the Premises provided, however, that BMX shall first obtain any necessary governmental permits' or licenses therefore and maintain it in good appearance' and repair at all times during this Lease. At the termination or expiration of this Lease, any of the items mentioned in this section that are not removed from the Premises by BMX may, without damage or liability, be destroyed by TOWN.

B. Any trade fixtures that are not removed from the Premises by BMX within sixty (60) days after the termination or expiration of this Lease shall be deemed abandoned by BMX and shall automatically become the property of TOWN as owner of the real property to which they are affixed.

#### **ARTICLE 11. Entry**

BMX shall permit TOWN or TOWN's agents, representatives, or employees to enter the

Premises at all reasonable times and upon at least 2 hour prior notice to inspect the Premises to determine whether BMX is complying with the terms of this Lease and to do other lawful acts that may be necessary to protect TOWN's interest in the Premises under this Lease or to perform TOWN's duties under this Lease. TOWN's entry and any work conducted by TOWN or its contractors shall be performed without interruption or unreasonable interference with BMX's ability to operate its business and to remain open to the public for business.

#### **ARTICLE 12. Surrender of Premises; Holding Over**

A. On the expiration or termination of this Lease, BMX shall promptly surrender and deliver the Premises to TOWN in as good condition as they are now at the date of this Lease, reasonable wear and tear excepted.

B. At the end of the Term, should BMX hold over for any reason, it is agreed that in absence of a written agreement to the contrary, that tenancy shall be form month-to-month only and not a renewal of this Lease, or an extension for further term. BMX shall pay monthly rent in an amount established by TOWN, and the month-to-month tenancy shall be subject to every other term, covenant and condition in this Lease that is consistent with and not contrary to a month-to-month tenancy.

C. BMX further agrees, in addition to the above, upon termination for any reason, to remove all goods, chattels, fixtures and equipment belonging to BMX from the Premises. Following the removal of such goods, chattels, fixtures, and equipment belonging to BMX, BMX shall repair any damage or injury to the said Premises or to any building, structure, or improvement located thereon, occasioned by installation or removal thereof. In the event that said goods, chattels, fixtures, and equipment are not removed within sixty (60) days after the expiration of this Lease or its termination for any other reason, BMX shall be deemed to have abandoned to TOWN the facilities, equipment, fixtures, goods, chattels, and any other property not so removed, at option of TOWN. If TOWN enters the Premises but elects not to exercise its option of having said property revert to TOWN, TOWN may remove the unclaimed property and dispose of it. BMX shall pay to TOWN the cost of such removal and disposal

#### **ARTICLE 13. Damage and Destruction**

A. In the event that the buildings and/or fixed improvements within the Premises are more than eighty-five percent (85%) destroyed or made unusable by fire, flood, wind, vandalism, or any other causes, so as to make it impossible to carry on business thereon, this Lease and the provisions herein contained may be terminated by election of either party by written notice delivered in writing to the other party within sixty (60) days after the occurrence of such destruction. This Lease shall thereupon be of no further force and effect, except as to the provisions hereof which take effect in relation to termination of this Lease. In the event of termination at the election of either party pursuant to this section, the proceeds of all insurance payments paid or payable on account of such destruction shall belong to TOWN and to be disbursed or retained at its sole discretion. TOWN shall pay any indebtedness to lender(s) for any such loans taken by BMX for the sole purpose of building and/or constructing fixed improvements. Payments to lenders shall be limited to the extent of insurance proceeds available. In the event neither party terminates this Lease, BMX shall restore the Premises to the condition prior to such destruction at its sole expense. All restoration shall commence within sixty (60) days after the destruction and shall be completed in a reasonable time.

B. In the event that the buildings and/or fixed improvements are less than eight-five percent (85%) destroyed, BMX shall repair or replace the destroyed improvements, at its sole expense. Written approval from TOWN shall be received before BMX begins repairs or replacements.

C. BMX shall give prompt notice to TOWN in case of fire or accidents in the Premises or of any damage or defects in the Premises or any fixtures or equipment therein.

#### **ARTICLE 14. Waiver for Loss and Damage.**

Except as may be expressly provided for to the contrary in this Lease, TOWN shall not be liable for any damage to property of BMX, or of others, located in, on or about the Premises, nor for the loss of or damage to any property of BMX or of others by theft or otherwise. TOWN shall not be liable to BMX, BMX's employees or representatives for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or leaks from any part of the Premises or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other places or by dampness or by any other cause of whatsoever nature, except as may be proximately caused by an act or omission of TOWN or its employees, contractors or agents. TOWN shall not be liable to BMX, BMX's employees or representatives for any such damage caused by other BMXs or persons in the Premises, or the public, or caused by operations in construction of any private, public or quasi-public work, that are not proximately caused by TOWN, or its employees, contractors or agents. TOWN shall not be liable for any latent defects in the Premises or in the Building at any time after the commencement of BMX's Work. All property of BMX kept or stored on the Premises shall be so kept or stored at the sole risk of BMX and BMX shall hold TOWN harmless from any claims arising out of damage to the same, including subrogation claims by BMX's insurance carriers, unless such damage shall be proximately caused by the acts or omissions of TOWN, or its employees, contractors or agents.

#### **ARTICLE 15. Assignment and Subletting**

A. BMX shall not assign this Lease in whole or in part, nor sublet all or any part of the Premises, without the prior written consent of TOWN. The consent by TOWN to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. If this Lease is assigned by BMX, or if the Premises or any part thereof are sublet or occupied by any person or entity other than BMX, TOWN may collect Rent from the assignee, subtenant or occupant, for its own use and purpose and terminate this Lease. Collection shall not be deemed a waiver on the part of TOWN, or the acceptance of the assignee, subtenant or occupant as BMX, or a release of BMX from the further performance by BMX of covenants on the part of BMX herein contained.

B. Irrespective of any assignment or Lease, BMX shall remain fully liable under this Lease and shall not be released from performing any of the terms, covenants and conditions of this Agreement.

#### **ARTICLE 16. Involuntary Assignment.**

No interest of BMX in this Lease shall be assignable by operation of law (including, without limitation, the transfer of this Lease by testacy or intestacy). Each of the following acts shall be considered an involuntary assignment: (a) if BMX is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which BMX is bankrupt; or, if BMX is a partnership or consists of more than one person

or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors; (b) if a writ of attachment or execution is levied on this Lease; or (c) if, in any proceeding or action to which BMX is a party, a receiver is appointed with authority to take possession of the Premises. An involuntary assignment shall constitute a default by BMX, and Owner shall have the right to elect to terminate this Lease, in which case this Lease shall not be treated as an asset of BMX.

#### **ARTICLE 17. Indemnification**

A. **As-Is Condition.** BMX accepts the Premises in an “As Is” condition. BMX acknowledges and agrees that the Premises are to be leased to, and accepted by BMX, in an “As Is” condition with all faults. BMX has investigated and has knowledge of operative or proposed governmental laws and regulations (including, but not limited to, zoning, environmental and land use laws and regulations) to which the Premises are or may be subject and accepts the Premises solely upon the basis of its review and determination of the applicability and effect of such laws and regulations. BMX acknowledges that it is entering into this Lease on the basis of BMX’s own investigation of the physical and environmental conditions of the Premises, including subsurface conditions, and BMX assumes the risk that adverse physical and environmental conditions may not have been revealed by its own investigation.

B. **Indemnification.** BMX agrees to indemnify the TOWN and its elected boards, commissions, officers, agents and employees and will hold and save them and each of them harmless from any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys’ fees and costs) against the TOWN and/or the Town of Yucca Valley Redevelopment Agency for any claims or litigation which arise during the term of this Lease arising from BMX’s occupancy of or Program activities on the Premises (“Claims or Litigation”). TOWN shall promptly provide BMX with notice of the pendency of any such Claims or Litigation and request that BMX defend the same. If TOWN fails promptly to notify BMX of any such Claims or Litigation, such failure shall not waive or diminish BMX’s responsibility to defend, indemnify, or hold harmless the TOWN. BMX may utilize the Town/Agency Attorneys’ office or use legal counsel of BMX’s choosing, but shall reimburse TOWN for any necessary legal cost incurred by TOWN. If BMX fails to do so, TOWN may defend the Claims or Litigation and BMX shall pay the cost thereof, but if BMX chooses not to defend the Claims or Litigation, it shall have no liability to BMX. BMX’s obligation to pay the defense cost shall extend until judgment and thereafter through any appeals. In the event of an appeal, or a settlement offer, the parties will confer in good faith as to how to proceed and the resolution of any such appeal and the parties’ response to any such settlement offer shall require the consent of both parties, which consent shall not be unreasonably withheld. Notwithstanding the foregoing however, TOWN shall have the unilateral right to settle such Claims or Litigation brought against it in its sole and absolute discretion at any time after the elapse of two (2) years from the filing of a court action on any Claims or Litigation and BMX shall remain liable hereunder for the Claims and Litigation.

C. **Assumption of Risk.** The foregoing indemnity and release applies to all Claims and Liabilities that may arise from BMX’s Program. BMX understands that the described Program may be of a hazardous nature and/or poses all the risks associated with outdoor exposure, strenuous physical activity and/or the stresses and demands of competitive bicycle motocross sports and related recreational activities, whether physical, mental or emotional. Dangers could include, but are not limited to cuts, muscular or tendon strain, bruises, bleeding, weather exposure, stresses upon the cardiovascular system including but not limited to heart attack or stroke, broken or fractured bones and other debilitating or permanent physical and

emotional injury, damage to personal property, or death. Knowing the risks involved, BMX nevertheless agrees to assume all risks of injury and to release and hold harmless the TOWN, who through negligence or carelessness, might otherwise be liable. It is further understood that this waiver, release and assumption of risk is to be binding on the heirs and assigns of BMX.

D. **1542 Waiver.** It is the intention of the parties pursuant to this release that any and all responsibilities and obligations of TOWN and any and all rights, claims, rights of action, causes of action, demands or legal rights of any kind of BMX, its successors, assigns or any affiliated entity of BMX, arising by virtue of the physical or environmental condition of the Premises or BMX's occupation thereof are by this release provision declared null and void and of no present or future force and effect as to the parties. In connection therewith, BMX and each of the entities constituting BMX, expressly agree to waive any and all rights which said party may have under Section 1542 of the California Civil Code which provides as follows:

**"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."**

LESSEE'S INITIALS: \_\_\_\_\_

LESSOR'S INITIALS: \_\_\_\_\_

E. **Survival.** Notwithstanding any other provision of this Lease, Lessee's release and indemnification as set forth in the provisions of this Article shall survive the termination or expiration of this Lease and shall continue in perpetuity.

#### **ARTICLE 18. Insurance**

F. **Insurance.** BMX, at BMX's own cost and expense, shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. BMX shall file and maintain with TOWN at all times during the term of this agreement, a copy or certificate of insurance with an insurance company admitted in California. The policy shall contain additional endorsements naming the TOWN, its officers, employees, agents, and volunteers as additional named insured with respect to liabilities arising out of this lease. BMX shall require the carriers of the coverage to waive all rights of subrogation against the TOWN, its officers, employees, agents, and volunteers. All policies required are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the TOWN. Said certificates shall provide that such insurance shall not be terminated or cancelled without thirty (30) days written notice to the TOWN.

G. **Additional Named Insured.** All policies, except Worker's Compensation coverage, shall contain additional endorsements naming the TOWN, its employees, agents, volunteers and officers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

H. **Waiver of Subrogation Rights.** BMX shall require the carriers of the above required coverages to waive all rights of subrogation against the TOWN, its officers, volunteers, employees, contractors and subcontractors.



I. **Policies Primary and Non-Contributory.** All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the TOWN.

J. **Proof of Coverage.** BMX shall immediately furnish certificates of insurance to the TOWN evidencing the insurance of services hereunder. These certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days prior written notice to the TOWN. Within sixty (60) days of the commencement of this agreement, BMX shall furnish certified copies of the policies and endorsements.

K. **Fire Insurance.** BMX, during the term of this Lease, agrees to carry sufficient fire insurance for the benefit of both TOWN and BMX, as their interests may appear, to cover the permanent buildings within the Premises, but not the contents thereof.

L. **Premium Payments.** BMX shall pay any and all premiums or other expenses arising in connection with the furnishing of the insurance of BMX and herein provided.

M. **Cancellation of Insurance.** In the event TOWN receives a thirty (30) day written notice of cancellation concerning any of the required policies, or should BMX fail to have in effect the required coverage at any time during this Lease, TOWN may give notice to BMX to reinstate or acquire the affected coverage, and BMX shall cease operations during any time period that any required insurance is not in effect. Should BMX fail to reinstate or acquire the affected coverage within five (5) days of TOWN's notice to reinstate or acquire such coverage, TOWN may either terminate the lease, reinstate or acquire the affected coverage, the BMX shall reimburse TOWN for the necessary cost at TOWN's option. If BMX does not reimburse TOWN within ten (10) days after demand by TOWN, TOWN shall have the right to terminate this Lease.

#### **ARTICLE 19. Default**

A. **BMX's Default.** The occurrence of any of the following shall constitute a default by BMX: (i) abandonment and/or vacation of the Premises; (ii) failure to operate in the Premises for fifteen (15) consecutive days; (iii) failure to perform any nonmonetary provision of this Lease if the failure to perform is not cured within ten (10) days after notice has been given to BMX; (iv) failure to timely deliver an estoppel certificate as required by this Lease.

B. Notices given under this Section shall not be deemed a forfeiture or a termination of this Lease unless TOWN so elects in the notice. Notices given under this Section **shall be in lieu of** and not in addition to any statutory notice required by law.

C. **TOWN's Remedies.** TOWN shall have the following remedies if BMX commits an uncured default:

1. TOWN can continue this Lease in full force and effect after BMX's default and abandonment, and the Lease will continue in effect as long as TOWN does not terminate BMX's right to possession, and TOWN may enforce all TOWN's rights and remedies under the Lease. During the period BMX is in default, TOWN can enter the Premises and re-let them, or any part of them, to third parties.

2. TOWN can terminate BMX's right to possession of the Premises at any time. No act by TOWN other than giving notice to BMX shall terminate this Lease. Acts of maintenance, efforts to relet the Premises or the appointment of a

receiver on TOWN's initiative to protect TOWN's interest under this Lease shall not constitute a termination of BMX's right to possession. On termination, TOWN has the right to recover from BMX any and all amounts and court costs, necessary to compensate TOWN for all detriment proximately caused by BMX's default.

3. TOWN, at any time after BMX commits a default, can cure the default at BMX's cost. If TOWN at any time, by reason of BMX's default, pays any sum or does any act that requires the payment of any sum, the sum paid by TOWN shall be due immediately from BMX to TOWN at the time the sum is paid, and if paid at a later date shall bear interest at the maximum rate an individual is permitted by law to charge from the date the sum is paid by TOWN until TOWN is reimbursed by BMX. The sum, together with interest on it, shall be additional rent.

4. Upon the occurrence of an Event of Default, TOWN shall also have the right, with or without termination of this Lease, to re-enter the Premises and remove all persons and property from the Premises. TOWN may store the property removed from the Premises in a public warehouse or elsewhere at the expense and for the account of BMX.

5. These remedies are not exclusive; they are cumulative and in addition to any remedies TOWN may have now or later allowed by law.

D. **Default by TOWN.** If TOWN fails to perform any of the covenants or conditions required on its part to be performed pursuant to this Lease, where such failure continues for a period of thirty (30) days after receipt of written notice specifying the nature and extent of such default in detail (provided, however, that if such default is of a nature that it cannot reasonably be cured within thirty (30) day period, TOWN shall have such additional time as may be required to effect such cure provided TOWN commences the cure within such 30 day period), TOWN's liability shall be limited to TOWN's interest in the Premises. TOWN shall not be liable to BMX for any damages sustained as a direct result of such default. Neither TOWN nor any of its officers, employees, or agents shall be personally liable.

#### **ARTICLE 20. Waiver of Rights of Redemption.**

BMX expressly waives any and all rights of redemption granted by or under any present or future laws in the event of BMX being evicted or dispossessed for any cause, or in the event of Owner obtaining possession of the Premises, by reason of the violation by BMX of any of the covenants or conditions of this Lease, or otherwise.

#### **ARTICLE 21. Waiver of Breach**

Any express or implied waiver of a breach of any term of this Lease shall not constitute a waiver of any further breach of the same or other term of this Lease.

#### **ARTICLE 22. Successors and Sale of Premises**

A. **Successors and Assigns.** Except as provided in this Lease, all rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of said parties. No rights, however, shall inure to the benefit of any assignee of BMX unless the assignment to such assignee has been approved by TOWN in writing as provided for herein.

B. **Sale of Premises.** In the event TOWN shall sell, convey, transfer or exchange the Premises, BMX agrees to recognize and attorn to the purchaser or transferee, as the TOWN hereunder and TOWN shall be and is hereby relieved and released from any liability under any and all of its covenants and obligations under the Lease arising out of any act, occurrence or event arising after such sale, conveyance, transfer or exchange.

### **ARTICLE 23. Eminent Domain**

If any part of the Premises shall be taken by any paramount public authority under the power of eminent domain, then the term of this Lease shall cease to the extent that it relates to the part so taken. If the whole or substantial part of the Premises be so taken, then upon such taking, BMX shall have the right either to cancel this Lease and declare same null and void, or to continue its operations on the remainder of the Premises under the terms herein provided. The award shall belong to and be paid to TOWN, except BMX shall receive from the award the following:

- a. A sum attributable to BMX's improvements or alterations made to the Premises by BMX in accordance with this Lease, which BMX's improvements or alterations BMX has the right to remove from the Premises pursuant to the provisions of this Lease but elects not to remove.
- b. A sum paid BMX from the condemning authority for loss of goodwill.

### **ARTICLE 24. Public Records Disclosure**

All information received by the TOWN from BMX or any source concerning this Lease, including the Lease itself, may be treated by the TOWN as public information subject to disclosure under the provisions of the California Public Records Act, Government Code §6250 et seq. (the "Public Records Act"). BMX understands that although all materials received by the TOWN in connection with this Lease are intended for the exclusive use of the TOWN, they are potentially subject to disclosure under the provisions of the Public Records Act. In the event a request for disclosure of any part or all of any information which BMX has reasonably requested TOWN to hold in confidence is made to the TOWN, the TOWN shall notify BMX of the request and shall thereafter disclose the requested information unless BMX, within five (5) days of receiving notice of the disclosure request, requests nondisclosure, provides TOWN a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold TOWN harmless in any/all actions brought to require disclosure. BMX waives any and all claims for damages, lost profits, or other injuries of any and all kinds in the event TOWN fails to notify BMX of any such disclosure request and/or releases any information concerning the Lease received from BMX or any other source.

### **ARTICLE 25. Miscellaneous**

A. **Governing Law/Venue.** This Lease shall be governed by and construed in accordance with California Law. In the event of litigation the appropriate venue shall be the San Bernardino Superior Courts.

B. **No Discrimination.** Neither BMX or any person claiming under it shall discriminate in its recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religions creed, color, national origin, ancestry, sex, sexual orientation, age, physical handicap, or marital status with respect to the concession granted herein or the occupancy, use or

enjoyment of the Premises, and BMX shall comply with the provisions of the California Fair Employment Practice Act (commencing with Section 1410 of the Labor Code), the Federal Civil Rights Act of 1964 (P.L. 88-352), and all amendments thereto, Executive Order No. 11246 (30 Federal Register 12319), as amended, and all administrative rules and regulations issued pursuant to said Acts and Orders.

C. **Compliance with Laws.** TOWN shall, at its sole cost and expense, comply with all of the requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force pertaining to the use of the Property; and shall faithfully observe in said use all municipal ordinances, including, but not limited to, the general plan and zoning ordinances, state and federal statutes, or other governmental regulations now in force, or which shall hereinafter be in force.

D. **Amendments.** This Lease may be modified only in writing and only if signed by the parties at the time of the modification.

E. **No Brokerage Commission.** Each party agrees and acknowledges that no commission is due any real estate broker in connection with this Lease.

F. **Rights Cumulative.** The rights and remedies of TOWN specified in this Lease shall be cumulative and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of TOWN and BMX in addition to any other rights and remedies provided by law.

G. **No Partnership.** TOWN does not, in any way or for any purpose, become a partner of BMX in the conduct of its business, or otherwise, or joint venture or a member of a joint enterprise with BMX by reason of this Lease. The provisions of this Lease relating to the Percentage Rent payable hereunder are included solely for the purposes of providing a method whereby Rent is to be measured and ascertained.

H. **Force Majeure.** In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, governmental moratorium, riots, insurrection, war or other reason of a like nature not the fault of the party delaying in performing work or doing acts required under the terms of this Lease (but excluding delays due to financial inability), then performance of such act shall be excused for the period of such delay.

I. **Notices.** Any notice to either the parties hereto required or desired under the provisions and conditions of this instrument shall be given in writing by certified mail, registered mail, or by personal delivery addressed to the party for whom it is intended at the following addresses. Notices will be deemed effectively given, in the case of personal delivery, upon receipt (or if receipt is refused, upon attempted delivery), and in the case of mailing, three (3) days following deposit into the custody of the United States Postal Service. The notice addresses of the parties are as follows:

To TOWN:                      Director of Community Services  
Town of Yucca Valley  
57090 Twentynine Palms Hwy.  
Yucca Valley, CA 92284

To BMX:                        Kevin and Leanka Winters

Either party, BMX or TOWN, may change the designee and/or address for the purpose of this Section by giving written notice of the change to the other party in the manner provided in this Section.

J. **Captions and Section Numbers.** The captions, section numbers, article numbers, and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this Lease nor in any way affect this Lease.

K. **BMX Defined, Use of Pronoun.** The word "BMX" means each and every person or party mentioned as a BMX herein, be the same one or more; and if there shall be more than one BMX, any notice required or permitted by the terms of this Lease may be given by or to anyone thereof, and shall have the same force and effect as if given by or to all thereof. The persons signing as BMX shall be jointly and severally liable. The use of the neuter singular pronoun to refer to TOWN or BMX shall be deemed a proper reference even though TOWN or BMX may be an individual, a partnership, a corporation, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where BMX is a corporation, association, partnership, or individual, male or female, shall in all instances be assumed as though in each case fully expressed.

L. **Partial Invalidity.** If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall to any extent, be invalid or unenforceable, the remainder of this Lease, or the application for such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and enforced to the fullest extent permitted by law.

M. **Recording.** BMX shall not record this Lease or a memorandum thereof.

N. **Legal Expenses.**

1. In the event that any time during the Term either TOWN or BMX shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default hereunder, or engage an attorney to enforce such provision then, and in that event, the unsuccessful party in such action or proceeding agrees to reimburse the successful party for the actual expenses of attorneys' fees and disbursements incurred therein by the successful party.

2. The successful party in such suit shall be entitled to its costs of suit and actual attorneys' fees whether or not such action is prosecuted to judgment. "Successful party" within the meaning of this Section shall include, without limitation, a party who brings an action against the other or who defends against an action brought by the other and whose position is substantially upheld.

O. **Authority.** If BMX is a corporation or partnership, each individual executing this Lease on behalf of such entity represents or warrants that he or she is duly authorized to execute and deliver this Lease on behalf of such entity and that such entity shall be bound by all the terms and provisions hereof.

P. **Severability.** In the event that any provision of this Lease shall be held to be invalid, the same shall not affect, in any respect whatsoever, the validity of the remainder of this Lease.

Q. **Run With the Land; Binding Affect.** The covenants contained in this Lease shall run with the land and shall be binding on successors and assigns of the parties. Each and all of the covenants, conditions, and agreements herein contained shall, in accordance with the context, inure to the benefit of TOWN and apply to and bind BMX, its respective heirs, legatees, devisees, executors, administrators, successors, agents, assignees, subtenants, concessioners and licensees.

R. **No Waiver.** No waiver by TOWN at any time of any of the terms and conditions of this Lease shall be deemed to operate as a waiver at any time thereafter of the same or of any other terms or conditions contained herein or of the strict and timely performance of such terms and conditions.

S. **Corporate Authority.** The persons executing this Lease on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Lease on behalf of said party, (iii) by so executing this Lease, such party is formally bound to the provisions of this Lease, and (iv) the entering into this Lease does not violate any provision of any other Lease to which said party is bound.

T. **Entire Agreement.** This Lease and the Exhibits attached hereto and forming a part hereof, set forth all the representations, covenants, promises, agreements, conditions and understandings between TOWN and BMX concerning the Premises and there are no representations, covenants, promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth. Any subsequent alteration, amendment, change or addition to this Lease must be in writing, signed by TOWN and BMX.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed by their respective duly authorized officers or representatives as of the date first set forth above.

Date: \_\_\_\_\_

HIGH DESERT BMX INC.  
a California non-profit corporation

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
Vice-President

Date: \_\_\_\_\_

TOWN OF YUCCA VALLEY  
a municipal corporation

By: \_\_\_\_\_  
Mayor

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Town Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Town Attorney

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 2009, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

- INDIVIDUAL
- CORPORATE OFFICER
- \_\_\_\_\_ TITLE(S)
- PARTNER(S)       LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER \_\_\_\_\_
- \_\_\_\_\_

\_\_\_\_\_ TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_ NUMBER OF PAGES

\_\_\_\_\_ DATE OF DOCUMENT

**SIGNER IS REPRESENTING:**

(NAME OF PERSON(S) OR ENTITY(IES))

\_\_\_\_\_

\_\_\_\_\_

SIGNER(S) OTHER THAN NAMED ABOVE

\_\_\_\_\_



EXHIBIT "A"  
PREMISES

A portion of the south west ¼ of section 36, T1N, R5E, SBBM, also identified as APN #595-361-24 (fenced area containing BMX track and appurtenances)

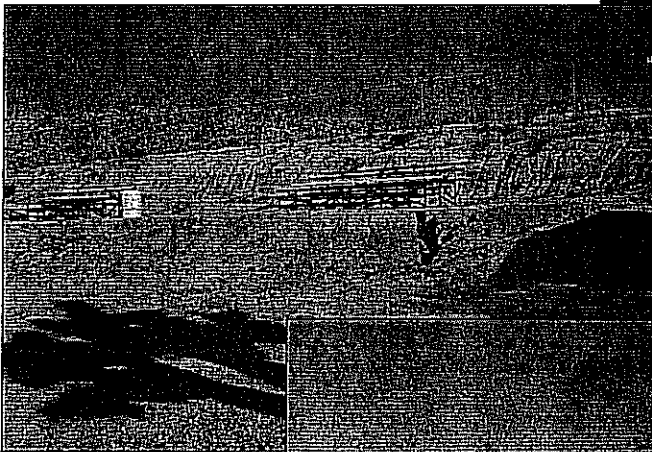
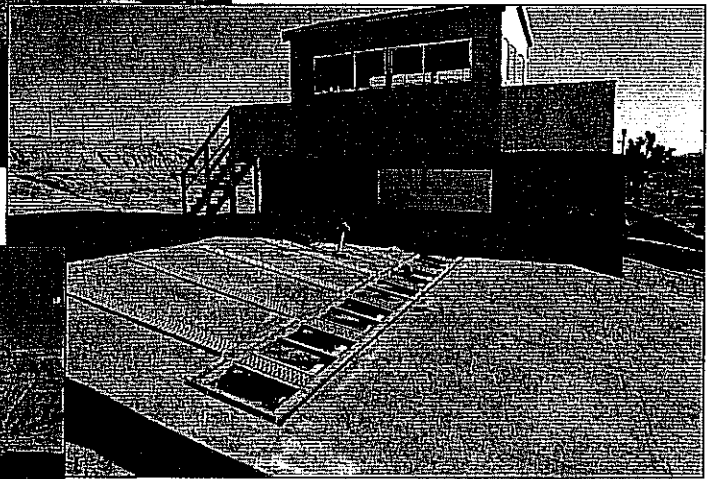


EXHIBIT "B"

PROGRAM DESCRIPTION

The program description is being prepared by High Desert BMX, Inc., and will be inserted on this page prior to executing this Agreement.



governing body of the jurisdiction which issues the violation, and that enforcement of the penalty shall be governed by a civil procedure which includes an Administrative investigation and review and judicial appeal process. The Resolution before the Town Council is an important part of that process.

AB408 further requires each issuing jurisdiction to enter into an agreement with the court establishing penalties for parking violations. Notwithstanding, the Town is required by Government Code Section 7600 to include penalties for jail and courthouse construction authorized by the County of San Bernardino. This updated Resolution accomplishes these goals.

**Alternatives:** Staff recommends no alternative actions. If challenged, certain outdated, revised parking sections will not stand up in court, rendering the Town's parking program unenforceable.

**Fiscal impact:** None at this time.

**Attachments:** Resolution

**RESOLUTION NO. 11-**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF  
YUCCA VALLEY, CALIFORNIA, ESTABLISHING PARKING  
PENALTIES**

WHEREAS, California Vehicle Code section 40203.5 provides that cities may establish the amount of parking penalties; and

WHEREAS, state law authorizes the Town of Yucca Valley to recover administrative penalties, process penalties and collection costs related to civil debt collection, late payment penalties and other related charges; and

WHEREAS, Government Code section 7600 requires the Town to include penalties for jail and courthouse construction when authorized by the County of San Bernardino.

WHEREAS, California Vehicle Code, Section 40203.5 states "to the extent possible, issuing agencies, in the same county, shall standardize parking penalties."

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Yucca Valley hereby adopts the schedule of parking penalties for parking violations, late payment penalties, administrative penalties and other charges, all set forth in Exhibit A, attached hereto and incorporated herein, effective immediately.

APPROVED AND ADOPTED this 1<sup>st</sup> day of February, 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
TOWN CLERK

**"EXHIBIT A"**  
**TOWN OF YUCCA VALLEY PARKING PENALTIES**

<u>Code</u>	<u>Description</u>	<u>Parking Penalties</u>	<u>Delinquent Penalties</u>
CVC 22500L	Blocking Wheelchair Access from Curb	\$250.00	\$100.00
CVC 22502A	No Parking on Wrong Side of the Street	\$53.50	\$25.00
CVC 22502E	Parked Wrong Way - One Way Street	\$53.50	\$25.00
CVC 22507.8A	Parked in Handicapped Zone	\$275.00	\$100.00
CVC 22507.8B	Obstructing Access to Disabled Parking Spaces	\$275.00	\$100.00
CVC 22507.8C 1	Unlawful Parking on Hatch Mark Boundaries of Disabled Parking Space	\$275.00	\$100.00
CVC 22507.8C 2	Unlawful Parking on Crosshatched Lines Adjacent to Disabled Parking Space	\$275.00	\$100.00
CVC 22510	No Parking in Restricted Snow Areas	\$53.50	\$25.00
CVC 22511.5	Disabled Parking Zone	\$250.00	\$100.00
CVC 22514	No Parking - Fire Hydrant	\$53.50	\$25.00
CVC 22500F	No Parking on Sidewalk	\$53.50	\$25.00
CVC 22500E	Parked/Failure Brake Set	\$53.50	\$25.00
CVC 22519	Restricted Parking (Signs Required)	\$53.50	\$25.00
CVC 22521	Parking on Railroad	\$53.50	\$25.00
CVC 22522	Blocking Handicapped Access Ramp	\$275.00	\$100.00
CVC 22651K	Parked Vehicle Over 72 Hours on Street	\$53.50	\$25.00
CVC 22651O	Registration Expired Over One (1) Year	\$53.50	\$25.00
YVMC 87.0641(d)(1)	No Commercial Truck Parking in a Residential Zone	\$53.50	\$25.00
YVMC 87.0641(d)(2)	No Commercial Truck Parking, Residential Zone Vacant Lot	\$53.50	\$25.00
YVMC 87.0641(d)(6)	No Unattached Trailer storage in any Street, Alley, or Public Place	\$53.50	\$25.00
YVMC 12.40.010(b)(1)	No Parking of Vehicle for Sale upon any Highway or Right of Way	\$53.50	\$25.00
YVMC 12.40.010(b)(2)	No Parking of Vehicle upon any Highway or Right of Way to Wash or Repair	\$53.50	\$25.00
YVMC 12.40.010(b)(3)	No Parking of Vehicle upon any Highway or Right of Way for Vending	\$53.50	\$25.00
YVMC 87.0510 (i)	No Parking of Recreational Vehicles in a Residential Zone	\$53.50	\$25.00

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Shane R. Stueckle, Deputy Town Manager  
**Date:** January 26, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** Resolution No.  
Bureau of Reclamation Funding Opportunity Announcement  
Authorization to Submit Grant Application

**Prior Council Review:** There has been no prior review of this matter.

**Recommendation:** That the Town Council approves the Resolution, authorizing the submittal of a Bureau of Reclamation, WaterSMART Development of Feasibility Studies grant application under the Title XVI Water Reclamation and Reuse Program, and authorizing the Town Manager to enter into all necessary agreements.

**Executive Summary:** The Bureau of Reclamation has released the Funding Opportunity Announcement (FOA) for preparation of feasibility studies for water reclamation and reuse. A Resolution approved by the Town Council is required with application submittals.

**Order of Procedure:**

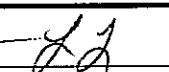
- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Roll Call Vote, Consent Agenda)

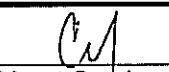
**Discussion:** The Town has recently discussed the desire for availability of reclaimed water for public use facilities within the community. The use of reclaimed water for public use facilities reduces the use of potable water for irrigation purposes and reduces the costs of total facility maintenance and operations annually.

The Bureau of Reclamations FOA provides funding to evaluate the overall cost effectiveness or feasibility of developing reclaimed water distribution systems to provide non-potable irrigation water to public use facilities within the Town.

Reviewed By:

  
Town Manager

  
Town Attorney

  
Mgmt Services

  
Dept Head

- |   |   |   |   |
|---|---|---|---|
| <input checked="" type="checkbox"/> Department Report | <input type="checkbox"/> Ordinance Action | <input checked="" type="checkbox"/> Resolution Action | <input type="checkbox"/> Public Hearing |
| <input checked="" type="checkbox"/> Consent           | <input type="checkbox"/> Minute Action    | <input type="checkbox"/> Receive and File             | <input type="checkbox"/> Study Session  |

**Alternatives:** Do not authorize the grant application submittal.

**Fiscal impact:** The program funding requires a minimum 50% match of total project costs, and the maximum award is set at \$150,000. The attached Resolution establishes a \$150,000 Town match commitment for the application.

**Attachments:** Resolution No.  
Funding Opportunity Announcement No. R11SF80130



**RESOLUTION NO.**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE BUREAU OF RECLAMATION**

WHEREAS, the Bureau of Reclamation has released the Funding Opportunity Announcement No. R11SF80310 for preparation of feasibility studies in the Title XVI Water Reclamation and Reuse Program; and

WHEREAS, the Town desires to evaluate the cost effectiveness and feasibility of developing the infrastructure for the reuse of reclaimed water for public use facilities within the Town; and

WHEREAS, the development of a reclaimed water reuse program will conserve potable water resources for the community.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY RESOLVES AS FOLLOWS.

**Section 1.** The Town Manager is authorized to inter into all necessary agreements for program implementation under the Bureau of Reclamation Funding Opportunity Announcement No. R11SF80310, for preparation of feasibility studies in the Title XVI Water Reclamation and Reuse Program.

**Section 2.** The Town Council approves and authorizes the submittal of application materials for the Bureau of Reclamation Funding Opportunity Announcement No. R11SF80310, for preparation of feasibility studies in the Title XVI Water Reclamation and Reuse Program.

**Section 3.** The Town Council commits \$150,000 in undesignated General Fund Reserves to provide matching funds for the Feasibility Study.

**Section 4.** The Town commits to the necessary coordination and cooperation with the Bureau of Reclamation to meet established deadlines for entering into a cooperative agreement for the program.

APPROVED AND ADOPTED THIS 1<sup>st</sup> day of February 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
TOWN CLERK

# RECLAMATION

*Managing Water in the West*

Funding Opportunity Announcement No. R11SF80310

## **WaterSMART: Development of Feasibility Studies under the Title XVI Water Reclamation and Reuse Program**



U.S. Department of the Interior  
Policy and Administration  
Bureau of Reclamation  
Denver, Colorado

## **Mission Statements**

The U.S. Department of the Interior protects America's natural resources and heritage, honors our cultures and tribal communities, and supplies the energy to power our future.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

# Synopsis

<b>Federal Agency Name:</b>	Department of the Interior, Bureau of Reclamation, Policy and Administration
<b>Funding Opportunity Title:</b>	WaterSMART: Development of Feasibility Studies under the Title XVI Water Reclamation and Reuse Program
<b>Announcement Type:</b>	Funding Opportunity Announcement (FOA)
<b>Funding Opportunity Number:</b>	
<b>Catalog of Federal Domestic Assistance (CFDA) Number:</b>	15.504
<b>Dates:</b> (See FOA Sec. IV.B)	Application due date: February 11, 2011 4:00 p.m. Mountain Standard Time (MST)
<b>Eligible Applicants:</b> (See FOA Sec. III.A)	State, regional, or local authorities; Indian tribes or tribal organizations; or other entities such as a water district, wastewater district, or rural water district. Applicants must be located within the 17 Western States or Hawaii.
<b>Recipient Cost Share:</b> (See FOA Sec. III.E)	50 percent or more of total project costs.
<b>Federal Funding Amount:</b> (See FOA Sec. II.B)	Up to \$150,000 per applicant.
<b>Estimated Number of Agreements to be Awarded:</b> (See FOA Sec. II.B)	Approximately 8-10 awards, depending on the amount requested by each applicant.
<b>Estimated Amount of Funding Available for Award:</b> (See FOA Sec. II.A)	Up to \$1,200,000 total for all awards under this FOA.  Applications submitted under this FOA may also be considered if other funding becomes available for the Title XVI Program in FY 2011 or thereafter.

# Application Checklist

The following table contains a summary of the information that you are required to submit with a WaterSMART Grant application.

√	What to submit	Required content	Form or format	When to submit
	Cover page	See Page 13	Form SF 424, available at: < <a href="http://apply07.grants.gov/apply/FormLinks?family=15">http://apply07.grants.gov/apply/FormLinks?family=15</a> > Page 13	*
	Assurances	See Page 13	Form SF 424B available at: < <a href="http://apply07.grants.gov/apply/FormLinks?family=15">http://apply07.grants.gov/apply/FormLinks?family=15</a> > Page 13	*
	Title page	See Page 14	Page 14	*
	Table of contents	See Page 14	Page 14	*
	Technical proposal:			
	• Executive Summary	See Page 14	Pages 14 - 17	*
	• Background Data	See Page 14	Page 14	*
	• Technical project description	See Page 14	Page 14	*
	• Technical project description	See Pages 14 - 17	Pages 14 -17	*
	Required permits and approvals	See Page 17	Page 17	*
	Funding plan	See Page 17	Page 17	*
	Letters of Commitment	See Page 17	Page 17	**
	Official resolution	See Page 19	Page 19	**
	Project budget proposal:	See Pages 19 - 22	Pages 19 - 22	*
	• General Requirements	See Page 19	Page 19	*
	• Budget format	See Page 19	Page 19	*
	• Budget Narrative	See Page 19	Page 19	*
	• Budget form	See Page 22	Form SF 424A or SF 424C, as applicable, available at: < <a href="http://apply07.grants.gov/apply/FormLinks?family=15">http://apply07.grants.gov/apply/FormLinks?family=15</a> > Page 22	*

\* Submit materials with your application on February 11, 2010.

\*\* Documents should be submitted with your application; however, please refer to the applicable Section of the FOA for extended submission dates.

## Acronyms and Abbreviations

AOR	Authorized Organization Representatives
ARC	Application Review Committee
CCR	Central Contractor Registration
CFDA	Catalog of Federal Domestic Assistance
CPA	certified public accountant
DUNS	Data Universal Number System
E-Biz POC	E-Business Point of Contact
EIN	Employer Identification Number
FAQ	Frequently Asked Question
FEMA	Federal Emergency Management Agency
FOA	Funding Opportunity Announcement
FY	fiscal year
GO	Grants Officer
IRS	Internal Revenue Service
MST	Mountain Standard Time
OMB	Office of Management and Budget
TIN	Taxpayer Identification Number
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
WaterSMART	<i>Sustain and Manage America's Resources for Tomorrow</i>

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## **Section I. Funding Opportunity Description**

### **I.A. WaterSMART: Development of Feasibility Studies under the Title XVI Water Reclamation and Reuse Program**

The U.S. Department of the Interior's WaterSMART (*Sustain and Manage America's Resources for Tomorrow*) program establishes a framework to provide Federal leadership and assistance on the efficient use of water, integrating water and energy policies to support the sustainable use of all natural resources, and coordinating the water conservation activities of various DOI bureaus and offices. Through the program, DOI is working to achieve a sustainable water strategy to meet the Nation's water needs.

The Bureau of Reclamation's Title XVI Water Reclamation and Reuse program (Title XVI) is an important part of WaterSMART. For purposes of the Title XVI program, a water reuse project is a project that reclaims and reuses municipal, industrial, domestic, or agricultural wastewater and naturally impaired groundwater and/or surface waters. Reclaimed water can be used for a variety of purposes, such as environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, or recreation. Water reuse is an essential tool in stretching the limited water supplies in the Western United States.

Title XVI projects develop and supplement urban and irrigation water supplies through water reuse, thereby improving efficiency, providing flexibility during water shortages, and diversifying the water supply. Title XVI projects provide growing communities with new sources of clean water while promoting water and energy efficiency and environmental stewardship.

For further information on the WaterSMART Program and Title XVI, see <http://www.usbr.gov/WaterSMART/>.

### **I.B. Objective of Funding Opportunity Announcement**

The objective of this Funding Opportunity Announcement (FOA) is to invite applicants to submit proposals for the development of a new Title XVI feasibility study. Applicants must provide 50 percent non-Federal cost share for the

proposed activity. Proposed activities should begin in FY 2011 and be completed by September 30, 2012.

Under Title XVI of P.L. 102-575, Reclamation works to identify and investigate opportunities to reclaim and reuse wastewaters and naturally impaired ground and surface water in the 17 Western States and Hawaii. Title XVI also provides authority for Reclamation to provide up to 50 percent of the costs of studies to determine the feasibility of water reclamation and reuse projects.

Prior to construction funding of any project authorized under Title XVI, Reclamation must determine that a feasibility study for the project complies with the provisions of Title XVI. Under this FOA, funding is being made available to assist project sponsors with the development of new Title XVI feasibility studies.

For further information on the requirements of a Title XVI feasibility study, see Reclamation Manual Directive & Standard *Title XVI Water Reclamation and Reuse Program Feasibility Study Review Process (WTR 11-01)*, <<http://www.usbr.gov/recman/wtr/wtr11-01.pdf>>.

### **I.C. Program Authority**

This FOA is issued under the authority of section 1604 of Title XVI of P.L. 102-575, as amended (43 USC 390h-2).

### **I.D. Frequently Asked Questions**

A list of Frequently Asked Questions (FAQ) about WaterSMART and this FOA can be found on-line at <<http://www.usbr.gov/WaterSMART>>. The list of FAQs will be updated periodically during the application period.

## Section II. Award Information

### II.A. Total Funding

Up to \$1,200,000 is available for development of Title XVI feasibility studies under this FOA. Applications submitted under this FOA may also be considered if other funding becomes available for the Title XVI Program in FY 2011 or thereafter.

### II.B. Project Funding Limitations

No more than \$150,000 in Federal funding will be awarded to any one applicant under this FOA.

### II.C. Reclamation Responsibilities

Project awards will be made through grants or cooperative agreements as applicable to each project. If a cooperative agreement is awarded, the recipient should expect Reclamation to have substantial involvement in the project. Substantial involvement by Reclamation may include the following:

- **Collaboration and participation** with the recipient in the management of the project and close oversight of the recipient's activities to ensure that the program objectives are being achieved.
- **Oversight** may include review, input, and approval at key interim stages of the project.

At the request of the recipient, Reclamation can provide technical assistance after award of the project. If you receive Reclamation's assistance, you must account for such costs in your budget. To discuss assistance available and these costs, contact your local Reclamation office, which can be identified at <http://www.usbr.gov/main/regions.html>.

### II.D. Award Date

Reclamation expects to contact potential award recipients and unsuccessful applicants in April, 2011. Within one to three months after that date, assistance agreements will be awarded to applicants that successfully pass all pre-award reviews and clearances.

## Section III. Eligibility Information

### III.A. Eligible Applicants

Eligible applicants include State, regional, or local authorities; Indian tribes or tribal organizations; or other entities such as a water district, wastewater district, rural water district, all located within the 17 Western States or Hawaii.

### III.B. Eligible Projects

Proposals for the development of a new Title XVI feasibility study are eligible for funding under this FOA. Project sponsors typically complete a Title XVI feasibility study and submit that study to Reclamation prior to seeking Congressional authorization for construction of a new Title XVI project. Applicants may request up to 50 percent of the cost of the development of a feasibility study.

Title XVI feasibility studies that have been completed previously are not eligible for funding under this FOA.

Funding for development of appraisal studies is not available under this FOA.

### III.C. Length of Projects

Applicants should propose development of a feasibility study that can be completed within a 12-month period. *All feasibility studies funded under this FOA must be completed and submitted for Reclamation review by September 30, 2012.*

### III.D. Cost-Sharing Requirement

Applicants must be willing to cost share 50 percent or more of the total costs of the feasibility study.

#### III.D.1. Cost Share Regulations

All cost-share contributions must meet the criteria established in the Office of Management and Budget's (OMB) administrative and cost principles circulars that apply to the applicant. These circulars are available at <http://www.whitehouse.gov/omb/circulars>.

### **III.D.2. In-Kind Contributions**

In-kind contributions constitute the value of noncash contributions that benefit a federally assisted project. These contributions may be in the form of real property, equipment, supplies and other expendable property, as well as the value of goods and services directly benefiting and specifically identifiable to the project or program. The cost or value of in-kind contributions that have been or will be relied on to satisfy a cost-sharing or matching requirement for another Federal financial assistance agreement, a Federal procurement contract, or any other award of Federal funds may not be relied on to satisfy the cost-share requirement for Title XVI projects.

### **III.D.3. Pre-Award Costs**

Project pre-award costs that have been incurred prior to the date of award but after may be submitted for consideration as an allowable portion of the recipient's cost share for the project. **In no case will pre-award costs incurred prior to July 1, 2010, be considered for cost share purposes.**

### **III.D.4. Indirect Costs**

Indirect costs that will be incurred during the development of a feasibility study, which will not otherwise be recovered, may be included as part of the applicant's cost share. Indirect costs are those: (1) incurred for a common or joint purpose benefiting more than one cost objective, and (2) not readily assignable to any one cost objective. If the applicant proposes indirect costs in the budget, then the applicant must either supply a copy of a current federally-negotiated indirect cost rate agreement or obtain an agreement within one year of award. For further information on indirect costs, refer to the applicable OMB cost principles circular referenced above and available at <http://www.whitehouse.gov/omb/circulars>.

## **III.E. Other Requirements**

### **III.E.1. Laws, Permits, and Approvals**

Applicants shall adhere to Federal, State, Territorial, and local laws, regulations, and codes, as applicable, and shall obtain all required approvals and permits. Applicants shall also coordinate and obtain approvals from site owners and operators.

### **III.E.2. Central Contractor Registration**

All applicants must be registered in the Central Contractor Registration (CCR) prior to submitting an application for this FOA. The CCR and instructions for registration are located at <http://www.bpn.gov/ccr>. All applicants must maintain an active CCR registration with current information at all times during which it has an active Federal award or an application under consideration.

## Section IV. Application and Submission Information

### IV.A. Address to Request Application Package

This document contains all information, forms, and electronic addresses required to obtain the information required for submission of an application.

If you are unable to access this information electronically, you can request paper copies of any of the documents referenced in this FOA by contacting:

By mail: Bureau of Reclamation  
Acquisition Operations Group  
Attn: Michelle Maher  
Mail Code: 84-27810  
P.O. Box 25007  
Denver, CO 80225

E-mail: [mmaher@usbr.gov](mailto:mmaher@usbr.gov)

Phone: 303-445-2025

### IV.B. Application Submission Date and Time

Application submission date deadline:

- February 11, 2011, 4:00 p.m. Mountain Standard Time

Proposals received after the application deadline will not be considered unless it can be determined that the delay was caused by Federal government mishandling or by the Grants.gov application system.

*Please note that any application submitted to Reclamation for funding may be subjected to a Freedom of Information Act request (5 U.S.C. § 552, as Amended by Public Law No. 110-175), and as a result, may be made publicly available. In addition, successful applications may be made publicly available (following consultation with the applicant with redactions as needed) and may be posted on Reclamation's website.*

## **IV.C. Application Delivery Instructions**

Applications may be submitted electronically through <<http://www.grants.gov>> or hard copies may be submitted as follows. Under no circumstances will applications received through any other method (such as email or fax) be considered eligible for award.

By mail:

Bureau of Reclamation  
Acquisition Operations Group  
Attn: Michelle Maher  
Mail Code: 84-27810  
P.O. Box 25007  
Denver, CO 80225

Express delivery/mail services:

Bureau of Reclamation  
Attn: Michelle Maher, Mail Code: 84-27810  
Denver Federal Center  
6<sup>th</sup> Avenue and Kipling Street  
Denver, CO 80225

Telephone: 303-445-2025

## **IV.D. Instructions for Submission of Project Application**

Each applicant shall submit an application in accordance with the instructions contained in this section.

### **IV.D.1. Applications Submitted by Mail**

- Applicants shall submit an original and one copy of all application documents for hardcopy submissions. Each document should be clearly identified as the "ORIGINAL" or as a "COPY."
- In addition to hard copy documents, please submit a copy of your application on a CD in Microsoft Word format.
- Please do not use "comb," "spiral," or adhesive methods to bind the documents.

## Section IV. Application and Submission Information

- Hard copy applications may be submitted by mail or express methods to the addresses listed in Section IV.C, above.
- Materials arriving separately will not be included in the application package and may result in the application being rejected or not funded.
- Faxed and emailed copies of application documents will not be accepted.
- Do not include a cover letter or company literature/brochure with the application. All pertinent information must be included in the application package.

### **IV.D.2. Applications Submitted Electronically**

If the applicant chooses to submit an electronic application it must be submitted through Grants.gov at <http://www.grants.gov>.

- Please note that submission of an application electronically requires prior registration through Grants.gov, which may take 7-21 days. Please see registration instructions at [http://www.grants.gov/applicants/get\\_registered.jsp](http://www.grants.gov/applicants/get_registered.jsp).
- Applicants have sometimes experienced significant delays when attempting to submit applications through Grants.gov. If you plan to submit your application through Grants.gov, you are encouraged to submit your application several days prior to the application deadline. If you are a properly registered Grants.gov applicant and encounter problems with the Grants.gov application submission process, you must contact the Grants.gov Help desk to obtain a “Case Number.” This Case Number will provide evidence of your attempt to submit an application prior to the submission deadline.

Regardless of the delivery method used, you must ensure that your proposal arrives by the date and time deadline stated in Section IV.B., above. Late applications will not be accepted unless it is determined that the delay was caused by Federal government mishandling or by a problem with the Grants.gov application system.

### **IV.D.3. Applying for Funds Online at Grants.gov**

Reclamation is participating in the Grants.gov initiative that provides the grant community with a single website to find and apply for grant funding opportunities. Reclamation encourages applicants to submit their applications for funding electronically through [http://www.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www.grants.gov/applicants/apply_for_grants.jsp). Applicant resource documents and a full set of instructions for registering with Grants.gov and completing and submitting applications online are available at: <http://www.grants.gov/applicants/resources.jsp>.



#### **IV.D.3.a. Assistance with Grants.gov**

If you need assistance with Grants.gov, the Contact Center is open 24 hours a day, 7 days a week. You may reach the Grants.gov Contact Center by email at <support@grants.gov> or by calling 1-800-518-4726.

If you are an individual applying for a grant on your own behalf and not on behalf of a company, academic or research institution, state, local or tribal government, not-for-profit, or other type of organization, refer to the Individual Registration: <[http://www.grants.gov/applicants/individual\\_registration.jsp](http://www.grants.gov/applicants/individual_registration.jsp)>. If you apply as an individual to a grant application package designated for organizations, your application will be rejected.

#### **IV.D.3.b. Registering to Use Grants.gov (1-3 week process)**

The following checklist is provided to give you a summary of the steps that are required to register with Grants.gov. **This Registration process must be completed prior to submitting an electronic application through Grants.gov.**

**Additionally, see table 1, Step 2 below for completing the annual Central Contractor Registration (CCR) renewal process.**

**Note:** (The following checklist information is available electronically at <[http://www.grants.gov/assets/Organization\\_Steps\\_Complete\\_Registration.pdf](http://www.grants.gov/assets/Organization_Steps_Complete_Registration.pdf)>.) The registration is a one-time process, which is required before representatives of an organization can submit grant application packages electronically through Grants.gov. The registration process can take three to five business days or one to three weeks—depending on your organization and if all steps are met in a timely manner. The checklist in table 1 provides registration guidance for a company, academic or research institution, State, local or tribal government, not-for-profit, or other type of organization.

Section IV. Application and Submission Information

**Table 1. Checklist for registering your organization in Grants.gov**

Step	Actions to take	Purpose	Time required
<p>1: Obtain Data Universal Number System (DUNS) Number</p>	<p>Has my organization identified its DUNS number?</p> <p>Ask the grant administrator, chief financial officer, or authorizing official of your organization to identify your DUNS number.</p> <p>If your organization does not know its DUNS number or needs to register for one, visit Dun &amp; Bradstreet at &lt;<a href="http://fedgov.dnb.com/webform/displayHomePage.do">http://fedgov.dnb.com/webform/displayHomePage.do</a>&gt;</p>	<p>The Federal government has adopted the use of DUNS numbers to track how Federal grant money is allocated. DUNS numbers identify your organization.</p>	<p>Same Day. You will receive DUNS number information online.</p>
<p>2: Register With Central Contractor Registration (CCR)</p>	<p>Has my organization registered with the CCR?</p> <p>Ask the grant administrator, chief financial officer, or authorizing official of your organization if your organization has registered with the CCR.</p> <p>If your organization is not registered, you can apply online by going to &lt;<a href="http://www.ccr.gov">http://www.ccr.gov</a>&gt;. CCR has developed a handbook &lt; <a href="http://www.bpn.gov/ccr/doc/UserAccount.pdf">http://www.bpn.gov/ccr/doc/UserAccount.pdf</a>&gt; to help you with the process. If AFTER having registered in CCR, you experience any registration problems, you can get help by going to the Federal Service Desk &lt;<a href="https://www.fsd.gov">https://www.fsd.gov</a>&gt;.</p> <p>When your organization registers with CCR, you must designate an E-Business Point of Contact (E-Biz POC). This person will identify a special password called an "M-PIN."</p> <p>This M-PIN gives the E-Biz POC authority to designate which staff member(s) from your organization are allowed to submit applications electronically through Grants.gov. Staff members from your organization designated to submit applications are called Authorized Organization Representatives (AOR).</p>	<p>Registering with the CCR is required for organizations to use Grants.gov.</p>	<p>If your organization already has an Employer Identification Number (EIN) or Taxpayer Identification Number (TIN), then you should allow one – three business days to complete the entire CCR registration. The EIN and TIN will come from the Internal Revenue Service (IRS)</p> <p>If your organization does not have an EIN or TIN, then you should allow two weeks for obtaining the information from the IRS when requesting the EIN or TIN via phone or Internet. The additional number of days needed is a result of security information that needs to be mailed to the organization.</p>

*\*Note: Your organization needs to renew your CCR registration once a year. You will not be able to move on to Step 3 until you have renewed your CCR registration. This renewal may take up to 5 business days.*

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√ Step	Actions to take	Purpose	Time required
3: Username and Password	<p>Have the AORs who officially submit applications on behalf of your organization completed their profile with Grants.gov to create their username and password?</p> <p>To create a username and password, AORs must complete their profile on Grants.gov. AORs will need to know the DUNS number of the organization for which they will be submitting applications to complete the process.</p> <p>After your organization registers with the CCR, AORs must wait one business day before they can complete a profile and create their usernames and passwords on Grants.gov.</p>	An AOR username and password serves as an "electronic signature" when submitting a Grants.gov application.	Same Day. After the AOR has completed their profile they will be prompted to create a username and password that will allow the user to login and check their approval status immediately.
4: AOR Authorization	<p>Has E-Biz POC approved AORs to submit applications on behalf of the organization?</p> <p>When an AOR registers with Grants.gov to submit applications on behalf of an organization, that organization's E-Biz POC will receive an email notification. The email the AOR submitted in the profile will be the email used when sending the automatic notification from Grants.gov to the E-Biz POC with the AOR copied on the correspondence.</p> <p>The E-Biz POC must then login to Grants.gov (using the organization's DUNS number for the username and the "M-PIN" password (obtained in Step 2) and approve the AOR, thereby giving him or her permission to submit applications.</p> <p>When an E-Biz POC approves an AOR, Grants.gov will send the AOR a confirmation email.</p>	Only the E-Biz POC can approve AORs. This allows the organization to authorize specific staff members or consultants/grant writers to submit grants. Only those who have been authorized by the E-Biz POC can submit applications on behalf of the organization.	This depends on how long it takes the E-Biz POC to login and approve the AOR, once the approval is completed the AOR can immediately submit an application.
Step 5: Track AOR Status	<p>What is your AOR status?</p> <p>AORs can also login to track their AOR status using their username and password (obtained in Step 3) to check if they have been approved by the E-Biz POC.</p>	To verify that the organization's E-Biz POC has approved the AOR.	Logging in to check your AOR status is instantaneous. The approval process to become an AOR depends on how long it takes the E-Biz POC to login and approve the AOR.

**NOTE:** Some applicants have experienced difficulties when attempting to submit their applications electronically through Grants.gov. If you encounter problems with the Grants.gov application submission process, you must contact the Grants.gov Help Desk (1-800-518-4726 or support@grants.gov) to obtain a "Case Number." This will provide evidence of your attempt to submit an application prior to the submission deadline.

#### **IV.D.4. Application Format and Length**

The total application package shall be no more than **40 consecutively numbered** pages and shall be **single spaced** and printed **double-sided**. If an application exceeds 40 pages, only the first 40 pages will be evaluated. The font shall be at least 12 points in size and easily readable. Page size shall be 8 ½" x 11," except for an occasional larger size for charts, maps, or drawings. The Technical Proposal section shall be limited to a maximum of 20 (twenty) pages.

All application sent via the mail must also include a digital version of the application and all supporting material on a CD in Microsoft Word format.

Applications will be prescreened for compliance to the page number limitations.

#### **IV.D.5. Application Content**

The application must include the following elements in order to be considered complete:

- SF-424 Core Form–Application cover page
- SF-424 B Form–Assurances–Non-Construction Programs, as applicable to the project
- Title page
- Table of contents
- Technical proposal (limited to 20 pages)
  - Executive summary
  - Background data
  - Technical project description
  - Evaluation Criteria
- Project budget application
  - Budget proposal
  - Budget Narrative
  - SF-424 A Form

SF-424, SF-424A, and SF-424B forms may be obtained at <http://apply07.grants.gov/apply/FormLinks?family=15>.

#### **SF-424 Application Cover Page**

This fully completed form must be signed by a person legally authorized to commit the applicant to performance of the project. **Failure to submit a properly signed SF-424 form may result in the elimination of the application from further consideration.**

#### **SF-424 Assurances**

A SF-424B–Assurances–Non-Construction Programs, signed by a person legally authorized to commit the applicant to performance of the project shall be included. **Failure to submit a properly signed SF-424B form may result in the elimination of the application from further consideration.**

## **Title Page**

Provide a brief, informative, and descriptive title for the proposed work that indicates the nature of the proposed feasibility study. Include the name and address of the applicant, and the name and address, e-mail address, telephone, and fax numbers of the project manager.

## **Table of Contents**

List all major sections of the technical proposal in the table of contents.

## **Technical Proposal and Evaluation Criteria**

**The technical proposal (20 pages maximum) includes: (1) the Executive Summary, (2) Technical Project Description and (3) Evaluation Criteria. To ensure accurate and complete scoring of your application, your proposal should address each evaluation subcriterion in the order presented here. Where applicable, the point value is indicated.**

### ***Technical Proposal: Executive Summary***

The executive summary should include:

- The date, applicant name, city, county, and state.
- A one paragraph summary of the proposal
- State the length of time and estimated completion date for the proposed feasibility study.

### ***Technical Proposal: Technical Project Description.***

The technical project description should describe the work in detail. This description shall have sufficient detail to permit a comprehensive evaluation of the proposal.

### ***Technical Proposal: Evaluation Criteria.***

The Evaluation Criteria portion of your application should thoroughly address each of the following criteria and subcriteria in the order presented to assist in the complete and accurate evaluation of your proposal. (Note: it is suggested that applicants copy and paste the below criteria and subcriteria into their applications to ensure that all necessary information is adequately addressed). The Evaluation Criteria comprise 100 points of the total evaluation weight.

### ***Evaluation Criterion 1: Statement of Problems and Needs – 10 Points***

Points will be awarded based on the presence of watershed-based water resource management problems and needs for which water reclamation and reuse may provide a solution.

***Evaluation Criterion 2: Water Reclamation and Reuse Opportunities  
– 15 points***

Points will be awarded based on the extent to which the proposal demonstrates that the Title XVI feasibility study will explore opportunities for water reclamation and reuse in the study area.

1. Describe how the feasibility study will investigate potential uses for reclaimed water (e.g., environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, and recreation).
2. Describe the potential water market available to use any recycled water that might be produced upon completion of a Title XVI project, as well as methods to stimulate recycled water demand and methods to eliminate obstacles to the use of reclaimed water.
3. Describe the sources of water that will be investigated for potential reclamation, including impaired surface and ground waters.

***Evaluation Criterion 3: Description of Potential Alternatives  
– 15 points***

Points will be awarded based on the extent to which the proposal demonstrates that the Title XVI feasibility study will develop descriptions of water supply alternatives, including a proposed Title XVI project and other water supply alternatives.

1. Describe the objectives all alternatives will be designed to meet. What other water supply alternatives will be investigated as part of the Title XVI feasibility study?
2. Provide a general description of the proposed project that will be the subject of a Title XVI feasibility study.
3. Describe alternative measures or technologies for water reclamation, distribution, and reuse that will be investigated as part of the Title XVI feasibility study.

***Evaluation Criterion 4: Stretching Water Supplies – 15 points***

Points will be awarded based on the extent to which the proposal demonstrates that the Title XVI feasibility study will address activities that will help to secure and stretch water supplies.

1. Describe the potential for the project to reduce, postpone, or eliminate the development of new or expanded water supplies.

Include description of any specific issues that will be investigated or information that will be developed as part of the Title XVI feasibility study.

2. Describe the potential for the project to reduce or eliminate the use of existing diversions from natural watercourses or withdrawals from aquifers. Include description of any specific issues that will be investigated or information that will be developed as part of the Title XVI feasibility study.
3. Describe the potential for the project to reduce the demand on existing Federal water supply facilities. Include description of any specific issues that will be investigated information that will be developed as part of the Title XVI feasibility study.

***Evaluation Criterion 5: Environment and Water Quality – 15 points***

Points will be awarded based on the extent to which the proposal demonstrates that the Title XVI feasibility study will address the potential for a water reclamation and reuse project to improve surface, groundwater, or effluent discharge quality; restore or enhance habitat for non-listed species; or provide water or critical habitat for federally-listed threatened or endangered species.

1. Describe the potential for the project to improve the quality of surface or groundwater, including description of any specific issues that will be investigated or information that will be developed as part of the Title XVI feasibility study.
2. Describe the potential for the project to improve flow conditions in a natural stream channel, including description of any specific issues that will be investigated or information that will be developed as part of the Title XVI feasibility study.
3. Describe the potential for the project to provide water or habitat for federally listed threatened or endangered species, including description of any specific issues that will be investigated or information that will be developed as part of the Title XVI feasibility study.

***Evaluation Criterion 6: Legal and Institutional Requirements – 10 Points***

Points will be awarded based on the extent to which the proposal demonstrates that the Title XVI feasibility study will address legal or institutional requirements or barriers to implementing a project, including water rights issues and any unresolved issues associated with implementation of a water reclamation and reuse project.

***Evaluation Criterion 7: Renewable Energy and Energy Efficiency – 10 points***

Points will be awarded based on the extent to which the proposal demonstrates that the Title XVI feasibility study will address methods to incorporate the use of renewable energy or will otherwise address energy efficiency aspects of the water reclamation and reuse project being investigated.

***Evaluation Criterion 8: Watershed Perspective – 10 points***

Points will be awarded based on the extent to which the proposal demonstrates that the Title XVI feasibility study will address alternatives that promote and apply a regional or watershed perspective to water resource management.

**Required Permits or Approvals**

Applicants must state in the application whether any permits or approvals are required for development of the proposed feasibility study and explain the plan for obtaining such permits or approvals.

**Funding Plan and Letters of Commitment**

Describe how the non-Reclamation share of project costs will be obtained. Reclamation will use this information in making a determination of financial capability.

Project funding provided by a source other than the applicant shall be supported with letters of commitment from these additional sources. This is a **mandatory requirement**. Letters of commitment shall identify the following elements:

1. The amount of funding commitment
2. The date the funds will be available to the applicant
3. Any time constraints on the availability of funds
4. Any other contingencies associated with the funding commitment

Cost share funding from sources outside the applicant's organization (e.g., loans or state grants), should be secured and available to the applicant prior to award.

Commitment letters should be included with your project application. If a final funding commitment has not been received by the date of application, the commitment letters should be submitted by no later than July 1, 2011.

Reclamation may approve an award prior to an applicant securing non-Federal cost-share funds if Reclamation determines that there is sufficient evidence and likelihood that the non-Federal funds will be available to the applicant by the start of the project.



The funding plan must include all project costs, as follows:

1. How you will make your contribution to the cost share requirement, such as monetary and/or in-kind contributions and source funds contributed by the applicant (e.g., reserve account, tax revenue, and/or assessments).
2. Describe any in-kind costs incurred before the anticipated project start date that you seek to include as project costs. Include:
  - a. What project expenses have been incurred
  - b. How they benefitted the project
  - c. The amount of the expense
  - d. The date of cost incurrence
3. Provide the identity and amount of funding to be provided by funding partners, as well as the required letters of commitment.
4. Describe any funding requested or received from other Federal partners. Note: Other sources of Federal funding may not be counted towards the applicant's 50 percent cost share unless otherwise allowed by statute.
5. Describe any pending funding requests that have not yet been approved, and explain how the project will be affected if such funding is denied.

Please include the following chart (table 2) to summarize your non-Federal and other Federal funding sources. Denote in-kind contributions with an asterisk (\*). Please ensure that the total Federal funding (Reclamation and all other Federal sources) does not exceed 50 percent of the total estimated project cost.

**Table 2. Summary of non-Federal and Federal funding sources.**

Funding Sources	Funding Amount
Non-Federal Entities	
1.	
2.	
3.	
<i>Non-Federal Subtotal:</i>	
Other Federal Entities	
1.	
2.	
3.	
<i>Other Federal Subtotal:</i>	
<i>Requested Reclamation Funding:</i>	

<i>Total Project Funding:</i>	
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**Official Resolution**

Include an official resolution adopted by the applicant’s board of directors or governing body, or for state government entities, an official authorized to commit the applicant to the financial and legal obligations associated with receipt of Federal financial assistance, verifying:

- The identity of the official with legal authority to enter into agreement
- The board of directors, governing body, or appropriate official who has reviewed and supports the application submitted
- The capability of the applicant to provide the amount of funding and/or in-kind contributions specified in the funding plan
- That the applicant will work with Reclamation to meet established deadlines for entering into a cooperative agreement

**An official resolution meeting the requirements set forth above is mandatory.** If the applicant is unable to submit the official resolution by the application deadline because of the timing of board meetings or other justifiable reasons, the official resolution may be submitted up to 30 days after the application deadline.

**Budget Proposal**

***General Requirements***

Include a project budget that estimates all costs (not just costs to be borne by Reclamation). Include the value of in-kind contributions of goods and services and sources of funds provided to complete the project. The proposal must clearly delineate between Reclamation and applicant contributions.

***Budget Proposal Format***

The project budget shall include detailed information on the categories listed below and must clearly identify all project costs and the funding source(s) (i.e., Reclamation or other funding sources). Unit costs shall be provided for all budget items including the cost of work to be provided by contractors. **Lump sum costs are not acceptable.** Additionally, applicants shall include a narrative description of the items included in the project budget. It is strongly advised that applicants use the budget format shown on table 3 at the end of this section or a similar format that provides this information.

***Budget Narrative Format***

Submission of a budget narrative is mandatory. An award will not be made to any applicant who fails to fully disclose this information. The Budget Narrative provides a discussion of, or explanation for, items included in the budget proposal. The types of information to describe in the narrative include, but are not limited, to those listed in the following subsections.

#### *Salaries and Wages*

Indicate program manager and other key personnel by name and title. Other personnel may be indicated by title alone. For all positions, indicate salaries and wages, estimated hours or percent of time, and rate of compensation proposed. The labor rates should identify the direct labor rate separate from the fringe rate or fringe cost for each category. All labor estimates, including any proposed subcontractors, shall be allocated to specific tasks as outlined in the recipient's technical project description. Labor rates and proposed hours shall be displayed for each task.

Clearly identify any proposed salary increases and the effective date.

Generally, salaries of administrative and/or clerical personnel will be included as a portion of the stated indirect costs. If these salaries can be adequately documented as direct costs, they should be included in this section; however, a justification should be included in the budget narrative.

#### *Fringe Benefits*

Indicate rates/amounts, what costs are included in this category, and the basis of the rate computations. Indicate whether these rates are used for application purposes only or whether they are fixed or provisional rates for billing purposes. Federally approved rate agreements are acceptable for compliance with this item.

#### *Travel*

Include purpose of trip, destination, number of persons traveling, length of stay, and all travel costs, including: airfare (basis for rate used), per diem, lodging, and miscellaneous travel expenses. For local travel, include mileage and rate of compensation.

#### *Equipment*

Itemize costs of all equipment having a value of over \$500 and include information as to the need for this equipment, as well as how the equipment was priced if being purchased for the agreement. If equipment is being rented, specify the number of hours and the hourly rate. Local rental rates are only accepted for equipment actually being rented or leased for the project. If equipment currently owned by the applicant is proposed for use under the proposed project, and the cost to use that equipment is being included in the budget as in-kind cost share, provide the rates and hours for each piece of equipment owned and budgeted. These should be ownership rates developed by the recipient for each piece of equipment. If these rates are not available, the U.S. Army Corps of Engineer's (USACE) recommended equipment rates for the

## Section IV. Application and Submission Information

region are acceptable. Blue book, Federal Emergency Management Agency (FEMA), and other data bases should not be used.

### *Materials and Supplies*

Itemize supplies by major category, unit price, quantity, and purpose, such as whether the items are needed for office use, research, or construction. Identify how these costs were estimated (i.e., quotes, past experience, engineering estimates or other methodology).

### *Contractual*

Identify all work that will be accomplished by subrecipients, consultants, or contractors, including a breakdown of all tasks to be completed, and a detailed budget estimate of time, rates, supplies, and materials that will be required for each task. If a subrecipient, consultant, or contractor is proposed and approved at time of award, no other approvals will be required. Any changes or additions will require a request for approval. Identify how the budgeted costs for subrecipients, consultants, or contractors were determined to be fair and reasonable.

### *Reporting*

Recipients are required to report on the status of their project on a regular basis. Include a line item for reporting costs (including final project and evaluation costs). Please see Section VI.C for information on types and frequency of reports required.

### *Other*

Any other expenses not included in the above categories shall be listed in this category, along with a description of the item and what it will be used for. No profit or fee will be allowed.

### *Indirect Costs.*

Show the proposed rate, cost base, and proposed amount for allowable indirect costs based on the applicable OMB circular cost principles (see Section III D., "Cost Sharing Requirement") for the recipient's organization. It is not acceptable to simply incorporate indirect rates within other direct cost line items.

If the recipient has separate rates for recovery of labor overhead and general and administrative costs, each rate shall be shown. The applicant should propose rates for evaluation purposes, which will be used as fixed or ceiling rates in any resulting award. Include a copy of any federally approved indirect cost rate agreement. If a federally approved indirect rate agreement is not available, provide supporting documentation for the rate. This can include a recent recommendation by a qualified certified public accountant (CPA) along with support for the rate calculation.

If you do not have a federally approved indirect cost rate agreement, or if unapproved rates are used, explain why, and include the computational basis for the indirect expense pool and corresponding allocation base for each rate.

Information on “Preparing and Submitting Indirect Cost Proposals” is available from Interior, the National Business Center, and Indirect Cost Section, at <http://www.aqd.nbc.gov/services/ICS.aspx>.

*Contingency Costs*

All proposed contingency line-items must be supported by a rationale. Further, in most cases, contingency cost estimates are limited to 10 percent of projected construction costs.

*Total Cost*

Indicate total amount of project costs, including the Federal and non-Federal cost-share amounts.

***Budget Form.***

In addition to the above-described budget information, the applicant must complete an SF-424A, Budget Information—Non-construction Programs. This form is available at <http://apply07.grants.gov/apply/FormLinks?family=15>.

## **IV.E. Funding Restrictions**

See Section III.D.3 for restrictions on incurrence and allowability of pre-award costs. The applicant may use this format or submit the information in a different format which provides a detailed break-down of costs and need justification for budgets presented in the SF-424A.

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**Table 3. Sample Budget Proposal Format**

Budget Item Description	Computation		Recipient Funding	Reclamation Funding	Total Cost
	\$/Unit and Unit	Quantity			
<b>Salaries and Wages</b>					
Employee 1					
Employee 2					
Employee 3					
<b>Fringe Benefits</b>					
Full-Time Employees					
Part-Time Employees					
<b>Travel</b>					
Trip 1					
Trip 2					
Trip 3					
<b>Equipment</b>					
Item A					
Item B					
Item C					
<b>Supplies/Materials</b>					
Office Supplies					
Construction					
<b>Contractual/<sup>1</sup>Construction</b>					
Item 1					
Item 2					
Other					
Reporting					
<b>Total Direct Costs</b>					
Indirect Costs - __%					
<b>Total Project Costs</b>					

<sup>1</sup>Contracts should be broken out into specific line items. **Lump sum estimates are not acceptable.** Applicants may attach a separate, detailed budget for each contract to adequately address all contractor budget items.

## **Section V. Application Review Information**

### **V.A. Review and Selection Process**

The Government reserves the right to reject any and all applications which do not meet the requirements of this FOA or which are outside the scope of the Title XVI Program. Awards will be made for projects most advantageous to the Government. The evaluation process will be comprised of three steps described in the following subsections.

#### **V.A.1. First-Level Screening**

All applications will be screened to ensure that:

- The application meets the requirements of the FOA package, including submission of technical and budget proposals, a funding plan, letter(s) of commitment, and related forms.
- The application contains a properly executed SF-424 Application for Financial Assistance, a form SF-424A, Budget Information—Non-Construction Programs, and a form SF-424B, Assurances—Non-Construction Programs.
- The application includes an official resolution, adopted by the applicant's board of directors, governing body, or appropriate authorized official.
- The applicant meets the eligibility requirements stated in this document.
- The proposed study can be completed by September 30, 2012.

**An application must pass all First-Level Screening criteria in order for it to be forwarded for further consideration at the Second-Level Evaluation phase.**

#### **V.A.2. Second-Level Evaluation (Technical Review)**

Evaluation criteria will comprise 100 points of the total evaluation weight as stated in Section IV.D.5. Applications will be scored against the evaluation criteria by an Application Review Committee (ARC), made up of experts in relevant disciplines selected from across Reclamation.

### **V.A.3. Third-Level Evaluation (Managerial Review)**

Management will prioritize projects to ensure the total amount of all awards does not exceed available funding levels and to ensure that the projects meet the scope and priorities of the WaterSMART program and Title XVI. Positive or negative past performance by the applicant and any partners in previous working relationships with Reclamation may be considered.

### **V.B. Pre-Award Clearances and Approvals**

After completion of the third-level evaluation, Reclamation will notify applicants whose proposals have been selected for award consideration and will forward their applications to the appropriate Reclamation regional or area office for completion of environmental compliance.

The local Reclamation office will also complete a business evaluation and determination of responsibility. During these evaluations, the Grants Officer (GO) will also consider several factors which are important, but not quantified, such as:

- Pre-award clearances, determinations, reviews, and approvals
- Allowability and allocability of proposed costs
- Past performance, including satisfactory compliance with all terms and conditions of previous awards, such as environmental compliance issues, reporting requirements, proper procurement of supplies and services, and audit compliance
- Adequacy of personnel practices; procurement procedures; and accounting policies and procedures, as established by applicable OMB circulars.

If the results of all pre-award reviews and clearances are satisfactory, an award of funding will be made once the agreement is finalized (approximately one to three months from date of initial selection) If the results of pre-award reviews and clearances are unsatisfactory, consideration of funding for the project may be withdrawn.



## **Section VI. Award Administration Information**

### **VI.A. Award Notices**

Successful applicants will receive, by electronic or regular mail, a notice of award.

### **VI.B. Award Document**

If the applicant is awarded a financial assistance agreement as a result of this FOA, the proposed project and other relevant information from the application will be referenced in the agreement. The agreement document must be signed by a Reclamation GO before it becomes effective.

### **VI.C. Reporting Requirements and Distribution**

If the applicant is awarded an agreement as a result of this FOA, the applicant will be required to submit the following types of reports during the term of the agreement.

#### **VI.C.1. Financial Reports**

- SF-425, Federal Financial Report, on a semiannual basis

#### **VI.C.2. Program Performance Reports**

- Semi-annual reports.
- Final report (please note final reports are public documents and will be made available on Reclamation's website).

## Section VII. Agency Contacts

There will be no pre-application conference. Organizations or individuals interested in submitting applications in response to this FOA may *direct questions to Reclamation in writing*. Questions may be submitted to the attention of Michelle Maher, GO, as follows:

**By mail:**

Bureau of Reclamation  
Acquisition Operations Group  
Attn: Michelle Maher  
Mail Code: 84-27810  
P.O. Box 25007  
Denver, CO 80225

**Overnight delivery:**

Bureau of Reclamation  
Attn: Michelle Maher  
Mail Code: 84-27810  
Denver Federal Center, Bldg. 67 Rm. 152  
6<sup>th</sup> Avenue and Kipling Street  
Denver, CO 80225

**By e-mail:**

[mmaher@usbr.gov](mailto:mmaher@usbr.gov)

**TOWN COUNCIL STAFF REPORT**

**To:** Honorable Mayor & Town Council  
**From:** Curtis Yakimow, Administrative Services Director  
**Date:** January 24, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** Warrant Register February 1, 2011

**Recommendation:**

Ratify the Warrant Registers total of \$ 195,344.26 for checks dated December 22, 2010. Ratify the Payroll Registers total of \$ 303,188.26 dated December 10, 2010 to December 22, 2010.

**Order of Procedure:**

- Department Report
- Request Staff Report
- Request Public Comment
- Council Discussion
- Motion/Second
- Discussion on Motion
- Call the Question (Roll Call)

**Attachments:**

- Payroll Register No. 24/1 dated December 10, 2010 total of \$ 148,561.24
- Payroll Register No. 24/2 dated December 10, 2010 total of \$ 16.47
- Payroll Register No. 26/1 dated December 22, 2010 total of \$ 153,096.44
- Payroll Register No. 26/2 dated December 22, 2010 total of \$ 1,514.11
- Warrant Register No. 29 dated December 22, 2010 total of \$ 195,344.26

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Reviewed By:

  
Town Manager

  
Admin. Services

  
Town Attorney

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Department Report  
 Consent

Ordinance Action  
 Minute Action

Resolution Action  
 Receive and File

Public Hearing  
 Study Session

**TOWN OF YUCCA VALLEY**

**PAYROLL REGISTER # 24/1  
CHECK DATE - December 10, 2010**

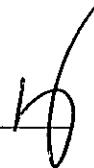
Fund Distribution Breakdown

**Fund Distribution**

General Fund	\$128,198.54
Gas Tax Fund	11,346.57
Redevelopment Agency	<u>9,016.13</u>

**Grand Total Payroll** \$148,561.24

Prepared by P/R & Financial Specialist:





Reviewed by H/R & Risk Mgr.:



**Town of Yucca Valley**  
**Payroll Net Pay & Net Liability Breakdown**  
Pay Period 24/1 - Paid 12/10/2010  
(November 20, 2010 through December 03, 2010)  
Checks: 3897-3904

	Employee	Employer	Total
<b>Net Employee Pay</b>			
Payroll Checks	\$3,048.78		\$3,048.78
Direct Deposit	75,667.47		75,667.47
Sub-total	\$78,716.25		\$78,716.25
<b>Employee Tax Withholding</b>			
Federal	12,323.61		12,323.61
Medicare	1,527.36	1,527.36	3,054.72
Social Security	-	-	-
State	4,411.64		4,411.64
Sub-total	18,262.61	1,527.36	19,789.97
<b>Employee Benefit &amp; Other Withholding</b>			
Deferred Compensation	2,361.65	3,955.23	6,316.88
PERS Survivor Benefit	42.00		42.00
Health Café Plan	4,833.71	11,453.75	16,287.46
American Fidelity Pre-Tax	341.65		341.65
American Fidelity After-Tax	27.38		27.38
American Fidelity-FSA	454.86		454.86
PERS EE - Contribution 2%	1,886.86		1,886.86
PERS Retirement - Employee	59.97	5,660.41	5,720.38
PERS Retirement - Employer	-	13,728.43	13,728.43
Wage Garnishment - Employee	23.07		23.07
Life & Disability Insurance		1,027.78	1,027.78
Unemployment Insurance		1,049.56	1,049.56
Workers' Compensation		3,148.71	3,148.71
Sub-total	10,031.15	40,023.87	50,055.02
<b>Gross Payroll</b>	<b>\$107,010.01</b>	<b>\$41,551.23</b>	<b>148,561.24</b>

Prepared by P/R & Financial Specialist: 

Reviewed by H/R & Risk Mgr.: 

**TOWN OF YUCCA VALLEY**  
**PAYROLL REGISTER # 24/2 - Correction Run**  
**CHECK DATE - December 10, 2010**

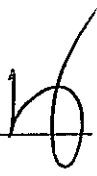
Fund Distribution Breakdown

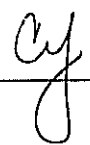
**Fund Distribution**

General Fund	\$16.47
Gas Tax Fund	0.00
Redevelopment Agency	0.00


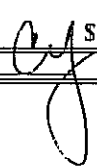
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**Grand Total Payroll** \$16.47

Prepared by P/R & Financial Specialist: 

Reviewed by H/R & Risk Mgr.: 

**Town of Yucca Valley**  
**Payroll Net Pay & Net Liability Breakdown**  
Pay Period 24/2 - Paid 12/10/2010 / Correction Run  
(November 20, 2010 through December 03, 2010)  
Checks: 0-0

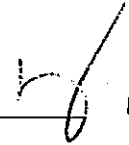

	Employee	Employer	Total	
<b>Net Employee Pay</b>				
Payroll Checks	\$0.00		\$0.00	
Direct Deposit	16.47		16.47	
Sub-total	\$16.47		\$16.47	
<b>Employee Tax Withholding</b>				
Federal	6.38		6.38	
Medicare	-	-	-	
Social Security	-	-	-	
State	2.68		2.68	
Sub-total	9.06	-	9.06	^
<b>Employee Benefit &amp; Other Withholding</b>				
Deferred Compensation	-	-	-	A
PERS Survivor Benefit	-	-	-	B
Health Caf� Plan	-	-	-	C
Aflac Plan	-	-	-	D
Aflac/Flexible Spending	-	-	-	D
PERS EE - Contribution 2%	(25.53)		(25.53)	E
PERS Retirement - Employee	-	-	-	E
PERS Retirement - Employer	-	-	-	F
Wage Garnishment - Employee	-	-	-	G
Life & Disability Insurance	-	-	-	H
Unemployment Insurance	-	-	-	I
Workers' Compensation	-	-	-	J
Sub-total	(25.53)	-	(25.53)	K
<b>Gross Payroll</b>	<b>\$0.00</b>	<b>\$0.00</b>	-	
Prepared by P/R & Financial Specialist:  Reviewed by H/R & Risk Mgr.: 				

TOWN OF YUCCA VALLEY  
PAYROLL REGISTER # 26/1  
CHECK DATE - December 22, 2010

Fund Distribution Breakdown

**Fund Distribution**

General Fund	\$132,986.71
Gas Tax Fund	10,792.48
Redevelopment Agency	9,317.25
	<hr/>
<b>Grand Total Payroll</b>	<b>\$153,096.44</b>
	<hr/> <hr/>

Prepared by P/R & Financial Specialist:  Reviewed by H/R & Risk Mgr.: 



**Town of Yucca Valley**  
**Payroll Net Pay & Net Liability Breakdown**  
 Pay Period 26/1 - Paid 12/22/2010  
 (December 04, 2010 through December 17, 2010)  
 Checks: 3905-3916

	Employee	Employer	Total
<b>Net Employee Pay</b>			
Payroll Checks	\$5,449.77		\$5,449.77
Direct Deposit	72,027.58		72,027.58
Sub-total	\$77,477.35		\$77,477.35
<b>Employee Tax Withholding</b>			
Federal	12,556.00		12,556.00
Medicare	1,573.35	1,573.31	3,146.66
Social Security	-	-	-
State	4,076.85		4,076.85
Sub-total	18,206.20	1,573.31	19,779.51
<b>Employee Benefit &amp; Other Withholding</b>			
Deferred Compensation	2,775.63	7,099.89	9,875.52
PERS Survivor Benefit	54.00		54.00
Health Café Plan	4,833.71	12,093.44	16,927.15
Aflac Pre-Tax	953.00		953.00
American Fidelity Pre-Tax	(341.65)		(341.65)
American Fidelity After-Tax	(27.38)		(27.38)
Aflac-FSA	1,302.78		1,302.78
PERS EE - Contribution 2%	1,923.33		1,923.33
PERS Retirement - Employee	59.97	5,769.84	5,829.81
PERS Retirement - Employer	-	13,993.75	13,993.75
Wage Garnishment - Employee	23.07		23.07
Life & Disability Insurance		1,051.85	1,051.85
Misc. Adjustment		100.00	100.00
Unemployment Insurance		1,043.58	1,043.58
Workers' Compensation		3,130.77	3,130.77
Sub-total	11,556.46	44,283.12	55,839.58
<b>Gross Payroll</b>	<b>\$107,240.01</b>	<b>\$45,856.43</b>	<b>153,096.44</b>

Prepared by P/R & Financial Specialist:

Reviewed by H/R & Risk Mgr.:

**TOWN OF YUCCA VALLEY**  
**PAYROLL REGISTER # 26/2 - Correction Run**  
**CHECK DATE - December 22, 2010**

Fund Distribution Breakdown

**Fund Distribution**

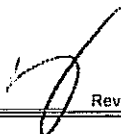

General Fund	\$1,514.11
Gas Tax Fund	0.00
Redevelopment Agency	<u>0.00</u>

**Grand Total Payroll** \$1,514.11

Prepared by P/R & Financial Specialist: \_\_\_\_\_

Reviewed by H/R & Risk Mgr.: \_\_\_\_\_

**Town of Yucca Valley**  
**Payroll Net Pay & Net Liability Breakdown**  
Pay Period 26/2 - Paid 12/22/2010  
(December 04, 2010 through December 17, 2010)  
Checks: 3917-3918

	Employee	Employer	Total
<b>Net Employee Pay</b>			
Payroll Checks	(\$233.38)		(\$233.38)
Direct Deposit	-		-
Sub-total	(\$233.38)		(\$233.38)
<b>Employee Tax Withholding</b>			
Federal			-
Medicare	0.37	0.37	0.74
Social Security	-	-	-
State	(2.42)		(2.42)
Sub-total	(2.05)	0.37	(1.68)
<b>Employee Benefit &amp; Other Withholding</b>			
Deferred Compensation	-	260.72	260.72
PERS Survivor Benefit	-		-
Health Café Plan	235.43	1,253.02	1,488.45
Aflac Pre-Tax	-		-
American Fidelity Pre-Tax	-		-
American Fidelity After-Tax	-		-
Aflac-FSA	-		-
PERS EE - Contribution 2%	-		-
PERS Retirement - Employee	-	-	-
PERS Retirement - Employer	-	-	-
Wage Garnishment - Employee	-		-
Life & Disability Insurance		-	-
Unemployment Insurance		-	-
Workers' Compensation		-	-
Sub-total	235.43	1,513.74	1,749.17
<b>Gross Payroll</b>	<b>\$0.00</b>	<b>\$1,514.11</b>	<b>1,514.11</b>
Prepared by P/R & Financial Specialist:  Reviewed by H/R & Risk Mgr.: 			

**WARRANT REGISTER # 29**  
**CHECK DATE - DECEMBER 22, 2010**

**FUND DISTRIBUTION BREAKDOWN**

Checks # 33457 to # 33565 are valid

Checks # 33460, # 33496, # 33503 # 33537, # 33538, # 33540 are included in RDA Warrant # 29

GENERAL FUND # 001	\$97,407.65
CENTRAL SUPPLIES FUND # 100	\$2,182.99
CUP DEPOSITS FUND # 200	\$5,008.62
COPS-SLESF FUND # 509	\$578.77
STATE CONSTRUCTION GRANT FUND # 513	\$16,195.78
AB2928 - TCRP FUND # 514	\$230.00
STREET MAINTENANCE FUND # 515	\$11,498.01
LTF FUND # 516	\$1,083.75
MEASURE I MAJOR ARTERIAL FUND # 522	\$19,555.59
MEASURE I -2010-2040 FUND # 524	\$4,111.31
PUBLIC LANDS FEDERAL GRANT FUND # 527	\$30,793.54
PROP 1B FUND # 528	\$3,400.75
CMAQ FUND # 542	\$1,197.50
CAPITAL PROJECTS RESERVE FUND # 800	\$2,100.00

**GRAND TOTAL**

\$195,344.26

Prepared by Shirlene Doten, Finance  Approved by Mark Nuaimi, Town Manager 

Reviewed by: Curtis Yakimow, Admin Svc. Dir. 

**Town of Yucca Valley****Warrant Register**

December 22, 2010

<b>Fund</b>	<b>Check #</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
001	GENERAL FUND			
	33457	Ace Alternators	Fleet Vehicle Maintenance	128.55
	33458	Action Pumping, Inc.	Septic Service	2,220.00
	33459	Addiction Medicine Consultants	Random Drug Screening	600.00
	33460	Aleshire & Wynder, LLC	Professional Services	4,584.38
	33461	Alliant Insurance Services	Liability Insurance	252.49
	33462	Alsco/American Linen, Inc.	Facilities Maintenance Supplies	317.65
	33464	Arrowhead Mountain Water	Office Supplies	130.12
	33465	Avalon Urgent Care	Employee Physicals	15.00
	33466	Boys & Girls Club	Community Contract	12,000.00
	33467	Hazel Bader	Contract Instructor	139.30
	33468	Barr Lumber, Inc.	Facilities Maintenance Supplies	132.46
	33470	Broadcast Music, Inc.	Music License Agreement	305.00
	33471	C & S Electric	Facilities Maintenance	252.46
	33472	C & S Electric	Facilities Maintenance	106.00
	33473	Cactus Flower	Employee Recognition	34.80
	33474	Carquest Auto Parts	Vehicle Maintenance	12.04
	33475	CESA-SC	Membership Dues	55.00
	33476	Charles Abbott & Assoc, Inc.	Permit Services	6,817.96
	33477	Lloyd Clark	Facility Rental Refund	165.00
	33478	Copper Mountain Media	Veteran's Day Advertising	208.00
	33480	Companion Animal Clinic	Veterinary Supplies	245.30
	33481	Cowboy Corral	Shelter Supplies	491.55
	33482	Cyberspike	Museum Website Conversion	500.00
	33483	Jerry Day	Abatement Services	533.00
	33484	Desert Pacific Exterminators	Exterminator Services	134.00
	33485	Desert Fire Extinguisher	Community Center Kitchen	155.87
	33486	Dept of Justice	Livescan Services	45.00
	33487	Kristopher Dybbro	Contract Instructor	42.00
	33489	Farmer Bros. Co.	Office Supplies	114.90
	33490	FedEx	Delivery Service	203.77
	33491	First American Data Tree	Subscription Trial	99.00
	33492	Four Winds Trading Company	Museum Shop Merchandise	34.79
	33493	Mae Fox	Contract Instructor	28.70
	33494	Fulton Distributing Co.	Janitorial Supplies	880.62
	33495	G & K Propane	Shelter Propane	587.05
	33496	Duane Gasaway	Engineering Services	1,520.00
	33498	GM Business Interiors	Office Furniture	716.18
	33499	Graphic Penguin	Web Site Maintenance	590.00
	33500	Joy Groves	Contract Instructor	347.20
	33501	Hajoca Corporation	Plumbing Supplies	28.28
	33502	Hi-Desert Glass	Facilities Maintenance	128.96
	33503	Hi-Desert Water	Water Service	1,366.41
	33504	Hi-Desert Publishing	Activity Events & Guide	3,477.28
	33505	Hi-Desert Star	Annual Subscription	35.00
	33506	Hogle-Ireland Inc.	Development Code Update	880.00
	33508	Inland Empire Stages Unlimited	Recreation Adult Trips	3,870.00
	33509	Innovative Federal Strategies, LLC	November 2010 Services	3,931.00
	33510	Intervet, Inc.	Shelter Adoption Supplies	543.75

**Town of Yucca Valley****Warrant Register**

December 22, 2010

<b>Fund</b>	<b>Check #</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
	33511	Susan Jordan	Contract Instructor	203.00
	33512	Heather Kaczmarczk	Contract Instructor	413.00
	33513	KCDZ-FM	Veteran's Day Advertising	200.00
	33514	Jim Kirwan	Senior Program Expense	450.00
	33515	Lucy Hammett Games	Museum Shop Merchandise	141.47
	33516	Malcolite	Lighting Equipment	234.94
	33517	The Mallants Corp	Temporary Employment Svcs.	503.10
	33519	Morongo Unified School District	Fleet Vehicle Fuel	13,291.61
	33520	NRO Engineering	Engineering Services	115.00
	33521	Oasis Office Supply	Office Supplies	414.31
	33522	Old Town Merchants Assoc.	Partnership Agreement	127.50
	33523	Oriental Trading Co. Inc.	Recreation Program Expense	142.83
	33524	Carl Otteson	Parks Backflow Testing	30.00
	33526	Pacific Telemanagement Svcs.	Pay Phone Service	82.64
	33527	Public Agency Retirement Services	Trust Administrator	300.00
	33528	Petty Cash-Michele Linzner	Miscellaneous Supplies	768.32
	33529	Petty Cash-Maureen Randall	Miscellaneous Supplies	394.02
	33530	Pitney Bowes-Lease	Postage Meter Leases	954.00
	33531	Pitney Bowes, Inc.	Postage Supplies	116.44
	33532	Pro Security	Security System Equipment	1,770.96
	33533	Pro Video	Town Council Taping	100.00
	33535	Quantum Healthcare Med Assoc	Worker's Comp Claim	382.00
	33536	Rogers,Anderson, Malody & Scott	Audit Services	250.00
	33539	Brian Roy	Recreation Program Refund	29.00
	33540	SCE	Electric Service	4,728.28
	33541	Todd Show Electric	Facilities Maintenance	457.00
	33542	So. Cal. Gas Co.	Vehicle Fuel	13.44
	33543	Southwest Networks, Inc.	Technology Support	3,112.04
	33544	Sprint	Phone Service	5.89
	33545	Stater Bros	Recreation Program Expense	79.31
	33546	Steve's Office Supply	Office Supplies	15.21
	33547	Steven Enterprises	Printer Supplies	393.55
	33550	Trophy Express	Recreation Trophies	639.72
	33551	Unique Garden Center	Landscaping Material	60.32
	33552	Unisource Worldwide, Inc.	Maintenance Supplies	1,943.07
	33553	USA Mobility Wireless, Inc.	Pager Service	86.14
	33554	United States Postal Service	Postage Meter Refill	1,000.00
	33555	Vagabond Welding Supply	Special Events Expense	283.97
	33556	VCA Yucca Valley Animal Hospital	Veterinary Services	1,709.00
	33557	Verizon	Phone Service	664.20
	33558	Verizon	Phone Service	245.51
	33560	Valley Independent	Recreation Program Printing	198.15
	33561	Voyager Fleet Systems, Inc	Vehicle Fuel	115.76
	33562	Walmart Community	Facilities Supplies	885.51
	33564	Woods Auto Repair	Fleet Vehicle Maintenance	50.75
	33565	YV Chamber of Commerce	Joint Marketing	4,638.82
	EFT	First Bankcard	Meetings/Travel Expenses	3,213.55
	EFT	Home Depot	Maintenance Supplies	1,448.50
<b>Total 001 GENERAL FUND</b>				<b>97,407.65</b>

**Town of Yucca Valley**

**Warrant Register**

December 22, 2010

<b>Fund</b>	<b>Check #</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
100 CENTRAL SUPPLIES FUND				
	33497	GE Capital Corporation	Copier Leases	2,182.99
<b>Total 100</b>	<b>CENTRAL SUPPLIES FUND</b>			<b>2,182.99</b>
200 DEPOSITS FUND				
	33490	FedEx	Delivery Service	29.89
	33496	Duane Gasaway	Engineering Services	736.25
	33520	NRO Engineering	Engineering Services	1,610.00
	33548	T-Mobile	CUP Refund	2,632.48
<b>Total 200</b>	<b>DEPOSITS FUND</b>			<b>5,008.62</b>
509 COPS-SLESF FUND				
	33469	Best Buy for Business	Sheriff's Office Digital Recorder	497.42
	33507	Hutchins Motor Sports	Motorcycle Equipment	43.34
	33559	Verizon Wireless	Phone Service	38.01
<b>Total 509</b>	<b>COPS-SLESF FUND</b>			<b>578.77</b>
513 AB2928-STATE CONSTRUCTION GRANT FUND				
	33496	Duane Gasaway	Engineering Services	261.25
	33525	Overland Pacific & Cutler, Inc.	TCRP ROW Services	882.50
	33563	Willdan Associates	SR 62 TCRP 129 Project	15,052.03
<b>Total 513</b>	<b>AB2928-STATE CONSTRUCTION GRANT FUND</b>			<b>16,195.78</b>
514 AB2928 - TCRP FUND				
	33520	NRO Engineering	Engineering Services	230.00
<b>Total 514</b>	<b>AB2928 - TCRP FUND</b>			<b>230.00</b>
515 GAS TAX FUND				
	33462	AlSCO/American Linen, Inc.	Streets Uniform Maintenance	111.70
	33463	American Public Works Associati	Membership Dues	181.25
	33468	Barr Lumber, Inc.	Streets Supplies	24.34
	33474	Carquest Auto Parts	Streets Fleet Equipment Maint.	397.77
	33479	CNH Capital	Streets Equipment	235.17
	33503	Hi-Desert Water	Water Service	154.24
	33518	Matich Corporation	Streets Asphalt	3,175.49
	33534	Quality Street Services, Inc.	Street Sweeping Service	7,040.00
	33540	SCE	Electric Service	118.05
	33549	Tops n Barricades	Streets Equipment Rental	60.00
<b>Total 515</b>	<b>GAS TAX FUND</b>			<b>11,498.01</b>
516 LTF FUND				
	33496	Duane Gasaway	Engineering Services	451.25
	33520	NRO Engineering	Engineering Services	632.50
<b>Total 516</b>	<b>LTF FUND</b>			<b>1,083.75</b>

**Town of Yucca Valley**

**Warrant Register**

December 22, 2010

<b>Fund</b>	<b>Check #</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
522 MEASURE I MAJOR ARTERIAL FUND				
	33496	Duane Gasaway	Engineering Services	308.75
	33520	NRO Engineering	Engineering Services	230.00
	33537	RBF Consulting	SR 62 Widening Project	19,016.84
<b>Total 522</b>	<b>MEASURE I MAJOR ARTERIAL FUND</b>			<b>19,555.59</b>
524 MEASURE I -2010-2040 FUND				
	33496	Duane Gasaway	Engineering Services	71.25
	33540	SCE	Electric Service	4,040.06
<b>Total 524</b>	<b>MEASURE I -2010-2040 FUND</b>			<b>4,111.31</b>
527 PUBLIC LANDS FEDERAL GRANT FUND				
	33496	Duane Gasaway	Engineering Services	1,330.00
	33504	Hi-Desert Publishing	Public Notice Ad	177.06
	33525	Overland Pacific & Cutler, Inc.	SR 62 PLHD Project	3,461.25
	33537	RBF Consulting	SR 62 PLHD Apache to Palm	25,825.23
<b>Total 527</b>	<b>PUBLIC LANDS FEDERAL GRANT FUND</b>			<b>30,793.54</b>
528 PROP 1B FUND				
	33496	Duane Gasaway	Engineering Services	23.75
	33537	RBF Consulting	Camino del Cielo Project	3,377.00
<b>Total 528</b>	<b>PROP 1B FUND</b>			<b>3,400.75</b>
542 CMAQ FUND				
	33496	Duane Gasaway	Engineering Services	47.50
	33520	NRO Engineering	Engineering Services	1,150.00
<b>Total 542</b>	<b>CMAQ FUND</b>			<b>1,197.50</b>
800 CAPITAL PROJECTS RESERVE FUND				
	33488	Elite Roofing	Senior Center Patio Roof Maint.	2,100.00
<b>Total 800</b>	<b>CAPITAL PROJECTS RESERVE FUND</b>			<b>2,100.00</b>
<b>***</b>	<b>Report Total</b>			<b>195,344.26</b>



## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Hart Ponder, Code Compliance Supervisor  
**Date:** January 25, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** Ordinance No.  
Amendment to Title 12, Adding Chapter 12.50, Vehicles and Traffic of the  
Municipal Code  
Administrative Adjudication Procedures

**Prior Council Review:** There has been no prior review of this item.

**Recommendation:** That the Town Council introduce the Ordinance amending Title 12, adding Chapter 12.50, Administrative Adjudication Procedures.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 12, VEHICLES AND TRAFFIC OF THE MUNICIPAL CODE, ADDING CHAPTER 12.50, ADMINISTRATIVE ADJUDICATION PROCEDURES

**Executive Summary:** The mission of the Administrative Adjudication Program is to provide for the hearing and disposition of all contested cases involving violations of the California Vehicle Code (CVC) and the Town of Yucca Valley Municipal Code Parking Regulations. On July 1, 1993, State law AB 408 took effect, decriminalizing parking and various other vehicle-related violations, and requiring the cities to establish an administrative hearing procedure in place of the criminal court system, including the adoption of penalties and fines for each violation. This Ordinance simply codifies this required process into the Municipal Ordinance.


The establishment of the Administrative Adjudication Program is authorized by California Vehicle Code Article 3, Section 40200.7 and 40215. This proposed action is an enabling confirmation of the authority granted by the State. The adoption of this ordinance will not confer any new fines or fees.


### Order of Procedure:


Request Staff Report  
Request Public Comment  
Council Discussion/Questions of Staff  
Motion/Second

Reviewed By:

  
Town Manager

  
Town Attorney

  
Mgmt Services

  
Dept Head

Department Report     Ordinance Action     Resolution Action     Public Hearing  
 Consent     Minute Action     Receive and File     Study Session

Discussion on Motion  
Call the Question (Roll Call Vote)

**Discussion:** An effective Administrative Adjudication Program must protect and fairly administer the parking laws of our Town. For those who contest a parking citation, the adjudication process should be just and timely; it must contribute to the over all goals of discouraging illegal parking, providing a fair and impartial hearing for all.

AB408 provides that any violation of an unlawful parking or related vehicle law is to be subject to a civil rather than a criminal fine schedule established by the governing body of the jurisdiction which issues the violation, and that enforcement of the fine shall be governed by a civil procedure which includes an Administrative investigation and review and judicial appeal Process. The Ordinance before the Town Council codifies this important part of that process.

The following is a brief summary of those statutes which are basic to the hearing process as mandated by AB408:

1. The Town must perform an administrative review of a citation if the review is requested within 21 days of issuance of the citation or 10 days of the mailing of the notice of delinquent parking violation.
2. Within 15 days of the mailing of the results of the administrative review, the person may request a review of the citation by a hearing officer.
3. Within the 30 days of the mailing of the hearing officer's decision, an appeal may be filed with a civil court. The appeal is heard de novo in a justice or municipal court with the parking agency's file in the case submitted as evidence.

While the Town implemented an Administrative Adjudication Procedure in 1993, the enabling ordinance codifies the required procedures.

**Alternatives:** Since the core provisions for the hearing process is statutorily required by the state, no alternatives exist short of not enforcing any parking regulations within the town.

**Fiscal impact:** None at this time.

**Attachments:** Ordinance  
California Vehicle Code Section 40200-40230

**ORDINANCE NO.**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF  
YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 12,  
VEHICLES AND TRAFFIC OF THE MUNICIPAL CODE, ADDING  
CHAPTER 12.50, ADMINISTRATIVE ADJUDICATION  
PROCEDURES**

The Town Council of the Town of Yucca Valley, California, ("Town") does ordain as follows:

**SECTION 1. CODE AMENDED.** Title 12 of the Town of Yucca Valley Municipal Code ("Municipal Code") is hereby amended to create Chapter 12.50, establishing Administrative Adjudication Procedures as follows:

**Chapter 12.50**

**ADMINISTRATIVE ADJUDICATION PROCEDURES**

- 12.50.010 Administrative Adjudication Procedure**
- 12.50.020 Administrative Review**
- 12.50.030 Administrative Hearing**
- 12.50.040 Judicial Review**
- 12.50.050 Copies of Citations**

**12.50.010 ADMINISTRATIVE ADJUDICATION PROCEDURE.**

(A) *Purpose.* The Yucca Valley Town Council has duly adopted the procedures of this subchapter on parking violation enforcement proceedings under the authority of, and for the purpose of implementing the requirements of Chapter 1244, Statutes of 1992 ("AB 408"), and Chapter 734, Statutes of 1995 ("AB 1228"). The purpose of the procedures specified herein is to provide a fair and thorough process for review of citations issued for parking or standing violations within the Town.

(B) *Application of time limitations.* Within this chapter there are various time limitations established for certain requests, including but not limited to:

- (1) Requests for administrative review;
- (2) Requests for administrative hearings; and
- (3) Requests for copies of documents.

For purposes of this subchapter on parking violation enforcement procedures, the specified time limitations are jurisdictional. Untimely requests will be rejected. Waivers will not be issued.

(C) *Summary of procedures.* This subchapter on parking violation enforcement procedures provides two stages of review for persons or entities wishing to contest citations:

- (1) Administrative review; and
- (2) Administrative hearing.

(D) *Definitions.* The following definitions pertain to terms utilized in this subchapter, regarding Administrative Adjudication Procedures, i.e., sections 12.50.010, *et seq.*, in order to provide clarity and consistency:

(1) **ADMINISTRATIVE HEARING.** A hearing process with respect to a citation, conducted in accord with the procedures of this subchapter on parking violation enforcement procedures, initiated by a timely written request of a contestant dissatisfied with the results of the administrative review.

(2) **ADMINISTRATIVE REVIEW.** The initial citation review process, initiated by a contestant's timely request, and conducted by the Reviewing Official.

(3) **APPEAL.** The action taken by a contestant to request an administrative hearing.

(4) **CITATION.** Includes, but is not limited to notice of a stopping, standing, or parking violation, and notice of a delinquent violation.

(5) **CONTESTANT.** Any person or entity who is the registered owner, driver, rentee, bailee or lessee who is liable for parking penalties in accordance with the provisions of Sections 40200, *et seq.* of the California Vehicle Code, and who contests or disputes liability for the parking penalties.

(6) **DMV.** The state Department of Motor Vehicles.

(7) **HEARING OFFICIAL.** An independent and impartial hearing officer meeting the qualifications specified in Section 40215(c)(4) of the California Vehicle Code, appointed by or contracted with the Town or its agent to conduct administrative hearings.

(8) **ISSUING AGENCY.** The Town department, or its agent, including but not limited to the California Highway Patrol, which issues the parking citation.

(9) **PARKING PENALTY.** Includes the applicable civil penalty for the violation specified on the citation, the late payment penalty, and the Department of Motor Vehicle (DMV) lien fee, if applicable.

(10) **PARKING VIOLATION.** Any violation of any regulation governing the stopping, standing or parking of a vehicle under the Vehicle Code, under any federal or state statute or regulation, or under the Code of Yucca Valley.

(11) **REVIEWING OFFICIAL.** An enforcement official authorized by the Chief of Police to conduct administrative reviews.

#### **12.50.020 ADMINISTRATIVE REVIEW.**

(A) *Initiating administrative review.*

(1) *Timeliness.* A request for administrative review must be made within 21 days from the issuance of the notice of parking violation, or within 21 days from the mailing of the notice of delinquent parking violation.

(2) *Manner of making request.* The request for administrative review shall be made by written request, and must include the following:

(a) A written statement of reasons explaining why the contestant believes the citation was issued in error;

(b) Copies of any documents supporting contestant's claim;

(c) Original citation or reminder notice;

(d) Contestant's full name; and

(e) Contestant's mailing address.

(B) *Written statement of reason.* A contestant shall provide to Yucca Valley Code Compliance a written statement of the reasons for contesting the parking violation. If the statement of reasons is not timely provided by the contestant, within the time period specified in division (A)(1) of this section, the request for administrative review will be rejected, and the contestant shall have no further rights to administrative review, or to an administrative hearing.

(C) *Administrative review.* Upon the Reviewing Official's receipt of a timely request for administrative review and the required statement of reasons, the Reviewing Official will commence a review of the citation and the circumstances surrounding its issuance. The review shall consist of a determination of whether the citation contains all of the items required by Section 40202(a) of the

California Vehicle Code and shall focus on the reasons for the request as specified by the contestant.

(1) *Cancellation of citation.* If, based on the results of the review, the Reviewing Official is satisfied that the citation was not issued in accordance with Section 40202(a) of the California Vehicle Code, or, based on the contestant's statement of reasons, that the violation did not occur or the registered owner was not responsible for the violation, the Reviewing Official shall cancel the citation and shall specify in writing the reasons for canceling the citation.

(2) *Determination of validity.* If, based on the results of the investigation, the Reviewing Official is satisfied that the citation was issued in accordance with Section 40202(a) of the California Vehicle Code, and that the reasons specified by the contestant do not exist, or do not affect the validity of the citation, the Reviewing Official shall specify those findings in writing, and include the grounds for the findings.

(D) *Notification to contestant.* The results of the administrative review by the Reviewing Official will be mailed to the contestant, by first class mail. Service of the notice of result shall be complete upon placement of the notice of result in the United States mail, postage paid.

#### **12.50.030 ADMINISTRATIVE HEARING.**

(A) *Initiating appeal.*

(1) *Timeliness.* A contestant dissatisfied with the results of the administrative review may appeal. Any such appeal must be made within 21 days of mailing the results of the review.

(2) *Requirements for appeals.* The contestant's appeal shall be initiated by means of a written request, filed by the contestant with Yucca Valley Code Compliance within the time specified in division (A)(1) of this section. Any appeal shall comply with the following requirements:

(a) The contestant shall deposit with the Town of Yucca Valley, to the address shown on the notice issued by the Reviewing Official the full amount of the parking penalty.

(b) The contestant's appeal request shall indicate the contestant's preference for a hearing by mail or in person.

(c) The contestant shall specify in writing the reasons for contesting the citation.

(d) The contestant shall provide a copy of the citation or the notice issued by the Reviewing Official per 12.50.020(A)(2)(b).

(e) If different than the record address contained in the parking citation or Yucca Valley Code Compliance's records, the contestant shall provide the address of the contestant for purposes of mailing notices of hearing and other documents in connection with the appeal.

(f) In the event that the contestant fails to satisfy any one or more of the above requirements within the time specified in division (A)(1) of the section, the appeal shall be rejected as untimely filed.

(3) *Exceptions to parking penalty deposit requirement.*

(a) *Indigence.* Pursuant to Section 40215(b) of the California Vehicle Code, Yucca Valley Code Compliance or its agent shall provide a written procedure to allow a person to request an administrative hearing without payment of the parking penalty upon satisfactory proof of an inability to pay the amount due. Notice of this procedure shall be provided to all persons requesting an administrative hearing.

(B) *Notice of hearing.* Within 21 days from the filing with Yucca Valley Code Compliance of a contestant's timely appeal, Yucca Valley Code Compliance or its agent shall send a notice of hearing to the contestant via first class mail. The notice shall specify the date and time of the hearing, and the place where the hearing will occur. An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Section 40200 *et seq.* of the California Vehicle Code or this chapter.

(C) *Continuances.*

(1) *Request made prior to date of hearing.* A contestant may, in writing, until 24 hours before the scheduled administrative hearing time, request that Yucca Valley Code Compliance reschedule the administrative hearing. Yucca Valley Code Compliance shall grant one continuance not to exceed 21 calendar days in accord with Section 40215(b) of the California Vehicle Code.

(D) *Administrative hearing procedures.*

(1) *Procedural matters.*

(a) *Appearances.* The officer issuing the citation shall not be required to appear at the hearing. The contestant shall appear at the hearing, unless a hearing by mail has been designated by the contestant in the appeal request form. If the contestant does not appear at the hearing, the appeal shall

be decided by the Hearing Official based on the citation, the record of the administrative review, and any other relevant material in the record, taking into account the reasons specified by the contestant on the appeal request form. Appearances by minors shall be governed by the provisions of Section 40215(c)(2) of the California Vehicle Code.

(b) *Hearing Officials.* The hearing shall be conducted by an independent and impartial Hearing Official meeting the qualifications specified in Section 40215(c)(4) of the California Vehicle Code, who shall have been appointed by, or contracted with, the Town to act in that capacity, pursuant to the procedures specified in Section 40215(c)(4) of the California Vehicle Code.

(c) *Hearing record.* The Hearing Official shall write pertinent information into the record during the in-person hearing. The hearing record and any supporting documentation will remain with the case file at the Town. If the contestant appeals the Hearing Official's decision to the Court, the entire case file will be forwarded to the Court. The hearing records for those cases not appealed to the Court will be retained by the Town for one year.

(d) *Representation.* The contestant may, in his or her discretion, be represented by an attorney in the appeal process, at the administrative hearing. Any such representation shall be at the sole and exclusive cost of the contestant. No contestant shall be entitled to representation at the expense of the Town, or any other public agency, irrespective of indigence status.

(2) *Conduct of the administrative hearing.*

(a) *Hearing Official duties.* At the time of the administrative hearing, the Hearing Official shall:

1. Make a pre-hearing statement, briefly explaining the nature of the civil proceedings, the manner of conducting the hearing and the limits on the introduction of evidence, the process of rendering a decision, the effects of the decision in terms of collection remedies available to Yucca Valley Code Compliance, the right of the contestant to appeal to the Court for a de novo hearing, and any other matters in the Hearing Official's discretion;
2. Read the citation into the record;
3. Administer an oath to the contestant and any prospective witnesses;
4. Record the name and address of the contestant; and
5. Write the registered owner's name and address; and the contestant's relationship to the registered owner, if applicable.



(b) *Proof requirements; validity of citation.*

1. *Burden of proof.* The issuing agency bears the burden of proof, by a preponderance of the evidence, that the citation meets statutory requirements for validity.

2. *Prima facie case.* Where the citation, or copy thereof, contains all of the items specified in Section 40202(a) of the California Vehicle Code, the issuing agency shall not be required to produce any evidence other than the notice of the parking violation or copy thereof and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.

3. *Rebuttal.* The contestant may introduce relevant evidence relating to the validity of the citation.

(c) *Proof requirements; contestant defenses.*

1. *Burden of proof; defenses.* The contestant bears the burden of proof, by the preponderance of the evidence, that although the citation is facially valid, a viable defense exists which would preclude the contestant's liability for the parking penalty, or that a viable defense exists which would limit the contestant's liability for late payment penalties.

2. *Defense; late payment penalties.* Nonreceipt of the notice of violation itself, if based on sufficient evidence, may constitute a defense to the late payment penalties based on nonpayment of the notice of violation, however, is not a defense to late response to the notice of delinquent parking violation. The defense of nonreceipt of the notice of violation is not available to the registered vehicle owner, where the person operating the vehicle at the time of the citation was not the registered vehicle owner. Clear proof of timely payment of the citation is a defense to late payment penalties.

3. *Defense; merits of citation.* Defenses relating to the merits of the citation must be established by the contestant by sufficient evidence. Such defenses may include, but are not limited to:

- a. Signage matters (missing, obscured or defaced signs);
- b. Impossibility of knowledge of the applicable parking restrictions (where the contestant demonstrates that it was impossible for him or her to become aware of the applicable parking restrictions);
- c. Malfunctioning parking meters;
- d. Recent loss of parking permit or placard;

e. Mechanical breakdown of the vehicle (where the vehicle was not illegally parked prior to the breakdown, the violation in fact results from the breakdown and reasonable steps were taken to remove the vehicle prior to the occurrence of the violation).

4. Personal reasons, inconveniences, lack of funds, forgetfulness, failure to observe signs, lack of available parking elsewhere, lack of knowledge of the applicable restrictions, and similar or related matters are not under any circumstances a defense to liability for the parking penalties. Failure to list a defense in the statement of reasons contained in the contestant's appeal request precludes the contestant from utilizing that defense at the time of the appeal hearing.

(d) *Evidence.*

1. *Rules of evidence.* The rules of evidence for Civil Court procedures shall not apply in administrative hearings conducted pursuant to the procedure. Evidence relevant to the issues raised by the contestant's statement of reasons, and to the validity of the citation itself under Section 40202 of the California Vehicle Code, will be received. Weight and reliability of the evidence provided will be determined by of the hearing officer.

2. *Form of evidence.* Other than the citation and the DMV information, the Hearing Official shall receive into the record the Reviewing Official's record from the administrative review, together with relevant testimony, documentation and other material which is submitted by either party. Weight and reliability determinations, shall be made by the Hearing Official. The Hearing Official may, but is not required to, admit evidence in the form of declarations of witnesses, submitted by the contestant. Such declarations shall not be admitted unless presented in the form required for declarations under California Section 2015.5 of the California Code of Civil Procedure, and shall contain the statements required by Sections 2015.5(a) and 2015.5(b) of the California Code of Civil Procedure.

(e) *Witnesses.*

1. The contestant may present witness testimony as evidence at the discretion of the Hearing Official. The Hearing Official, after conducting the initial procedures of the hearing, may exclude witnesses until their turn to testify. The Hearing Official may limit the number of witnesses to prevent repetitive testimony in the interest of efficiency

2. Cross-examination by Hearing Official. The Hearing Official may conduct such cross-examination of the contestant or any witness presented at his or her discretion.

(3) *Determination of appeal.*

(a) *Basis for determination.* The Hearing Official shall make a written decision on liability for the parking penalties based on the testimony and other evidence in the record.

(b) *Disposition.* The Hearing Official shall enter the disposition and the total amount of parking penalties on the hearing record. The decision, including the rationale thereof, shall be placed in written form.

(c) *Delivery of decision to contestant.* Although the Hearing Official's decision may be personally delivered to the contestant following the completion of the hearing, the written decision shall be sent to the contestant, to the address listed on the contestant's appeal form, via first class mail.

(d) *Deferred payment.* Following a determination by the Hearing Official that a person has committed the violation, the Hearing Official may in his or her discretion, may allow for deferred payment of the parking penalty, if the person provides evidence satisfactory to the Hearing Official, of an inability to pay the parking penalty in full.

(e) *Finality.* The Hearing Official's decision shall be the final decision of Yucca Valley Code Compliance. The decision shall set forth the time limits for the contestant to file for judicial review in the Court, and a notice that if no such review is sought within the applicable time limitations, the decision shall be final for all purposes.

**12.50.040 JUDICIAL REVIEW.**

Within 30 days after the mailing or personal delivery of the final decision described in 12.50.030(D)(3)(e), the contestant may seek review by filing an appeal with the Court. Such review will be conducted in accordance with the provisions of Section 40230 of the California Vehicle Code.

**12.50.050 COPIES OF CITATIONS.**

Upon request by mail or in person, Yucca Valley Code Compliance will provide a copy of a citation to any person who has received a notice of delinquent parking violation, or to his or her agent. The copy will be provided within 15 days of the request, upon payment of the fee established by Yucca Valley Code Compliance. The copy can be produced by any reasonable means available to Yucca Valley Code Compliance, including printed representation of computer information.

**SECTION 2. NOTICE OF ADOPTION.** Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance

and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

**SECTION 3. EFFECTIVE DATE.** This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
TOWN CLERK

\_\_\_\_\_  
TOWN ATTORNEY

CALIFORNIA CODES  
VEHICLE CODE  
SECTION 40200-40230

**40200.** (a) Any violation of any regulation that is not a misdemeanor governing the standing or parking of a **vehicle** under this **code**, under any federal statute or regulation, or under any ordinance enacted by local authorities is subject to a civil penalty. The enforcement of those civil penalties shall be governed by the civil administrative procedures set forth in this article.

(b) Except as provided in Section 40209, the registered owner and driver, rentee, or lessee of a **vehicle** cited for any violation of any regulation governing the parking of a **vehicle** under this **code**, under any federal statute or regulation, or under any ordinance enacted by a local authority shall be jointly liable for parking penalties imposed under this article, unless the owner can show that the **vehicle** was used without consent of that person, express or implied. An owner who pays any parking penalty, civil judgment, costs, or administrative fees pursuant to this article shall have the right to recover the same from the driver, rentee, or lessee.

(c) The driver of a **vehicle** who is not the owner thereof but who uses or operates the **vehicle** with the express or implied permission of the owner shall be considered the agent of the owner to receive notices of parking violations served in accordance with this article and may contest the notice of violation.

**40200.1.** A person shall not be subject to both a notice of parking violation and a notice to appear for the same violation.

**40200.3.** (a) All parking penalties collected by the processing agency, which may be the issuing agency, including process service fees and fees and collection costs related to civil debt collection, shall be deposited to the account of the issuing agency, except that those sums attributable to the issuance of a notice of parking violation by a peace officer of the Department of the California Highway Patrol shall be deposited in the account in the jurisdiction where the violation occurred, and except those sums payable to a county pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code and that portion of any parking penalty which is attributable to an increase in the parking bail amount effective between September 16, 1988, and July 1, 1992, inclusive, pursuant to Section 1463.28 of the Penal Code. Those funds attributable to this increase in bail shall be transferred to the county treasurer and deposited in the general fund. Any increase in parking penalties effective after July 1, 1992, shall accrue to the benefit of the issuing agency.

(b) The processing agency shall prepare a report at the end of each fiscal year setting forth the number of cases processed, and all sums received and distributed, together with any other information that may be required by the issuing agency or the Controller. This report is a public record and shall be delivered to each issuing agency. Copies shall be made available, upon request, to the county auditor, the Controller, and the grand jury.

**40200.4.** (a) The processing agency shall deposit with the county treasurer all sums due the county as the result of processing a parking violation not later than 45 calendar days after the last day of the month in which the parking penalty was received.

(b) Except as provided in subdivisions (c) and (d), if a court within a county has been processing notices of parking violations and notices of delinquent parking violations for a city, a district, or any other issuing agency, the issuing agency and the county shall provide in an agreement for the orderly transfer of the processing

activity as soon as possible but not later than January 1, 1994. The agreement shall permit the court to phase out, and the issuing agency to phase in, or transfer, personnel, equipment, and facilities that may have been acquired or need to be acquired in contemplation of a long-term commitment to processing of notices of parking violations and notices of delinquent parking violations for the issuing agency under this article. The court shall transfer the processing function for parking citations issued by the Department of the California Highway Patrol to the processing agency in the city or county where the violation occurred.

(c) If Contra Costa County or San Mateo County, or a court in either county, had a contract in effect on January 1, 1992, to process notices of parking violations and notices of delinquent parking violations for a city, district, or other issuing agency within the particular county or counties, the county may continue to provide those services to the issuing agencies pursuant to the terms of the contract and any amendments thereto, to and including June 30, 1996, after which Section 40200.5 shall govern any contracts entered into for these services.

(d) San Francisco Municipal Court employees engaged in processing notices of parking violations and the positions of those employees shall be transferred to equivalent civil service positions in the City and County of San Francisco.

(e) No court employee shall be terminated or otherwise released from employment as a result of the transfer of processing notices of parking violations and notices of delinquent parking violations from the courts to the issuing agencies.

(f) As used in this article, "parking penalty" includes the fine authorized by law, including assessments authorized by this article, any late payment penalty, and costs of collection as provided by law.

**40200.5.** (a) Except as provided in subdivision (c) of Section 40200.4, an issuing agency may elect to contract with the county, with a private vendor, or with any other city or county processing agency, other than the Department of the California Highway Patrol or other state law enforcement agency, within the county, with the consent of that other entity, for the processing of notices of parking violations and notices of delinquent parking violations, prior to filing with the court pursuant to Section 40230.

If an issuing agency contracts with a private vendor for processing services, it shall give special consideration to minority business enterprise participation in providing those services. For purposes of this subdivision, "special consideration" has the same meaning as specified in subdivision (c) of Section 14838 of the Government Code, as it relates to small business preference.

(b) A contract entered pursuant to subdivision (a) shall provide for monthly distribution of amounts collected between the parties, except those amounts payable to a county pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code and amounts payable to the Department of Motor Vehicles pursuant to Section 4763 of this code.

(c) If a contract entered into pursuant to subdivision (a) includes the provision of qualified examiners or administrative hearing providers, the contract shall be based on either a fixed monthly rate or on the number of notices processed and shall not include incentives for the processing entity based on the number of notices upheld or denied or the amount of fines collected.

**40200.6.** (a) If a contract is entered into pursuant to Section 40200.5, for the purposes of this article, "processing agency" means the contracting party responsible for the processing of the notices of parking violations and notices of delinquent parking violations.

(b) The governing body of the issuing agency shall establish written policies and procedures pursuant to which the contracting party shall provide services.

(c) The issuing agency shall be responsible for all actions taken by contracting parties and shall exercise effective oversight over

the parties. "Effective oversight" includes, at a minimum, an annual review of the services of the processing agency and a review of complaints made by motorists using the services of the processing agency. The issuing agency shall establish procedures to investigate and resolve complaints by motorists about any processing agency.

(d) Subdivision (c) does not apply to an issuing agency that is a law enforcement agency if the issuing agency does not also act as the processing agency.

**40200.8.** The parking processing agency shall notify the department and recall any hold on the registration of a **vehicle** that it filed with the department in connection with a parking citation if the processing agency is awarded a civil judgment for the citation pursuant to subdivision (b) or (c) of Section 40220, or if the processing agency has granted a review of the issuance of the citation pursuant to Section **40200.7** or Section 40215.

40202. (a) If a **vehicle** is unattended during the time of the violation, the peace officer or person authorized to enforce parking laws and regulations shall securely attach to the **vehicle** a notice of parking violation setting forth the violation, including reference to the section of this code or of the Public Resources Code, the local ordinance, or the federal statute or regulation so violated; the date; the approximate time thereof; the location where the violation occurred; a statement printed on the notice indicating that the date of payment is required to be made not later than 21 calendar days from the date of citation issuance; and the procedure for the registered owner, lessee, or rentee to deposit the parking penalty or, pursuant to Section 40215, contest the citation. The notice of parking violation shall also set forth the **vehicle** license number and registration expiration date if they are visible, the last four digits of the **vehicle** identification number, if that number is readable through the windshield, the color of the **vehicle**, and, if possible, the make of the **vehicle**. The notice of parking violation, or copy thereof, shall be considered a record kept in the ordinary course of business of the issuing agency and the processing agency and shall be prima facie evidence of the facts contained therein.

(b) The notice of parking violation shall be served by attaching it to the **vehicle** either under the windshield wiper or in another conspicuous place upon the **vehicle** so as to be easily observed by the person in charge of the **vehicle** upon the return of that person.

(c) Once the issuing officer has prepared the notice of parking violation and has attached it to the **vehicle** as provided in subdivisions (a) and (b), the officer shall file the notice with the processing agency. Any person, including the issuing officer and any member of the officer's department or agency, or any peace officer who alters, conceals, modifies, nullifies, or destroys, or causes to be altered, concealed, modified, nullified, or destroyed the face of the remaining original or any copy of a citation that was retained by the officer, for any reason, before it is filed with the processing agency or with a person authorized to receive the deposit of the parking penalty, is guilty of a misdemeanor.

(d) If, during the issuance of a notice of parking violation, without regard to whether the **vehicle** was initially attended or unattended, the **vehicle** is driven away prior to attaching the notice to the **vehicle**, the issuing officer shall file the notice with the processing agency. The processing agency shall mail, within 15 calendar days of issuance of the notice of parking violation, a copy of the notice of parking violation or transmit an electronic facsimile of the notice to the registered owner.

(e) If, within 21 days after the notice of parking violation is attached to the **vehicle**, the issuing officer or the issuing agency determines that, in the interest of justice, the notice of parking violation should be canceled, the issuing agency, pursuant to subdivision (a) of Section 40215, shall cancel the notice of parking violation or, if the issuing agency has contracted with a processing agency, shall notify the processing agency to cancel the notice of

parking violation pursuant to subdivision (a) of Section 40215. The reason for the cancellation shall be set forth in writing.

If, after a copy of the notice of parking violation is attached to the **vehicle**, the issuing officer determines that there is incorrect data on the notice, including, but not limited to, the date or time, the issuing officer may indicate in writing, on a form attached to the original notice, the necessary correction to allow for the timely entry of the notice on the processing agency's data system. A copy of the correction shall be mailed to the registered owner of the **vehicle**.

(f) Under no circumstances shall a personal relationship with any officer, public official, or law enforcement agency be grounds for cancellation.

40203. The notice of parking violation shall be accompanied by a written notice of the amount of the parking penalty due for that violation, the address of the person authorized to receive a deposit of the parking penalty, a statement in bold print that payments of the parking penalty for the parking violation may be sent through the mail, and instructions on obtaining information on the procedures to contest the notice of parking violation.

40203.5. (a) The schedule of parking penalties for parking violations and late payment penalties shall be established by the governing body of the jurisdiction where the notice of violation is issued. To the extent possible, issuing agencies within the same county shall standardize parking penalties.

(b) Parking penalties under this article shall be collected as civil penalties.

(c) (1) Notwithstanding subdivision (a) the penalty for a violation of Section 22507.8 or an ordinance or resolution adopted pursuant to Section 22511.57 shall be not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000).

(2) The issuing agency may suspend the imposition of the penalty in paragraph (1), if the violator, at the time of the offense, possesses but failed to display a valid special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59.

(3) A penalty imposed pursuant to this subdivision may be paid in installments if the issuing agency determines that the violator is unable to pay the entire amount in one payment.

40203.6. (a) In addition to an assessment levied pursuant to any other law, an additional assessment equal to 10 percent of the penalty established pursuant to Section 40203.5 shall be imposed by the governing body of the jurisdiction where the notice of parking violation is issued for a civil violation of any of the following:

(1) Subdivisions (b), (c), and (d) of Section 4461.

(2) Subdivision (c) of Section 4463.

(3) Section 22507.8.

(4) An ordinance or resolution adopted pursuant to Section 22511.57.

(5) Section 22522.

(b) An assessment imposed pursuant to this section shall be deposited with the city or county where the violation occurred.

40204. If the parking penalty is received by the person authorized to receive the deposit of the parking penalty and there is no contest as to that parking violation, the proceedings under this article shall terminate.

40205. If a person contests the parking violation, the processing agency shall proceed in accordance with Section 40215.



40206. (a) If the payment of the parking penalty is not received by the person authorized to receive a deposit of the parking penalty by the date fixed on the notice of parking violation under Section 40202, the processing agency shall deliver to the registered owner a notice of delinquent parking violation.

(b) Delivery of a notice of delinquent parking violation under this section may be made by personal service or by first-class mail addressed to the registered owner, as shown on records of the Department of Motor Vehicles.

40206.5. (a) Within 15 days of a request, by mail or in person, the processing agency shall mail or otherwise provide to any person who has received a notice of delinquent parking violation, or his or her agent, a photostatic copy of the original notice of parking violation or an electronically produced facsimile of the original notice of parking violation. The issuing agency may charge a fee sufficient to recover the actual cost of providing the copy, not to exceed two dollars (\$2). Until the issuing agency complies with a request for a copy of the original notice of parking violation, the processing agency may not proceed pursuant to subdivision (i) of Section 22651, Section 22651.7, or Section 40220.

(b) If the description of the **vehicle** on the notice of parking violation does not substantially match the corresponding information on the registration card for that **vehicle** and the processing agency is satisfied that the **vehicle** has not been incorrectly described due to the intentional switching of license plates, the processing agency shall, on written request of the person cancel the notice of parking violation without the necessity of an appearance by that person.

(c) For purposes of this section, a copy of the notice of parking violation may be a photostatic copy or an electronically produced facsimile.

40207. (a) The notice of delinquent parking violation shall contain the information specified in subdivision (a) of Section 40202, subdivision (a) of Section 40241, or subdivision (a) of Section 40248, as applicable, and Section 40203, and, additionally shall contain a notice to the registered owner that, unless the registered owner pays the parking penalty or contests the citation within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation or completes and files an affidavit of nonliability that complies with Section 40208 or 40209, the renewal of the **vehicle** registration shall be contingent upon compliance with the notice of delinquent parking violation. If the registered owner, by appearance or by mail, makes payment to the processing agency within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty. Additional fees, assessments, or other charges shall not be added.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

40207. (a) The notice of delinquent parking violation shall contain the information specified in subdivision (a) of Section 40202 or subdivision (a) of Section 40248, as applicable, and Section 40203, and, additionally shall contain a notice to the registered owner that, unless the registered owner pays the parking penalty or contests the citation within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation or completes and files an affidavit of nonliability that complies with Section 40208 or 40209,

the renewal of the **vehicle** registration shall be contingent upon compliance with the notice of delinquent parking violation. If the registered owner, by appearance or by mail, makes payment to the processing agency within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty. Additional fees, assessments, or other charges shall not be added.

(b) This section shall become operative on January 1, 2012.

40208. The notice of delinquent parking violation shall contain, or be accompanied with, an affidavit of nonliability and information of what constitutes nonliability, information as to the effect of executing the affidavit, and instructions for returning the affidavit to the issuing agency.

40209. If the affidavit of nonliability is returned to the processing agency within 30 calendar days of the mailing of the notice of delinquent parking violation together with the proof of a written lease or rental agreement between a bona fide rental or leasing company, and its customer which identifies the rentee or lessee and provides the driver's license number, name, and address of the rentee or lessee, the processing agency shall serve or mail to the rentee or lessee identified in the affidavit of nonliability a notice of delinquent parking violation. If payment is not received within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation, the processing agency may proceed against the rentee or lessee pursuant to Section 40220.

40210. (a) If the affidavit of nonliability is returned and indicates that the registered owner served has made a bona fide sale or transfer of the **vehicle** and has delivered possession of the **vehicle** to the purchaser prior to the date of the alleged violation, the processing agency shall obtain verification from the department that the registered owner has complied with Section 5602.

(b) If the registered owner has complied with Section 5602, the processing agency shall cancel the notice of delinquent parking violation or violations with respect to the registered owner.

(c) If the registered owner has not complied with Section 5602, the processing agency shall inform the registered owner that the citation shall be paid in full or contested pursuant to Section 40215 unless the registered owner delivers evidence within 15 days of the notice that establishes that the transfer of ownership and possession of the **vehicle** occurred prior to the date of the alleged violation. If the registered owner does not comply with this notice, the processing agency shall proceed pursuant to Section 40220. If the registered owner delivers the evidence within 15 days of the notice, the processing agency shall cancel the notice of delinquent parking violation or violations with respect to the registered owner.

(d) For purposes of subdivision (c), evidence sufficient to establish that the transfer of ownership and possession occurred prior to the date of the alleged violation or violations shall include, but is not limited to, a copy of the executed agreement showing the date of the transfer of **vehicle** ownership.

(e) This section does not limit or impair the ability or the right of the processing agency to pursue the collection of delinquent parking penalties from the person having ownership and possession of the **vehicle** on the date the alleged violation occurred.

40211. (a) If the registered owner, or an agent of the registered owner, or a rentee or lessee who was served with the notice of delinquent parking violation pursuant to Section 40206 or Section

40209, or any other person who presents the notice of parking violation or notice of delinquent parking violation after the notice of delinquent parking violation has been issued for delivery under Section 40206, deposits the parking penalty with a person authorized to receive it, the processing agency shall do both of the following:

(1) Deliver a copy of one of the following: the notice of delinquent parking violation issued under Section 40206; a true and correct abstract containing the information set forth in the notice of parking violation if the citation was issued electronically; or an electronically reproduced listing of the citation information presented in a notice of delinquent parking violation to the person and record the name, address, and driver's license number of the person actually given the copy in the records of the issuing agency.

For the purposes of this paragraph, a copy of the notice of delinquent parking violation may be a photostatic copy.

(2) Determine whether the notice of delinquent parking violation has been filed with the department pursuant to subdivision (b) of Section 40220 or a civil judgment has been entered pursuant to Section 40220.

(b) If the notice of delinquent parking violation has not been filed with the department or judgment entered and payment of the parking penalty, including any applicable assessments, is received, the proceedings under this article shall terminate.

(c) If the notice of delinquent parking violation has been filed with the department, has been returned under subdivision (b) or (c) of Section 4760 or Section 4764, and payment of the parking penalty together with the administrative service fee of the processing agency for costs of service and any applicable assessments is received, the proceedings under this article shall terminate.

(d) If the notice of delinquent parking violation has been filed with the department and has not been returned under Section 4760, 4762, and 4764, and payment of the parking penalty for, and any applicable costs of, service in connection with civil debt collection, is received by the processing agency, the processing agency shall do all of the following:

(1) Deliver a certificate of payment to the registered owner, the agent, the lessee, or the rentee or other person making the payment.

(2) Immediately transmit the payment information to the department in the manner prescribed by the department.

(3) Terminate proceedings on the notice of delinquent parking violation.

(4) Transmit for deposit all parking penalties and assessments in accordance with law.

40215. (a) For a period of 21 calendar days from the issuance of a notice of parking violation or 14 calendar days from the mailing of a notice of delinquent parking violation, exclusive of any days from the day the processing agency receives a request for a copy or facsimile of the original notice of parking violation pursuant to Section 40206.5 and the day the processing agency complies with the request, a person may request an initial review of the notice by the issuing agency. The request may be made by telephone, in writing, or in person. There shall be no charge for this review. If, following the initial review, the issuing agency is satisfied that the violation did not occur, that the registered owner was not responsible for the violation, or that extenuating circumstances make dismissal of the citation appropriate in the interest of justice, the issuing agency shall cancel the notice of parking violation or notice of delinquent parking violation. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice, and, if following that review, cancellation of the notice does not occur, include a reason for that denial, notification of the ability to request an administrative hearing, and notice of the procedure adopted pursuant to subdivision (b) for waiving prepayment of the parking penalty based upon an inability to pay.

(b) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the

violation no later than 21 calendar days following the mailing of the results of the issuing agency's initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit the amount of the parking penalty with the processing agency. The issuing agency shall adopt a written procedure to allow a person to request an administrative hearing without payment of the parking penalty upon satisfactory proof of an inability to pay the amount due. After January 1, 1996, an administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to this article. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(c) The administrative hearing process shall include the following:

(1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency. If an issuing agency contracts with an administrative provider, hearings shall be held within the jurisdiction of the issuing agency or within the county of the issuing agency.

(2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the parking violation without the necessity of the appointment of a guardian. The processing agency may proceed against the minor in the same manner as against an adult.

(3) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested parking violations.

(4) (A) The issuing agency's governing body or chief executive officer shall appoint or contract with qualified examiners or administrative hearing providers that employ qualified examiners to conduct the administrative hearings. Examiners shall demonstrate those qualifications, training, and objectivity necessary to conduct a fair and impartial review. An examiner shall not be employed, managed, or controlled by a person whose primary duties are parking enforcement or parking citation, processing, collection, or issuance. The examiner shall be separate and independent from the citation collection or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of fines collected by the examiner.

(B) Examiners shall have a minimum of 20 hours of training. The examiner is responsible for the costs of the training. The issuing agency may reimburse the examiner for those costs. Training may be provided through (i) an accredited college or university, (ii) a program conducted by the Commission on Peace Officer Standards and Training, (iii) American Arbitration Association or a similar established organization, or (iv) through any program approved by the governing board of the issuing agency, including a program developed and provided by, or for, the agency. Training programs may include topics relevant to the administrative hearing, including, but not limited to, applicable laws and regulations, parking enforcement procedures, due process, evaluation of evidence, hearing procedures, and effective oral and written communication. Upon the approval of the governing board of the issuing agency, up to 12 hours of relevant experience may be substituted for up to 12 hours of training. In addition, up to eight hours of the training requirements described in this subparagraph may be credited to an individual, at the discretion of the governing board of the issuing agency, based upon training programs or courses described in (i) to (iv), inclusive, that the individual attended within the last five years.

(5) The officer or person who issues a notice of parking violation shall not be required to participate in an administrative hearing. The issuing agency shall not be required to produce any evidence other than the notice of parking violation or copy thereof and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.

(6) The examiner's decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail, and, if the notice is not cancelled, include a written reason for that denial.

(7) Following a determination by the examiner that a person has committed the violation, the examiner may, consistent with the written guidelines established by the issuing agency, allow payment of the parking penalty in installments, or an issuing agency may allow for deferred payment or allow for payments in installments, if the person provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the parking penalty in full. If authorized by the governing board of the issuing agency, the examiner may permit the performance of community service in lieu of payment of a parking penalty.

(d) The provisions of this section relating to the administrative appeal process do not apply to an issuing agency that is a law enforcement agency if the issuing agency does not also act as the processing agency.

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Shane R. Stueckle, Deputy Town Manager  
**Date:** January 26, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** Sign Ordinance Enforcement  
Temporary Signs, Banners & Flags for Commercial Enterprises

**Prior Council Review:** At its meeting of January 19, 2010, the Town Council established a one year suspension of enforcement of time periods for temporary commercial and industrial signs. That suspension expired in January 2011.

**Recommendation:** That the Town Council suspends enforcement of the time periods established for temporary commercial and industrial signs as established in Section 87.07130 (c), for a period of one year, ending on February 1, 2012.

**Executive Summary:** At its meeting of January 19, 2010, the Town Council established a one year suspension of enforcement of time periods for temporary commercial and industrial signs. That suspension expired in January 2011.

The recommended action would continue the suspension for one additional year.

**Order of Procedure:**

- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Voice Vote)

**Discussion:** Ordinance 156, Sign Regulations was adopted by the Town Council in September 2004. Ordinance 156 establishes sign regulations for all signs erected in the Town, both temporary and permanent. Section 87.07130 (c) regulates the time limits, types of signs and sizes allowed for temporary signs. The purpose of the Town Council's policy discussion was to evaluate the possibility of providing relief from certain sign code requirements during the current economic conditions. Extending this policy an additional year will allow staff the required time to bring back a more thorough analysis of sign ordinance issues for Council consideration.

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Reviewed By:

  
Town Manager

  
Town Attorney

  
Mgmt Services

SRS  
Dept Head

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Department Report

Ordinance Action

Resolution Action

Public Hearing

Consent

Minute Action

Receive and File

Discussion

The Town's regulations for temporary commercial and industrial signs are as follows.

c. **Temporary Commercial and Industrial Signs.** *Temporary commercial and industrial signs to publicize sales, new merchandise, close-outs, grand openings or other similar events may be permitted subject to the following restrictions:*

1. *A permit may be issued for temporary signs provided that a permit may not be issued to an applicant unless a period of time has elapsed which is two (2) times the length of time that the previous sign was permitted.*
2. *Temporary window signs may be permitted on outside facing windows if the cumulative total of any permanent and temporary signage (excluding open/close signs) does not cover more than 50% of the individual window surface.*
3. *Special event signs may include search lights, beacons, and small balloons; however, the display of such devices shall be limited to 2 days or less or the duration of the event.*
4. *One thirty two (32) square-foot, 8 foot-high non-illuminated freestanding sign per street frontage located on the subject property advertising a future facility/business or tenant provide the temporary sign is located ten (10) feet from any right-of-way and the sign is removed upon occupancy of the building.*
5. **Banners and Flags:**
  - A. *No banners, flags, pennants, hulas, streamers shall be displayed without a permit.*
  - B. *One banner not exceeding sixty (60) square-feet shall be permitted to advertise a special event provided the banner is attached to the space advertising the special event in accordance with the time frames specified above. However, in lieu of a building wall banner, one-thirty-two (32) square foot of sign area may be permitted for a maximum of thirty (30) calendar days that may be located on the property to advertise seasonal sale items such as pumpkins or Christmas trees.*
  - C. *The business owner/applicant shall immediately remove any banner, flag, pennant, hula and streamers determined to be tattered, torn, faded, no longer tightly attached to the building, abandoned, or non-maintained.*

- D. *Pennants, hulas, streamers and other similar devices shall be limited to fleet services (i.e. car lots). The strings on which pennants, hulas, streamers and other such devices are hung, where permitted, shall be limited in length to not more than one and one half (1/2) times the street frontage of the property or tenant/building frontage.*
- E. *Banners, flags, pennants, hulas and streamers shall not be displayed above the roof line of the building.*
- F. *One maximum fifty (50) square-foot banner identifying the name of a new business may be displayed for no more than ninety (90) days.*

The above information does not address what would be referred to as permanent signage, such as wall signs, monument signs, free standing signs, or pedestrian Sidewalk (A-Frame) signs.

The recommended action suspends enforcement for the time-periods temporary signs are allowed to remain in use by a commercial or industrial enterprise. The recommended action does not waive permit fees or amend any other standards established by the Ordinance. The Town Council's discussion at the meeting of November 17, 2009, indicated that the standard permitting process should continue.

**Alternatives:** The Town Council may desire to identify other Sign Ordinance provisions and provide direction to staff bring back a more thorough analysis of sign ordinance issues for future Council consideration.

If the Council would like to consider suspending temporary sign permit fees for the one year period, the Council should include that language in the motion.

**Fiscal impact:** N/A

**Attachments:** Town Council Minutes, January 19, 2010  
Town Council Minutes, November 17, 2009  
Sign Ordinance



of Option 1. Council Member Huntington seconded the substitute motion. The substitute motion failed 2-3 on a roll call vote, as follows:

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

Council Member Mayes advised he would have preferred the staff 's option but will now support the original motion.

Original 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**

**17. Town Council Request and Policy Discussion, Sign Ordinance Enforcement, Banners & Flags for Commercial Enterprises.**

Senior Planner Kirschmann reported that Ordinance No. 156 establishes sign regulations for all signs erected in the Town both temporary and permanent. Section 87.07130(c) regulates the time limits, types of signs allowed.

**Sarann Graham**, Yucca Valley, spoke in favor of allowing the use of the new banners without time limits.

Mayor Luckino commented regarding the sign ordinance specifically to the banners noting he wants businesses to prosper because if they don't the Town doesn't. The cars are flying through the Old Town area, and some businesses feel the banners may attract people to stop. He suggested backing off on enforcement on that portion of the ordinance to help people get through these tough times.

Council Member Huntington requested clarification that the Mayor was talking about just the new type banners that people are using at this time, and noted that more signage is not necessarily better and can become blight itself. The purpose of ordinances is to prevent blight. He did agree that probably those banners, since they are a new form of banners that haven't been seen or addressed specifically, should be looked at, but the Sign Ordinance should still be enforced.

Council Member Neeb agreed with Council Member Huntington noting the Council

## YUCCA VALLEY TOWN COUNCIL MINUTES

NOVEMBER 17, 2009

really put a lot of hard work into the Sign Ordinance and there were some tough meetings with the Commission and council.

Mayor Luckino clarified that he is not asking Council to repeal the Ordinance, just to suspend enforcement for a time frame of a year.

Council Member Mayes wanted to make sure Council was only talking about the banners portion of the sign ordinance, and questioned if no permit would have to be pulled and businesses can put up any signs they want for a year. He expressed concern as to whether or not the Council would want to allow businesses anything they want for the next year as far as signs are concerned.

Council Member Herbel questioned if the permitting process is because of possible safety issues. Senior Planner Kirschmann advised the reason for the permits is to make sure the business complies with the code so that staff can review the signs to make sure they conform.

Council Member Huntington commented that the location on the sign may have health and safety issues as far as obstructing traffic, etc.

Mayor Luckino suggested that, if Council is willing, maybe staff can come back with some suggestions. He noted his intent is to relax enforcement. Manager Takata suggest stated if the Council would like portion of the ordinance changed it should be sent to the Planning Commission. Deputy Town Manager Stueckle advised Council can suspend enforcement but any changes to the Ordinance would have to go to the Commission. Mayor Luckino noted his preference is to suspend.

Council Member Huntington stated the Town should not suspend the need for a permit but suspend enforcement.

Council Member Mayes recommended that the permit fee also be looked at.

Council Member Neeb commented then the Town would end up subsidizing that and commented that the Town had a study done to come up with the fee. He noted that he would agree with Council Member Huntington to put enforcement on hold but not suspend the need for a permit.

Mayor Luckino advised he would go along with that.

Council Member Huntington moved to continue permitting temporary signs, specifically bee wings, but not enforce the number of days they can be up. Council Member Neeb seconded.

Council Member Mayes questioned the other temporary signs, noting if the Council

wants to be business friendly we want to make sure the rules are clear and that everyone is following same rules.

Upon further discussion, the item was postponed to the next meeting.

**18. Town Council Policy Discussion, SR 62 Median Islands**

Deputy Town Manager Stueckle reported that over the past couple of months the Council has discussed opportunities that may be available to the Town or RDA to assist in trying to provide encouragement and support for development projects. Discussions have been associated with the costs of improvements for highway widening and median islands. He noted that anytime public financial assistance is provided to private land development projects, the law states that all improvements shall pay prevailing wages.

Council Member Mayes stated he is favor of the highway medians, the problem he has it making construction of them a condition of approval. The Town should be paying for them and shouldn't be conditioning applicants to do that.

Council Member Herbel questioned how the Town would pay for the median islands. Town Manager Takata state they would be paid through the RDA or general fund.

Council Member Mayes stated that he wants median islands but doesn't think it is appropriate to make developers put them in.

Council Member Herbel commented that development needs to pay its own way instead placing the responsibility on the community.

Council Member Neeb stated he heard some of the medians things are optional and that there are not a lot required by Caltrans. Town Manager Takata advised that the median by Home Depot was required by Caltrans, but Auto Zone wasn't. Council Member Neeb advised he is fine with going to the RDA and asking them to pay for the medians required by the Planning Commission.

Mayor Luckino commented that he opposed to taking in lieu fees that are going into the bank account and not being used.

Council Member Mayes commented either the Town has to collect in lieu fees or the developer has to build their small portion of the improvement. When taking about median islands specifically there should not be a condition of approval unless it is necessary for safety purposes.

Council Member Neeb stated he has no problem with charging in lieu fees, and thinks the issue is a safety factor.

**TOWN OF YUCCA VALLEY  
TOWN COUNCIL MEETING MINUTES  
JANUARY 19, 2010**

Mayor Mayes called the regular meeting of the Town of Yucca Valley Council to order at 5:10 p.m.

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

**CLOSED SESSION**

**A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Subsection (a) of Section 54956.9(a), Ronald Green and Sharon Green vs. County of San Bernardino, City of Yucca Valley, Case No. CIVMS 800111, 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. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

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

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

Property: 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

APN 601-551-16 & 17, North side of Business Center Drive, east of Indio Avenue  
Don Lander/Town of Yucca Valley  
Andrew Takata, Real Property Negotiator  
Real Property Negotiations

APN 595-071-03; 56525 Little League Drive Southeast Corner of Palm Avenue and  
Little League Drive.  
Boys & Girls Club of the Hi Desert/Town of Yucca Valley  
Andrew Takata, Real Property Negotiator  
Real Property Negotiations

APN 595-071-01 & 02; East side of Palm Avenue, North of Cassia Drive  
Boys & Girls Club of the Hi Desert/Town of Yucca Valley  
Andrew Takata, Real Property Negotiator  
Real Property Negotiations

Mayor Mayes adjourned the meeting to closed session at 5:10 p.m. and returned at 5:52 p.m. and announced there was no reportable action taken.

Mayor Mayes recessed the meeting to 6:00 p.m.

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

Staff Present: Town Manager Takata, 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

**PRESENTATIONS, INTRODUCTIONS, RECOGNITIONS**

1. **Scott Nassif, League of California Cities Desert Mountain Division President to make a Presentation to Mayor Mayes.**

President Nassif presented the Larry Chambole Service Award to Mayor Mayes.

2. **Employee of the Quarter**

Presented to William Carter, Skilled Maintenance Worker II - Streets

3. **Longevity Award**

Presented to Christine Kim, Executive Assistant, for 5 years.

Town Manager Takata introduced CHP Commander Tim Tompkins

**AGENCY REPORTS**

**Fire Department**

4. **Monthly Report.**

Battalion Chief Oplinger gave the monthly statistical Fire Department report for December 2009 and safety message reminding everyone about home electrical cautions.

**Chamber of Commerce**

**5. Monthly Report**

Mike Kelliher, Chamber President, gave the monthly Chamber of Commerce statistical report.

**APPROVAL OF AGENDA**

Mayor Mayes advised of the need to add an item to the agenda and to move Item 14 to the Consent Agenda.

Council Member Luckino moved to add to the Consent Agenda as Item 12A: Contract Amendment with Town Manager regarding 90 day release, as there is a need to take immediate action, and the need for action came to the attention of the local agency subsequent to the agenda being posted, move Item 14 to the Consent Agenda and approve the agenda as amended. Council Member Neeb seconded. Motion carried 5-0 on a voice vote.

**CONSENT AGENDA**

6. **Approve**, Regular Town Council Meeting Minutes of December 15, 2009 as presented.
7. **Waive**, further reading of all ordinances (if any in the agenda) and read by title only.
9. **Accept**, construction of the 2009-2010 Town Wide Seal Coat Project, Town Project No. 8326 by Bond Blacktop, Inc. as substantially complete and: 1. **Authorize** Town Staff to file the Notice of Completion with the County Recorder; 2. **Authorize** Town Staff to release the Performance Bond in the amount of \$873,680.91; and 3. **Authorize** Town Staff to release retention monies in the amount of \$87,556.56 due the contractor thirty-five (35) calendar days after recordation of the Notice of Completion.
11. **Direct**, staff to communicate the Agency's intent to remit payment of the 2009-10 SERAF payment with RDA funds to the county auditor by March 1, 2010, in accordance with the legislation.
12. **Ratify**, Warrant Registers in the amount of \$630,975.05 for checks dated December 18, 2009. Ratify the Payroll Registers in the amount of \$330,592.51 dated December 11, 2009 through December 23, 2009.
- 12A. **Approve**, Contract Amendment with Town Manager regarding 90 day release.

14. **Approve, 2008/2009 Annual Redevelopment Report, 2008/2009 and Annual Redevelopment Agency Financial Report**

Council Member Luckino requested to pull Item 8, Council Member Herbel requested to pull Item 10.

Council Member Huntington moved to adopt Consent Agenda Items 6, 7, 9, 11, 12, 12a and 14. Council Member Neeb 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

8. **Development Code Update and Rewrite, Request for Qualifications/Proposals (RFQ/RFP), Approval and Authorization to Release RFQ/RFP**

Deputy Town Manager Stueckle advised the item authorizes staff to advertise for an RFQ/RFP to rewrite the Development Code.

Council Member Luckino questioned if the Council should give direction to staff to give to the consultant who is chosen. Deputy Town Manager Stueckle advised that the project will be in two phases, noting that the first is an assessment where the consultant will interview the Town Council, Planning Commission, the community and staff. That informational report will come back to the Council to provide direction.

Mayor Mayes emphasized the need for the organization of the code to be extremely **simple**, so that anyone is able to read and understand it.

Council Member Herbel agreed that the code needs to be organized in a reasonable manner and needs to be simple. It needs to be consistent with general plan and special attention should be paid to the biological resources section of the General Plan. The Council should get busy on the grading ordinance.

Council Member Huntington advised on a regional approach, there are groups working in the valley to map wildlife corridors and he would like those documents to be considered with the development code update.

Council Member Herbel moved to approve the Request for Qualifications/Request for Proposals, and Authorize staff to advertise the project. Council Member Neeb seconded. Motion carried 5-0 on a voice vote.

10. **Offer to Donate Storage Building to Yucca Valley Animal Shelter, Acceptance of Donation**

Deputy Town Manager Stueckle advised the Critter Coalition, through Kate Porter, director and founder, has offered to purchase and donate a new 10 x 12 shed for the Shelter.

Council Member Herbel advised she pulled the item to recognize Kate Porter and comment on the letter from stating how valuable Melanie Crider and Kim Casey are. She suggested a letter from the Council be written to thank the Coalition for their donation.

Council Member Herbel moved to accept the donation of a new 10 x 12 storage building from Critter Coalition for placement and use at the Yucca Valley Animal Shelter. Council Member Luckino seconded. Motion carried 5-0 on a voice vote.

## DEPARTMENT REPORTS

### 13. **Desert Regional Tourism Agency (DRTA) Quarterly Report for the quarter ending December 31, 2009**

Administrative Services Director Yakimow reported the lease agreement between the Town and DRTA, which operates the Welcome Center, requires that they provide the Town with a quarterly written report.

**Cary Harwin**, DRTA, gave the quarterly update. In 2009 the California Travel and Tourism Commission performed a survey of the Welcome Centers and estimated that total spending by Welcome Center Visitors in Yucca Valley was \$2,229,742. The economy has impacted tourism all over the state, but the numbers have only dropped 6% here, which says a lot for the Center. Joshua Tree National Park has recognized the value of the Center and has a ranger in uniform come to the Center on weekends to speak to the visitors. DRTA is also doing a study to establish guidelines to bring back to the Council to amend the lease to allow them to rent the facility. He also requested to develop a 2+2 committee to meet on a quarterly basis and requested an additional \$10,000 to allow the facility to maintain the level of service that has been expected.

Council Member Huntington advised that his wife is a member of DRTA and is a non compensated entity, therefore he has no conflict and can make a decision without jeopardizing his position. He questioned if the County has been approached for assistance. Mr. Harwin advised they will be approached. Council Member Huntington questioned how many employees are compensated. Mr. Harwin advised there are 4 paid employees and 13 volunteers.

Mayor Mayes commented regarding the 2+2 which was originally him and Council Member Neeb and apologized for dropping the ball. We will try to set a meeting up in the near future.



Council Member Luckino commented that tourism big part of our local economy and confidence is a big piece of it. He recommended that no funding be given after July 1, 2010 until DRTA and the Town can come to the table.

Council Member Neeb commented he was one of the few here when the Welcome Center was brought to the community with considerable effort. He would like to see what kind of return we can get and noted that the Town’s economic development efforts have not been as successful as the Welcome Center has.

Council Member Herbel commented that DRTA provides a valuable service, and the Town needs to capitalize on tourism. She advised she is in favor of funding the \$10,000

Mayor Mayes commented he has had plenty of conversations about this noting the issue is trying to protect the public trough. Tourism is a component of our economic viability, but as a region we can do better than we have been doing. He questioned if the California Welcome Center is the most effective form of public expenditure to increase possible revenue into the area, and noted he does not think that it is, but does think the Center is an asset to community.

Council Member Luckino commented there wasn’t a time frame last year and suggested one might make us come to the table and get other partners involved.

Council Member Neeb commented there is a need to look at dollar stretchers in these tough economic times, noting they have 13 volunteers there, and he doesn’t know if Council has an idea where the Town can spend money and have it do more than the Center has done. He does believe the County should be a participant.

Administrative Services Director Yakimow advised the direction to staff would be to honor the request to forward the money and accommodate it within existing budget.

Council Members Herbel and Neeb will participate on the 2+2 committee.

Council Member Neeb moved to receive and File the Quarterly Activity Report for the quarter ending December 31, 2009, and approve the request of the DRTA for additional funding in the amount of \$10,000. 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

**15. Annual Reserve Policy Review**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,  
CALIFORNIA AUTHORIZING THE NECESSARY INTERFUND TRANSFERS IN  
ACCORDANCE WITH THE TOWN'S RESERVE POLICY

Administrative Services Director Yakimow requested the Council adopt a resolution modifying the Town's Reserve Policy by amending the fiscal year 2008-10 budget by amending the designated reserve balances, including a one-year increase in the general fund reserve cap to 45%.

Council Member Luckino questioned where the Town falls based on feedback from other cities. Administrative Services Director Yakimow advised the Town is very fortunate noting that many municipalities throughout the state are in dire straits. He noted that staff will solicit more guidance from Council with the mid year review. Council Member Luckino clarified that, based on policy of Council and work of staff, the Town is positioned as well as it can be based on what other cities are doing. Town Manager Takata commented he does not know if other cities in the state are raising their reserves instead of lowering them. He added that normally excess reserves are put into the capital account, and this year staff is recommending the Council play it safe and not put it in that account.

Council Member Luckino moved to adopt Resolution No. 10-01 modifying the Town's Reserve Policy by amending the fiscal year 2008-10 budget as follows: Amend the designated reserve balances as indicated on Exhibit A to the resolution, including a one-year suspension of the capital projects reserve fund transfer and a corresponding one-year increase in the general fund reserve cap to 45%. Council Member Neeb seconded. Motion carried 5-0 on a voice vote.

**16. FY 2009-10 COLA Adjustment**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,  
CALIFORNIA AUTHORIZING POSITIONS AND PAY RANGES FOR FISCAL  
YEAR 2009-2010

Town Manager Takata advised the COLA for staff has been deferred from 2007 to 2009. To insure the Town does not continue to indefinitely defer adjustments into the future and to recognize the increased work load of the employees as a result of the recent retirements and planned vacancies, a 2% COLA is recommended effective with the pay date of February 19, 2010.

Council Member Luckino questioned if the Town is going to have a balanced budget in 09/10 based on preliminary projections. Administrative Services Director Yakimow advised it is dependent on sales tax, noting in terms of an actual dollar amount total amount of the COLA is about \$30,000 and will be funded from an unplanned department head vacancy. With the 8 existing vacancies the Town will probably have savings in

excess of the \$30,000. Council Member Luckino stated he feels the item is premature, and he is reluctant to approve it at this point and time without seeing the preliminary numbers for 09/10.

Council Member Neeb commented staff has made this recommendation in light of the budget, and the Town has positions that have not been filled and a cut back of staff of 15%. Administrative Services Director Yakimow commented with the current staffing levels the Town has enough to accommodate this request. Council Member Neeb advised he is confident we can accommodate this noting staff has been asked to do more with less, and things are stretched pretty thin.

Council Member Huntington commented it is his understanding that, due to one department head position that is budgeted and not filled, there is more than enough to cover the increase. He agreed with Council Member Neeb.

Council Member Herbel commented that now there is more than enough take care of the increase because of a department head moving on, and questioned the impact in years to follow. Administrative Services Director Yakimow advised anytime you adjust salaries there is a long term expenditure that goes into the out years, and the updated salary schedule will be included in future forecasts.

Council Member Neeb stated that last time the Town did a salary survey we were quite a bit behind the curve. Administrative Services Director Yakimow advised there were a number of positions changed.

Council Member Luckino questioned when the COLA was deferred in order to increase the PERS retirement. Administrative Services Director Yakimow advised that was in 2005. Council Member Luckino questioned if the increase will be retroactive. Administrative Services Director Yakimow stated it will not. Council Member Luckino commented he has a tough time with the urgency approving the increase now, and would hate to make a decision that is going to obligate the Town in future years. He would like to see what we are looking at in 09/10 first.

Council Member Herbel expressed concern for the future and suggested that the Council might wait. Town Manager Takata advised that staff has never brought anything to the Council that would jeopardize the Town in future years.

Mayor Mayes commented that with the current Management we have been exceptionally efficient, and staff is working over and above what they have been in past. He feels 2% since 07 is warranted. He will support the request

Council Member Neeb advised he also supports the item, noting staff has always been very prudent with its recommendations and the Town Manager has recommended a balanced budget all along.

Mayor Mayes commented the only other loose end needs to be tied up is the timing. Administrative Services Director Yakimow advised it is for the pay date of February 19<sup>th</sup>.

Council Member Neeb moved to approve a 2% Cost of Living adjustment for Town employees and adopt Resolution No. 10-02 authorizing positions and pay ranges effective with the pay date of February 19, 2010. Council Member Huntington seconded. Motion carried 4-1 on a roll call vote.

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

17. Appointments to Planning Commission

Town Clerk Anderson reported the terms of Planning Commissioners Goodpaster, Lombardo and Rowe have expired. The openings have been advertised, Commissioners Lombardo and Rowe have requested reappointment, and several applications have been received.

**Charla Shamhart**, Yucca Valley, spoke in opposition to the appointment of Tim Humphreville.

**Lorraine Silver**, and **Charlyne Connors**, Yucca Valley, did not wish to speak but were in opposition to appointment of Tim Humphreville.

**David Fick**, Joshua Tree, spoke in opposition to the appointment of Tim Humphreville,

**Ramon Mendoza**, Yucca Valley, spoke in opposition to the appointment of Tim Humphreville.

Council Member Luckino commented in the past there was a lack of people interested in serving on the Commission, and he is proud there were 5 who turned in applications and another five who expressed interest. He is disappointed in the negative comments as it relates to one of the candidates, but no positive comments made regarding the time and resources this person has donated to the community by fixing the Boys and Girls Club building, nothing about the work he has done with Fish and Wildlife, and nothing about the work he has done with others on the native plant ordinance. Diversity is needed on the Commission and currently there is no one with technical experience on the Commission. He moved to nominate Tim Humphreville. Council Member Huntington seconded.

Council Member Herbel commented she appreciates what Mr. Humphreville does in the

community, but it is important to look at policy and that each member of the Commission receives a copy of the General Plan and reads it. She quoted the Biological Resources section and stated it is clear native plants are important to our rural character. It is important to appoint Commissioners who have a balanced and informed approach.

Council Member Huntington stated he is a strong advocate of native plant protection and having been on the Planning Commission there is a need for balance to present a variety of levels.

Motion carried 4-1 on a roll call vote.

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

Council Member Huntington moved to reappoint Commissioner Lombardo. Council Member Neeb 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

Mayor Mayes moved to nominate Commissioner Rowe for another term on the Commission. Council Member Neeb 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

**18. Appointment of Redevelopment Agency Member**

Town Clerk Anderson advised the resignation of Commission/Agency Member Goodpaster has left a vacancy on the RDA. The position was advertised and one application was received from Dawn Rowe.

Council Member Luckino moved to nominate Dawn Rowe to fill a vacancy on the Redevelopment Agency. Council Member Huntington 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

## POLICY DISCUSSION

### 19. **Town Council Request and Policy Discussion, Sign Ordinance Enforcement, Temporary Signs, Banners & Flags for Commercial Enterprises (carried forward from December 15, 2009 Town Council Meeting)**

Associate Planner Kirschmann advised that staff recommends the Town Council suspend enforcement of the time periods established for temporary commercial and industrial signs as established in Section 87.07130(c), for a period of one year, ending on December 15, 2010, and allow temporary signs to remain installed for one year after the issuance of a permit pursuant to the Town's sign regulations.

**Mike Kelliher**, Chamber of Commerce President, stated that, in a down economy, businesses need to do what every they can to keep their businesses in town, and anything we can do as the Town and Chamber to help these businesses bring business in means more money to the Town.

**Ramon Mendoza**, Yucca Valley, agreed that the Town should do whatever it can with good taste, noting that for some people signage is offensive.

Council Member Luckino thanked Council for holding the item over until he was in attendance and advised that local business people are trying to do whatever they can to pay the bills. These are tough times and he does not want the Council to become an obstacle in the recovery of this community. Due to the delay in taking action he requested that, instead of December 15<sup>th</sup> 2010, he would like it to be for 12 months so the date would be January 19<sup>th</sup> 2011, also he would like the sidewalk part taken out of sandwich signs.

Council Member Neeb commented he thinks people want to stop in a clean and attractive community. He will support tonight's recommendations, but do tend to go along with Ramon Mendoza that some ideas can get extreme if we let them fly.

Council Member Herbel questioned if people holding signs along the street have to have permits. Associate Planner Kirschmann stated there are no regulations in the sign code.

Council Member Huntington advised there needs to be control of the signs through a permit fee or we will end up with blight.

Council Member Luckino commented there has been improvement on SR 62, but a business owner would like to put out sandwich signs. He requested that the Town put a moratorium on the need for a sidewalk.

Upon discussion Council Member Neeb requested that action not be taken on the sidewalk issue at this time.

Mayor Mayes questioned why fees for temporary signs were more than for regular signs. Deputy Town Manager Stueckle explained the increased staff time involved with temporary signs.

Council Member Neeb moved to suspend enforcement of the time periods established for temporary commercial and industrial signs as established in Section 87.07130 (c), for a period of 12 months, ending on January 20, 2011 and allowing temporary signs to remain installed for one year after issuance of a permit pursuant to the Town's Sign Regulations. Council Member Huntington seconded. Motion carried 5-0 on a voice vote.

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

20. Town Council Strategic Plan, Code Compliance Program

Deputy Town Manager Stueckle advised that, as part of the Strategic Plan process, the Council requested an opportunity to discuss Code Compliance

Code Compliance Supervisor Megli gave a power point presentation showing various cases the department has worked on.

**Ramon Mendoza**, Yucca Valley, commended the work of the Code Compliance Division.

Council Member Luckino questioned if the department currently operates Monday through Friday and not weekends. Code Compliance Supervisor Megli advised that occasionally they work on weekends.

Council Members thanked the Code Compliance staff for the work they do.

Council Member Luckino commented that Code Enforcement has always been an issue, noting that current policy is that Code Enforcement is reactive rather than proactive. Code Compliance Supervisor Megli advised if there is a safety issue it must be addressed, in addition property along SR 62 is proactively enforced per previous Council direction.

Council Member Neeb commented his thoughts haven't changed on that direction.

Mayor Mayes questioned if Council feels there needs to be any change in the way the Code Compliance Department works.

Council Member Luckino expressed concern regarding the need for neighbors to turn in their neighbors.

Upon further discussion it was noted that policy change from reactive to proactive would require more staffing.

## PUBLIC COMMENT

**David Mehaffe**, Yucca Valley, commented regarding his own wastewater treatment system.

**Ramon Mendoza**, Yucca Valley, commented regarding their wastewater treatment system and the ability to have a reclamation tank rather than a septic tank.

**Larry Callander**, Yucca Mesa, commented regarding a proposed change to the County's OHV ordinance and requested the Town write a letter to the County Supervisors opposing the change.

**Margo Sturges**, Yucca Valley, commented she is proud to be planning commissioner and President of Yucca Valley Republican Women, and noted she is always very careful to speak as a private citizen when addressing the Council. Stated she is happy to see Commissioner Lombardo's term extended and wished Town Manager Takata well in his new job.

## STAFF REPORTS AND COMMENTS

Town Manager Takata advised that interviews for Interim Town Manager will be held on Tuesday and Wednesday.

## MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

### 21. Council Member Luckino

Congratulated Mayor Mayes on being recognized by the Desert Mountain Division of the League of California cities.

Congratulated William Carter for being selected as Employee of the Quarter and Christine Kim for receiving her 5 year longevity award.

Congratulated Town Manager Takata for being selected to his new job.

### 22. Council Member Huntington

Commented that Mayor Mayes makes the Council and Town proud.



Congratulated William Carter noting he has been with the Town for 15 years and worked for him for 10 years prior to that.

Congratulated Christine Kim for her longevity.

**23. Council Member Neeb**

Echoed comments regarding Christine Kim and William Carter.

Congratulated Mayor Mayes and thanked Scott Nassif for coming over to present the award.

Reported regarding attendance at the Sanbag meeting and discussion regarding the initial stages of putting a barrier up on the Yucca Grade.

**24. Mayor Pro Tem Herbel**

Congratulated Mayor Mayes and thanked Scott Nassif for attending the meeting.

Thanked William Carter for being with the Town for 15 years, and congratulated Christine Kim.

Wished Town Manager Takata good luck in his new position.

**25. Mayor Mayes**

Thanked Scott Nassif for coming out, noting the Larry Chimbole award is something the Desert Mountain Division has given for 4 or 5 years, and to be chosen is a great honor.

Advised he is not going to say goodbye to Town Manager Takata yet, noting appointing a Town Manager is one of the biggest decisions a Council Member will ever make. Town Manager Takata was able to shape the organization and the Council and Council suddenly had great chemistry because we had a great chemist.

**COMMITTEE REPORTS**

Council Member Huntington reported regarding the Animal Services JPA Meeting, noting the County is considering financing the Towns remaining contribution.

Council Member Herbel advised it was a relief to know that the County is going to help us pay the bill and that she appreciates their working with us. It is wonderful to be on the board.

**YUCCA VALLEY TOWN COUNCIL MINUTES**

**JANUARY 19, 2010**

**ANNOUNCEMENTS**

Next Town Council Meeting, Tuesday, February 2, 2010.

**ADJOURNMENT**

There being no further business the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Jamie Anderson, MMC  
Town Clerk

**ORDINANCE NO. 156**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 8, DIVISION 7, CHAPTER 7 OF THE SAN BERNARDINO COUNTY CODE AS ADOPTED AND AMENDED BY THE TOWN OF YUCCA VALLEY RELATING TO SIGN REGULATIONS (DCA-03-03)**

The Town Council of the Town of Yucca Valley does ordain as follows:

**SECTION 1. MUNICIPAL CODE AMENDED.**

Title 8, Division 7, Chapter 7 of the San Bernardino County Code as adopted and amended by the Town of Yucca Valley is further amended to read in its entirety as follows:

**"Chapter 7  
Sign Regulations**

Sections	87.0710	Purpose and Intent
	87.0720	Definitions
	87.0730	Applicability
	87.0740	Administration
	87.0750	Sign Permits Required
	87.0760	Design Merit Sign Permit
	87.0770	Landmark Sign Permit
	87.0780	Prohibited Signs
	87.0790	Exempt Signs
	87.07100	Sign Program
	87.07110	General Design Standards
	87.07120	Signs in Residential, Open Space, & Public/Quasi Public Districts
	87.07122	Signs in Commercial Districts
	87.07124	Signs in Industrial Districts
	87.07128	Signs in Specific Plan Overlay
	87.07130	Temporary Signs
	87.07140	Off-Site Signs and Billboards
	87.07145	Off-Site Signs on Public Property
	87.07146	Public Facility Directional Signs
	87.07147	Wall Murals
	87.07150	Abandoned Signs
	87.07160	Construction and Maintenance
	87.07170	Nonconforming Signs
	87.07190	Enforcement

### **Section 87.0710 PURPOSE AND INTENT**

The purpose and intent of this Chapter is to protect the general public health, safety, welfare, viewsheds and other aesthetic values of the community by ensuring that signage is clear, consistent and compatible with surrounding neighborhoods and the rural desert character of the Town; assure the implementation of community design standards consistent with the General Plan; promote the community's appearance by regulating the design, character, location, type, quality of materials, scale, color, illumination, and maintenance of signs; place limits on the use of signs which provide direction and aid orientation for businesses and activities; promote signs that identify uses and premises without confusion; reduce possible traffic and safety hazards through good signage. It is the further intent of this Chapter to establish flexibility based upon individual circumstances which includes building location in relation to adjacent structures, public rights-of-way, compatibility with surrounding development and visibility of the business location to the general public.

### **Section 87.0720 DEFINITIONS**

**Abandoned Sign.** Any sign and supporting structures located on a property or premises which is vacant and unoccupied for a period of ninety (90) days or more which no longer advertises or identifies an ongoing business, product, or service available on the business premises where the display is located, or a sign which is damaged, in disrepair, or vandalized and not repaired within ninety (90) days of the date of the damaging event.

**Advertising Statuary:** A statue or other three dimensional structure in the form of an object that identifies, advertises, or otherwise directs attention to a product or business.

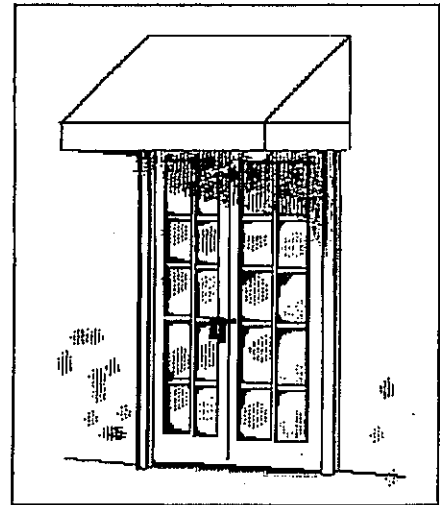
**Address Sign.** The numeric reference of a structure or use to a street, included as part of a wall or monument sign.

**A-Frame Sign.** A free standing sign usually hinged at the top, or attached in a similar manner, and widening at the bottom to form a shape similar to the letter "A".

**Anchor Tenant.** A shopping center key tenant, usually the largest or one of the largest tenants located within the shopping center, which serves to attract customers to the center through its size, product line, name, and reputation. The term anchor tenant is interchangeable with the term major tenant.

**Animated or Moving Sign.** Any permanently constructed monument, freestanding, or wall sign which uses movement, lighting, or special materials to depict action or create a special effect or scene.

**Awning, Canopy, or Marquee Sign.** Signs which are placed on or integrated into fabric awnings or other material canopies which are mounted on the exterior of a building which extend from the wall of a building to provide shielding of windows and entrances from inclement weather and the sun.



**Banner, Flag, Pennant or Balloon.** Any cloth, bunting, plastic, paper, vinyl, or similar material used for advertising purposes attached to or pinned on or from any structure, staff, pole, line, framing, or vehicle, including captive balloons and inflatable signs but not including official flags of the United States, the State of California, County of San Bernardino or Town of Yucca Valley.

**Bench Sign.** Copy painted on any portion of a bus stop bench.

**Billboard.** Any off-premise outdoor advertising sign structure which advertises products, services, or activities not conducted or performed on the same site upon which the outdoor advertising sign structure is located and governed by the Outdoor Advertising Act.

**Building Face and/or Frontage.** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

**Building Wall:** The individual sides of a building.

**Business Entrance Identification:** A sign adjacent to, or on the entrance door of a business which names, gives the address and such other appropriate information as store hours and telephone numbers.

**Cabinet:** A three dimensional structure which includes a frame, borders, and sign face panel and may include internal lighting upon which the sign letters and logos are placed or etched, and is architecturally integrated with the building.

**Canopy Sign.** Refer to definition of a Shingle Sign

**Center:** A center contains businesses and buildings designed as an integrated and interrelated development sharing such elements as architecture, access, and parking. Such design is independent of the number of structures, lots or parcels making up the center.

**Changeable Copy Sign.** A sign designed to allow the changing of copy through manual, mechanical, or electrical means including time and temperature.



**Channel Letter Sign:** Three dimensional individually cut letters or figures, illuminated or non-illuminated, affixed to a building or sign structure.

**Civic Event Sign.** A temporary sign, other than a commercial sign, posted to advertise a civic event sponsored by a public agency, school, church, civic-fraternal organization, or similar noncommercial organization.

**Clear Sight Triangle:** Triangular-shaped portion of land established at a street intersection or driveway in which no signs are placed in a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection or driveway.

**Commercial Complex.** A group of three (3) or more commercial uses on a single parcel or contiguous parcels which function as a common commercial area including those which utilize common off-street parking or access.

**Commercial Sign.** A sign that identifies, advertises or otherwise attracts attention to a product or business.

**Construction Sign.** A temporary sign erected on the parcel on which construction is taking place, limited to the duration of the construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owner, financial supporters, sponsors, and similar individuals or firms having a major role or interest with respect to the structure or project.

**Directional Sign.** Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one way", "entrance", or "exit".

**Directory Sign.** A sign for listing the tenants or occupants and their suite numbers of a building or center.

**Double-faced Sign.** A single structure designed with the intent of providing copy on both sides.

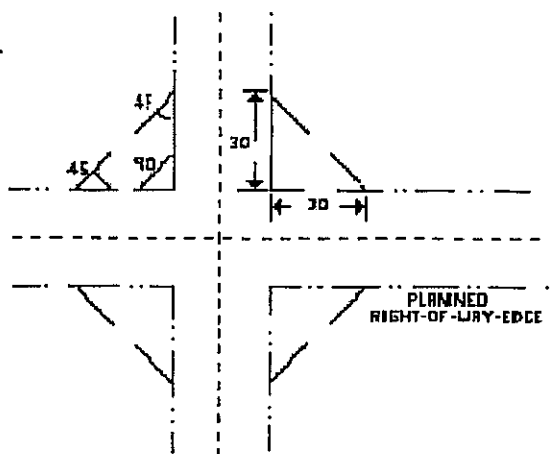
**Eaveline.** The bottom of the roof eave or parapet.

**Entryway Sign:** A sign which is placed on the perimeter of a recorded subdivision, townhouse project, commercial district, master planned community, hotel, motel, or guest ranch at a major street or driveway entrance to identify the name of the interior project. Such signs may flank both sides of the entrance and may include monument or landscape wall sign types.

**Fascia Sign:** A sign placed on a parapet type wall used as part of the face of a flat roofed building and projecting not more than one foot from the building face and may be incorporated as an architectural element of the building.

**Flashing Sign.** A sign that contains an intermittent or sequential flashing light source.

**Freestanding Sign.** Any sign which is supported by structures or supports that are placed on, or anchored in the ground which are independent from any building, such as a pole and monument



signs.

**Future Tenant Identification Sign.** A temporary sign which identifies a future use of a site or building.

**Grand Opening.** A promotional activity used by newly established businesses, within 2 months after occupancy, to inform the public of their location and service available to the community. Grand Opening does not mean an annual or occasional promotion of retail sales or activity by a business.

**Height of Sign.** The greatest vertical distance measured from the immediate adjacent roadway grade level or existing grade, to the highest element of the sign structure

**Holiday Decoration Sign.** Temporary signs, in the nature of decorations, clearly incidental to and customarily associated with holidays.

**Illegal Sign.** Any sign erected without first obtaining a sign permit, or a sign for which the permit has expired or been revoked.

**Illuminated Sign.** A sign with an artificial light source for the purpose of lighting the sign.

**Institutional Sign.** A sign identifying the premises of a church, school, hospital rest home, or similar institutional facility.

**Kiosk.** An off-premise sign used for directing people to the sales office or models of a residential subdivision project.

**Logo.** An established identifying symbol or mark associated with a business or business entity.

**Logo Sign.** An established trademark or symbol identifying the use of a building.

**Model Home.** A single family residential structure when used as a temporary sales office and model home for the sale of construction services to build single family residential units on vacant lots.

**Monument Sign.** An independent structure supported from grade to the bottom of the sign with the appearance of having a solid base.

**Moving Sign.** Animated signs or signs which contain any moving elements as part of the structure but does not include reflective, shimmering devices.

**Nonconforming Sign.** A legally established sign which fails to conform to the regulations of this Chapter.

**Off-Site Sign.** Any sign which advertises or informs in any manner businesses, services, goods, persons, or events at some location other than that upon which the sign is located.

**Open House Sign.** A temporary sign posted to indicate a salesperson is available to represent the property subject to sale, lease, or rent.

**Outdoor Advertising Sign Structure (Billboards)** A sign, display, or device affixed to the ground or attached to or painted or posted onto any part of a building or similar permanent structure, used for the display of an advertisement to the general public.

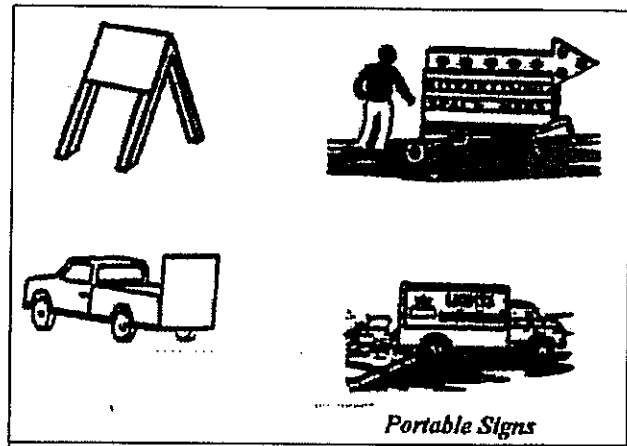
**Pole/ Pylon Sign:** A two-sided sign with an overall height as allowed by Code and having one or more supports permanently attached directly into or upon the ground with the lower edge of the sign face to be at least seven (7) feet above grade or four (4) feet above grade if the sign is located within a street landscape setback.

**Political Sign.** A temporary sign directly associated with national, state, county or local elections.

**Portable Sign.** A sign that is not permanently affixed to a structure or the ground, not including A-frame signs.

**Projecting Sign.** A sign other than a wall sign suspended from, or supported by, a building or structure and projecting outward.

**Promotional Sign.** A sign erected on a temporary basis to promote the sale of new products, new management, new hours of operation, a new service, or to promote a special sale.



**Real Estate Sign.** An on-site sign pertaining to the sale or lease of the premises.

**Roof Sign.** A sign erected, constructed, or placed upon or over a roof of a building, including a mansard roof and which is wholly or partly supported by such buildings.

**Shingle Sign (canopy sign).** A sign suspended from a roof overhang of a covered porch or walkway that identifies the tenant of the adjoining space.

**Sign.** Any structure, housing, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which is designed, constructed, created, engineered, intended, or used to advertise, or to provide data or information in the nature of advertising, for any of the following purpose: to designate, identify, or indicate the name of the business of the owner or occupant of the premises upon which the advertising display is located; or, to advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display is erected.

**Sign Area.** The entire face of a sign, including any framing, projections, or molding, but not including the support structure. Individual channel-type letters mounted on a building shall be



measured by the area enclosed by straight lines not to exceed ten (10) sides, containing words, letters, figures, or symbols, together with any frame or material forming an integral part of the display but excluding support structures.

**Sign Program.** A coordinated program of one or more signs for an individual building or building complexes with multiple tenants.

**Special Event.** An event such as sales, grand openings, going out of business, or other promotional events that are not part of typical business, cultural, or civic activity.

**Temporary Sign.** A sign intended to be displayed for a limited period of time.

**Tract.** A residential subdivision of contiguous lots within a recorded tract where five or more lots are concurrently undergoing construction.

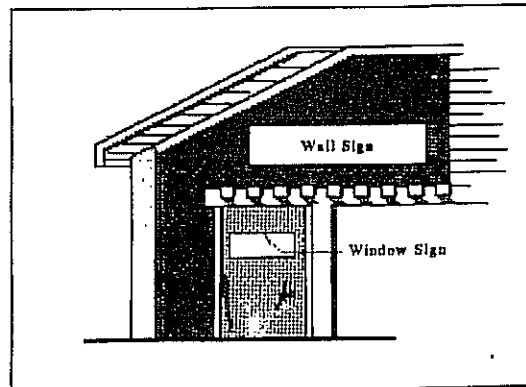
**Trademark.** A word or name which, with a distinctive type or letter style, is associated with a business or business entity in the conduct of business.

**Two-sided Sign.** Means a freestanding sign where two identical sign faces are placed back to back on the same structure. Any other configuration is considered to be a sign with more than two faces except as allowed by the freestanding sign standards.

**Vehicle Sign.** A sign which is attached to or painted on a vehicle which is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or an activity or business located on such property.

**Wall Sign.** A sign painted on or fastened to a wall and which does not project more than 12 inches from the building or structure.

**Window Sign.** Any sign that is applied or attached to a window so that it can be seen from the exterior of the structure.



### **Section 87.0730 APPLICABILITY.**

This Chapter shall apply to all signage proposed within the community. No signs shall be erected or maintained in any land use district established, except those signs specifically enumerated in this Chapter. The number and area of signs as outlined in this Chapter are intended to be maximum standards. In addition to the standards set forth herein, consideration shall be given to a sign's relationship to the need that it serves, and the overall appearance of the subject property as well as the surrounding community. Compatible design, simplicity, and sign effectiveness are to be used in establishing guidelines for sign approval, but shall not limit maximum standards for signs.

### **Section 87.0740 ADMINISTRATION**

a. **Administration**

The Director of the Community Development Department is authorized by the Town Council to administer and enforce the provisions of this Chapter, unless otherwise provided in this Chapter. The Director may designate a representative to act in his/her place.

b. **Application and Fees.**

1. Applications for sign permits shall be made on forms provided by the Planning Division and accompanied by the information, materials, and submittal requirements as specified on the forms.
2. Fees shall be paid as established by the Town of Yucca Valley fee schedule.
3. Political Signs are exempt from payment of fees.
4. Any fees shall be doubled for signs that are erected or placed prior to issuance of a sign permit or any required building and electrical permits.

c. **Interpretation**

1. This Chapter shall be interpreted in a manner which best fulfills the intent of its provisions.
2. Questions arising from the application of the Chapter shall be interpreted by the Director. If any inconsistency still exists in the interpretation, an appeal application shall be referred to the Planning Commission for their determination.

d. **Appeals**

1. Any decision or determination of the Director may be appealed within ten (10) days to the Planning Commission. Appeals shall be made on forms provided by the Planning Division and fees shall be paid as established by the Town of Yucca Valley fee schedule.
2. Any decision of the Planning Commission may be appealed to the Town Council in accordance with the Appeal provisions provided by the Development Code.

**Section 87.0750 SIGN PERMIT REQUIRED**

- a. No exterior sign shall be erected, placed, displayed, or dimensionally altered, without registration and the prior issuance of a Sign Permit by the Planning Division, unless exempted by *Section 87.0790 Exempt Signs*. Temporary Sign Permits are required for those designated under *Section 87.07130 Temporary Signs*. Sign Permits are not required for change of sign face/ copy, minor maintenance or minor repairs to existing legally erected signs. Building and/or electrical permits may also be required from the Building Division.
- b. The Director of the Community Development Department shall review all applications for consistency with this Chapter. The Director shall approve, or approve subject to modifications and/or conditions and consequently issue a sign permit, or deny the sign application.

- c. Signs shall be erected in conformance with the provisions of this Code and any applicable specific plan, master sign program, and any conditions of approval of the Sign Permit.
- d. Any proposed sign design that does not conform to the standards of this Chapter shall be subject to the variance provisions of this Development Code. The provisions of *Section 83.030905, Variance* shall apply. The Planning Commission may grant a sign variance based on findings, and it may be granted when property has special circumstances such as size, shape, topography, location or surroundings that deprive the property owner of privileges enjoyed by other property owners in the vicinity under identical zoning classifications. Applications for a variance shall be made on forms provided by the Planning Division and fees shall be paid as established by the Town.

**Section 87.0760 DESIGN MERIT SIGN PERMITS**

The purpose of these provisions shall apply to permanent signs to provide flexibility in sign regulation and to encourage exceptional quality in sign design and construction. The provisions are intended to implement the goals and objectives of the Town’s General Plan; to encourage and promote designs which relate to and are harmonious with the rural desert character, and which enhance the quality of life of the Town.

- a. **Application and Fees** . Design Merit Sign Permits shall be made on Conditional Use Permit (CUP) application forms provided by the Planning Division and accompanied by the information, materials, and submittal requirements as specified on the forms, including information which will enable the required findings to be made. Applications shall clearly demonstrate exceptional design and construction quality in order to be considered for Design Merit Sign Permits. Fees shall be paid as established by the Town of Yucca Valley fee schedule.
- b. The Planning Commission shall review all applications for a Design Merit Sign Permit for consistency with the review criteria described in *Subsection (d)*, below, as well as consistency with all other standards and guidelines in this Chapter. Review shall include focus on the overall integration and relationship of the proposed sign with the buildings and site and the integration of all elements relating to the sign to achieve the purpose of this Section for exceptional quality that is harmonious with the desert character. Consideration may include size, color, materials, illumination, location, as well as all other elements of creative sign design and construction. Signs that do not clearly demonstrate exceptional quality in design, use of materials, and craftsmanship shall not be considered for any increase in size or height as allowable by this Section.

- c. **Allowable Sign Area and Height.**

The following increases in sign area and height may be allowed when consistent with the purpose, criteria and findings of Design Merit Sign Permits.

- 1. Freestanding signs in Commercial and Industrial land use districts.
  - A. Freestanding signs for single and multi-tenant buildings and sites that are allowed pursuant to *Sections 87.07122 and 87.07124* of this Chapter.
    - 1. Up to a maximum of twenty-five (25) percent increase in area may be allowed.
    - 2. Up to a maximum of fifty (50) percent increase in height for

freestanding signs may be allowed for signs.

d. **Review Criteria**

1. The General Design Standards included in *Sections 87.07122 and 87.07124* are minimum requirements that apply to all signs. Each Design Merit Sign Permit application shall be reviewed by the Planning Commission to determine how exceptional design and material beyond these minimum standards have been incorporated into the proposed sign and whether these elements have been successfully integrated to create a sign that is consistent with the purposes of this Section, which represents exceptional quality, enhances community design and is harmonious with the desert character because it:
  - A. Evokes a special relationship to the structure and uses located on site by incorporating elements of the structural architecture and/or natural features of the site, without dominating the site;
  - B. Makes use of high quality and/or natural or indigenous building materials including, but not limited to rock, adobe, timber, carved wood and incised lettering in stone;
  - C. Identifies the site or use without intensive sign copy (text) by use of graphic imagery and/or logo or utilizes reverse channel lettering or opaque sign field (background) with illuminated routed copy.
  - D. Sign structure is incorporated with landscape treatments including landscape planters, rockscapes, xeriscapes or similar creative landscape elements.
2. Treatments more specific to wall signs that may qualify for the Design Merit Permit include:
  - A. Graphic or logo sign only (without text or type face)
  - B. Reverse channel lettering on opaque background;
  - C. Base-relief lettering.

e. Prior to approving a Conditional Use Permit application for a Design Merit Sign Permit, the Planning Commission shall find and justify that all of the following are true:

1. The proposed sign exhibits exceptional design quality and incorporates high quality materials that enhance the overall development and appearance of the site and will not have an adverse impact on the safe and efficient movement of vehicular or pedestrian traffic;
2. The proposed sign is well integrated with the buildings and other elements of the property and is harmonious with the surrounding desert character;
3. The proposed sign, by its design, construction and location, will not have a substantial adverse effect on abutting property or the permitted use thereof, and will contribute to the Town's unique character and quality of life;

4. The proposed sign is consistent with the goals, policies and standards of the Town's General Plan and any applicable specific plan;
5. That granting the Design Merit Sign Permit is based upon its distinct quality and does not constitute a granting of special privileges beyond those provided for by criteria provided in *Subsection d* above and by *Sections 87.07122* and *87.07124* of the Development Code.

#### **Section 87.0770 LANDMARK SIGN PERMIT**

The purpose of these provisions shall apply to existing permanent signs to provide flexibility in sign regulation that provide landmark value to the community as well as structural sign support. Landmark signs shall evoke a ready reference and connection to the local history of the Town or symbolic landmark. Typical examples include western settlement themes associated with ranching, prospecting, mining, adobes, or extensions of similar architectural landmarks.

- a. **Application and Fees** . Landmark Sign Permits shall be made on Conditional Use Permit application forms provided by the Planning Division and accompanied by the information, materials, and submittal requirements as specified on the forms, including information which will enable the required findings to be made. Applications shall clearly demonstrate the landmark quality and features of the proposed sign in order to be considered for the Landmark Sign Permit. Fees shall be paid as established by the Town of Yucca Valley fee schedule.
- b. The Planning Commission shall review all applications for the Landmark Sign Permit for consistency with the review criteria and finding described below, as well as reference and connection to the local history or symbolic landmark of the Town. Review shall include consideration of size, color, materials, illumination, location, as well as all other elements of creative sign design and construction.
- c. **Review Criteria.** The following criteria will be used to provide guidance during the Town's review. A landmark sign should meet one or more of the following criteria:
  1. The sign shall be at least 25 years or older.
  2. The sign shall exhibit a creative or unique sign design, creative or unique graphics, or construction
  3. The sign structure advertises the original business center name or business name.
  4. The sign display signs must be clean, neatly painted, free from corrosion, cracks, and broken surfaces. The sign shall also have no malfunctioning lights or missing sign copy.
- d. **Findings.** Prior to approving a Conditional Use Permit application for a "Landmark Sign Permit", the Planning Commission shall find and justify that all of the following are true:
  1. The sign is distinct from other signs in the Town in that it clearly provides a reference and connection to the local history of the Town or a local symbolic landmark.

2. The sign, by its design, construction and location, will not have a substantial adverse effect on abutting property or the permitted use thereof, and will contribute to the Town's unique character and quality of life;
3. The sign is consistent with the goals, policies and standards of the Town's General Plan and any applicable plan;
4. That granting of the Landmark Sign Permit is based upon its distinct quality.
5. The sign and all parts, portions, and materials shall be maintained and kept in good repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion.

### **Section 87.0780 PROHIBITED SIGNS**

Unless otherwise determined by the Director, the following signs are inconsistent with the sign standards set forth in this Chapter, and are therefore prohibited:

- Abandoned signs and supporting structures
- Chalkboards or blackboards
- Permanent sale or come-on signs
- Portable signs (except A-frame)
- Roof signs
- Signs painted on fences or roofs
- Large balloons or other large inflatable devices
- Signs that are affixed to vehicles that are purposely parked and serve as an advertisement device.
- Signs which simulate in color or design a traffic sign or signal, or which make use of words, symbols or characters in such a manner to interfere with, mislead, or confuse pedestrian or vehicular traffic.
- Signs which incorporate in any manner any flashing, moving, or intermittent lighting.
- Animated or moving signs or signs which contain any moving parts.
- Banners and Flags (see *Section 87.0130 Temporary Signs*)

### **Section 87.0790 EXEMPT SIGNS**

The following non-illuminated signs shall be permitted without the requirements of a sign permit obtained from the Director of Community Development Department subject to limitations provided in this Chapter or as otherwise provided by State law:

a. **Exempt Residential Signs:**

1. One (1) residential building identification sign, used to identify individual residences, not exceeding 2 square feet in area displaying the name of the owner, occupant, or specific property name.
2. Address numbers shall be placed upon existing and on newly constructed primary dwelling units. Numbers shall be a minimum of 4 inches in height and shall be contrasting in color to the background. Numerals shall be illuminated during hours of darkness.

3. One (1) double faced real estate advertising sign, for sale, lease or rent of a single-family residence and residential lots:
  - A. Such sign shall not exceed nine (9) square feet in area and six (6) feet in height.
  - B. Such sign shall be situated within the property line and in no event shall encroach upon public right-of-way. Such sign shall remain only during the period of time that the premises are being offered for sale, lease or rent and in any event shall be removed fifteen (15) days after the property is sold or the lease is terminated. Property is deemed to be sold upon the close of escrow, upon transfer of legal title, or upon execution of an installment sale, contract, whichever occurs first.
  - C. Open House signs, for the purpose of selling a single house or condominium and not exceeding nine (9) square feet in area and six (6) feet in height, are permitted for directing prospective buyers to property offered for sale.
  - D. Three (3) Open House banners per dwelling unit are allowed on the lot where the open house is conducted with a maximum sign area of sixteen (16) square feet each, for a period not to exceed three (3) days.
4. Until such time as a formal kiosk program is implemented by the Town Council, temporary off-site weekend directional signs shall be permitted for purposes of providing direction subject to the following regulations:
  - A. Maximum area of a directional sign shall not exceed three (3) square-feet nor shall the maximum height of any part of the sign exceed height of three (3) feet.
  - B. Signs shall only be posted on weekends between 3:00 p.m. on Friday and 8:00 a.m. on Monday, or between 3:00 p.m. on the day preceding a holiday occurring on Friday and 8:00 a.m. on the following Monday, or between 3:00 p.m. Friday and 8:00 a.m. on the following Tuesday following a holiday occurring on a Monday.
  - C. Signs shall be posted in the right-of-way.
  - D. There shall be no more than one (1) sign per direction of traffic at any intersection.
  - E. Signs shall be at least five hundred (500) feet from any other sign for the residential development, except at intersections. Signs shall not be within twenty (20) feet of a sign for any other residential development and shall in no way obscure, obstruct, detract, or interfere with any traffic or safety sign.
  - F. Signs left within the right-of-way beyond the time specified in *Subsection (B)* above will be removed by Town forces and any costs for removal will be billed to the project developer

b. **Exempt Commercial Signs:**

1. Window signs not exceeding three (3) square feet and limited to business identification, hours of operation, and emergency information.
2. Non-illuminated real estate signs for the initial sale, rental, or lease of commercial and industrial premises subject to the following:

One (1) sign per street frontage not to exceed 32 square feet in area to advertise the sale, lease, or rent of the premises. No such sign shall exceed eight (8) feet in overall height and shall be removed upon sale, lease or rental of the premises or 24 months, whichever comes first. Thereafter, one sign per premise not to exceed 16 square feet in size and eight (8) feet in height is permitted for the sale, lease or rent of the premise.
3. Identification signs on construction sites. Such signs shall be limited to one directory or pictorial display sign per street frontage or entrance, up to a maximum of two signs, identifying all contractors and other parties (including lender, realtor, subcontractors, etc.). Each sign shall not exceed 32 square feet in area and eight (8) feet in height. Each sign shall be removed prior to issuance of a Certificate of Occupancy.
4. One (1) building identification sign, used to identify individual buildings, not exceeding two (2) square feet in area displaying only the name of the owner or occupant.
5. Address numbers shall be placed upon existing and on newly constructed primary buildings. Number height shall be in accordance with the Fire Department requirements. Numerals shall be illuminated during hours of darkness.
6. Vacant commercial parcels may have real estate freestanding signs which do not exceed a maximum of eight (8) feet in height with a maximum of two (2) signs not to exceed an area of sixteen (16) square feet each, not to exceed a combined total of 32 square-feet.
7. Signs located within a structure and not visible from the outside of the building or not so located as to be conspicuously visible from the outside.
8. Memorial signs and plaques installed by a civic organization provided they shall not encroach upon public right-of-ways.
9. Official and legal notices issued by a court or governmental agency.
10. Official flags of the United States, the State of California, County of San Bernardino, Town of Yucca Valley, and nationally or internationally recognized organizations.
11. Official traffic, fire and police related signs, temporary traffic-control signs used



- during construction, utility facilities, substructure location, identification signs, markers required to protect said facilities, and other signs and markers required by the Town, Caltrans, or other public agency.
12. Holiday decorations, in season, displayed for an aggregate period not exceeding sixty (60) days in any one (1) calendar year.
  13. Incidental signs for automobile repair stores, gasoline service stations, automobile dealers with service repairs showing notices required by law, trade affiliations, credit cards accepted, and the like, attached to the structure or building; provided that all of the following conditions exist:
    - A. The signs number no more than four.
    - B. No such sign projects beyond any property line.
    - C. No such sign shall exceed an area per face of three square feet.
    - D. Signs may be double-faced.
  14. Copy applied to fuel pumps or dispensers such as fuel identification, station logo, and other signs required by law.
  15. Agricultural signs, either wall or freestanding types, non-illuminated, and not exceeding four square feet for lots two acres or less and 16 square feet for lots greater than two acres, identifying only the agricultural products grown on the premises. The number of such signs shall be one per street frontage or a maximum of two, with wall signs to be located below the roofline and freestanding signs to be no higher than eight (8) feet.
  16. Directional signs to aid vehicle or pedestrian traffic provided that such signs are located on-site, have a maximum area that does not exceed three (3) square feet, have a maximum overall height of four (4) feet above grade, and are mounted on a monument or decorative pole. Such signs may be located in a required setback provided that a minimum distance of five (5) feet from any property line is maintained. Directional signs may display an arrow or other directional symbol and/or words, including but not limited to "parking", "enter", "exit", "do not enter", "drive-through", and other similar messages.
  17. Notices or signs required to be posted by law.
  18. Signs located within recreational facilities such as baseball fields, stadiums and other similar facilities that advertise local businesses and other sponsors for sporting activities.
  19. Official Town signs which incorporate reflective, shimmering discs, or similar elements.

## Section 87.07100 SIGN PROGRAM

- a. **Sign Program Required.** A sign program shall be developed for all new commercial, office, and industrial centers. The purpose of the program is to integrate signs with building and landscaping design to encourage a unified architectural statement. This shall be achieved by:
- The use of the same background color, and allowing signs of up to three (3) different colors per multi-tenant center.
  - The use of the same type of cabinet supports, or method of mounting for signs, and the same type of construction material for components, such as sign copy, cabinets, returns, and supports.
  - Utilizing the same form of sign illumination.
  - Logos may be permitted and are not subject to the color restrictions specified in the program and serve as supplementary advertising devices to the sign(s).
- b. **Application Requirements.** In addition to any application form and fee, the following information is required for review of a sign program:
- 1 Site plan, to scale, indicating the location of all existing and proposed freestanding signs with sign area dimensions, colors, material, letter type, letter height, and method of illumination;
  2. Building elevation(s), to scale, with sign location shown and dimensioned;
  3. Sign details indicating sign area, dimensions, color, materials, letter style, letter height, and method of illumination.
- c. **Design Guidelines.** The following guidelines are encouraged in developing a sign program.
1. A theme, styles, types, color or placement of signs that will unify and identify the center and integrate the signs with the building design should be provided. Consideration should be given to the different types of tenants (e.g. major and minor) and placement locations consistent with the architectural design;
  2. Sign color should compliment the building color. In general, the number of primary colors on any sign shall be limited to no more than two with secondary colors used for accent or shadow detail. Variations in color may be used as long as the remaining components of the program remain consistent with the overall program;
  3. The same type of cabinet supports or method of mounting for signs of the same type shall be used;
  4. The same type of construction material for same components, such as monument sign bases, panels, cabinets, and supports shall be used;
  5. Consideration should be provided for logos or trademarks.
- D. **Approval.** The Director shall have the authority to approve, conditionally approve, or deny a sign program based on the findings that the proposed sign program is in compliance with the

purpose of this Section.

**Section 87.07110 GENERAL DESIGN STANDARDS:**

The purpose of this Section is to assist professional sign designers and the general public in understanding the Town's goals and objectives for achieving high quality, efficient signage within the Town. These standards will be used to encourage a high degree of sign quality while providing flexibility necessary for creativity on the part of sign designers. The criteria and standards in this section apply to all sign proposals. The standards should be followed unless the purpose of this Chapter can better be achieved through other design techniques.

a. **Computations** The following methods shall be used to measure sign height and sign area.

1. **Sign Height**

A. **Pole Sign**

1. The vertical distance measured from the immediate adjacent roadway grade level to the highest point of the sign structure.
2. Where the finished grade level is above or below street level and/or a planter or retaining wall exists, the height shall be the vertical distance measured from the immediate adjacent roadway grade level to the highest point of the sign structure.

B. **Monument Sign**

1. The vertical distance measured from the immediate adjacent roadway grade level to the highest point of the sign structure.
2. Where the finished grade level is above street level, and/or a planter or retaining wall exists, the height shall be the vertical distance measured from finished grade to the highest point of the sign structure.
3. Where the finished grade level is below street grade level and/or a planter or retaining wall exists, the height shall be the vertical distance measured from the immediate adjacent roadway grade level to the highest point of the sign structure.

2. **Sign Area**

The entire surface area within a single continuous perimeter, not to exceed ten (10) sides, containing words, letters, figures, or symbols, together with any frame or material forming an integral part of the display but excluding support structures, face of building and incidental parts shall constitute sign area. Signs placed back to back shall be taken as the area of one face if the two faces are of equal area or of the area of the larger face if the two are of unequal area.

c. **Sign Copy**

1. Letter size shall be proportional to the background and overall sign size.
2. Graphics consistent with the nature of the product to be advertised are encouraged. However, these shall be considered as part of the sign area.

3. Logos are encouraged but are considered part of the sign area.
4. Signs which incorporate electronic message boards shall be subject to review and approval by the Planning Commission.
5. Electronic message areas shall not exceed 25% of the total sign area of the sign structure it is attached to.

d. **Materials**

1. All signs, except those provided for under Temporary Signs shall be permanent in nature and should reflect the architectural design of structures and natural features of the site by containing unifying features and materials.
2. High quality and natural materials, such as exterior grade building materials are encouraged.
3. Freestanding/monument signs shall incorporate lighting, colors, planters, or other architectural treatment to enhance the visual element of the installed sign.
4. Poles or other supporting structures for freestanding signs shall incorporate architectural treatments, landscape planters, or similar structural enhancements.

e. **Illumination**

1. **Preservation of the Night Sky**

- A. All signs shall comply with *Chapter 8.70* of Title 8 of the Yucca Valley Municipal Code relating to Regulations for Outdoor Lighting.
- B. Off-white shades shall be encouraged for sign background color in lieu of pure white.
- C. The use of dark background coloring and lighter shades for lettering is highly encouraged.

2. **Neon Signs**

- A. **Exterior Signs:** Neon tubing may be permitted as a material in exterior signs subject to the following:
  1. Exterior neon signs shall be permitted only in commercial zones.
  2. Within shopping centers, neon signs may be allowed as a part of a sign program.
- B. **Interior Neon Signs:** Neon tubing may be permitted as a sign material for interior window signs subject to the following:
  1. Permitted in commercial zones only.
  2. No more than two (2) neon window signs shall be permitted per

business.

e. **Clear Sight Triangles**

All signs shall comply with the provisions of the Development Code regarding clear sight triangles which includes the following:

1. There shall be no monument signs allowed within a clear sight triangle.
2. There shall be no more than two (2) posts or columns, each with a width or diameter no greater than twelve (12) inches, within a clear sight triangle.
3. When a freestanding sign is located within a clear sight triangle, the lower edge of the sign face shall be at least eight (8) feet above grade.

**Section 87.07120 SIGNS IN RESIDENTIAL, OPEN SPACE, PUBLIC/ QUASI PUBLIC DISTRICTS**

No sign, outdoor advertising structure, or display of any kind shall be permitted in Residential, Open Space, and Public and Quasi Public land use districts, except those provided for below and those provided in *Section 87.0790, Exempt Signs* and *Section 87.07130, Temporary Signs* or as otherwise provided in this Chapter. In addition to the standards provided below, consideration shall be given to a sign's relationship to the overall appearance of the subject property as well as the surrounding community.

a. **On Site Subdivision, Mobile Home Park and Multi-Family Identification.**

1. One (1) monument sign per each public street frontage, not to exceed two (2) such signs with a maximum of twenty-four (24) square feet in area each, and six (6) feet in height. The sign shall be set back a minimum of five (5) feet from any property line.
2. Sign copy shall be limited to the name of complex, address, and complex manager's phone number.
3. One directory sign per vehicle entrance to multi-residential developments of 12 or more units or mobile home parks, not to exceed four (4) feet in height and 24 square feet in sign area to be located within required front yard or street side yard.

b. **Signs for Non-Residential Uses**

Non-residential uses located in Residential, Open Space, or Public and Quasi Public land use districts such as institutional uses including churches, schools, funeral homes, cemeteries, recreational uses, and agriculture related signs may be permitted. More than one sign may be allowed provided that the maximum cumulative sign area is not exceeded.

1. One (1) monument sign per each public street frontage, not to exceed two (2) such signs with a maximum of twenty-four (24) square feet in area each, and six (6) feet in height and may not extend above a wall or fence. The sign shall be set back a minimum of five (5) feet from any property line.
2. Non- illuminated wall signs may be permitted a cumulative sign area per building frontage of one (1) square foot per each one (1) foot of building frontage with a maximum of two (2) signs. Wall signs shall not be located above an eave, roof line or

parapet.

3. **Signs for Cemeteries or Memorial Parks.** Entryway signs not to exceed twenty-four (24) square-feet in area mounted on decorative driveway entryway wall/fencing.

**Section 87.07122. SIGN IN COMMERCIAL DISTRICTS**

No sign, outdoor advertising structure, or display of any kind shall be permitted in Commercial District except those provided for below and those provided in *Section 87.0790, Exempt Signs* and *Section 87.07130, Temporary Signs* or as otherwise provided in this Chapter. In addition to the standards provided below, consideration shall be given to a sign's relationship to the overall appearance of the subject property as well as the surrounding community.

a. **Single Tenant Building**

1. **Wall Signs**

- A. For each use or occupancy, one building sign per building frontage oriented towards a street, driveway, or parking area based on a maximum of one (1) square-foot of sign area per one lineal foot of use or occupancy. For each occupancy with a minimum width of 80 feet, a maximum of two building signs shall be allowed on each building frontage oriented towards a street, driveway, or parking area provided the combined area of the two signs does not exceed the allowable square-footage.

2. **Freestanding Signs**

- A. The cumulative total sign area allowed for freestanding signs on parcels with 150 feet of frontage and greater shall be based on one (1) square-foot per five (5) linear feet of street frontage on which the sign is located. No single sign shall exceed sixty (60) square-feet in area.
- B. A maximum 30 square foot freestanding sign is allowed on any parcel with less than 149 feet of street frontage.
- C. Maximum height of a monument sign shall not exceed eight (8) feet or a maximum height for a pole sign not to exceed twelve (12) feet with the lower edge of the sign face to be at least seven (7) feet above grade or 4 foot clearance if located within a landscape setback.
- D. Any single sign 25 square-feet in area or less in area may be designed with sign faces placed at angles provided they do not exceed 45 degrees and not be considered a multi-faced sign.

3. **Shingle Signs** Small suspended signs may be permitted subject to the following:

- A. Maximum of one (1) sign per building entrance is permitted provided that it is perpendicular to the main face of the building suspended from a canopy or projects not more than three (3) feet from building face.
- B. Such signs shall not exceed five (5) square-feet in area and shall have a minimum ground clearance of eight (8) feet.

4. **Projecting Signs** A projecting sign may be permitted subject to the following:
- A. In lieu of a permitted building wall sign, a double faced projecting sign may be installed and placed at angles provided they do not exceed 60 degrees, provided such sign does not exceed the size allowance.
  - B. Maximum of one (1) sign per building entrance is permitted provided that it is perpendicular to the main face of the building and projects not more than three (3) feet from building face and does not extend above the roof line.

b. **Commercial Complexes & Multiple Tenant Buildings**

1. **Wall Signs**

- A. For each use or occupancy, one building sign per building frontage oriented towards a street, driveway, or parking area based on a maximum of one (1) square-foot of sign area per one lineal foot of use or occupancy. For each occupancy with a minimum width of 80 feet, a maximum of two building signs shall be allowed on each building frontage oriented towards a street, driveway, or parking area provided the combined area of the two signs does not exceed the allowable square-footage.
- B. Subject to the approval of a sign program, the property owner may apportion the sign area to individual uses or overall building, or certain identification, provided that the total cumulative sign area is not exceeded.

2. **Freestanding Signs**

- A. The cumulative total sign area allowed for freestanding signs shall be one (1) square-foot per five (5) linear feet of street frontage on which the sign is located.
- B. No single sign shall exceed three hundred (300) square-feet in area.
- C. Any single sign 25 square-feet in area or less in area may be designed with sign faces placed at angles provided they do not exceed 45 degrees and not be considered a multi-faced sign.
- D. Maximum height of freestanding signs shall comply with the following:

Road Designation Per Circulation Element of General Plan	Net Center Area	Max. Sign Height
Highway	15 acres or more	25 feet pole or pylon
Highway	8 to 14.99 acres	15 feet pole or pylon
Highway	Less than 8 acres	In accordance with Sec. 87.07122
Arterial	Any size	In accordance with Sec. 87.07122
Collector or Other	Any size	In accordance with

- E. Freestanding building pads located adjacent to a highway or street may be permitted a monument sign not to exceed 25 square-feet.
- F. All freestanding signs shall reflect high quality, enhance community design and be harmonious with the desert character through the following:
  - 1. Evokes a special relationship to the structures and uses located on the site by incorporating elements of the structural architectural and/or natural features of the site;
  - 2. Makes use of high quality and/or natural building materials, including but not limited to, rock, adobe, timber, carved wood and incised lettering in stone;
  - 3. Identifies the site or use without extensive sign copy (text) by use of graphic imagery and/or logo.

- 3. **Shingle Signs.** Small projecting or suspended signs may be permitted subject to the following:
  - A. Maximum of one (1) sign per building entrance is permitted provided that it is perpendicular to the main face of the building suspended from a canopy or projects not more than three (3) feet from building face.
  - B. Such signs shall not exceed five (5) square-feet in area and shall have a minimum ground clearance of eight (8) feet.

c. **Pedestrian Sidewalk (A-Frame) Sign.**

- A. One pedestrian (A-frame) sign per tenant, not to exceed 2'x3' or 6 square-feet for each side of sign area shall be permitted when placed on the sidewalk adjacent to the business and in no case shall be lined along the street frontage and within any right-of-way.
- B. The sign shall be appropriately anchored with a bolt system or other methods to ensure the sign is properly secured and the sign is not left out overnight at any time.
- C. The sign shall not be located in a landscape planter or a location which may create an impediment to pedestrian, disabled, or emergency access.
- D. Balloons, banners, flags, lights, or other similar items shall not be attached to or made a part of the sign.

d. **Window Sign**

Windows with permanent and/or temporary signage are allowed if they do not cover more than 50% cumulative total of permanent and temporary signage of the individual window



surface and shall be removed upon non-occupancy.

e. **Service Station-Identification**

1. **Freestanding Signs:**

- A. On-premises/Price Freestanding Sign. One maximum thirty (30) square-foot, including price advertising as required by State law sign per street frontage.
- B. Service stations, whether situated on an independent parcel, or incorporated as part of a commercial, industrial or office complex, shall have independent freestanding sign rights.

2. **Building and Pump Island Canopy Signs**

- A. Building wall and canopy signs shall be limited to two signs totaling no more than thirty-six (36) square-feet in combined display area. For service stations with multiple tenants, one additional building wall sign shall be allowed for each use, with a maximum combined sign area limit of fifty (50) square-feet.

3. **Pump Island Signs**

- A. One (1) non-illuminated wall or ground sign for each pump island, not to exceed a total of four (4) per station, with a maximum sign area of two (2) square feet per face. Special service signs shall be limited to such items as self serve, full serve, air, water, cashier, and shall be non-illuminated. Price signs must meet requirements of the California Business and Professions Code.

- f. **Drive-through Restaurant Menu Boards.** In addition to the provisions for freestanding commercial business under *Subsection (b)(2)* of this Section, fast food restaurant with drive-thru or walk up facilities may be allowed up to two (2) menu or reader boards with a maximum area of twenty-five (25) square-feet each. Any pictures, photographs, representations, or logos within the perimeter of the board shall be included in the computation of maximum area for such boards.

**Section 87.07124 SIGNS IN INDUSTRIAL DISTRICTS.** No sign, outdoor advertising structure, or display of any kind shall be permitted in an Industrial District, except those provided for below and those provided in *Section 87.0790, Exempt Signs* and *Section 87.07130, Temporary Signs* or as otherwise provided in this Chapter. In addition to the standards provided below, consideration shall be given to a sign's relationship to the overall appearance of the subject property as well as the surrounding community.

a. **Single Tenant Building**

1. **Wall Signs**

- A. For each use or occupancy, one building sign per building frontage oriented towards a street, driveway, or parking area based on a maximum of one square-foot of sign area per one lineal foot of use or occupancy. For each occupancy with a minimum width of 80 feet, a maximum of two building signs shall be allowed on each building frontage oriented towards a street, driveway, or parking area provided the combined area of the two signs does

not exceed the allowable square-footage.

2. **Freestanding Signs**
    - A. The cumulative total sign area allowed for freestanding signs shall be one (1) square-foot per five (5) linear feet of street frontage on which the sign is located.
    - B. No single sign shall exceed sixty (60) square-feet in area.
    - C. Maximum height of a Monument sign shall not exceed eight (8) feet or maximum height for a pole sign shall not exceed twelve (12) feet.
  3. **Shingle Signs** Small suspended signs may be permitted subject to the following:
    - A. Maximum of one (1) sign per building entrance is permitted provided that it is perpendicular to the main face of the building suspended from a canopy
    - B. Such signs shall not exceed five (5) square-feet in area and shall have a minimum ground clearance of eight (8) feet.
- b. **Industrial Complexes & Multiple Tenant Buildings**
1. **Wall Signs**
    - A. For each use or occupancy, one building sign per building frontage oriented towards a street, driveway, or parking area based on a maximum of one square-foot of sign area per one lineal foot of use or occupancy. For each occupancy with a minimum width of 80 feet, a maximum of two building signs shall be allowed on each building frontage oriented towards a street, driveway, or parking area provided the combined area of the two signs does not exceed the allowable square-footage.
    - B. Subject to the approval of a sign program, the property owner may apportion the sign area to individual uses or overall building, or certain identification, provided that the total cumulative sign area is not exceeded.
  2. **Freestanding Signs**
    - A. The cumulative total sign area allowed for freestanding signs shall be one (1) square-foot per five (5) linear feet of street frontage on which the sign is located.
    - B. No single sign shall exceed two hundred (200) square-feet in area.
    - C. Maximum height of a Monument sign shall not exceed eight (8) feet or maximum height for a pole sign shall not exceed twelve (12) feet.
  3. **Shingle Signs** Small projecting or suspended signs may be permitted subject to the following:
    - A. Maximum of one (1) sign per building entrance is permitted provided that it is perpendicular to the main face of the building suspended from a canopy or

projects not more than three (3) feet from building face.

- B. Such signs shall not exceed five (5) square-feet in area and shall have a minimum ground clearance of eight (8) feet.

**Section 87.07128 SIGNS IN SPECIFIC PLAN (SP) DISTRICTS**

Sign Programs for special or unique uses as a part of a specific plan may be approved containing standards other than provided in this Chapter except that the provisions of Section 87.07100 *Sign Program* shall apply.

**Section 87.07130 TEMPORARY SIGNS.** Temporary signs shall not be installed prior to the issuance of a Temporary Sign Permit.

a. **Special Events (Charitable Community Events)**

- 1. **(Charitable Events)** Temporary Special Event Signs for Charitable Community Events (charitable events, fund raising sales and other similar community events) may be permitted as a means of publicizing an event for a limited, specified period subject to the following restrictions:

- A. Signs shall be removed promptly at the end of the special event or the display period but not to exceed 30 days, which ever occurs first.

- B. One (1) banner located on a building wall shall be allowed for non-profit, religious, charitable or fraternal organizations when used for the temporary advertising of special events, provided it does not exceed sixty (60) square feet.

- C. Where no building exists, one (1) thirty-two (32) square-foot banner detached from any building is allowed, provided it is announcing a charity or community event and is being displayed on the property in which the community or charity event is to take place.

- D. Provided consent of the property owner is granted in writing, a nonprofit, religious, charitable (501c3) or fraternal organization may display one "A" frame off-site temporary directional sign along either SR 62 or SR 247 for no more than three (3) events annually to advertise a charitable event, provided:

- 1. The sign is neither located within the public right-of-way or creates a visual obstruction for drivers of vehicles.

- 2. The sign complies with *Section 87.07122(b)(4)* of this code and may be displayed for the duration of the charitable community event.

- 2. **Civic Community Events:** Temporary Special Event Signs for Civic Community Events (holiday parades, festivals, and other similar civic events) where the Town is either a sponsor or co-sponsor of the event may be permitted as a means of publicizing an event for a limited specified period subject to the following restrictions:

- A. Signs shall be removed promptly at the end of the special event or the display period which ever occurs first but not exceed 30 days.

- B. Up to six (6) building wall mounted banners shall be allowed for civic organizations when used for temporary advertising special civic events provided each banner does not exceed one hundred (100) square feet and consent of the property owner is granted in writing.
- C. One 60 square-foot freestanding banner is limited to the site in which the event is to take place and cannot be located within the public right-of-way or create a visual obstruction for drivers of vehicles. Except that provided consent of the property owner is granted in writing, one (1) temporary banner not exceeding sixty 60 square-feet may be installed at each Town entryway along SR 62 to 30 days prior to the event and removed promptly at the end of the special event.

b. **Subdivisions and Model Home Signs (Temporary)**

The following shall apply to tracts and model home signs except for signs within developments with an adopted sign program, pursuant to *Section 87.07100*.

1. **On-site Freestanding Signs**

Freestanding signs shall be limited to one sign per street frontage and shall be located 10 feet from any street right-of-way on the project site. All signs shall be removed within 30 days after the sale/rental of the last unit in the project/subdivision. Refer to *Section 87.07140(b) & (c)* for regulations pertaining to off-site subdivision signs.

- A. For subdivisions up to 5 acres, one (1) sign is allowed, not to exceed a maximum sign area of 16 square feet, and not to exceed a maximum sign height of eight (8) feet.
- B. For subdivisions 5 to 40 acres, two (2) signs are allowed, not to exceed a maximum sign area of 16 square feet, and not to exceed a maximum sign height of eight (8) feet.
- C. For subdivisions more than 40 acres, two (2) signs are allowed, with a maximum of 32 square feet of sign area each, and eight (8) feet in height.

c. **Temporary Commercial and Industrial Signs.** Temporary commercial and industrial signs to publicize sales, new merchandise, close-outs, grand openings or other similar events may be permitted subject to the following restrictions:

- 1. A permit may be issued for temporary signs provided that a permit may not be issued to an applicant unless a period of time has elapsed which is two (2) times the length of time that the previous sign was permitted.
- 2. Temporary window signs may be permitted on outside facing windows if the cumulative total of any permanent and temporary signage (excluding open/close signs) does not cover more than 50% of the individual window surface.
- 3. Special event signs may include search lights, beacons, and small balloons; however, the display of such devices shall be limited to 2 days or less or the duration of the event.

4. One thirty two (32) square-foot, 8 foot-high non-illuminated freestanding sign per street frontage located on the subject property advertising a future facility/business or tenant provide the temporary sign is located ten (10) feet from any right-of-way and the sign is removed upon occupancy of the building.

5. **Banners and Flags:**

A. No banners, flags, pennants, hulas, streamers shall be displayed without a permit.

B. One banner not exceeding sixty (60) square-feet shall be permitted to advertise a special event provided the banner is attached to the space advertising the special event in accordance with the time frames specified above. However, in lieu of a building wall banner, one-thirty-two (32) square foot of sign area may be permitted for a maximum of thirty (30) calendar days that may be located on the property to advertise seasonal sale items such as pumpkins or Christmas trees.

C. The business owner/applicant shall immediately remove any banner, flag, pennant, hula and streamers determined to be tattered, torn, faded, no longer tightly attached to the building, abandoned, or non-maintained.

D. Pennants, hulas, streamers and other similar devices shall be limited to fleet services (i.e. car lots). The strings on which pennants, hulas, streamers and other such devices are hung, where permitted, shall be limited in length to not more than one and one half (1/2) times the street frontage of the property or tenant/building frontage.

E. Banners, flags, pennants, hulas and streamers shall not be displayed above the roof line of the building.

F. One maximum fifty (50) square-foot banner identifying the name of a new business may be displayed for no more than ninety (90) days.

d. **Political Signs (Temporary)**

Temporary political signs are exempt from Temporary Sign Permit fees, and are permitted on private property in all land use districts subject to the following limitations:

1. Signs shall not be displayed more than forty-five (45) days prior to an election, and shall be removed within fifteen (15) days after the same election.

2. Political signs shall have a maximum area of eight (8) square feet in residential land use districts and thirty-two (32) square feet in all other land use districts.

3. Such signs shall not be erected within any street intersection, clear sight triangle or at any location where the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign.

4. Such signs shall not be nailed or affixed to any tree, fence post or public utility pole and shall not be located in the public right-of-way or publicly owned land.
5. Such political signs shall be affixed in such a manner that they can be easily removed.

**Section 87.07140 OFF-SITE SIGNS AND BILLBOARDS**

**a. Billboards**

No new off-site advertising sign structures shall be located within the Town. Any owner of an existing permitted off-site billboard sign may replace such sign on the same site with another off-site billboard sign when located in the commercial land use districts subject to obtaining a Conditional Use Permit in accordance with the provisions of *Chapter 83.03105*. The following conditions shall apply:

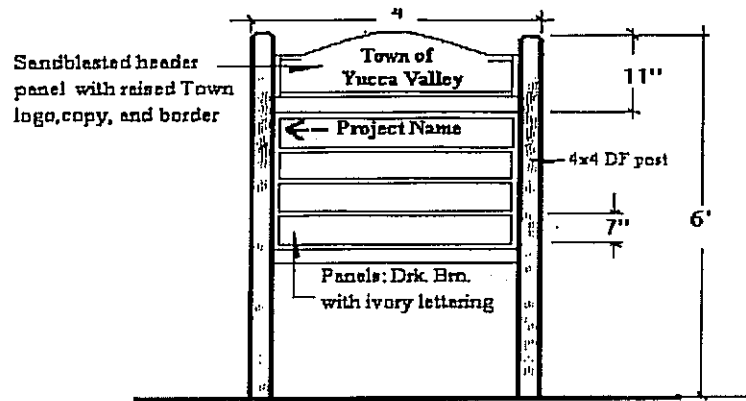
1. The advertising display area of the replacement sign shall not exceed the display area of the existing sign or signs to be replaced and in no event shall it be greater than 200 square feet per face with a maximum of two faces. Display area does not include decor or pole covers.
2. Any upgraded billboard sign located along a designated Scenic Highway Corridor shall be maintained at the same existing height. It shall be located so that no materials or structural feature, except poles or pilasters, shall extend into the cross visibility area between ground level and lower edge of the billboard sign.
3. Any upgraded billboard sign located along a designated Scenic Highway Corridor shall be treated so as to screen the billboard lighting from public view. The color and materials shall be subject to approval pursuant to the provisions of this Section.
4. The sign structure shall be located no closer than ten (10) feet to any property line.
5. Under no circumstances shall more than one new sign be erected to replace one sign removed.
6. The replaced sign(s) shall be removed prior to the use of the replacement sign.
7. The sign and structure shall be continuously maintained in an attractive, clean, and safe condition pursuant to this Section.
8. The sign structure shall not constitute a traffic hazard because of sign shape or its location in relationship to an official public traffic sign or signal.
9. The sign structure shall not contain any flashing or blinking light material, or mechanically activated or animated devices.
10. The sign structure shall be located in such a manner that it does not block the view of any on-site advertising sign on the same or adjoining parcels.

**b. Off-Site Residential Subdivision Directional Signs**

The following shall regulate and establish a standardized program of off-site residential and subdivision directional kiosk signs for the Town. For the purposes of this subsection, a residential subdivision is defined as a housing project within a recorded tract where five or more structures or dwelling units are concurrently undergoing construction.

1. **Kiosk Signs.**

A. The panel and sign structure design shall be in accordance with Fig 10.



RESIDENTIAL KIOSK DIRECTIONAL SIGN  
Single Panel Signs

Figure 10

- B. A kiosk sign structure shall be located no less than 300 feet from an existing or previously approved Kiosk site, except in the case of signs on different corners of an intersection.
- C. The placement of each kiosk sign structure requires review and approval by the Community Development Director.
- D. All kiosk signs shall be placed on private property with written consent of the property owner or on Town right-of-way pursuant to issuance of a Town of Yucca Valley encroachment permit.
- E. A kiosk sign location plan shall be prepared, showing the site of each kiosk directional sign, and shall be approved by the Director prior to the issuance of a Sign Permit.
- F. There shall be no additions, tag signs, streamers, devices, display boards, or appurtenances added to the kiosk signs as originally approved. No other non-permitted directional signs, such as posters or trailer signs, may be used.
- G. All non-conforming subdivision kiosk directional signs associated with the subdivision must be removed prior to the placement of directional kiosk sign(s).
- H. Kiosk signs, or attached project directional signage, shall be removed when

the subdivision is sold out. The entity administering the program will be responsible for removal of panels and structures no longer needed.

- I. All kiosk sign structures shall conform with the following standard regulations:
  1. No more than one panel per development per side of a kiosk sign is permitted.
  2. Double sided kiosk signs are permitted.
  3. Kiosk sign panels may only contain the name of the subdivision, a directional arrow, and one sign copy color as indicated Figure 10.
  4. Kiosk sign structures with different size structures for major and local streets shall be considered by the Director or his/her designee. Design, size and height of kiosk structures and panels shall require approval of the Community Development Director.

- c. **Interim Temporary Off-Site Residential and Subdivision Signs.** Until such time as a Kiosk program is implemented by the Town Council, temporary off-site residential and residential subdivision signs shall be allowed subject to the approval of a Temporary Sign permit. Signs shall be of quality or near quality in composition normally associated with professionally manufactured signs.

Temporary off-site residential and subdivision signs shall be permitted subject to the following regulations:

- I. **Residential Subdivision Signs:** For subdivisions as defined in this subsection, all signs shall conform to the following standards:
  - A. A maximum of four (4) off-site signs per subdivision shall be permitted.
  - B. The maximum area of any sign shall not exceed thirty-two (32) square-feet and no dimension shall exceed eight (8) feet.
  - C. The maximum height of any part of the sign shall not exceed eight (8) feet.
  - D. Signs shall be located a minimum of five hundred (500) feet from any other sign for the same subdivision and at least one hundred (100) feet from any other subdivision sign, except at intersections.
  - E. Signs shall not be located within any clear sight triangle as required by this Code.
  - F. Signs shall not be located closer than five (5) feet from the edge of the planned or ultimate right-of-way of any street.
  - G. Such off-site signs shall be permitted only on vacant property with written authorization from the property owner.



- H. No flags or banners shall be permitted for off-site sign.
  - I. Temporary Sign Permits shall be valid for twelve (12) months. Permits shall be renewed every twelve (12) months.
  - J. At the completion or build out of a subdivision all signs shall be promptly removed.
  - K. If after one hundred eighty (180) days no construction activity has occurred, all signs shall be promptly removed.
2. **Residential (Non Subdivision) Signs:** For residential development all signs shall conform to the following standards:
- A. A maximum of four (4) off-site signs per residence under construction shall be permitted.
  - B. The maximum area of any sign shall not exceed four (4) square-feet and no dimension shall exceed two (2) feet.
  - C. The maximum height of any part of the sign shall not exceed four (4) feet.
  - D. Signs shall be located a minimum of five hundred (500) feet from any other sign for the residence under construction and at least one hundred (100) feet from any other residential sign, except at intersections.
  - E. Signs shall not be located within any clear sight triangle as required by this Code.
  - F. Signs shall not be located closer than five (5) feet from the edge of the planned or ultimate right-of-way of any street.
  - G. Such off-site signs shall be permitted only on vacant property with the property owners written authorization.
  - H. No flags or banners shall be permitted for off-site sign.
  - I. Temporary Sign Permits shall be valid for twelve (12) months. Permits shall be renewed every twelve (12) months.
  - J. Such sign shall remain only during the period of time that the residence is being offered for sale and in any event shall be removed ten (10) days after the property is sold. Property shall be deemed sold upon the close of escrow or upon transfer of legal title, whichever occurs first.

**Section 87.07145 OFF-SITE SIGNS ON PUBLIC PROPERTY**

Private advertising signs may be placed on structures in the public right of way, such as bus shelters, if there is a licensing agreement approved by the Town Council authorizing such off-site signs on public property. An application for a sign permit must be approved prior to the construction of off-site signs on public property; and the applicant and the owner of the sign shall comply with the

provisions of *Section 87.07160* regarding sign construction and maintenance standards.

**Section 87.07146 PUBLIC AND INSTITUTIONAL FACILITY DIRECTIONAL SIGNS**

**a. Intent**

It is the intent of this section to establish criteria for those signs used to identify public facilities that are either public service integrated and Town owned or acknowledged through joint partnership agreements and institutional uses.

Public and institutional facilities signs play an important role in guiding and directing citizens and visitors to public and institutional facilities within the Town. Additionally, it is important with current sign issues on SR62 and on local roads that the installation of directional signs does not create additional sign clutter following installation. It is the intent of this section to establish guidelines for primary Town owned and operated public facilities and institutional facilities. Prior to consideration of approval for installation of the directional signs, the Traffic Commission and Town Council shall carefully consider the use of the public facility and institutional facility and the need for directional signing both along the state highway and/or on local roads.

**b. Justification:** A Directional Sign for the purposes of identifying site location is warranted when any of the following facility criteria are met:

1. The facility is public service integrated, i.e. official Federal, State, County of San Bernardino, Town of Yucca Valley facilities, as well as regionally and community significant park facilities, and institutional facility.
2. The facility is owned or operated by the Town of Yucca Valley.
3. The facility is involved in a current joint partnership agreement with the Town.

**c. Appearance:**

1. Signs to be installed along State Highways:
  - A. All signs installed along State highways shall conform to the height, size and color requirements as stipulated in the CalTrans *Traffic Manual*.
2. Signs to be installed along roads within Town right-of-way:
  - A. All signs shall be constructed of aluminum alloy material and include an engineering grade, smooth reflective sheeting or reflective baked enamel finish.
  - B. Sign shape shall be rectangular with a maximum horizontal length of 36 inches and a maximum vertical length of 24 inches.
  - C. Sign color shall be a blue reflective background with reflective white lettering and symbol. Public park identification signs shall be the Federal Standard of brown background with reflective white lettering.
  - D. Sign post shall have "break-away" capability and be either a singular square steel tube, steel u-post or wooden material.

- E. Sign height, once installed, shall not exceed 80 inches and shall be a minimum of 48 inches high.
- d. **Location:**
- 1. Signs installed along State Highways:
    - A. All signs proposed along State Highways shall conform to the installation requirements pursuant to the CalTrans *Traffic Manual*.
  - 2. Signs installed along roads within Town right-of-way:
    - A. Signs installations shall be limited to only those streets that are included in the Town's maintained road system.
    - B. Sign placement shall be determined by the Town's Engineering Division.
    - C. The number of signs installed for a specific facility shall be determined by the Town's Engineering Division.
    - D. Maintenance of the signs shall become the responsibility of the Town.
- e. **Approval:**
- 1. All directional Signs:
    - A. All public facility directional signs shall be approved by the Town Traffic Commission prior to installation.

**Section 87.07147 WALL MURAL DESIGN CRITERIA**

a. **Criteria**

- 1. **Maximum Number of Murals Per Site:** One (1) mural per structure may be approved by the Planning Commission. In unique circumstances whereby the design of the mural(s) and structure are enhanced by additional murals, the Planning Commission may allow for more than one mural per structure.
- 2. **Advertisement Value:** Words and/or images may not generally be incorporated within the proposed mural which specifically identifies or reflects the business, products and/or services provided by the business occupying the structure.
- 3. **Design Theme:** Desert-Western, compatible with the building design and surrounding properties.
- 4. **Sign Area:** Wall mural signs shall not be calculated as business advertising signage and is not subject to the maximum wall sign area ratio. Murals can occupy an entire single wall on which the mural is applied.
- 5. **Color Scheme:** The colors used in the mural signs shall be complimentary and harmonious with the exterior colors of the building and consistent with the Desert-Western concept and surrounding properties. Florescent colors would not be considered in keeping with the Desert-Western concept.

6. **Permitting Process:** All Wall Mural applications shall be processed through the Design Merit Program process.
7. **Findings:** Prior to approving a Wall Mural application, the Planning Commission shall find and justify that all of the following are true:
  - A. The proposed mural exhibits exceptional design quality and incorporates high quality material that enhance the overall development and appearance of the site and will not have an adverse impact on the safe and efficient movement of vehicular or pedestrian traffic;
  - B. The proposed mural is well integrated with the buildings and other elements of the property and is harmonious with the surrounding desert character;
  - C. The proposed mural, by its design, construction and location, will not have a substantial adverse effect on abutting property or the permitted use thereof, and will contribute to the Town's unique character and quality of life;
  - D. The proposed mural is consistent with the goals, policies and standards of the Town's General Plan and applicable specific plans;
  - E. That the granting the Wall Mural Permit is based upon its distinct quality and does not constitute a granting of special privileges beyond those provided for by criteria provided above.

#### **Section 87.07150 ABANDONED SIGNS**

- a. A sign or sign structure that is nonconforming shall be removed by the owner or lessee of the premises upon which the sign or structure is located when for a period not less than 90 days the business or product identified in the sign is no longer conducted on the premises, the structure upon which the sign is displayed is abandoned, or the advertising is no longer displayed on the sign structure. If the owner or lessee fails to remove the sign, the Director shall give the owner 30 days written notice to remove it. Upon failure to comply with the notice, the Director may have the sign removed at the owner's expense.
- b. Any legal, conforming structural supports for an abandoned sign may remain, if installed with a blank sign face and supporting structures are maintained.

#### **Section 87.07160 CONSTRUCTION AND MAINTENANCE**

- a. Every sign, and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable State, Federal, and Town regulations and the Uniform Building Code.
- b. Every sign, including those specifically exempt from the provisions of this Chapter with respect to permits and permit fees, and all parts, portions, and materials shall be maintained and kept in good repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion. Any cracked, broken surfaces, malfunctioning lights, missing sign copy or other non-maintained or damaged portion of a sign shall be repaired or

replaced within 30 calendar days following notification by the Town. Failure to do so may result in the sign being adjudged a nuisance and abated in accordance with Section 87.07190 et seq. of this code.

### **Section 87.07170 NONCONFORMING SIGNS**

- a. **Purpose and Intent.** The requirements of this Section are intended to recognize that the eventual elimination of signs that do not comply with the provisions of this Chapter is as important as the prohibition of new signs that would violate these standards.
- b. Any sign legally existing on the effective date of this Ordinance that does not comply with the regulations of this Chapter shall be deemed to be a nonconforming sign.
- c. A legally established sign which fails to conform to this Chapter shall be allowed as a continued use until such time any of the following occurs first:
  1. Structurally altered so as to extend its useful life.
  2. Expanded, moved, or relocated.
  3. Re-established after damage or destruction of more than 50% and the destruction is other than facial copy replacement and the display is not repaired within 30 days of the date of its destruction.
  4. There is a change in ownership of the property, inheritance by a member of a deceased owner's family shall not be deemed to constitute a change of ownership;
  5. The business or land use activity is discontinued or sold;
  6. The property is subdivided or the real property upon which the sign is located is severed from the real property upon which the business or primary use of the entire parcel is located, by lease, lease-back, or any other arrangement, method or device which would otherwise circumvent the intent of this section;
  7. A Conditional Use Permit, Site Plan Review, or Land Use Compliance Review is granted for the property or use of the property;
  8. A Sign Permit is issued permitting installation or construction of a new or additional sign on the property;
  9. Whenever there is a change in ownership or tenancy of any business or tenant space within a shopping center, new wall signage and/or freestanding sign conforming to the requirements of this Chapter that identifies such change is permitted although nonconforming signs exist within the center. However, no change of sign copy to identify such change in ownership or tenancy shall be permitted on any nonconforming sign.

**Section 87.07190 ENFORCEMENT**

- a. **Stop Work Orders.** The issuance of a sign permit shall not construe a waiver of any provisions of this Chapter or any other ordinance of the Town. The Building Official, or other designated person, is authorized to issue a stop work order for any sign or advertising display installation which is being erected or displayed in violation of this Chapter, or any other ordinance of the Town.
  
- b. **Revocation.** Upon failure of the holder or applicant to comply with the provision of this Chapter or the conditions of approval of the sign permit, the Director is authorized and empowered to revoke any permit with a written statement of the reasons for revocation.
  
- c. **Public Nuisances.**
  - 1. The following signs and advertising displays are hereby declared to be public nuisances:
    - A. Signs and advertising displays illegally erected, placed or encroaching on or over any public right-of-way;
  
    - B. Any sign or advertising display declared to be hazardous or unsafe by the Director, the Building Official, or any other Town designated person.
  
  - 2. A Town enforcement officer may, without notice, move, remove, and/or dispose of a sign or advertising structure that has been declared a public nuisance in accordance with *Subsection (a)* above. In addition, an enforcement officer may authorize any work required to correct a hazardous or unsafe condition.
  
  - 3. A Town enforcement officer shall charge the costs of processing, moving, removing, disposing, correcting, storing, repairing or working on a sign or sign structure to any one of all of the following, each of which shall be jointly and individually liable for said expenses.
    - A. The permittee; and/or
  
    - B. The owner of the sign; and/or
  
    - C. The owner of the premises on which the sign is located.
  
  - 4. The charge for expenses shall be in addition to any penalty for the violation and recovery of the sign does not necessarily cancel the penalty.
  
  - 5. Signs made of paper, cardboard, lightweight wood or inexpensive plastic or similar materials which are removed, may be discarded immediately. All other removed signs shall be held thirty (30) days by the Town, during which period it may be recovered by the owner paying the Town for costs of removal, storage, and processing. If not recovered within the allowed thirty (30) day period, the sign and structure is hereby declared abandoned and title thereto shall vest to the Town.
  
- d. **Abatement of Signs.** The Community Development Director shall order the abatement, abate, or cause to be abated any temporary or permanent sign erected, placed or displayed in

violation of this Chapter in accordance with the following:

I. **Notice**

- A. A written notice shall be sent or delivered to the owner of the sign or advertising display, or his representative, ordering abatement of the illegal or obsolete display, except as noted above. Temporary signs or advertising displays shall be ordered to be removed or abated immediately. Signs other than temporary signs or advertising displays shall be ordered to be abated within ten (10) days.
- B. Subsequent to or in lieu of the notice to abate, the Director may cause to be mailed by registered or certified mail written notice to the owner of the sign, at the last known address or to the owner of the property as shown on the latest assessment roll, or to the occupant of the property at the property address. The notice shall describe the sign and specify the violation involved, and indicate that the sign will be removed if the violation is not corrected within ten (10) days.

e. **Appeal**

The owner may, within the ten (10) day period, appeal the notice to the Town Council. Appeals shall be made on forms provided by the Planning Division and fees shall be paid as established by the Town fee schedule. There shall be a stay of abatement until a decision is rendered by the Town Council.

f. **Abatement**

After the expiration of the ten (10) day notice period, the enforcement officer may enter the property and abate the sign or advertising display. The Town may also contract for the abatement.

g. **Assessments**

The Town may order a special assessment and place a lien against the property for reimbursement of all costs in accordance with *Chapter 6.04* of the Town of Yucca Valley Municipal Code.

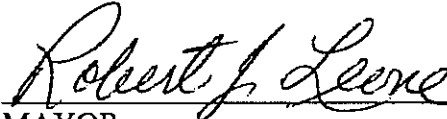
h. **Alternatives**

Nothing in this Chapter shall be deemed to prevent the Town Council from ordering the Town Attorney to abate the alleged nuisance or to obtain any other appropriate remedy in addition to, as an alternative to, or in conjunction with the procedures authorized by this Chapter. Nor shall the implementation of this Chapter be deemed to prevent appropriate authorities from commencing a criminal action based upon the conditions constituting the alleged nuisance.”

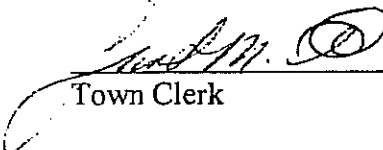
SECTION 2. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption. Section 87.07170(c)(4) and (5) shall become operative October 2, 2006.

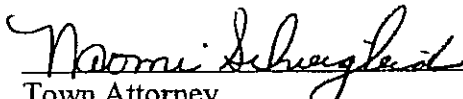
APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 2nd day of September, 2004.

  
MAYOR

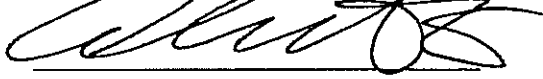
ATTEST:

  
Town Clerk

APPROVED AS TO FORM:

  
Town Attorney

APPROVED AS TO CONTENT:

  
Town Manager



STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 156 as duly and regularly introduced at a meeting of the Town Council on the 19<sup>th</sup> day of August, 2004, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 2nd day of September, 2004, by the following vote, to wit:

Ayes: Council Members Cook, Earnest, Mayes, Neeb and Mayor Leone

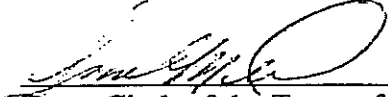
Noes: None

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Yucca Valley, California, this 7<sup>th</sup> day of September, 2004.

(SEAL)

  
\_\_\_\_\_  
Town Clerk of the Town of  
Yucca Valley

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Mark Nuaimi, Town Manager  
**Date:** January 27, 2011  
**For Council Meeting:** February 1, 2011

**Subject:** Town Council Policy Discussions

**Prior Council Review:** The Town Council adopted Ordinance 148 on January 15, 2004 establishing many of the current policies for conducting Town business. Ordinance 205 was adopted on September 1, 2009 establishing the process for selection of Mayor & Mayor Pro-Tempore. Resolution 05-42 was adopted on August 11, 2005 establishing the procedures for appointment of commissioners and board members to Town of Yucca Valley commissions and boards.

**Recommendation:** Provide Town staff direction on possible changes to the current policies.

**Order of Procedure:**

- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Voice Vote)

**Executive Summary:** Town Council asked to review the policies in place governing the selection of Mayor & Mayor Pro-Tempore, the appointment of commissioners and board members, and the representation of the Town on additional committees (2+2 Committees).


**Discussion:** Chapter 2.05 of the Municipal Code of the Town of Yucca Valley addresses procedures associated with the Mayor and Town Council. Town Council asked for a review of some of these procedures for possible modification.

Mayor / Mayor Pro Tempore Selection:


As currently structured, the Town Municipal Code ensures that the positions of mayor and mayor pro tempore are rotated through the members serving on the council. Through a seniority system established by election results, the position of Mayor Pro Tempore is rotated to the next "senior" member of the council.

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Reviewed By:

  
Town Manager

\_\_\_\_\_  
Town Attorney

  
Admin Services

\_\_\_\_\_  
Dept Head

\_\_\_ Department Report

\_\_\_ Ordinance Action

\_\_\_ Resolution Action

\_\_\_ Public Hearing

\_\_\_ Consent

\_\_\_ Minute Action

\_\_\_ Receive and File

Study Session

The current process provides an automatic nomination for the Mayor Pro-Tem to be considered for the position of Mayor. "Upon acceptance of the nomination motion, a vote shall be immediately called of the entire body, without debate." While the Municipal Code allows for the Mayor Pro-Tem to decline the nomination, there is no procedure provided in the event that the Town Council fails to vote in favor of the nomination.

Commission / Board Appointments

The Town of Yucca Valley appoints members of the public to sit on a number of Commissions / Boards including: Planning Commission, Parks Recreation & Cultural Commission (PRCC), Public Arts Advisory Committee, Youth Commission, Traffic Commission, and Team Yucca Valley Commission. The following table summarizes the details of each:

Commission / Name	# of Members	Length of Term	Established	Last Meeting
Planning Commission	5	3 years	Ord. 25, 10/1/92	1/11/2011
Parks, Recreation & Cultural Commission	5	4 years	Ord. 104, 5/6/99	1/11/2011
Public Arts Advisory Committee	7	2 years	Ord. 134, 12/19/02	10/27/2010
Youth Commission	5 - 20	1 year	Ord. 167, 5/12/05	1/3/2011
Traffic Commission	6	4 years	Ord. 65, 3/7/96	10/26/2006
Team Yucca Valley Commission	9	3 years	Ord. 57, 5/18/95	Last Millenium

A couple of these commissions have been inactive in recent years and/or have met their original intent when they were formed. As such, Town Staff suggests that the Town Council dissolve the Traffic Commission and Team Yucca Valley Commission.

Town staff also believes that the scope of the Public Arts Advisory Committee could be folded under the activity of both the PRCC and Planning Commission. Dissolving this commission would yield cost savings in both staff and facility usage.

There has also been recent discussion concerning the appointment process of commissioners. Specifically, there is no provision in the Town Municipal Code granting immediate representation on Town commissions for newly elected Town Council members. In theory, Town commissions are extensions of the Town Council, performing duties that fall within the legal responsibilities of policy development for the Town. Given the current appointment process for the Town, it could take several years until newly elected councilmembers are able to appoint representatives to Town commissions.

The process of appointments to commissions can be a challenging issue in communities where diverse policy opinions exist. One approach that council might consider establishes two-year terms for all commissioners coinciding with the election cycle for the local agency. After Town elections, each councilmember would appoint (or re-appoint) their commissioner and the Town Council would ratify the entire slate of commissioners. This avoids individual appointments being blocked by a council majority, ensuring that the diversity of opinions on the Council is also reflected on the

commissions. It also provides accountability of commissioners to the elected councilmembers. As vacancies occur on the commissions, the appointment would then become the responsibility of the appointing councilmember.

### 2+2 Committee Activity

Town Council established standing committees to meet periodically with other government entities / community organizations. As a standing committee, each of these 2+2 Committees was subject to the Brown Act, requiring formal agenda preparation and meeting minutes generation. This approach is not typical for most municipal governments. An alternative approach is to form issue specific Ad-Hoc committees. These Ad-Hoc committees would be formed as the need arises and then dissolved once the scope of the committee is completed. Staff recommends that the Council establish this approach. Additionally, staff recommends the appointment of council members to two currently required ad-hoc committees:

- Senior Housing Design Committee – working with an ad-hoc committee from the Planning Commission, this committee will support the site planning and project development efforts associated with the Town’s proposed Senior Housing project;
- Sewer Financing strategies – working with an ad-hoc committee from the High Desert Water District, this committee will evaluate potential financing strategies to deliver the wastewater system while addressing some of the concerns expressed by local residents and businesses;

Depending upon the direction of Council, Town staff will bring back modifications to Town policy through new Ordinance(s) and Resolution(s). For future clarity and efficiency, staff recommends simplifying the enabling Ordinances so that process descriptions are defined through a series of new Resolutions rather than in the Ordinances.

**Alternatives:** None

**Fiscal impact:** Minimal – there will be minor cost savings through the consolidation efforts proposed.

### **Attachments:**

Municipal Code: Chapter 2.05 (Mayor and Town Council);  
Chapter 4.02 (Board and Commission Members);  
Chapter 4.04 (Planning Commission);  
Chapter 4.10 (Parks, Recreation and Cultural Commission);  
Chapter 4.11 (Public Arts Advisory Committee);  
Chapter 4.12 (Youth Commission);  
Chapter 4.14 (Traffic Commission);  
Chapter 4.16 (Team Yucca Valley Commission)

Resolution No 05-42

CHAPTER 2.05  
MAYOR AND TOWN COUNCIL

## SECTION:

## Part I. General Provisions

- 2.05.010: Town Hall Designated; Use
- 2.05.020: Salary Of Council Members
- 2.05.030: Administrative Services Of The Town
- 2.05.040: Appointment As Redevelopment Agency
- 2.05.050: Salary Of Redevelopment Agency Members
- 2.05.055: Eligibility Of Council Members

## Part II. Elections

- 2.05.060: Filing Fee Required
- 2.05.070: Payment Of Fee
- 2.05.080: Deposit Of Fee
- 2.05.090: Elections To Be Held In Even Numbered Years

## Part III. Meetings

- 2.05.100: Regular Meetings
- 2.05.110: Special Meetings
- 2.05.120: Emergency Meetings
- 2.05.130: Adjourned Meetings
- 2.05.140: Closed Sessions
- 2.05.150: Meetings To Be Public; Exceptions; Closed Sessions
- 2.05.160: Meetings To Be Held Within Town Limits; Exceptions
- 2.05.170: Quorum
- 2.05.180: Council Agenda
- 2.05.190: Notices And Agendas
- 2.05.200: Presiding Officer
- 2.05.210: Selection Of Mayor And Mayor Pro Tempore; Terms Of Office
- 2.05.220: Conduct Of Business
- 2.05.230: Call To Order
- 2.05.240: Roll Call
- 2.05.250: Reading Of Minutes
- 2.05.260: Minutes

- 2.05.270: Distribution Of Minutes
- 2.05.280: Recording Of Meetings
- 2.05.290: Consent Calendar
- 2.05.300: Gaining The Floor By Council Members
- 2.05.310: Questions To The Staff
- 2.05.320: Council Member Statements
- 2.05.330: Points Of Order
- 2.05.340: Point Of Personal Privilege
- 2.05.350: Calling The Question
- 2.05.360: Protest Against Council Action
- 2.05.370: Request To Address The Council On Agenda Items
- 2.05.380: Public To Address The Council On Nonagenda Items
- 2.05.390: Decorum And Order; Council And Town Staff
- 2.05.400: Decorum And Order; Audience
- 2.05.410: Enforcement Of Decorum
- 2.05.420: Unauthorized Weapons
- 2.05.430: Voting Procedures
- 2.05.440: Request For Determination Of Conflict Of Interest
- 2.05.450: Failure To Vote
- 2.05.460: Tie Vote
- 2.05.470: Changing Vote
- 2.05.480: Reconsideration
- 2.05.490: Public Hearings; When Held
- 2.05.500: Public Hearings; Procedure
- 2.05.510: Public Hearings; Evidence
- 2.05.520: Public Hearings; Continuation
- 2.05.530: Public Hearings; Closing
- 2.05.540: Public Hearings; Reopening
- 2.05.550: Public Hearings; Decision
- 2.05.560: Motions
- 2.05.570: Precedence Of Motions
- 2.05.580: Particular Motions, Purpose And Criteria
- 2.05.590: Legislative Action
- 2.05.600: Preparation Of Ordinances
- 2.05.610: Procedure For Adoption Of Ordinances
- 2.05.620: Resolutions
- 2.05.630: Resolutions; Adoption
- 2.05.640: Ralph M. Brown Act
- 2.05.650: Procedures In Absence Of Rules
- 2.05.660: Correspondence Addressed To The Town Council
- 2.05.670: Correspondence To Council Members
- 2.05.680: Public Inspection Of Written Materials For Meetings
- 2.05.690: Confidential Communications
- 2.05.700: Council Policy Manual
- 2.05.710: Failure To Observe Procedure; Waiver

- 2.05.720: Appeals Procedure
- 2.05.730: Administrative Hearings Procedure
- 2.05.740: Administration Of Oath
- 2.05.750: Penalty

## PART I. GENERAL PROVISIONS

2.05.010: **TOWN HALL DESIGNATED; USE:** The town hall is that building at 57090 Twentynine Palms Highway, Yucca Valley, and the town hall so designated is declared the official place for the transaction of all official business of the town. (Ord. 148, 1-15-2004)

2.05.020: **SALARY OF COUNCIL MEMBERS<sup>1</sup>:**

- A. Pursuant to California Government Code section 36516, compensation shall be paid to each member of the town council in the amount set forth in the schedule of such section. More particularly, the amount of compensation to be paid to each member of the town council shall be the sum of four hundred eighty eight dollars sixty three cents (\$488.63), in accordance with California Government Code section 36516. The compensation prescribed herein is and shall be exclusive of any amounts payable to each member of the town council as reimbursement for actual and necessary expenses incurred in the performance of official duties for the town; and, accordingly, each member of the town council shall receive reimbursement for such actual and necessary expenses incurred in the performance of official duties of the town, pursuant to the provisions of California Government Code section 36514.5. Such reimbursement shall be as established by a policy resolution adopted by the town council. (Ord. 189, 3-13-2008)
- B. Members of the town council are entitled to those same benefits that are available, and paid by the town, for its employees in accordance with section 36516(d) of the California Government Code. (Ord. 148, 1-15-2004)

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1. The compensation established in this section shall become operative January 1, 2009.

**2.05.030: ADMINISTRATIVE SERVICES OF THE TOWN:**

- A. The town council and its members shall deal with the administrative services of the town only through the town manager, except for the purpose of inquiry, and neither the council nor any members thereof shall give orders to any subordinates of the town manager, either publicly or privately.
- B. Neither the council nor any of its committees or members shall direct, request or attempt to influence, either directly or indirectly, the appointment of any person to office or employment by the town manager or in any manner interfere with the town manager or prevent him/her from exercising his/her own judgment in the appointment of officers and employees in the administrative service. (Ord. 148, 1-15-2004)

**2.05.040: APPOINTMENT AS REDEVELOPMENT AGENCY:** The town council finds and declares there is a need for a redevelopment agency to function in the town pursuant to the provisions of the community redevelopment law (section 33000 et seq., of the Health and Safety Code). The town council declares itself to be the redevelopment agency of the town. (Ord. 148, 1-15-2004)

**2.05.050: SALARY OF REDEVELOPMENT AGENCY MEMBERS:**

Pursuant to California Health and Safety Code section 33114, compensation shall be paid to each member of the redevelopment agency in the amount set forth in the schedule of such section. More particularly, the amount of compensation to be paid to each member of the redevelopment agency shall be the sum of thirty dollars (\$30.00) per agency meeting attended by the member, in accordance with California Health and Safety Code section 33114.5. No member shall receive compensation for attending more than four (4) meetings of the agency per month. The compensation prescribed herein is and shall be exclusive of any amounts payable to each member of the redevelopment agency as reimbursement for actual and necessary expenses incurred by him or her in the performance of official duties for the town; and, accordingly, each member of the agency shall receive reimbursement for such actual and necessary expenses incurred in the performance of official duties of the town. Such reimbursement shall be as established by a policy resolution adopted by the town council. (Ord. 148, 1-15-2004)



2.05.055: **ELIGIBILITY OF COUNCIL MEMBERS:** No member of the town council shall be eligible for appointment to any authorized position, contract employment position or town lobbyist until one year has elapsed after such council member has ceased to be a member of the town council. (Ord. 190, 4-10-2008)

## PART II. ELECTIONS

2.05.060: **FILING FEE REQUIRED:** A filing fee of twenty five dollars (\$25.00) is established for candidates' nomination papers for elective offices at municipal elections held in the town. (Ord. 148, 1-15-2004)

2.05.070: **PAYMENT OF FEE:** The filing fee required by section 2.05.060 of this chapter shall be paid to the town clerk by each candidate for an elective office at the time the candidate's nomination paper is filed with the clerk. (Ord. 148, 1-15-2004)

2.05.080: **DEPOSIT OF FEE:** The town clerk shall pay to the town treasurer all fees received in accordance with this subchapter, which shall be deposited in the general fund. (Ord. 148, 1-15-2004)

2.05.090: **ELECTIONS TO BE HELD IN EVEN NUMBERED YEARS:** General municipal elections for the town shall be held on the same day as the statewide general election (i.e., the first Tuesday after the first Monday of November in each even numbered year). (Ord. 148, 1-15-2004)

## PART III. MEETINGS

2.05.100: **REGULAR MEETINGS:**

- A. The town council shall hold regular meetings at a date and time established by town council resolution in the "Yucca room" of the Yucca Valley community center located in the civic center at 57090 Twentynine Palms Highway, Yucca Valley, California.
- B. When the day for any regular meeting falls on a legal holiday such meeting shall be held at the same hour and place on the next succeeding day not a holiday or such other time as designated by the town council.
- C. The town council may hold adjourned or special meetings at such other time, place and date certain, as may be established in the

notice of the adjourned or special meeting, but not beyond the next regular meeting; otherwise the meeting may not be reconvened. In the event of an emergency, meetings may be held at any place designated pursuant to Government Code section 54956.5.

- D. The council may, by resolution adopted not less than two (2) weeks prior thereto, hold a regular meeting at any other location in the town specified in the resolution. (Ord. 148, 1-15-2004)

**2.05.110: SPECIAL MEETINGS:** Special meetings may be called at any time by the mayor, or by three (3) members of the town council, directing the town manager to cause the town clerk/deputy town clerk to prepare and to deliver personally, or by mail, written notice of the special meeting to each council member and to each local newspaper of general circulation, radio or television station having filed written request for such notice. Such notice shall be delivered personally or by mail at least twenty four (24) hours before the time of such meeting as specified in the notice. The call and notice shall also be posted at least twenty four (24) hours prior to the special meeting on the public information board located in front of the town hall. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. Such written notice may be dispensed with as to any council member who at or prior to the time the meeting convenes files with the town clerk/deputy town clerk a written waiver of notice. Such waiver may be given by telegram or facsimile. Such written notice may also be dispensed with as to any council member who is actually present at the meeting at the time it convenes. The town clerk/deputy town clerk shall give the notices required by this section upon direction by the mayor or the members of the council calling the special meeting. (Ord. 148, 1-15-2004)

**2.05.120: EMERGENCY MEETINGS:**

- A. Notwithstanding anything in this code to the contrary, the town council may hold an emergency meeting pursuant to and in accordance with the provisions of section 54956.5 of the California Government Code.
- B. If by reason of fire, earthquake, flood or other emergency, it is unsafe to meet in the council chambers, the meetings may be held for the duration of the emergency at a place designated by the mayor, or mayor pro tempore if the mayor is unavailable, or if he/she fails, or be unable, to act, by the town manager. Notice of the

meeting place shall be given to the members of the town council, the town manager, the town attorney, the town clerk/deputy town clerk, and to the local media that have filed with the town clerk/deputy town clerk a written request for notice of special meetings, by the most rapid means of communication available at the time. The failure of a person to receive notice shall not affect the jurisdiction of the town council. (Ord. 148, 1-15-2004)

2.05.130: **ADJOURNED MEETINGS:** All meetings may be adjourned to a time, place and date certain, but not beyond the next regular meeting. Once adjourned, the meeting may not be reconvened. Meetings may be adjourned by the mayor by a simple declaration thereof in the absence of a protest by any council member. Meetings may also be adjourned upon the making and seconding of such a motion in accordance with the procedures on motions established by this subchapter. If a quorum is not present, less than a quorum may adjourn a meeting. If all members of the council are absent, the town clerk/deputy town clerk may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided in section 2.05.110 of this chapter for special meetings. When any meeting is adjourned, the town clerk/deputy town clerk shall post notice of such adjournment within twenty four (24) hours after the time of the adjournment, unless sooner notice is required by law. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting meeting is a regular meeting for the purpose of transacting business. (Ord. 148, 1-15-2004)

2.05.140: **CLOSED SESSIONS:**

- A. It is the purpose of this section to establish enforceable rules and regulations relating to closed sessions of the town council that are subject to the provisions of California Government Code section 54950 et seq. (the Ralph M. Brown act), and the redevelopment agency that will assure the confidentiality of all matters discussed and considered in such closed session meetings and the confidentiality of all documents and records that may be discussed in closed sessions in a manner that is consistent with the regulations imposed by the Brown act and other applicable California law.
- B. The mayor or mayor pro tempore shall be responsible for ensuring that procedural requirements, other than requirements for notice, are fulfilled when a closed session of the town council is held pursuant to the provisions of the Brown act. The town clerk/deputy town clerk

shall be responsible for fulfilling any notice requirements relating to closed sessions held by the town council.

- C. Reportable action or direction of the town council given in a closed session shall be publicly announced at the end of the meeting during which the closed session is held, or at the beginning of the next public session of the town council as the council shall direct in accord with the requirements of the Brown act. (Ord. 148, 1-15-2004)

**2.05.150: MEETINGS TO BE PUBLIC; EXCEPTIONS; CLOSED SESSIONS:**

- A. All meetings of the town council shall be open to the public, provided however, the town council may hold closed sessions pursuant to state law.
- B. Town council members who are disqualified from participation with respect to a matter to be discussed in closed session shall be excluded from the closed session and shall not knowingly receive any confidential communications with respect thereto.
- C. Pursuant to section 54957.2 of the California Government Code, the town clerk/deputy town clerk may be required to attend closed sessions of the town council and keep and enter into a minutes book a record of topics discussed and decisions made at each meeting. The confidentiality of such minutes shall be maintained pursuant to said section of the Government Code. (Ord. 148, 1-15-2004)

**2.05.160: MEETINGS TO BE HELD WITHIN TOWN LIMITS; EXCEPTIONS:** All meetings shall be held within the boundaries of the town except when a meeting outside the town boundaries is authorized by Government Code section 54954(b) or (d). If a meeting is to be held outside of the boundaries of the town, the posted agenda or notice calling the meeting shall state the place of the meeting and the statutory grounds for meeting outside of the town. (Ord. 148, 1-15-2004)

**2.05.170: QUORUM:**

- A. Three (3) members of the council shall constitute a quorum for the transaction of business. Motions may be passed by a majority of the quorum but resolutions, orders for the payment of money, and all

ordinances require at least three (3) affirmative votes. Less than quorum may adjourn from time to time. Where there is no quorum, the mayor, mayor pro tempore or any member of the council, in the absence of the mayor or mayor pro tempore, shall adjourn such meeting, or if no member of the council is present, the town clerk/deputy town clerk shall adjourn the meeting.

- B. When a member of the council is disqualified due to a financial conflict of interest from making, participating in making or using his/her position to influence a governmental decision, his/her presence shall not be considered in determining the presence of a quorum, with respect to the particular governmental decision. If disqualification due to a financial conflict of interest reduces those in attendance to less than a quorum, the meeting need not be adjourned but, without need for any formal action by the council, consideration on the item shall be deferred or continued until a quorum is present of council members without disqualifying conflicts of interest. If more than a quorum of the town council are disqualified because of a conflict of interest, then the town clerk/deputy town clerk shall determine by lot from among the disqualified members the member or members who will be permitted to participate in order to achieve a quorum. This subsection shall be applied in a manner which is consistent with Government Code section 1090 et seq., and Government Code section 81000 et seq., and any regulations lawfully adopted pursuant thereto. (Ord. 148, 1-15-2004)

**2.05.180: COUNCIL AGENDA:**

- A. The town clerk or his/her designee shall prepare an agenda for each council meeting. Items of business may be placed on the agenda at the direction of the town manager or three (3) affirmative votes of the town council during discussion of future agenda items at a town council meeting. Items of business regarding personnel matters, including appointment or replacement of commissioners, may be placed on the agenda at the direction of the mayor. (Ord. 208, 4-6-2010)
- B. The agenda shall contain information relating to the time and place of the meeting, the order of business and a brief general description including the specific action requested to be taken by the council, of each item of business to be transacted or discussed at the meeting. The description of items to be discussed in closed session may be done by substantially complying with provisions of Government Code section 54954.5. The agenda shall also contain information relating

to special services available, or how to obtain available services, to persons with disabilities to permit those persons to participate in town council meetings. The agenda may contain other information deemed necessary by the town manager or town attorney.

- C. The agenda may indicate a time certain for consideration of an item. Council members may request a time certain by filing a written request with the mayor which request will be accommodated to the extent feasible in light of the business to be conducted. If a time certain is indicated, consideration of the item shall not occur before the specified time, but may be commenced after the specified time.
- D. The town manager shall be responsible for establishing the process for preparation of the agenda, agenda reports, and packets or books of documents relevant to matters of business listed on the agenda. All items listed on the agenda other than presentations, oral communications, and closed session items shall have a corresponding agenda report included in the agenda packet. The agenda packet shall include all written material delivered or to be delivered, to all or a majority of the town council members with respect to an item listed on the agenda. The agenda and agenda packet shall be delivered to the council members on the Friday preceding the regular meeting or such earlier time as the town manager deems appropriate. The agenda packet shall be made available to the public as soon thereafter as practicable. In order to facilitate public access to the agenda packet, the town clerk/deputy town clerk shall place a copy of the agenda packet for public inspection in the town hall.
- E. Before presentation to the town manager for inclusion on an agenda, all ordinances, resolutions and contract documents shall have been approved as to form by the town attorney.
- F. Before presentation to the town council, all agenda items requesting action shall have been examined and approved for administration by the town manager or the manager's representative, where there are substantive matters of administration involved. Items requiring fiscal action or appropriations shall be reviewed by the director of management services prior to presentation to the council. The town manager may refer any agenda item to the town attorney for a report and recommendation, before the matter is placed on an agenda.
- G. The town manager or town clerk/deputy town clerk, or an employee designated by the manager or clerk, shall post the agenda on a publicly accessible place at town hall at least seventy two (72) hours before a regular council meeting. The person posting the agenda

shall prepare and file with the town clerk/deputy town clerk a signed declaration of the time and place of posting and a certified copy of the posted agenda. Except as provided in this section, no business shall be transacted or matter discussed at the meeting on any item



not appearing on the posted agenda. Questions for clarification, providing a reference to staff or other resources for factual information, or directions by the mayor or the council to refer a matter to staff for report or to place a matter on a future agenda shall not constitute prohibited action or discussion.

H. The order of business of each meeting shall be as contained in the agenda prepared by the clerk. The agenda shall be taken up for consideration in the following order:

1. Call to order.
2. Roll call.
3. Pledge of Allegiance.
4. Invocation or moment of silent prayer.
5. Agency reports.
6. Approval of agenda.
7. Presentations.
8. Closed session report (as may be required in subsection 2.05.140C of this chapter).
9. Consent calendar.
10. Public hearings.
11. Department reports.
12. Public comments.
13. Staff reports and comments.
14. Mayor and council member reports and comments.
15. Future agenda items.
16. Announcements.
17. Announcement of closed session items, and public comments thereon.

18. Closed session (listings in accordance with state law).
  19. Closed session report.
  20. Adjournment.
- I. The order of business established on the agenda shall be followed unless the majority of the council permits a matter to be taken out of the regular agenda order. The town manager, for the pleasure of the presiding officer, at the time of preparation of the agenda may indicate, or the presiding officer at a meeting may establish time limits for consideration of any agenda item in order that town business is conducted in an orderly manner with due regard for public input.
  - J. An agenda shall be prepared and posted for adjourned meetings in the same manner as for regular meetings, unless the adjourned meeting is five (5) or fewer days from the date of the original meeting and the items considered are limited to those listed on the agenda of the prior meetings. If the matters to be considered at an adjourned meeting are limited to those stated on the agenda of the prior meeting, then the agenda of the prior meeting may suffice as the agenda for an adjourned meeting.
  - K. The town council may discuss or take action on items of business not appearing on the posted agenda under any of the following conditions:
    1. An item has been continued by the council to a date certain from a properly posted agenda at a meeting held five (5) days or less before the date action is taken on the item;
    2. Upon a determination by a two-thirds ( $\frac{2}{3}$ ) vote of the council, or if less than two-thirds ( $\frac{2}{3}$ ) of the members are present, a unanimous vote of those present that there is a need to take immediate action and that the need for action came to the attention of the town after the agenda was posted;
    3. Upon a determination by a majority vote of the council that an emergency exists. For purposes of this subsection "emergency" means a crippling disaster, work stoppage or other activity which severely impairs public health or safety where prompt action is necessary due to the disruption or threatened disruption of public facilities.

- L. The mayor or any council member may bring before the council any new business under the mayor and council reports and comments portion of the agenda. These matters need not be specifically listed on the agenda but formal action on such matters shall be deferred until a subsequent council meeting unless deemed to be of urgent nature. The mayor shall provide for such items to appear on subsequent agendas as established in subsection A of this section. (Ord. 148, 1-15-2004)

2.05.190: **NOTICES AND AGENDAS:**

- A. The town clerk/deputy town clerk shall give the mailed notice of regular and special meetings as required by Government Code section 54954.1. The town clerk/deputy town clerk shall charge an annual fee in an amount determined by the clerk, and adopted by the town council by resolution, to reasonably cover the cost of the preparing, copying and mailing of the notice.
- B. The town clerk/deputy town clerk shall mail an agenda to each person who has filed a request therefor. The agenda may be mailed at the time the agenda is posted. Written requests shall be valid for one year and shall be filed according to procedures in the town clerk's office. The town clerk/deputy town clerk shall charge an annual fee in an amount determined by the clerk, and adopted by the town council by resolution, to reasonably cover the cost of the preparing, copying, and mailing of the agenda. The inadvertent failure of the clerk to mail an agenda, or the failure of any person to receive the agenda, shall not deprive the town council of jurisdiction or constitute grounds to invalidate any action.
- C. The town clerk/deputy town clerk shall be responsible for the posting of all notices required by this chapter or by the Ralph M. Brown act, unless otherwise specifically stated in this chapter. (Ord. 148, 1-15-2004)

2.05.200: **PRESIDING OFFICER:**

- A. The mayor, or in the mayor's absence, the mayor pro tempore is the presiding officer at all meetings of the town council. If the mayor or mayor pro tempore are both absent from a meeting, the remaining members shall choose a temporary presiding officer of the meeting. Upon the arrival of the mayor or the mayor pro tempore, the temporary presiding officer shall relinquish the chair at the conclusion of

the business then before the council. Whenever the term "presiding officer" or "mayor" is used in this chapter, and the mayor is absent, it shall apply equally to the mayor pro tempore, and if the mayor pro tempore is also absent, to the presiding officer elected pursuant to this section.

- B. The presiding officer is not deprived of any of the rights and privileges of a council member by reason of being the presiding officer. The presiding officer may move, second, debate, and vote from the chair.
- C. The presiding officer shall be responsible for the maintenance of order and decorum at all meetings. The presiding officer shall decide all questions of order and procedure, under this chapter, subject however, to an appeal to the council. Any council member may as a point of personal privilege request that the presiding officer enforce the rules of procedure, order and decorum.
- D. Any member of the town council may appeal any direction, instruction or determination of the presiding officer regarding order or procedure to the town council for a determination, in which case the matter shall be determined by the majority of the quorum, including the presiding officer.
- E. Prior to any final ruling on a matter of order or procedure, the presiding officer or any member of the town council may request the assistance of the town attorney regarding the matter. (Ord. 148, 1-15-2004)

**2.05.210: SELECTION OF MAYOR AND MAYOR PRO TEMPORE;  
TERMS OF OFFICE:**

- A. It is the intent of the council to rotate the position of mayor and mayor pro tempore through the legislative body to provide each council member the opportunity to serve.
- B. The town council, at its first meeting in December where there is not a general municipal election for members of the town council or at the meeting immediately following a certification by the county of San Bernardino registrar of voters, of a general municipal election, shall consider appointment of mayor and mayor pro tempore in the following order and manner:

1. The mayor pro tempore shall be nominated for appointment to mayor.

a. Upon acceptance of the nomination motion, a vote shall be immediately called of the entire body, without debate.

b. Receipt of the majority vote will be considered as passage of the nomination and seating of the mayor.

c. In the case the mayor pro tempore declines such nomination, that member shall become the most junior member of the seated council and the next senior council member shall be nominated for mayor.

d. In the event two (2) nominations have been declined, nominations will be received from the council.

2. The next senior council member shall be nominated for appointment to mayor pro tempore.

a. Upon acceptance of the nomination motion, a vote shall be immediately called of the entire body, without debate.

b. Receipt of the majority vote will be considered as passage of the nomination and seating of the mayor pro tempore.

c. In the case where a nomination is declined, that council member shall then become the most junior member of the seated council and the next senior council member shall be nominated for mayor pro tempore.

C. Seniority of the council is established where the seated council members remain at their position of seniority and council members elect are seated in the order of seniority based on the number of votes received during the certified general election. Council members elected at the same general election shall be nominated in accordance with subsection B2 of this section, until all members have been so nominated. A member serving as mayor pro tempore at the time of his or her election shall be nominated as mayor in accordance with subsection B1 of this section. 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.

- D. The mayor shall act as the head of the legislative body and is vested the authority as outlined in this code. The mayor pro tempore shall serve in place of the mayor if, for any reason, the mayor is absent or unable to act. While acting as the mayor the mayor pro tempore has all of the powers and duties of mayor. The term of appointment for the office of mayor and mayor pro tempore shall be one year.
- E. Upon being properly agendized and upon an affirmative vote of four-fifths ( $\frac{4}{5}$ ) of the members of the town council, the seated mayor and/or mayor pro tempore may be removed prior to the expiration of their terms in office for actions or inactions which have caused detrimental harm to the town of Yucca Valley. Any two (2) members of the council may agendize removal under this subsection. Said actions or inactions include, but are not limited to:
1. Gross negligence in performance of his/her duties.
  2. Conduct unbecoming the position held.
  3. Actions outside his/her scope of authority.

Upon removal, the council shall consider appointment of a new mayor and/or mayor pro tempore. The new mayor and/or mayor pro tempore shall serve the remaining term of the replaced officers and shall be eligible for reappointment. (Ord. 205, 9-1-2009)

2.05.220: **CONDUCT OF BUSINESS:** At the time set for each regular meeting, each member of the council, the town manager, town clerk/deputy town clerk, town attorney and such department heads or others as have been requested to be present shall take their regular places in the council chambers. The business of the council shall be conducted in substantially the order and in the manner provided on the agenda, and shall include an appropriate number of recesses, including lunch and dinner recess. The presiding officer shall endeavor to conduct the meeting in an orderly, evenhanded and businesslike manner. (Ord. 148, 1-15-2004)

2.05.230: **CALL TO ORDER:** The mayor or in his or her absence the mayor pro tempore shall take the chair at the hour appointed for the meeting and shall call the council to order. In the absence of the mayor and mayor pro tempore, the town clerk/deputy town clerk shall call the council to order, whereupon a temporary presiding officer shall be elected by the council members present. (Ord. 148, 1-15-2004)

2.05.240: **ROLL CALL:** Before proceeding with business of the council, the town clerk/deputy town clerk shall call the roll of the council members and the names of those present shall be entered in the minutes. The order of the roll call shall be alphabetical with the mayor called last. (Ord. 148, 1-15-2004)

2.05.250:     **READING OF MINUTES:** Unless the reading of the minutes is requested by a majority of the quorum, the minutes may be approved without reading if the clerk has furnished each member of the council with a copy thereof before the meeting. If the minutes have not been so distributed, approval of those minutes shall automatically be deferred to the next meeting. (Ord. 148, 1-15-2004)

2.05.260:     **MINUTES:**

- A.     The minutes of the council meetings, except closed sessions, shall be kept by the town clerk/deputy town clerk. The minutes shall be a summary record of each particular type of business transacted. A semiverbatim or verbatim transcript of the proceedings will not be required unless requested by a majority of the council members in attendance for consideration of that business item.
- B.     A council member may request the privilege of having an abstract of his or her statement on any subject under consideration by the council entered in the minutes. If there is no objection from any member of the council, such statement shall be entered in the minutes. (Ord. 148, 1-15-2004)

2.05.270:     **DISTRIBUTION OF MINUTES:** Minutes shall be prepared and placed on the agenda of the next regularly scheduled meeting when practicable. (Ord. 148, 1-15-2004)

2.05.280:     **RECORDING OF MEETINGS:**

- A.     The town clerk/deputy town clerk shall tape record town council meetings as an aid in the preparation of the minutes. The tapes shall be retained for a period of thirty (30) days, at which time, tapes are reused or erased or otherwise no longer retained by the town clerk.
- B.     While the town clerk/deputy town clerk has possession of the tape recordings, the tape recordings shall be subject to inspection pursuant to the California public records act. Members of the public may hear tape recordings of the town council meetings during office hours when it will not inconvenience the ordinary operation of the clerk's office. Mechanical recordings may be made from the tapes under procedures established by the town clerk/deputy town clerk. The clerk shall allow town tape recording or playing machines to be



used by the public, free of charge, for listening or recording purposes when such machines are not necessary for use by the town clerk in the ordinary function of the office. The town clerk/deputy town clerk shall adopt administrative rules, regulations or procedures for the implementation of this section, including, without limitation, procedures to safeguard the tape recordings against theft, mutilation or accidental damage, to prevent inspection or recording from interfering with the orderly function of the office, and to ensure that integrity of the records is maintained. Except as otherwise prohibited by law, the town clerk/deputy town clerk may charge a fee, as adopted by the town council in resolution, sufficient to cover and which does not exceed the cost, including labor and materials, of, but not limited to, providing records and administering this provision.

- C. If any person desires to have a matter reported by a stenographer reporter, the person may employ one directly at his or her expense. The town clerk/deputy town clerk may make reasonable accommodations in order to assure such reporter is seated in such a position at the meeting as to permit accurate recording of the proceedings.
- D. Any person may film, videotape, photograph, or audiotape a town council meeting in the absence of a reasonable finding by the town council that the recording cannot continue without noise, illumination or obstruction of view that constitutes or would constitute a persistent disruption of the proceedings. Town council meetings may be broadcast or cablecast by a person utilizing equipment installed in the council chambers pursuant to a contract approved by the town council, or by any other person provided that the broadcast or cablecast by such other person can be accomplished without noise, illumination, or obstruction of view that constitutes or would constitute a persistent disruption of the proceedings. (Ord. 148, 1-15-2004)

**2.05.290: CONSENT CALENDAR:**

- A. Certain items for inclusion on the agenda, under the consent calendar, which have been reviewed by the town manager, delivered to the town council and made available to the public prior to the council meeting shall be grouped together for action and listed under the consent calendar. The actions recommended by the town manager shall be summarized in the agenda statement for each item on the consent calendar. The consent calendar items may be

approved by a single motion. Before adoption of the consent calendar the mayor shall first determine whether any member of the council or town staff desires to remove an item for comment or discussion. In that event, the mayor may defer action on the particular matter or matters and place them on the regular agenda for consideration in any order deemed appropriate. A request from the public to comment on an item must be filed with the town clerk/deputy town clerk in writing prior to council consideration of the consent calendar. Any member of the town council may record a negative vote or an abstention on a consent calendar item without removing the item for discussion by so noting before or after a motion to approve the consent calendar is on the floor.

- B. The written agenda available to the public and to the town council shall provide an explanation to the public concerning the consent calendar which reads substantially as follows:

*All items listed on the consent calendar are considered to be routine matters or are considered formal documents covering previous Town Council instruction. The items listed on the consent calendar may be enacted by one motion and a second. There will be no separate discussion of the consent calendar items unless a member of the Town Council or Town Staff requests discussion on specific consent calendar items at the beginning of the meeting. Public requests to comment on consent calendar items should be filed with the Town Clerk/Deputy Town Clerk before the consent calendar is called.*

(Ord. 148, 1-15-2004)

2.05.300: **GAINING THE FLOOR BY COUNCIL MEMBERS:** A council member desiring to speak shall first request and gain recognition by the presiding officer. This may be done by either a verbal request or visual recognition. (Ord. 148, 1-15-2004)

2.05.310: **QUESTIONS TO THE STAFF:** A council member desiring to question the town staff shall, after recognition by the presiding officer, address his or her questions to the town manager, or the town attorney, who shall be entitled either to answer the inquiry or to designate some member of his/her staff for that purpose. (Ord. 148, 1-15-2004)

**2.05.320: COUNCIL MEMBER STATEMENTS:**

- A. After gaining recognition from the presiding officer a council member shall confine his/her comments to the issue under discussion, avoiding reference to character and indecorous language.
- B. A council member, once recognized, shall not be interrupted when speaking unless called to order by the presiding officer, or unless a point of order or personal privilege is raised by another council member, or unless the speaker chooses to yield to a question by another council member. If a council member while speaking is called to order, he/she shall cease speaking until the question of order is determined and, if determined to be in order, he/she may proceed.
- C. No council member normally should speak more than once upon any subject until every other member choosing to speak thereon has spoken. No member shall speak for longer than five (5) minutes each time he/she has the floor, without approval of a majority vote of the council.
- D. Members of the town staff, after recognition by the presiding officer, shall hold the floor until completion of his/her remarks or until recognition is withdrawn by the presiding officer. (Ord. 148, 1-15-2004)

**2.05.330: POINTS OF ORDER:** The presiding officer shall determine all points of order subject to the right of any council member to request full council ruling. The question on the ruling shall be: "Shall the decision of the presiding officer be sustained?". A majority vote shall conclusively determine such question of order. The presiding officer may participate in the vote on the motion. (Ord. 148, 1-15-2004)

**2.05.340: POINT OF PERSONAL PRIVILEGE:** The right of a council member to address the council on a question of personal privilege shall be limited to cases in which the council member's integrity, character or motives are directly impinged or the welfare of the council is concerned. A council member raising a point of personal privilege may interrupt another council member who has the floor only if the presiding officer recognizes the privilege. (Ord. 148, 1-15-2004)

**2.05.350: CALLING THE QUESTION:** A member of the council who wishes to terminate discussion of a motion may call for the question. If the call is seconded, the presiding officer shall ask for a vote. If the call carries, the council shall then vote on the pending motion without further discussion. (Ord. 148, 1-15-2004)

**2.05.360: PROTEST AGAINST COUNCIL ACTION:** Any council member shall have the right to have the reasons for his/her dissent from or his/her protest against any action of the council entered in the minutes. Such dissent or protest to be entered in the minutes shall be made in substantially the following manner: "I would like the minutes to show that I am opposed to this action for the following reasons...". (Ord. 148, 1-15-2004)

**2.05.370: REQUEST TO ADDRESS THE COUNCIL ON AGENDA ITEMS:**

- A. It is the policy of the council to permit limited presentations by members of the public on nonpublic hearing agenda items. The amount of time allocated to speakers on a particular item shall be established by the presiding officer, but in no event shall it be in excess of three (3) minutes unless a greater time limit is approved by the town council. Unless further time is granted by majority vote of the council, the speaker shall limit his/her remarks to the time limit established by the presiding officer.
- B. Any person desiring to address the council on a matter not formally scheduled for public hearing may file a written request for permission to address the council which should be filed with the town clerk/deputy town clerk in advance of the council's consideration of that item. The presiding officer, after receiving comment from those individuals who have filed a request to address the council, shall allow any person who has not filed such a request to address the council.
- C. Each person desiring to address the council shall approach the podium, state his/her name and address or area of the town in which he/she lives for the record, and state whom he/she is representing if he/she represents an organization or other persons. All remarks shall be addressed to the presiding officer or council as a whole and not any member thereof. No questions shall be asked of a council member or a member of the town staff without obtaining the

permission of the presiding officer. The presiding officer shall not permit any communications oral or written, to be made or read where it does not bear directly on the agenda item then under discussion.

- D. No person shall address the council without first securing the permission of the presiding officer.
- E. After a motion has been made, no member of the public shall address the council from the audience on the matter under consideration without first securing permission to do so from the presiding officer which permission shall be subject to approval by a majority vote of the town council. (Ord. 148, 1-15-2004)

**2.05.380: PUBLIC TO ADDRESS THE COUNCIL ON NONAGENDA ITEMS:**

- A. Every agenda for a council meeting shall provide a period for members of the public to address the council on items of town business that are not on the agenda but are within the subject matter jurisdiction of the town council.
- B. Speakers shall be limited to three (3) minutes each. Anyone desiring to speak may reserve time at the meeting by filing a written request with the town clerk/deputy town clerk in advance of the time stated on the agenda for oral communications. Speakers will be called in the order reserved within the available time. The presiding officer, after receiving comment from those individuals who have filed a request to address the council, shall allow any person who has not filed such a request to address the council.
- C. Each person desiring to address the council shall approach the podium, state his/her name and address, or area of the town in which he/she lives, for the record, state the matter of town business he/she wishes to discuss, and state whom he/she is representing if he/she represents an organization or other persons. All remarks shall be addressed to the presiding officer or council as a whole and not to any member thereof. No questions shall be asked of a council member or a member of the town staff without obtaining the permission of the presiding officer. The presiding officer shall not permit any communication, oral or written, to be made or read where it does not bear on a matter of town business which is within the subject matter jurisdiction of the town council.

- D. No action or discussion shall occur on any item raised during oral communications, except for matters requiring immediate attention which are added to the agenda. Members of the town council may briefly respond to statements made or questions posed by persons speaking during oral communications. Members of the town council may also ask a question for clarification, or provide a reference to staff or other resources for actual information, or request a report back from the town manager, or his/her staff, or the town attorney at a subsequent meeting. Matters requiring town council action may be referred to the mayor or town manager for placement before the town council at a later date upon direction by the presiding officer or at the request of any member of the council. (Ord. 148, 1-15-2004)

**2.05.390: DECORUM AND ORDER; COUNCIL AND TOWN STAFF:**

While the council is in session the council members and town staff shall observe good order and decorum. A member of the town council or town staff shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the council, nor disturb any member while speaking. (Ord. 148, 1-15-2004)

**2.05.400: DECORUM AND ORDER; AUDIENCE:** Members of the public attending council meetings shall observe the same rules of order and decorum applicable to the town council and staff and shall comply with the provisions of section 2.05.410 of this chapter. (Ord. 148, 1-15-2004)

**2.05.410: ENFORCEMENT OF DECORUM:**

- A. Unauthorized remarks from the audience or members thereof, stamping of feet, unruly applause, whistles, yells, and raucous demonstrations shall not be permitted by the presiding officer. If such conduct continues after direction by the presiding officer to cease, the presiding officer may order such offenders to leave the meeting room. If a person fails to leave as ordered the person shall be removed from the meeting room by the sergeant at arms upon direction by the presiding officer.
- B. Any person wilfully disrupting the proceedings of the council, and who continues to do so after being directed by the presiding officer to cease or being ruled out of order by the presiding officer, or who otherwise refuses to carry out directions or instructions given by the

presiding officer for the purpose of maintaining order and decorum at the council meeting, may be ordered by the presiding officer to leave the meeting room. If the person fails to leave as ordered, the person shall be removed from the meeting room by the sergeant at arms upon direction by the presiding officer.

- C. All demonstrations, including cheering, yelling, whistling, handclapping, and foot stomping which disrupts, disturbs, or otherwise impedes the orderly conduct of the council meeting are prohibited.
- D. No placards, signs, posters, packages, bundles, suitcases, or other large objects that may conceal items outlined in section 2.05.420 of this chapter shall be brought into the council chamber or other meeting place except with the prior authorization of the mayor or town manager.
- E. Members of the audience shall respect the rights of others and shall not create noise or other disturbances so as to disrupt or disturb persons who are addressing the town council, council members who are speaking or otherwise impede the orderly conduct of the meeting. All persons addressing the town council shall speak in a civil and courteous manner and shall not yell, scream, or use foul language.
- F. It is an infraction punishable pursuant to section 1.02.030 of this code for any person who once has been ordered removed from the meeting room, thereafter to disrupt the same or any subsequent meeting in the manner described in this section.
- G. The presiding officer shall not find a person in violation of this section solely because the statements made by the person criticize the policies, procedures, programs or services of the town, or the acts or omissions of the town council.
- H. The chief of police or such member of the police department as the chief may designate shall be sergeant at arms of the town council and shall attend meetings at the request of the presiding officer, town manager, or town council. The town manager may establish such policy as required for attendance of the sergeant at arms at public meetings. The sergeant at arms shall be available to respond to all meetings immediately upon call. The sergeant at arms shall carry out all instructions given by the presiding officer or town council for the purpose of maintaining order and decorum at the council meetings. The performance of the duties of the sergeant at

arms pursuant to this section shall be in accordance with California Penal Code section 148.

- I. In addition to the provisions of this section, the presiding officer, with consent of the town council, may invoke the remedies and procedures established by Government Code section 54957.9. (Ord. 148, 1-15-2004)

**2.05.420: UNAUTHORIZED WEAPONS:**

- A. No person entering or desiring entrance into the council chambers, or other public building or public meeting place where such meeting is an open meeting pursuant to California Government Code section 54950 et seq., shall bring or possess any weapon as outlined in section 171b. of the California Penal Code, including:
  1. Any firearm.
  2. Any deadly weapon described in section 653k or 12020 of the California Penal Code.
  3. Any knife with a blade length in excess of four inches (4"), the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two (2) hands.
  4. Any unauthorized tear gas weapon.
  5. Any taser or stun gun, as defined in section 244.5 of the California Penal Code.
  6. Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO<sub>2</sub> pressure, or spring action, or any spot marker gun or paint gun.
- B. Persons entering such chambers or meeting as described in this section may be subject to search.
- C. The chief of police shall follow such operating procedures, as deemed necessary for search of individuals entering such buildings.
- D. Notifications, as deemed required by the town manager, of potential search shall be posted on entrances to those facilities as identified in this section. (Ord. 148, 1-15-2004)



2.05.430: **VOTING PROCEDURES:** In acting upon every motion, the vote shall be taken by voice or roll call or any other method by which the vote of each council member present can be clearly ascertained. The vote on each motion shall then be entered in full upon the record. The order of voting shall be alphabetical with the mayor voting last. The town clerk/deputy town clerk shall call the names of all members seated when a roll call vote is ordered or required. Members shall respond "aye", "no", or "abstain" provided that when a vote is collectively taken by voice or when a method of voting other than by voice or roll call is used, any council member not audibly and clearly responding "no" or "abstain" shall have his vote recorded "aye". At the request of any member of the council and the direction of the presiding officer the town clerk/deputy town clerk shall read the recorded voice votes back to the council. If voting is recorded by electronic means the town clerk/deputy town clerk shall enable each council member's voting apparatus and provide for each member to record their vote prior to any display of votes and such votes shall be recorded as outlined in this chapter. (Ord. 148, 1-15-2004)

2.05.440: **REQUEST FOR DETERMINATION OF CONFLICT OF INTEREST:** If a council member has reason to believe he/she has a conflict of interest with respect to a governmental decision he/she may give the full facts of the matter to the town attorney and request advice thereon. The request for advice should be submitted to the town attorney sufficiently in advance of the meeting to allow the town attorney a reasonable opportunity to analyze the facts stated and the applicable law and to seek appropriate assistance from the fair political practices commission. Any response by the town attorney shall be in writing, if time permits, and delivered to each council member before the meeting in question. Oral responses shall be stated on the public record. If a determination whether it is reasonably foreseeable that a financial interest would be affected by a governmental decision depends on the advice of an appraiser or similar professional, except an attorney, the town attorney may retain such professional at town expense and as approved by the town manager. Nothing in this section shall be deemed to preclude the member or the town attorney from seeking assistance or advice on a conflict of interest matter from the fair political practices commission. (Ord. 148, 1-15-2004)

2.05.450: **FAILURE TO VOTE:** Every council member should vote unless disqualified by reason of conflict of interest. A council member who abstains from voting acknowledges that a majority of the quorum may decide the question voted upon. (Ord. 148, 1-15-2004)

**2.05.460: TIE VOTE:**

- A. Tie votes or a vote lacking the required number of affirmative votes shall constitute "no action", and the matter voted upon remains before the council and is subject to further council consideration. If the town council is unable to take action on a matter before it because of a tie vote or the lack of the required number of votes, the town clerk/deputy town clerk shall place the item on the next regular meeting of the town council for further consideration. If after subsequent consideration, the vote remains tied or the requisite number of affirmative votes is not obtained, the vote shall be deemed to result in a failure of the pending motion or a denial of the requested action.
- B. Subsection A of this section shall not apply to votes in which all members of the town council participate, unless a member abstains for reasons other than a conflict of interest, or to votes on matters from which a council member is disqualified from participation by operation of state law, in which event a tie vote or vote lacking the requisite number of affirmative votes shall be deemed to result in a failure of the pending motion or a denial of the requested action. (Ord. 148, 1-15-2004)

**2.05.470: CHANGING VOTE:** A council member may change his/her vote only if a timely request to do so is made immediately following the announcement of the vote by the town clerk/deputy town clerk and prior to the time the next item in the order of business is taken up. A council member who publicly announces that he or she is abstaining from voting on a particular matter shall not subsequently be allowed to withdraw the abstention. (Ord. 148, 1-15-2004)

**2.05.480: RECONSIDERATION:**

- A. A motion to reconsider any action taken by the council may be made only at the meeting such action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion may be made only by one of the council members who voted with the prevailing side. Nothing in this section shall be construed to prevent any council member from making or remaking the same or any other motion at a subsequent meeting of the council.

- B. A motion to rescind, repeal, cancel or otherwise nullify prior council action shall be in order at any subsequent meeting of the council and may be made by any council member. The effect of such action shall operate prospectively and not retroactively and shall not operate to adversely affect rights which may have been vested in interim without notice and an opportunity to be heard having been given to the affected party or parties. (Ord. 148, 1-15-2004)

**2.05.490: PUBLIC HEARINGS; WHEN HELD:**

- A. Wherever, by law, the town council is required to hold a public hearing on any matter before it, such hearing will be held in accordance with the rules and procedures set forth in this chapter. Nothing in this chapter shall prohibit or limit the town council from holding a public hearing on any matter before it whether required by law or not, and nothing in this chapter shall prohibit or limit any member of the public from addressing the council in accordance with the procedures provided for in this chapter, irrespective of whether or not a public hearing is being held.
- B. Public hearings shall be scheduled to begin at a time certain which shall be the hour the council convenes or such other time as may be stated on the agenda. The council shall hold public hearings in the order scheduled on the agenda at the time stated, or as soon thereafter as practicable. The presiding officer, with the consent of the council and for good cause, may alter the scheduled order of public hearings. Time certain public hearing items shall have priority over other matters set for consideration at a time certain. If the hearing is continued to a time less than twenty four (24) hours after the time specified in the notice of such hearing a notice of continuance shall be posted immediately after the meeting at the place designated for such postings. (Ord. 148, 1-15-2004)

**2.05.500: PUBLIC HEARINGS; PROCEDURE:**

- A. The presiding officer shall announce that it is the time and place for a public hearing scheduled on the agenda.
- B. Prior to all town council public hearings, copies of the council's agenda with attachments, including the staff report, if any, shall be available at the office of the town clerk/deputy town clerk at least twenty four (24) hours prior to commencement of the hearing; provided however, the council may allow in its discretion the filing of

supplemental reports which shall be made public at the commencement of the hearing.

- C. The order of the hearing shall be as follows unless otherwise required by law:
1. Presentation of staff and/or advisory commission report.
  2. Presentation by the town clerk/deputy town clerk of previously filed written correspondence or petitions.
  3. Questions from the council.
  4. Presentation by the applicant, if any.
  5. Testimony of people in favor and people in opposition.
  6. Rebuttal by applicant of facts presented during other testimony.
  7. Further questions/discussion from/by council.
- D. After rebuttal by the applicant no further public testimony shall be permitted, except direct responses to questions by a council member if permitted by the presiding officer. The presiding officer may order the testimony of persons in favor or in opposition in any manner deemed appropriate by the presiding officer.
- E. If the matter is on appeal from a decision of a town commission, the appellant shall speak before the applicant, if any, and shall be entitled to rebuttal after the applicant.
- F. The provisions of section 2.05.370 of this chapter for addressing the council shall apply to persons testifying at public hearings except that:
1. A written request to speak shall not be required;
  2. An applicant shall have twenty (20) minutes, including rebuttal time;
  3. An appellant, if any, shall have twenty (20) minutes including rebuttal time.
- G. The presiding officer may, with the consent of the council, dependent upon the necessity for ensuring adequate presentation of testimony

and evidence to provide a fair hearing, set longer or shorter time limits than otherwise allowed by this chapter.

- H. If a public hearing cannot be reasonably concluded in light of other business to be conducted and the number of persons desiring to present testimony, the hearing may be continued to another date or dates by the presiding officer. (Ord. 148, 1-15-2004)

**2.05.510: PUBLIC HEARINGS; EVIDENCE:**

- A. During the public hearing, the council shall receive oral or written evidence relevant to the matter being considered which shall become part of the record. The presiding officer, or any member of the council through the presiding officer, may require the town clerk/deputy town clerk to swear any person giving evidence at the time of the hearing on the matter under consideration, if in the opinion of the presiding officer or any member of the council, the oath is necessary. Evidence received at public hearings provided for in this chapter shall be relevant and material to the issues before the council; provided, however, that the rules of evidence as established by law for judicial proceedings in the state of California shall be substantially relaxed in order to afford a full presentation of the facts essential for judicious consideration by the council of the matter which is the subject of public hearings. Failure on the part of the town council to strictly enforce rules of evidence or to reject matters which may be irrelevant or immaterial shall not affect the validity of the hearing. Any procedural errors which do not affect the substantial rights of the parties shall be disregarded. The council may order the town clerk/deputy town clerk to issue and the chief of police or his representative to serve subpoenas for attendance of any witnesses or for production of any records at a council meeting with respect to any duly scheduled hearing.
- B. If there is a staff report, it shall be considered as evidence and shall become part of the record of a public hearing. Such report need not be read in full as part of the staff presentation. A synopsis of such report may be presented orally by staff members to the council. In addition, any of the following may be presented to the town council and, if presented, shall also become part of the record:
  - 1. Exhibits and documents used by the town staff and any person participating in the hearing;

2. Maps and displays presented for use at the hearing; provided that, whenever practicable, they shall be displayed in full view of the participants and the audience;

3. All communications and petitions concerning the subject matter of the hearing; provided that, a reading of such matters only shall be had at the request of a council member;

4. Information obtained outside the council chambers, such as a view of the site, provided such information, to the extent it forms the basis for finding in a quasi-adjudicative matter, shall be disclosed for the record.

- C. All exhibits, reports, maps and other physical evidence placed before the council shall be retained by the town clerk/deputy town clerk. Such exhibits may be released by the clerk with the approval of town attorney. Items that are large, perishable, bulky or otherwise difficult to store may be returned to the person submitting the item provided that a photographic or videotape record of the item is retained by the town clerk/deputy town clerk. (Ord. 148, 1-15-2004)

2.05.520: **PUBLIC HEARINGS; CONTINUATION:** At any time that it appears to the presiding officer, or a majority of the council through the presiding officer, that inadequate evidence has been presented to afford judicious consideration of any matter before the council at the time of a public hearing, or for other just cause, a continuation of said hearing may be ordered to afford the applicant, the applicant's opponents, or the town staff adequate time to assemble additional evidence for the council's consideration. Any continuation ordered by the council through its presiding officer shall be to a date certain, which said date shall be publicly announced in the council chamber and shall constitute notice to the public of the time and place that further evidence will be taken. A public hearing may be continued in the event the matter is to be returned to the planning commission for further consideration. In this event, the presiding officer shall publicly state in open council meeting the fact that the matter has been returned to the planning commission for consideration and that the council hearing will be continued to a date certain. The public announcements provided for in this section shall constitute notice to the applicant and/or appellant and to all members of the public of the time and place when further evidence will be taken by the council. The council shall also have the option to set the matter to a hearing de novo. (Ord. 148, 1-15-2004)

2.05.530: **PUBLIC HEARINGS; CLOSING:** When neither the applicant, public members in attendance, nor the town staff have further evidence to produce, or when, in the opinion of a majority of the council or of the presiding officer with the consent of the council, sufficient evidence has been presented, the presiding officer shall order the public hearing closed, at which time no further evidence, either oral or written, will be accepted by the council; provided, however, that this rule may be relaxed by the presiding officer or a majority of the council through the presiding officer where it appears that good cause exists to hear further evidence concerning the matter which is the subject of the public hearing. (Ord. 148, 1-15-2004)

2.05.540: **PUBLIC HEARINGS; REOPENING:** A public hearing on any matter once closed cannot be reopened on the date set for hearing unless the presiding officer determines that all persons who were present when the hearing closed are still present. Nothing in this section, however, is intended to prevent or prohibit the reopening of a public hearing at any subsequent regular or special meeting of the council. No public hearing may be reopened without due and proper notice being given to the applicant and his or her opponents designating the time and place of said reopening. (Ord. 148, 1-15-2004)

2.05.550: **PUBLIC HEARINGS; DECISION:**

- A. The town council shall consider all evidence properly before them in accordance with this chapter. Unless the documents are presented as part of the staff report, the council shall then indicate its intended decision and instruct the town attorney to return with the documents necessary to effect that decision including findings as may be appropriate to the matter. Upon return of such documents, the council shall determine if the findings are supported by the evidence before it at the hearing, and if the decision is supported by the findings, and after making any changes render its decision by taking action on the documents. The town council's decision is not final until approval of the documents.
- B. A council member who was absent from all or part of a public hearing on matters for which a public hearing is required by law shall not participate in a decision on the matter unless he or she has examined all the evidence including listening to a recording of the oral testimony and can represent that he or she has a full understanding of the matter. (Ord. 148, 1-15-2004)

**2.05.560: MOTIONS:**

- A. A motion is the formal statement of a proposal or question to the council for consideration and action. Every council member has the right to present a motion. A motion is generally not to be considered as a legislative or quasi-judicial action of the council, but is in the nature of direction or instruction, however, a motion will generally suffice unless a resolution or ordinance is specifically called for by law or unless there is some reason for desiring the particular action formalized by separate instrument. Resolutions or ordinances may be introduced or adopted by appropriate motion.
- B. If a motion contains two (2) or more divisible propositions, the presiding officer may divide the same.
- C. If a motion is properly made, the presiding officer shall call for a second. No further action is required on a motion which does not receive a second.
- D. When a motion is made and seconded, upon direction by the presiding officer, it will be restated by town clerk/deputy town clerk, before a vote.
- E. A motion once before the council may not be withdrawn by the maker without the consent of the second. (Ord. 148, 1-15-2004)

**2.05.570: PRECEDENCE OF MOTIONS:**

- A. When a main motion is before the council, no motion shall be entertained except the following which shall have precedence, one over the other, in the following order:
  - 1. Adjourn;
  - 2. Recess;
  - 3. Table;
  - 4. Previous question (calling the question);
  - 5. Limit or extend debate;
  - 6. Refer to committee or staff;



- 7. Amend;
  - 8. Postpone;
  - 9. Main motion.
- B. The order of preference in subsection A of this section is subject to the following restrictions:
- 1. A motion shall not be in order which repeats a motion made previously at the same meeting unless there has been some intervening council action or discussion. A motion shall not be in order to revive a previous motion previously defeated at the meeting, or to rescind or otherwise change the nature of a motion previously approved at the meeting, unless a motion to reconsider is first made and approved.
  - 2. A motion shall not be in order when the previous question has been ordered.
  - 3. A motion shall not be in order while a vote is being taken.
  - 4. A motion shall not be in order when made as an interruption of a council member while speaking. (Ord. 148, 1-15-2004).

2.05.580: **PARTICULAR MOTIONS, PURPOSE AND CRITERIA:** The purpose and salient criteria of the motions listed in section 2.05.570 of this chapter is as follows:

A. Motion to adjourn:

- 1. Purpose: To terminate a meeting.
- 2. Debatable or amendable: No, except a motion to adjourn to another time is debatable and amendable as to the time to which the meeting is to be adjourned.

B. Motion to recess:

- 1. Purpose: To permit an interlude in the meeting and to set a definite time for continuing the meeting.
- 2. Debatable or amendable: Yes, but restricted as to time for continuing the meeting.

C. Motion to table:

1. Purpose: To set aside, on a temporary basis, a pending main motion; provided that, it may be taken up again for consideration during the current meeting or at the next regular meeting.

2. Debatable or amendable: It is debatable but not amendable.

D. Motion for previous question ("calling the question"):

1. Purpose: To prevent or stop discussion on the pending question or questions and to bring such question or questions to vote immediately. If the motion passes, a vote shall be taken on the pending motion or motions.

2. Debatable or amendable: No.

E. Motion to limit or extend debate:

1. Purpose: To limit or determine the time that will be devoted to discussion of a pending motion or to extend or remove limitations already imposed on its discussion.

2. Debatable or amendable: Not debatable; amendments are restricted to period of time of the proposed limit or extension.

F. Motion to refer to committee or staff:

1. Purpose: To refer the question before the council to a committee or to the town staff for the purpose of investigating or studying the proposal and to make a report back to the council. If the motion fails, discussion or vote on the question resumes.

2. Debatable or amendable: Yes.

G. Amend:

1. Purpose: To modify or change a motion that is being considered. An amendment may be in any of the following forms: to "add" or "insert" certain words or phrases; to "strike out certain words or phrases and to add other"; to "substitute" certain words, phrases or actions on the same subject matter as the one pending; to "divide the question" into two (2) or more questions so as to get a separate vote on particular points. A motion to amend shall relate to the subject of the main motion. A motion to amend by substitution shall

not be used to change the nature of the main motion. If the motion to amend passes, then the main motion should be voted on as amended.

2. Debatable or amendable: It is debatable unless applied to an undebatable main motion. It is amendable. A motion to amend an amendment is not further amendable.

H. Motion to postpone (continue):

1. Purpose: To prevent further discussion and voting on the main motion until a future date or event. If the motion fails, discussion and voting on the main motion resumes. If it passes, the subject of the main motion shall not be brought up again until the specified date or event.

2. Debatable or amendable: It is debatable but not amendable.

I. Main motion:

1. Purpose: The primary proposal or question before the council for discussion and decision.

2. Debatable or amendable: Yes. (Ord. 148, 1-15-2004)

2.05.590: **LEGISLATIVE ACTION:** All legislative action undertaken by the town council shall generally be by means of an ordinance or resolution. Legislation of a permanent nature which is to remain in force until amended or repealed, which establishes rights and obligations and the failure to comply with which may result in a penalty, shall be by ordinance. (Ord. 148, 1-15-2004)

2.05.600: **PREPARATION OF ORDINANCES:** All ordinances shall be prepared or approved by the town attorney. No ordinance shall be presented to the council at a regular meeting for introduction unless the town attorney has approved the ordinance. Draft ordinances may be presented to the council as study items for review and discussion prior to being presented for introduction with or without review of the town attorney. (Ord. 148, 1-15-2004)

**2.05.610: PROCEDURE FOR ADOPTION OF ORDINANCES:**

- A. The first item, immediately following minutes of previous meetings, of business on the consent calendar shall be a motion to waive the reading of the text of ordinances after the reading of the title. If that motion passes unanimously then ordinances presented at the meeting for introduction or adoption shall not be read in full unless, after the reading of the title a reading of the text is requested by a majority of the council. If a majority of the council members so requests the ordinance shall be read in full.
- B. After the reading of the title, an ordinance may be introduced by a motion approved by the affirmative vote of three (3) members of the council.
- C. When an ordinance is altered after introduction, it shall be reintroduced prior to adoption. Corrections of typographical or clerical error are not alterations within the meaning of this subsection.
- D. Not sooner than five (5) days after introduction, an ordinance shall be returned to the town council for consideration of adoption. Adoption shall be by motion approved by the affirmative vote of at least three (3) members of the council.
- E. The town attorney is designated as the official responsible for preparing summaries of ordinances or approving summaries prepared by the town clerk/deputy town clerk. When requested by the town clerk/deputy town clerk, the town attorney shall prepare a summary of an ordinance for publication pursuant to the provisions of Government Code section 36933. If approved by the town attorney, the title of an ordinance may serve as the summary.
- F. The provisions of this section are intended to supplement the provisions of California Government Code section 36931 et seq., relating to enactment of ordinances. Urgency ordinances may be adopted at the time of introduction pursuant to the provisions of the Government Code. (Ord. 148, 1-15-2004)

**2.05.620: RESOLUTIONS:**

- A. In most cases, a resolution is little more than a formal motion set forth in a formal document. In some matters, such as an assessment proceeding, general plan amendment or the granting or denial of

variance, a resolution is required. A resolution should be required under any circumstances where it is desirable that the action be formally recorded in the office of the town clerk as a numbered document which can be used for future reference. Legislative actions as set forth in section 2.05.590 of this chapter should be by ordinance or resolution.

- B. Resolutions shall be adopted only upon the affirmative vote of at least three (3) members of the council.
- C. Resolutions fixing the rate of taxes to be levied or the amount of revenue required to be raised by taxation shall be published in the same manner and within the same time as ordinances are required to be published. (Ord. 148, 1-15-2004)

**2.05.630: RESOLUTIONS; ADOPTION:**

- A. Where a particular resolution has been prepared and is before the council, it shall be adopted by motion, second, discussion and vote by the majority of the total membership of the council, requiring three (3) affirmative votes for adoption. It is not necessary to read the resolution by title or in full, provided it is identified by the presiding officer or the council member making the motion. Upon request of a majority of the quorum a resolution shall be read in full.
- B. Where a particular resolution has not been prepared, a motion to direct the town manager or town attorney to prepare the document and return it to the council is ordered.
- C. Where necessary, a resolution may be presented verbally in motion form together with instructions for written preparation. Upon preparation and execution of such a resolution, it shall become an official action of the council without the need for further town council action. (Ord. 148, 1-15-2004)

**2.05.640: RALPH M. BROWN ACT:**

- A. The provisions of this chapter are intended to supplement the provisions of the Ralph M. Brown act with respect to matters not covered by the act or which are the subject of local regulation under the act. To the extent of any conflict between the provisions of this chapter and the act, the provisions of the act shall prevail.

- B. The town clerk/deputy town clerk shall provide a copy of this chapter and of the Ralph M. Brown act to each person elected to serve as a member of the town council who has not assumed the duties of office. (Ord. 148, 1-15-2004)

**2.05.650: PROCEDURES IN ABSENCE OF RULES:**

- A. If a matter arises at a council meeting which is not covered by this chapter or applicable provisions of federal or state law or this code, the latest revised edition of "Robert's Rules Of Order" may be used as a guide for resolution of the particular procedural issue raised to the extent that such rules are applicable to meetings of a legislative body of the town.
- B. The town clerk/deputy town clerk shall provide a copy of this chapter and a published softcover of the latest version of "Robert's Rules Of Order" to each person elected to serve as a member of the town council who has not assumed the duties of office. (Ord. 148, 1-15-2004)

**2.05.660: CORRESPONDENCE ADDRESSED TO THE TOWN COUNCIL:**

- A. The town manager or his or her designated representative is authorized to open and examine all mail or other written communications addressed to the town council, except correspondence addressed to individual council members, and to give it warranted attention to the end that all administrative business referred to in said communications and not requiring town council action may be acted upon between council meetings; provided, that all communications and any action taken pursuant thereto shall be reported to the town council. The town manager may keep, distribute, copy or direct the keeping, distribution, or copying of such mail or other written communications as the manager deems necessary or appropriate for the efficient conduct of town business.
- B. The town manager's office and town clerk's office shall coordinate with respect to mail received by the town clerk's office in order to effectively accomplish the purposes of this section.
- C. Correspondence concerning a matter on an agenda for consideration by the council, and received by the town manager's office or town clerk's office prior to twelve o'clock (12:00) noon two (2) days before

delivery of agenda packages to town council members, shall be made a part of the agenda item package. A copy of correspondence received after that time shall be delivered to each council member as soon as feasible before the meeting, or at the meeting, and a copy shall be filed with the town clerk/deputy town clerk as soon as practicable after receipt. Such correspondence shall be a part of the record of the meeting, but generally shall not be read aloud at a council meeting unless directed by the mayor with the consent of the town council. Correspondence delivered to the town clerk/deputy town clerk, or two (2) members of the town council, at a meeting shall be part of the record; upon request by any member of the town council such correspondence may be read aloud or paraphrased by the town clerk/deputy town clerk in lieu of oral testimony by the person submitting the letter. In the preparation of the record of a meeting, the town is not required to keep duplicate copies of a document.

- D. The town manager may establish administrative policies to implement the provisions of this section. (Ord. 148, 1-15-2004)

**2.05.670: CORRESPONDENCE TO COUNCIL MEMBERS:**

- A. Routine correspondence addressed to the town council which is received by individual council members, the town manager, the town clerk/deputy town clerk or any other officer or employee of the town shall not be a matter of public record unless it is received and filed by the council or any member thereof at a regular, special, or adjourned meeting of the council or is kept and used by the town in the course of town business.
- B. Correspondence received by the mayor or individual members of the town council containing evidence relevant to an administrative or quasi-judicial hearing shall be delivered by the member to the town clerk/deputy town clerk for distribution to all members of the town council at or before the hearing. Petitions of residents received by the mayor or members of the town council relating to matters scheduled for a town council meeting shall be delivered to the town clerk/deputy town clerk upon receipt for distribution to the town manager and other members of the town council. Compliance with this section shall not be necessary with respect to correspondence or petitions that indicate distribution to all members of the town council.

- C. Nothing in this section shall be construed to require distribution of other correspondence or disclosure of information protected by the deliberative process privilege. (Ord. 148, 1-15-2004)

**2.05.680: PUBLIC INSPECTION OF WRITTEN MATERIALS FOR MEETINGS:** In order to assure timely compliance with Government Code section 54957.5 agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of the legislative body of the town by a member of the town staff or by a member of the town staff on behalf of any person in connection with a matter subject to discussion or consideration at a public meeting shall be made available for public review at the clerk's office. This section shall not apply to any writing exempt from public disclosure under section 6253.5, 6254, or 6254.7 of the Government Code. (Ord. 148, 1-15-2004)

**2.05.690: CONFIDENTIAL COMMUNICATIONS:**

- A. No member of the town council, town officer or employee of the town or any other person present during a closed session of the council shall disclose to any person the content or substance of any information presented for discussion which took place during the closed session unless the town council first authorizes the disclosure of such information by the affirmative vote of three (3) members.
- B. Except when disclosure is mandated by state or federal law, no member of the town council, officer or employee of the town or any other person shall disclose to any person the content or substance of any confidential or privileged communication relating to matters of town business, received under circumstances where the confidential or privileged nature of the communication is reasonably conveyed or understood, unless the disclosure is first authorized by the affirmative vote of three (3) members of the town council.
- C. Subsections A and B of this section shall not apply to:
1. Confidential disclosures to other officers or employees of the town;
  2. Disclosures to members, officers or employees of other governmental agencies, where the disclosure is in confidence and is necessary for furtherance of official town business;



3. Disclosures necessary to report a crime or violation of law to a responsible enforcement agency;
  4. Disclosures by the town attorney, town manager or the town's designated negotiators when such disclosures are deemed necessary by such person to accomplish the official business of the town pursuant to directions obtained during the closed session.
- D. Pursuant to Government Code section 1098, no member of the town council or officer or employee of the town shall use confidential information received in the course and scope of their office or employment for private financial gain. Such use of confidential information constitutes a violation of Government Code section 1098, a misdemeanor.
- E. Other appointed officers of the town who violate subsection A or B of this section may be subject to disciplinary action by the appointing authority. (Ord. 148, 1-15-2004)

2.05.700: **COUNCIL POLICY MANUAL:** The town clerk shall maintain a council policy manual to contain such written policies as the council may adopt. The purpose of council policies is to indicate how the council intends to rule in the future on particular matters of a recurring nature which are subject to their discretion. Policies shall be numbered and dated and shall remain in effect until rescinded. (Ord. 148, 1-15-2004)

2.05.710: **FAILURE TO OBSERVE PROCEDURES; WAIVER:**

- A. The failure to strictly observe the procedural provisions of this chapter shall not affect the jurisdiction of the council or invalidate any action taken at a meeting that is otherwise held in conformity with law so long as the requisite number of council members have agreed to the particular action. To the extent that this chapter establishes requirements that are more restrictive than the Ralph M. Brown act, or other provisions of state statute applicable to meetings of the town council, the provisions of this chapter shall prevail.
- B. A failure on the part of any person to register a timely objection of an alleged violation of the procedures of this chapter shall constitute a waiver of all such objections. An objection shall be deemed timely only if it is made during the meeting, proceeding or public hearing to which the alleged violation relates. Nothing in this section shall preclude the town council from taking any action deemed appropriate

by the council to cure a violation or alleged violation of the procedures of this chapter that is brought to its attention.

- C. The procedural provisions of this chapter establishing duties of town officers or employees are directory in nature and shall not be deemed to create a mandatory duty the breach of which could result in liability to the town or to the officer or employee pursuant to state or other law. (Ord. 148, 1-15-2004)

2.05.720: **APPEALS PROCEDURE:**

A. Procedures:

1. Except when an appeals procedure is otherwise specifically set forth in this code, any person excepting to the granting, denial, suspension or revocation of a permit applied for or held pursuant to any provisions of this code or other town ordinance, or to any administrative decision made by any official of the town, if the granting, denial, suspension or revocation of such permit or the determination of such administrative decision involves the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this code or other town ordinance, may appeal in writing to the town council by filing with the town clerk a written notice of such appeal.

2. No appeal may be taken to any such administrative decision made by an official of the town pursuant to any of the provisions of this chapter unless such decision to appeal has been first taken up with the department head concerned and with the town manager, and each such official has not adjusted the matter to the appellant's satisfaction.

3. No right of appeal to the town council from any administrative decision made by an official of the town pursuant to any of the provisions of this code or other town ordinance shall exist when such decision is ministerial and thus does not involve the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this code or other town ordinance, whether the administrative decision involves the granting, denial, suspension or revocation of a permit or any other administrative decision. Also, there shall be no such right of appeal with regard to law enforcement activities involving state law.

B. Notice; Time Limit; Contents:

1. Any notice of appeal to the town council must be filed: a) within fifteen (15) days of the date of service of notice of the decision or action pursuant to subsection 1.02.080A of this code, b) within fifteen (15) days of the decision or action if no notice of the decision or action is required to be given.

2. The notice of appeal shall set forth:

- a. The specific action appealed from,
- b. The specific grounds of the appeal, and
- c. The relief or actions sought from the town council.

In the event any notice of appeal fails to set forth any information required by this section, the town clerk shall return the same to the appellant with a statement of the respects in which it is deficient, and the appellant shall thereafter be allowed five (5) days in which to perfect and refile the notice of appeal.

3. Except in those instances where an appeal is filed by the town manager or other public official in pursuance of official duties the written notice of appeal from the action of an administrative official or from an administrative body of the town, as the case may be, shall be accompanied by a fee of seventy five dollars (\$75.00) or such other fee as may be required by other enactment of the town council.

C. Notice Of Hearing: Upon the timely filing of a notice of appeal in proper form, the town clerk shall schedule the matter promptly upon the town council agenda at a subsequent regular meeting and shall cause notice thereof to be given the appellant not less than five (5) days prior to such hearing, unless such notice is waived in writing by the appellant. The town clerk shall also cause a copy of the notice of appeal to be transmitted to the official body whose action has been appealed from.

D. Hearing:

1. At the hearing, the town council may limit participation in the hearing to the directly interested parties, or may allow participation by the public. Such public participation, however, shall only be appropriate when the town council deems the same necessary in the

public interest. If a hearing is ordered open to public participation, notice thereof shall be given by publishing notice of the same in a newspaper of general circulation in the town not less than five (5) days prior to the date of such hearing, and by such other means as the town council deems necessary.

2. At the time of consideration of the appeal by the town council, the appellant shall be limited to a presentation on the specific grounds of the appeal and matters set forth in the notice of appeal and shall have the burden of establishing cause why the action appealed from should be altered, reversed, or modified. The town council may continue the matter from time to time, and at the conclusion of its consideration may affirm, reverse or modify the action appealed from and may take any action which might have been legally taken in the first instance by the official body from whose action the appeal has been taken. In ruling on the appeal, the findings and action of the town council shall be final and conclusive in the matter. (Ord. 148, 1-15-2004)

2.05.730: **ADMINISTRATIVE HEARINGS PROCEDURE:** Whenever the requirement of this code or other law require that hearings with regard to a particular matter be conducted pursuant to a specific procedure, the provisions of the law establishing the requirements shall prevail over this chapter to the extent of any inconsistency. (Ord. 148, 1-15-2004)

2.05.740: **ADMINISTRATION OF OATH:** Whenever any law requires that testimony presented to the town council be under oath or affirmation, the persons presenting such testimony shall be sworn in by the town clerk/deputy town clerk or the mayor. (Ord. 148, 1-15-2004)

2.05.750: **PENALTY:**

- A. Any person who violates any provision of section 2.05.140 and/or 2.05.150 of this chapter shall be guilty of a misdemeanor and subject to penalty as provided by chapter 1.02 of this code.
- B. Any person who violates any provision of section 2.05.390 and/or 2.05.400 of this chapter shall be guilty of a misdemeanor and subject to penalty as provided by chapter 1.02 of this code.

- C. Any person who violates any provision of section 2.05.690 of this chapter shall be guilty of a misdemeanor and subject to penalty as provided by chapter 1.02 of this code. (Ord. 148, 1-15-2004)

## CHAPTER 4.02

**BOARD AND COMMISSION MEMBERS**

## SECTION:

- 4.02.010: Appointments
- 4.02.020: Residency Requirements
- 4.02.030: Officers

4.02.010: **APPOINTMENTS:**

- A. Town Council To Appoint: Unless otherwise specifically provided in this code or by state law, all town board and commission appointments, except for ex officio members where applicable, shall be made by the town council.
- B. Terms: Unless otherwise provided by law, or by ordinance or resolution, or unless by the very nature of a situation the provisions hereof may not be made applicable, all members of boards and commissions of the town shall be appointed by the town council for three (3) year terms commencing on July 1 of the year of appointment; provided, that interim vacancies shall be filled by appointment for the unexpired term of the member replaced. This rule shall not, however, apply in regard to a newly established board or commission to which initial appointments are made on a staggered-term basis, provided that the longest such term shall not exceed three (3) years commencing with the July 1 next following the appointment. (Ord. 3, 11-27-1991)
- C. Removal; Vacancies: Any member of a board or commission of this town may be removed from office at any time, with or without cause, by a majority vote of the town council, except in cases where the mayor or town council is not the appointing authority, in which case such regular appointing authority may exercise this power of removal. If a member absents himself without advance permission of the board or commission or of his appointing authority, from three (3) consecutive regular meetings or from twenty five percent (25%) of

the duly scheduled meetings of the board or commission within any fiscal year, his office thereupon becomes vacant and shall be filled as any other vacancy. If a member absents himself from three (3) consecutive regular meetings or twenty five percent (25%) of the duly scheduled meetings of the board or commission, with or without permission of the board, the chairperson shall forward the member's absence record to the appointing authority. (Ord. 118, 8-3-2000)

4.02.020: **RESIDENCY REQUIREMENTS:** Unless otherwise provided by law or by ordinance or resolution of the town council, all members of any board or commission of the town appointed by the town council shall be, initially and during their incumbencies, bona fide residents of the town. (Ord. 98, 12-3-1998)

4.02.030: **OFFICERS:** Unless otherwise provided by law or by ordinance or resolution, each board and commission of the town shall, annually, choose one of its number as chairperson and one as vice chairperson. Each chairperson and vice chairperson shall have authority and perform such duties as are commonly associated with their respective titles, or as may be specially prescribed by law or by the bylaws or other rules of the board or commission. Vacancies in either such position may be filled as in the first instance, and a new chairperson or vice chairperson may be chosen at any time by majority vote of all members of the board or commission. (Ord. 3, 11-27-1991)

## CHAPTER 4.04

## PLANNING COMMISSION

## SECTION:

- 4.04.010: Planning Commission Created
- 4.04.020: Officers, Staff
- 4.04.030: Membership
- 4.04.040: Meetings; Rules
- 4.04.050: Functions, Powers And Duties
- 4.04.060: Appeal Planning Commission Decisions

4.04.010: **PLANNING COMMISSION CREATED:** There is created a planning commission for the town. It shall consist of five (5) members, appointed by the town council; the terms of members of the initial commission shall be set by lot, with one member serving until June 30, 1993, two (2) members serving until June 30, 1994, and two (2) members serving until June 30, 1995. Thereafter, all terms shall be for three (3) years and shall expire three (3) years after the effective date of the appointment, except those appointments made after the commencement of the term to fill a vacancy or removal, in which case the term of office shall be for the balance of the unexpired terms. There is no maximum number of terms that may be served by any individual planning commissioner. The town council may remove from office any planning commissioner at any time without cause. Until a planning commission is appointed and its members have qualified and begun functioning, the town council shall continue to carry out the functions which otherwise will be performed by the appointed planning commission. (Ord. 25, 10-1-1992)

4.04.020: **OFFICERS, STAFF:** The planning commission shall appoint the chairperson and vice chairperson annually subject to his removal at any time by a majority vote of the commission. The chairperson shall preside at all meetings and hearings of the commission. The chairperson may represent the commission before the town council or appoint other members of the commission to do so. The vice chairperson shall perform all of the duties of the chairperson in case of absence, and shall



perform such other duties as may from time to time be assigned by the chairperson. The commission shall be authorized to appoint and fix the membership of such number of standing and temporary committees as it may find expedient for the performance of its duties. The town manager may appoint an executive secretary and other staff and provide such compensation for their services as may be authorized by the town council and by the annual town budget of expenditures. (Ord. 25, 10-1-1992)

4.04.030: **MEMBERSHIP:** Should any vacancy occur among the members of the planning commission other than by expiration, the chairperson shall forward a notice to the mayor and members of the town council indicating that such a vacancy exists. The mayor and town council shall fill the vacancy in accordance with the provisions of this chapter. (Ord. 25, 10-1-1992)

4.04.040: **MEETINGS; RULES:**

A. Meetings:

1. Location; Time: Regular meetings of the planning commission shall be held at the community center, 57090 29 Palms Highway, Yucca Valley, California, as established by resolution of the town council. At each regular meeting, the planning commission shall consider all matters properly brought before it in accordance with this chapter and state law. When there are no agenda items to be scheduled before the planning commission, the commission members shall be given notice three (3) days prior to the meeting that no meeting will be held.

2. Adjourned Meetings: Any regular meeting may be adjourned to a designated time and place and when so adjourned shall be considered as a regular meeting. Adjourned meetings shall only be held when necessary for review of special land development proposals, review of complex planning and land development matters, for additional review of nonstandard land development applications, and for those items or issues deemed necessary by the planning commission.

3. Quorum: A quorum consists of three (3) members of the planning commission. In the event that a quorum is not present, less than a quorum, or if no members are present, the clerk or secretary, may adjourn the meeting to a stated time and place.

- B. Rules; Records; Minutes: The planning commission shall adopt rules for the transaction of business, shall keep a public record of its resolutions, transactions, findings and determinations, and shall hold at least one regular meeting each month. Minutes of the planning commission meetings shall be filed with the town clerk. (Ord. 202, 8-4-2009)

4.04.050: **FUNCTIONS, POWERS AND DUTIES:** The functions, powers and duties of the planning commission shall be all those functions, powers and duties of a planning commission and board of zoning adjustment as provided in the state planning and zoning law<sup>1</sup>. The planning commission shall perform all functions and take all actions designated in the development code of the county of San Bernardino, which has been adopted by the town, for the planning commission and the planning commission subcommittee. It is also recognized that the town council takes final action upon the adoption or amendment to the general plan, or any specific plan, and upon any change of zoning district, approval of any tentative tract map and where otherwise required by law. (Ord. 25, 10-1-1992)

4.04.060: **APPEAL PLANNING COMMISSION DECISIONS:** All actions of the planning commission are subject to appeal to the town council in the manner set forth in the development code, and if not otherwise set forth, then by delivery by the applicant or other person affected by the decision of a written notice of appeal to the town clerk within ten (10) days after the decision of the planning commission or after the giving of notice of same where notice is required. Within a period of ten (10) days after the decision of the planning commission, any member of the town council may submit a written request with the town clerk that the matter acted upon by the planning commission be scheduled for a hearing before the town council. The decision of the planning commission shall be final after the time for appeal or for a request for hearing by a council member has passed and if no appeal request has been filed. Upon receipt of a timely appeal, or of a timely request by a council member, the town clerk shall schedule the matter for a hearing or public hearing before the town council, in which case the decision of the town council, after considering or hearing the matter, shall then be final. (Ord. 76, 7-18-1996)

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1. California Government Code chapters 3 and 4 of title 7 commencing with § 65100.

## CHAPTER 4.10

**PARKS, RECREATION AND CULTURAL COMMISSION**

## SECTION:

- 4.10.010: Commission Created
- 4.10.020: Qualification Of Members
- 4.10.030: Terms Of Office And Vacancies
- 4.10.040: Appointment Of Commissioners
- 4.10.050: Organization
- 4.10.060: Attendance
- 4.10.070: Secretary; Record Minutes
- 4.10.080: Duties And Responsibilities
- 4.10.090: Meetings

4.10.010: **COMMISSION CREATED:** There is hereby created a Parks, Recreation and Cultural Commission composed of five (5) members. (Ord. 104, 5-6-1999)

4.10.020: **QUALIFICATION OF MEMBERS:** Commission members shall be qualified electors of the Town. Commissioners shall serve without compensation. The members of the Commission shall include five (5) members of the public who shall hold no other public office in the Town. (Ord. 104, 5-6-1999)

4.10.030: **TERMS OF OFFICE AND VACANCIES:** Members of the Commission shall serve for a period of four (4) years from the date of appointment. Terms shall be staggered so that no more that two (2) terms shall expire in any one calendar year. Successor Commissioners for a new term shall be appointed for a period of four (4) years. Vacancies which occur other than by expiration shall be filled by appointment for the unexpired portion of the term vacated. All members shall serve at the pleasure of the Town Council. (Ord. 104, 5-6-1999)

4.10.040: **APPOINTMENT OF COMMISSIONERS:** Appointments for the Commission and the filling of vacancies shall be made by the Town Council. Members of the first Commission shall be appointed for terms of two (2), three (3) and four (4) years. One Commissioner shall be appointed for a two (2) year term; two (2) for three (3) year terms, and two (2) for four (4) year terms. (Ord. 104, 5-6-1999)

4.10.050: **ORGANIZATION:** At its first regular meeting of the calendar year, the members of the Commission shall elect a chairperson and vice-chairperson as provided in Section 4.02.030 of this Title. The chairperson shall preside over meetings, appoint appropriate committees and direct the affairs, including establishing the meeting agenda of the Commission. (Ord. 104, 5-6-1999; amd. 2000 Code)

4.10.060: **ATTENDANCE:** Members of the Commission are expected to attend all scheduled meetings of the Commission. Absence of a member from three (3) consecutive regular meetings, or from twenty five percent (25%) of the duly scheduled meetings within any fiscal year, without prior consent of the chairperson as noted in the Commission's official minutes, constitutes the voluntary resignation of such member and the position shall be declared vacant. (Ord. 104, 5-6-1999; amd. 2000 Code)

4.10.070: **SECRETARY; RECORD MINUTES:** The Town Manager shall appoint a secretary to maintain accurate minutes of the activities and official actions of the Commission. (Ord. 104, 5-6-1999)

4.10.080: **DUTIES AND RESPONSIBILITIES:** The duties and responsibilities of the Commission shall be to:

- A. Act in an advisory capacity to the Town Council and other appropriate agencies in matters pertaining to the planning of public recreation and the development of open space, parks, playgrounds, play fields and recreational facilities; and the provision of programs related to community-wide leisure services, senior services, museum, events and special projects;
- B. Review all recommendations relative to community services activities within the Town. To cooperate with other governmental agencies and civic groups in providing a broad range of services and events to the community;

- C. Formulate policies on community services for approval by the Town Council to include long-range facilities improvement;
- D. Assist in coordinating community services with the programs of government agencies and voluntary organizations;
- E. Make recommendations to the Town Manager regarding the annual community services and facilities budgets;
- F. Recommend rules and regulations governing the use of facilities and recreation areas consistent with ordinances of the Town; and
- G. Recommend to the Town Council the establishment of fees and charges to be paid for the use of Town facilities and for participation in Town programs, events and special projects. (Ord. 104, 5-6-1999)

4.10.090: **MEETINGS:** The Parks, Recreation and Cultural Commission shall hold at least one regular meeting a month at such time and place within the Town as the Commission may determine. A majority of the Commission membership shall constitute a quorum for the transaction of Commission business. A majority of the quorum present shall have the authority to act on any matter regularly before the Commission. Meetings may be adjourned or special meetings called in compliance with the provisions of the Ralph M. Brown Act. (Ord. 104, 5-6-1999)

## CHAPTER 4.11

**PUBLIC ARTS ADVISORY COMMITTEE**

## SECTION:

- 4.11.010: Created
- 4.11.020: Membership
- 4.11.030: Officers
- 4.11.040: Compensation Of Members
- 4.11.050: Meetings
- 4.11.060: Powers And Duties
- 4.11.070: Staff Support
- 4.11.080: Funds; Disposition Of Monies
- 4.11.090: Powers Delegated To Committee To Be Advisory

4.11.010: **CREATED:** The Yucca Valley public arts advisory committee is hereby created as an advisory committee to the town council. (Ord. 134, 12-19-2002)

4.11.020: **MEMBERSHIP:** The public arts advisory committee shall consist of seven (7) members, who shall be residents of the town. Members shall be recommended by the parks, recreation and cultural commission and appointed by the town council. The term of office shall be two (2) years; provided, however, of the members of the committee first appointed hereunder, four (4) shall be appointed for a term of two (2) years, and three (3) shall be appointed for a term of one year. Members may be appointed to successive terms. After the expiration of a term a member may continue to serve until their member's successor is appointed and qualifies. If vacancy occurs otherwise than by expiration of the term, the vacancy shall be filled by appointment to the unexpired term in the same fashion as the original appointment of members. (Ord. 134, 12-19-2002)

4.11.030: **OFFICERS:** In June of each year, the members of the public arts advisory committee shall elect their own chairperson, who shall serve in that capacity and preside at all meetings for one year. A

chairperson may serve for more than one successive term. The committee may elect a vice chairperson and other officers at the discretion of the committee. (Ord. 134, 12-19-2002)

4.11.040: **COMPENSATION OF MEMBERS:** The members of the public arts advisory committee shall serve without compensation. (Ord. 134, 12-19-2002)

4.11.050: **MEETINGS:** The public arts advisory committee shall meet at such time or times as the town council, town manager, or the parks, recreation and cultural commission sees fit, to conduct specific committee business as directed by either the council or commission. Members of the committee may determine the best meeting day and time for conducting committee business. A majority of the members shall constitute a quorum for the purpose of transacting the business of the committee. All meetings of the committee shall be conducted in compliance with the Ralph M. Brown act. The committee shall prepare minutes of their meetings and file such minutes with the town clerk. (Ord. 134, 12-19-2002)

4.11.060: **POWERS AND DUTIES:** The public arts advisory committee shall have the power, and it shall be the duty of the committee, to make recommendations to the town council and to advise the council and town manager pertaining to the following matters:

- A. The selection, installation and maintenance of works of art in public facilities.
- B. The development and presentation of a variety of arts in the town.
- C. Cooperative arrangements between the town and other agencies regarding the arts.
- D. Communication for arts concerns to elected officials and their staff.
- E. Opportunities for private funding in all areas of the arts.
- F. The provision of works of fine art for display in public places.
- G. The utilization of free public exhibition spaces.

- H. Works of art to be acquired by the town, either by purchase, gift or otherwise.
- I. Action regarding any existing works of art in the possession of the town in connection with the removal, relocation or alteration thereof.
- J. The establishment of methods of recommending the selection and commissioning of artists with respect to the design execution and placement of works of arts for which appropriations have been made, and pursuant to such method or methods, recommend to the town council selection of artists by contract for such purposes, emphasizing, but not limiting their recommendations to, local artists living or working in the town of Yucca Valley. (Ord. 134, 12-19-2002)

4.11.070: **STAFF SUPPORT:** The town manager shall provide sufficient staff support for the committee to carry out its duties and powers as directed by the town council; provided however, that the committee shall not give direction to staff or take action which requires expenditure of funds by staff without approval by the town manager and/or town council. (Ord. 134, 12-19-2002)

4.11.080: **FUNDS; DISPOSITION OF MONIES:**

- A. **Funds Generally:** The public arts advisory committee is authorized to and may solicit and receive, on behalf of the town, donations, gifts, legacies, endowments or bequests made to the town for the acquisition of art, subject to the approval of the town council.
- B. **Gifts Paid To Treasurer:** All donations, gifts, legacies, endowments or bequests so received by the committee shall be turned over to the town treasurer, and shall be kept in a special fund to be designated as the public arts fund.
- C. **Public Arts Account:** The town council shall establish an account in the general fund to be known as the "public arts account". There shall be deposited to and expended from this account all gifts, legacies or bequest as set forth in subsection B of this section including any proceeds received in connection with the promotion of public arts. All monies in the account shall be used for public arts promotion and not otherwise, and if not used during any current year shall accumulate in the public arts account. (Ord. 134, 12-19-2002)



4.11.090: **POWERS DELEGATED TO COMMITTEE TO BE ADVISORY:** Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the town council, or as a delegation to the public arts advisory committee of any of the authority or discretionary powers vested and imposed by law in the town council. The town council declares that the public interest, convenience and welfare require the appointment of a public arts advisory committee to act in a purely advisory capacity to the town council for the purposes enumerated. Any power herein delegated to the committee to adopt rules and regulations shall not be construed as a delegation of legislative authority but purely a delegation of administrative authority. (Ord. 134, 12-19-2002)

## CHAPTER 4.12

**YOUTH COMMISSION**

## SECTION:

- 4.12.010: Commission Created
- 4.12.020: Powers And Duties
- 4.12.030: Chairperson, Committees And Staff
- 4.12.040: Meetings And Rules Of Procedure

4.12.010: **COMMISSION CREATED:**

- A. There is hereby created a youth commission for the town, comprised of a minimum of five (5) members and a maximum of twenty (20) members. All commission members shall be full time students attending either a junior high or high school located within the town of Yucca Valley. Members of the commission shall serve without compensation. (Ord. 209, 5-4-2010)
- B. The members of the commission shall be appointed by and continue in office subject to the pleasure of the town council. Each member shall serve a term concurrent with the school calendar from October through June, except that upon dissolution of the commission, or otherwise by action of the town council, all appointments shall terminate as of the effective date of such dissolution. The members of the youth commission shall not be limited in the number of terms they may serve. (Ord. 167, 5-12-2005)

4.12.020: **POWERS AND DUTIES:**

- A. The commission shall have the general power and duty to act in an advisory capacity to the town council in matters pertaining to the activities and programs of and for youth in and around the town.
- B. In addition to the foregoing general power and duty, the commission shall have the following particular powers and duties:

1. To assist the town council or its designee in ascertaining community attitudes and issues, and in invoking public awareness and involvement in youth activities.
2. To make recommendations to the town council or its designee regarding the development of youth programs, activities and facilities.
3. To hold such meetings as may be deemed required by the commission or directed by the town council or its designee regarding implementation of the general and specific duties of the commission.
4. To acquire and distribute to the public informational materials relating to youth programs, activities and facilities.
5. Subject to the town council's or its designee's approval in each instance, to solicit and accept grants and donations to the town in aid of carrying out the general and specific duties of the commission.
6. To carry out the work plan for that term set forth by staff and the youth commission, a copy of which is on file in the community services department and incorporated herein by this reference.
7. To carry out such other functions as may be assigned to the commission by the town council or its designee. (Ord. 167, 5-12-2005)

4.12.030: **CHAIRPERSON, COMMITTEES AND STAFF:** Designation of a chairperson and vice chairperson for the commission shall be governed by section 4.02.030 of this title. The commission may establish such standing and temporary subcommittees as it may deem expedient for the performance of its duties, and the chairperson, with the consent of the commission, may fix and appoint the membership of such subcommittees. Except that the chairperson of each such subcommittee shall be a member of the commission, membership on a subcommittee need not be limited to members of the commission. The town manager may appoint a secretary and other staff for the commission and provide such reimbursement for their necessary expenses as may be authorized by the town council or its designee in the budget and approved in advance by the town manager. (Ord. 167, 5-12-2005)

4.12.040: **MEETINGS AND RULES OF PROCEDURE:** The commission shall hold one or more regular monthly meetings and designate the times, dates and places therefor. All meetings of the commission and each of its subcommittees shall be open to the public. Special meetings may be called by the chairperson or by a majority of the commission, provided that notice of such special meeting is given to each member of the commission at least forty eight (48) hours prior to the time of the meeting. The presence of five (5) or more members of the commission shall constitute a quorum for the conduct of business, and the affirmative votes of a majority of such quorum shall be necessary to pass a motion. The commission shall adopt rules for the transaction of its business. The commission shall keep a public record of its actions. Promptly after approval thereof by the commission, minutes of commission meetings shall be filed with the town clerk. (Ord. 167, 5-12-2005)

## CHAPTER 4.14

**TRAFFIC COMMISSION**

## SECTION:

- 4.14.010: Composition Of Commission; Appointment And Terms
- 4.14.015: Vacancies, Quorum
- 4.14.020: Meetings; Chairperson
- 4.14.025: Remuneration
- 4.14.030: Rulemaking Authority
- 4.14.035: Powers And Duties
- 4.14.040: Report To Town Council
- 4.14.045: Approval By Department Of Caltrans

4.14.010: **COMPOSITION OF COMMISSION; APPOINTMENT AND TERMS:** The Traffic Commission shall consist of the following six (6) members: one member of the Planning Commission of the Town who shall serve for the duration of his term on the Planning Commission as an ex officio nonvoting member; two (2) resident business persons of the Town who shall serve terms of four (4) years; three (3) residents of the Town who shall serve terms of four (4) years each, and who shall have been residents of the Town for a period of not less than one year immediately preceding his appointment.

All appointees shall serve for the term described herein unless earlier removed by the Town Council. (Ord. 101, 1-21-1999)

4.14.015: **VACANCIES, QUORUM:** In the event that at any time there are less than six (6) members appointed thereto, such members holding valid appointment may serve as the Traffic Commission until such time as the Town Council shall appoint new members to fill any vacancies therein. The presence of three (3) or more voting members of the Commission shall constitute a quorum for the conduct of business and the majority of those voting members present shall have the power to decide any matters properly before the Commission. (Ord. 65, 3-7-1996; amd. Ord. 101, 1-21-1999)

**4.14.020: MEETINGS; CHAIRPERSON:**

- A. The Traffic Commission shall establish, at its first meeting after the effective date hereof, a regular time and place for a monthly meeting and shall hold the same regularly thereafter. Such regular meeting may be adjourned from time to time.
- B. The Commission shall elect from its members a chairperson, who shall be the presiding officer, a vice-chairperson to serve in the absence of the chairperson as the presiding officer, and a secretary to keep the minutes of the meetings and records of the acts of the Commission. The secretary shall not necessarily be a member of the Commission.
- C. The chairperson shall have the power to call special meetings from time to time upon giving at least twenty four (24) hours' notice to all of the members of the Commission of the time and place of such meeting, by mail, addressed to the last known address of each member. (Ord. 65, 3-7-1996)

**4.14.025: REMUNERATION:** The members of the Traffic Commission shall not receive any monetary remuneration for their services, but expenses incurred in the reasonably necessary performance of their duties shall be a charge against the general fund of the Town when authorized by the Town Manager. (Ord. 65, 3-7-1996)

**4.14.030: RULEMAKING AUTHORITY:** The Traffic Commission shall make such rules and regulations for the conduct of its work as it may deem necessary and proper, not in conflict with the laws of the State or the ordinances of the Town. (Ord. 65, 3-7-1996)

**4.14.035: POWERS AND DUTIES:** It shall be the duty of the Traffic Commission and it is empowered to investigate, hold public hearings and recommend for adoption by the Town Council such ordinances, resolutions and rules as are necessary to provide the orderly control of motor vehicle traffic within the Town and to ensure the health, safety and general welfare of the residents of this community.

It shall be the duty of the Traffic Commission to seek out and include in the semiannual report referred to below the recommendations and proposals of the Fire Department, Police Department, Town Engineer, Town Manager,

Town Attorney, traffic and safety officer, the California Highway Patrol and the Disaster Preparedness and County Transportation Department. (Ord. 65, 3-7-1996)

4.14.040: **REPORT TO TOWN COUNCIL:** The Traffic Commission shall submit to the Town Council not less than twice each year a report setting forth the Commission's proposals and recommendations regarding the following:

- A. Off-street and on-street parking of motor vehicles;
- B. Motor vehicle traffic control-devices and locations thereof;
- C. Motor vehicle speed restrictions;
- D. Pedestrian crosswalks and locations thereof;
- E. Street and alley improvements and acquisitions;
- F. A long-range estimate of future needs for control of motor vehicle and pedestrian traffic;
- G. All existing ordinances relating to the control and regulation of motor vehicles. (Ord. 65, 3-7-1996)

4.14.045: **APPROVAL BY DEPARTMENT OF CALTRANS:** Any provision of this Chapter which regulates traffic or delegates the regulation of traffic upon State highways in any way for which the approval of the Department of Caltrans is required by State law, shall cease to be operative six (6) months after receipt by the Town Council of written notice of withdrawal of approval of the Department of Public Works of the State.

Whenever this Chapter delegates authority to a Town officer or authorizes action by the Town Council to regulate traffic upon a State highway in any way which by State law requires the prior approval of the Department of Caltrans of the State, no such officer shall exercise such authority nor shall such action by the Town Council be effective with respect to any State highway without the prior approval in writing of the Department of Caltrans of the State when and to the extent required by the Vehicle Code. (Ord. 65, 3-7-1996)

## CHAPTER 4.16

**TEAM YUCCA VALLEY COMMISSION**

## SECTION:

- 4.16.010: Created
- 4.16.020: Powers And Duties
- 4.16.030: Chairperson, Committees And Staff
- 4.16.040: Meetings And Rules Of Procedure

4.16.010: **CREATED:**

- A. There is hereby created an Economic Development Commission for the Town to be known as the Team Yucca Valley Commission (Taking Economic Action and Marketing) comprised of nine (9) members. One member of the Commission shall be a member of the Town Council, one member shall be a member of the Planning Commission, one member shall be a member of the Parks, Recreation and Cultural Commission, one member shall be the president or his designate of the Chamber of Commerce, one member shall be the chairperson or his delegate of the Gateway Coalition, one member shall be a Town citizen at large and three (3) members, each of whom shall be persons who own a business within the Town. (Ord. 57, 5-18-1995; amd. 2000 Code)
- B. The members of the Commission shall be appointed by and continue in office subject to the pleasure of the Town Council. Each member shall serve a term of three (3) years commencing as of July 1, 1995, and thereafter until any successor appointee has assumed membership, except that upon dissolution of the Commission, or otherwise by action of the Town Council, all appointments shall terminate as of the effective date of such dissolution. (Ord. 57, 5-18-1995)



**4.16.020: POWERS AND DUTIES:**

- A. The Commission shall have the general power and duty to act in an advisory capacity to the Town Council in matters pertaining to economic development in and around the Town.
- B. In addition to the foregoing general power and duty, the Commission shall have the following particular powers and duties:
1. To assist the Town Council in generating action related to economic development and review recommendations from staff and Town citizens regarding local business growth and retention, Town appearance, tourism and job creation.
  2. To make recommendations to the Town Council regarding all aspects of economic development concerning the Town to economic development issues.
  3. To hold such meetings as may be deemed required by the Commission or directed by the Town Council regarding implementation of the general and specific duties of the Commission.
  4. To acquire and distribute to the public informational materials relating to all economic development issues.
  5. Subject to the Town Council approval in each instance, to solicit and accept grants and donations to the Town in aid of carrying out the general and specific duties of the Commission.
  6. To carry out the individual functions set forth in the Team Yucca Valley Responsibilities, a copy of which is on file in the office of the Town Clerk and incorporated herein by this reference.
  7. To carry out such other functions as may be assigned to the Commission by the Town Council. (Ord. 57, 5-18-1995)

**4.16.030: CHAIRPERSON, COMMITTEES AND STAFF:** Designation of a chairperson and vice-chairperson for the Commission shall be governed by Section 4.02.030 of this Title. The Commission may establish such standing and temporary subcommittees as it may deem expedient for the performance of its duties, and the chairperson, with the consent of the Commission, may fix and appoint the membership of such subcommittees. Except that the chairperson of each such subcommittee shall be a member of the Commission, membership on a subcommittee

need not be limited to members of the Commission. The Town Manager may appoint a secretary and other staff for the Commission and provide such reimbursement for their necessary expenses as may be authorized by the Town Council in the budget and approved in advance by the Town Manager. (Ord. 57, 5-18-1995)

**4.16.040: MEETINGS AND RULES OF PROCEDURE:** The Commission shall hold one or more regular monthly meetings and designate the times, dates and places therefor. All meetings of the Commission and each of its subcommittees shall be open to the public. Special meetings may be called by the chairperson or by a majority of the Commission, provided that notice of such special meeting is given to each member of the Commission at least forty eight (48) hours prior to the time of the meeting. The presence of five (5) or more members of the Commission, including at least one Council member, shall constitute a quorum for the conduct of business, and the affirmative votes of a majority of such quorum shall be necessary to pass a motion. The Commission shall adopt rules for the transaction of its business. The Commission shall keep a public record of its actions. Promptly after approval thereof by the Commission, minutes of Commission meetings shall be filed with the Town Clerk. (Ord. 57, 5-18-1995)

RESOLUTION NO. 05- 42

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,  
CALIFORNIA, ESTABLISHING PROCEDURES FOR THE APPOINTMENT OF  
COMMISSIONERS AND BOARD MEMBERS TO TOWN OF YUCCA VALLEY  
COMMISSIONS AND BOARDS

WHEREAS, Chapter 4.02.10 of the Yucca Valley Municipal Code provides that unless otherwise specifically provided in this code or by state law, all Town Commission and Board appointments, except for ex officio members where applicable, shall be made by the Town Council; and

WHEREAS, it is prudent to provide a formal method whereby these appointments are made and reviewed; and

WHEREAS, it is advisable, on a regular basis to provide a method whereby the Town Council periodically reviews appointees to insure that they are carrying out the policies of the Town Council and providing services in a conscientious manner;

NOW THEREFORE THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY  
RESOLVES AS FOLLOWS:

**Section 1.** For the initial appointment of Commission/Board members and unless another method is provided by ordinance or resolution, each Council Member shall at a regularly scheduled open meeting nominate one member for each newly constituted Commission or Board, subject to ratification by the entire Council. All appointments shall be made from a list of applications prepared by the Town Clerk, in accordance with law.

**Section 2.** Prior to the expiration of the term of each Commission or Board Member, and whenever an unscheduled vacancy occurs, the Town Clerk shall, in accordance with State law, either prepare an appointments list or advertise the unscheduled vacancy for the position and provide to the Town Council the names of all persons desiring an appointment to each position.

**Section 3.** At the expiration of the term for each member of an existing Commission/Board, or in the case of an unscheduled vacancy, and unless another method is provided by ordinance or resolution, the Council member, or his/her successor, who made the initial nomination shall at a regularly scheduled open meeting, nominate one person for the Commission or Board, subject to ratification by the entire Council. If the nominee does not receive a majority vote, another person shall be nominated. All nominations shall be made from a list of applications prepared by the Town Clerk, in accordance with law.

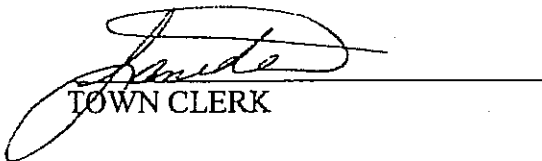
**Section 4.** As soon as practicable , after each Town wide election for Council, except in cases where the appointee has not been directly nominated and appointed by the Council, the newly reconstituted Council shall review each Commission/Board member's performance, and ratify the continued service of said member . Failure to receive a majority vote of the Council shall be cause for removal in accordance with 4.02.010 of the Yucca Valley Municipal Code.

APPROVED AND ADOPTED THIS 11<sup>TH</sup> DAY OF August, 2005

MAYOR

A handwritten signature in black ink, appearing to read "C. H. ...", written over a horizontal line.

ATTEST:

A handwritten signature in black ink, appearing to read "Janice ...", written over a horizontal line.

TOWN CLERK

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

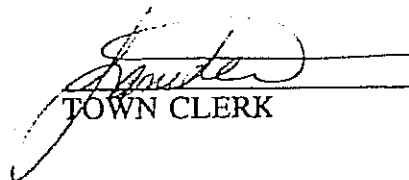
I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California do hereby certify that Resolution No. 05-42 was duly and regularly adopted by the Town Council of the Town of Yucca Valley, California, at a meeting thereof held on the 11<sup>th</sup> day of August, 2005, by the following vote:

AYES: Council Members Cook, Leone, Luckino, Neeb, and Mayor Mayes

NOES: None

ABSTAIN: None

ABSENT: None

  
TOWN CLERK