

**TOWN OF YUCCA VALLEY  
TOWN COUNCIL MEETING MINUTES  
FEBRUARY 5, 2013**

**OPENING CEREMONIES**

Mayor Abel called the meeting to order at 6:00 p.m.

Council Members Present: Huntington, Lombardo, Rowe and Mayor Abel.

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

**PLEDGE OF ALLEGIANCE**

Led by Mayor Abel

**INVOCATION**

Led by Pastor Stephen Jones, First Southern Baptist Church

**PRESENTATIONS, RECOGNITIONS, INTRODUCTIONS**

**1. Recognition of Yucca Valley High School Cross Country Team**

Mayor Abel presented Certificates of Recognition to Coach Stepp and members of the Yucca Valley Girls Cross Country Team.

**APPROVAL OF AGENDA**

Council Member Huntington moved to approve the agenda. Council Member Rowe seconded. Motion carried 4-0.

**CONSENT AGENDA**

- 2. Approve**, Minutes of the Special Town Council Meetings of January 22, 2013 and January 30, 2013, as presented.
- 3. Waive**, further reading of all ordinances and read by title only.
- 4. Receive and file**, the AB 1234 Reporting Requirement Schedule for the month of January 2013

5. **Accept**, Project No. 8325 as substantially complete, authorize staff to file the Notice of Completion, authorize the reduction of the Faithful Performance Bond to 10%, and direct staff to retain the Labor and Material Bond for six (6) months; **Amend**, the FY 2012-13 budget for Project No. 8325 by increasing the project budget by \$10,000, from \$262,000 to \$272,000 - SR62/SR247 Median Island and Traffic Signal Improvements
6. **Execute**, the final draft of the HDWD / Town Water Supply Agreement with Exhibit A, identifying the CIMIS water accounts and budgets affected by the agreement and approve the payment of \$400,000 to the Hi Desert Water District (“District”).
7. **Declare**, certain Town property as surplus, and authorize the sale of surplus supplies and equipment at an in-house public auction.
8. **Receive and file**, the Treasurer’s Report for the second quarter of FY 2012-13
9. **Ratify**, Warrant Register total of \$273,179.26 for checks dated January 24, 2013. Ratify Payroll Registers total of \$152,026.90 for checks dated January 18, 2013.

Council Member Rowe moved to adopt Consent Agenda Items 2-9. Council Member Huntington seconded. Motion carried 4-0.

**AYES:** Council Member Huntington, Lombardo, Rowe, and Mayor Abel  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**PUBLIC HEARING**

11. **Annexation Area No. 2 (Improvement Area No. 3) (Super Wal-Mart), APN 0601-201-37 to Community Facilities District No. 11-1**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA FOR THE ANNEXATION OF IMPROVEMENT AREA NO. 3 TO COMMUNITY FACILITIES DISTRICT NO. 11-1, ANNEXATION AREA #2, IMPROVEMENT AREA #3 (SERVICES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE DISTRICT, AND SUBMITTING THE LEVY OF THE SPECIAL TAX TO THE QUALIFIED ELECTORS OF THE AREA TO BE ANNEXED TO THE DISTRICT

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA SETTING A DATE FOR AN ELECTION ON THE ANNEXATION OF ANNEXATION AREA NO. 2 (IMPROVEMENT AREA NO. 3)

TO COMMUNITY FACILITIES DISTRICT NO. 11-1 (SERVICES), SPECIAL TAX LEVY FOR FY 2013/14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, DECLARING RESULTS OF THE SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN IMPROVEMENT AREA 3, ANNEXATION NO 2, OF COMMUNITY FACILITIES DISTRICT NO. 11-1 (SUPER WAL-MART)

Mayor Abel opened the Public hearing and questioned if the Town Clerk has proof of publication and mailing of notice of hearing. Town Clerk Anderson advised that the proof of publication and mailing are on file in the Town Clerk's Office showing that notices were published and mailed in a timely manner. Mayor Abel questioned if there have been written protests filed with the Clerk against formation of the District. Town Clerk Anderson advised no written protests have been received.

Deputy Town Manager Stueckle reported that Community Facilities Districts may be used to pay directly for facilities and services, and to pay debt service on bonds or other debt, the proceeds of which are used to finance facilities. The Town has formed Landscape and Lighting Maintenance Districts, Street and Drainage (Benefit) Assessment Districts, and Community Facilities Districts as a condition of subdivision and development projects to pay the costs of infrastructure maintenance created by new development. Included in the district is the maintenance of public streets and alleyways, maintenance of all public pedestrian or bicycle pathways, public lighting and appurtenant facilities, and Town and County costs associated with the setting, levying and collection of all the special tax, and in the administration of the District including contract administration. Bonds, debt financing and infrastructure financing are not included in the District, and there are no other properties or property owners outside of the Super Wal-Mart property. If the maximum allowable annual fee were levied, the revenue generated would be \$14,430.00 annually.

Mayor Abel questioned if there is anyone present who wishes to address the Council on this matter, and if any member of the Town Council has any comments or questions. There being none, he closed the public hearing.

Town Clerk Anderson presented the Resolution for the annexation of Annexation Area 2, Improvement Area No. 3 to CFD No. 11-1, establishing the appropriation limit for Improvement Area No. 3; and a Resolution calling special tax election for February 5, 2013.

Council Member Lombardo moved to adopt Resolution No. 13-03 for the annexation of Annexation Area No. 2, Improvement Area No. 3, and Resolution No. 13-04 setting a date for an election of the Annexation. Council Member Rowe seconded. Motion carried 4-0.

Mayor Abel requested that the Town Clerk conduct the election and report on the results.

Town Clerk Anderson advised that one ballot has been received which establishes that the measure submitted at the Special Election called by Resolution No.13-04 passed on a vote of 1-0. A resolution declaring the results of the election and levy of special taxes was presented for adoption.

Council Member Huntington moved to adopt Resolution No. 13-05 declaring the results of the special election and directing recording of the Notice of Special Tax Lien. Council Member Lombardo seconded. Motion carried 4-0.

Town Clerk Anderson presented the ordinance levying taxes for first reading and read the title.

Council Member Huntington moved to introduce the Ordinance. Council Member Lombardo seconded. Motion carried 4-0.

- AYES: Council Member Huntington, Lombardo, Rowe, and Mayor Abel
- NOES: None
- ABSTAIN: None
- ABSENT: None

**DEPARTMENT REPORTS**

**11. Appointments to Parks, Recreation and Cultural Commission and Planning Commission**

Town Clerk Anderson gave the staff report advising that Council Member Huntington wishes to reappoint Jeff Drozd to the Planning Commission and Laurine Silver to the Parks, Recreation and Cultural Commission. Council Member Lombardo wishes to reappoint Tim Humphreville to the Planning Commission and Meredith Jones to the Parks, Recreation and Cultural Commission. In addition, there is a vacancy on the Planning Commission due to the resignation of Commissioner Alberg. The position has been advertised and two applications received from Steve Whitten and Soltanhamid Nooraei. This is Council Member Rowe’s appointment to make.

Steve Whitten, Planning Commission Applicant, advised of his background.

Council Member Rowe advised she had chance to interview Mr. Whitten extensively and feels his land use background and desire to serve his community will add greatly to the Planning Commission. She nominated Mr. Whitten to fill the vacant seat.

Council Member Lombardo thanked Commissioners Humphreville and Jones for their continued service.

Mayor Abel advised of the advertisement and interview process when there is an opening on a Commission.

Council Member Huntington moved to affirm the appointment of Tim Humphreville and Jeff Drozd to the Planning Commission and Laurine Silver and Meredith Jones to the Parks, Recreation and Cultural Commission; 2) Affirm Council Member Rowe’s nomination of Steven Whitten to the Planning Commission to fill the unexpired term of Commissioner Alberg. Council Member Lombardo seconded. Motion carried 4-0

**12. Selection of Ad Hoc Committees to meet with Basin Wide Foundation and Supervisor Ramos**

Deputy Town Manager Stueckle reported that the Council requested the development of the Ad Hoc Committees at the last meeting.

Margo Sturges, Yucca Valley, commented regarding prior actions related to Brehm Park.

Mayor Abel advised that Ad Hoc Committees are strictly for fact finding, noting that no action is taken.

Council Member Huntington moved that Council Member Lombardo and Mayor Abel be assigned to the Basin Wide Foundation Ad Hoc Committee, Council Member Huntington and Council Member Rowe be appointed to the Supervisor Ramos Ad Hoc Committee. Council Member Rowe seconded. Motion carried 4-0. Roll Call.

- AYES: Council Member Huntington, Lombardo, Rowe, and Mayor Abel
- NOES: None
- ABSTAIN: None
- ABSENT: None

**13. Second Amended & Restated Employment Agreement Between the Town of Yucca Valley and Mark Nuaimi**

Human Resources Manager Breidenbach-Sterling advised the original employment agreement with Town Manager Nuaimi was entered into on June 17, 2010. The first

amendment occurred on May 17, 2011 increasing the employee retirement contribution from 2% to 8% of his salary, reducing the total compensation to the Town Manager and the cost to the Town of the employment agreement by over \$9,000 annually. There have been no other adjustments to the Town Manager's compensation since his hiring in 2010.

The five overarching objectives the agreement seeks to meet include treating the Town Manager consistently with how other employees have been treated with respect to specific benefits; to compensate the Town Manager for his efforts and accomplishments without increasing the base salary; to incentivize retention of the Manager; to minimize the long term liability costs to the Town; and language is included in the agreement to comply with recent changes in state law tied to CEO compensation.

It was noted that previously a number of adjustments were made to employee benefits to reduce the long-term liabilities to the organization. One of those adjustments was vacation accrual schedule. The Amended Contract captures vacation accrual in writing to ensure there is no confusion as to the rationale for the adjustment, and is consistent with how other town staff members were previously treated.

Paid time off leave is awarded to exempt employees throughout the organization who do not qualify for overtime. Currently all exempt employees, including the Town Manager, receive 80 hours of PTO on an annual basis. The Town Manager has routinely worked above and beyond normal hours by bringing in-house activities that traditionally would have been outsourced, such as the annual strategic planning activities and project management for the animal shelter project. The Manager requested compensation for a portion of these additional hours. The amended contract allows for payment of an additional 80 hours of PTO on an annual basis. The additional 80 hours amounts to 20% of the estimated hours worked by the Town Manager, and the provisions in the amended agreement allow for Council to annually eliminate those additional hours at time of the performance review.

In order to minimize long-term liabilities, the Manager's salary is fixed at \$190,000 and merit is rewarded through a longevity bonus. The employee continues to make the PERS contribution, and there is no COLA, even if provided to staff in the future. The contract term is through June 30, 2016.

In addition, the amended agreement eliminates unnecessary contractual language tied to original hire. Even though the term is through June 2016, the Council maintains the ability to terminate at any time with or without cause, with the same severance provisions of the current contract. The amended agreement still provides for annual performance reviews, but eliminates the mandate for annual salary review. It also incorporates mandated language from AB 1344 by capping automatic compensation increases to CPI and adds language concerning restitution in the event of criminal

conduct.

**Bob Leone**, Yucca Valley, spoke in opposition to the amended agreement for a 3 year term.

**Ron Cohen**, Yucca Valley, spoke in opposition expressing concern regarding the impact to the budget.

**Betty Cannon**, Yucca Valley, spoke in opposition objecting to any overtime or additional pay, and urged Council to wait until the new Council Member is elected.

**Margo Sturges**, Yucca Valley, spoke in opposition, suggesting the contract be for one year with the requirement for annual reviews and no overtime.

**Ellin Loveless**, Yucca Valley, spoke in favor of the amendment, congratulating Council and staff for the innovative way of compensation.

**Fritz Koenig**, Yucca Valley, spoke in opposition.

Administrative Services Director Yakimow clarified that the requirement for annual reviews remains, and the agreement contains clear identification of the total compensation. With regard to comments about the timing and pushing the contract through, the original agreement required review on or about January 8<sup>th</sup> of each year. In addition, it is a code requirement that the Manager be involved in all critical decisions of the Town.

Council Member Rowe commented regarding the process and reasoning for using the compensation of like agencies. She also noted the Council will be reviewing the Manager annually, and the additional PTO hours will only be granted by the Council if he is performing at that level. The fact that the additional compensation is in the deferred compensation rather than salary is a savings to the Town since the deferred comp is separate from salary and doesn't require years of payout. Overall the net difference is \$2,200 per year over the original contract. Whether you like the Town Manager or not, he works hard for the Town, and brings this organization more than the net outlay.

Council Member Lombardo commented it is easy to say that the Town Manager is overpaid when most of us in the room don't earn this kind of money, but he feels it would be short sighted to go on numbers alone. We have experienced the work ethic, creativity and experience the Town Manager brings to this position, and the facts support that he has been a productive and effective Manager. His experience has paid off to the Town's benefit time after time. He noted that the personal time off can be reduced from the 160 back down to 80 hours if needed in the future, adding he is not

afraid to make difficult decisions if change is warranted.

Council Member Huntington commented regarding the Manager taking the lead on so many projects. For instance, the Architect for the Animal Shelter is from Upland and the Manager resides in Fontana, so it saved the Town numerous dollars by not having to have a staff member travel back and forth to meet with the Architect. He is an individual who isn't in the same mold as any other Town Manager we have had in this community. He presses, pulls together funding from multi sources, and puts together projects that this community would not see without his innovative financing ability.

Mayor Abel questioned if compensation from administrative Time or Paid Time Off is a common practice among like agencies and other cities. Administrative Services Director Yakimow advised that it is, noting the intent is what is reasonable and equitable in terms of what the expectation is for an exempt employee. Mayor Abel advised that the Council has thrown a lot of things at the Manager and asked him to be the project manager on several projects, saving the Town money. The increase in deferred comp is an incentive to encourage longevity. There is no COLA and he is paying his employee portion of PERS as well. It was noted that the Town Attorney has reviewed the contract in full.

Council Member Rowe pointed out the contract being considered tonight does not stop the Council from terminating the Manager at any time.

Council Member Rowe moved to approve the Second Amended & Restated Employment Agreement between the Town of Yucca Valley and Mark Nuaimi. Council Member Lombardo seconded. Motion carried 4-0.

**AYES:** Council Member Huntington, Lombardo, Rowe, and Mayor Abel

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

## PUBLIC COMMENT

**Margo Sturges**, Yucca Valley, commented regarding the ballots for the upcoming special election.

**Bob Leone**, Yucca Valley, expressed concern regarding lack of communication with the general public.

**Ellin Loveless**, Yucca Valley, commented regarding the need to mark ballots and mail them in.



**STAFF REPORTS AND COMMENTS**

None

**MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS**

**14. Council Member Rowe**

Congratulated Steve Whitten for his appointment to the Planning Commission

Thanked the public for coming out to the meeting.

**15. Council Member Huntington**

Thanked the audience for coming to the meeting and expressing their thoughts

Congratulated the new Miss Yucca Valley and her Court

Congratulated Coach Stepp and the Yucca Valley Girls Cross Country Team

Welcomed Steve Whitten to the Planning Commission.

**16. Mayor Pro Tem Lombardo**

Reported regarding attendance at the League of California Cities Desert Mountain Division meeting in Adelanto and questioned if the Town would be willing to host the July meeting.

Thanked the public for coming out here tonight, noting Council understands their concerns and have factored them in.

**17. Mayor Abel**

Congratulated all the Commissioners, noting their volunteerism is appreciated.

Reported regarding attendance at the Mojave Desert AQMD Board meeting. He reminded everyone of the gross polluter buyback program for old cars.

Reported regarding attendance at the Morongo Basin Transit Authority meeting with Supervisor James Ramos was in attendance,

Thanked the speaker for reminding everyone that our upcoming election is a mail in ballot election and that all meetings are televised. Stated perhaps they will be live

streamed in the future.

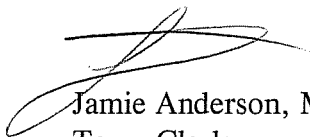
**ANNOUNCEMENTS**

Next Town Council Meeting, Tuesday, February 19, 2013, 5:00 Budget Workshop, 6:00 p.m.  
Regular Meeting

**ADJOURNMENT**

There being no further business the meeting was adjourned at 7:20 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jamie Anderson', with a large, sweeping flourish extending to the left.

Jamie Anderson, MMC  
Town Clerk