

**TOWN OF YUCCA VALLEY  
TOWN COUNCIL MEETING MINUTES  
AUGUST 20, 2013**

**OPENING CEREMONIES**

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

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

Staff Present: Deputy Town Manager Stueckle, Administrative Services Director Yakimow, Police Captain Boswell, and Town Clerk Copeland

The Pledge of Allegiance was led by Mayor Abel

The Invocation was presented by Pastor Matt Jennings, Good Shepherd Lutheran Church

**PRESENTATIONS**

1. Mayor Abel presented a proclamation to Len Tavernetti, Service Officer for the Robert E. Bush Chapter 2929 Military Order of the Purple Heart, naming the Town of Yucca Valley a Purple Heart Town.

**AGENCY REPORTS**

2. The Hi Desert Water District Water and Wastewater Update for the months of July 2013 was presented by Mark Ban, HDWD Director of Operations.

**APPROVAL OF AGENDA**

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

**CONSENT AGENDA**

Council Member Leone requested that Item 7 be pulled from the consent agenda.

3. **Waive**, further reading of all ordinances and read by title only.
4. **Receive and file** the monthly statistical Fire Department Reports for July 2013
5. **Authorize** the Director of Administrative Services to file a claim with the San Bernardino County Associated Governments (SANBAG) for Local Transportation Funds (LTF) in the Amount of \$181,839.00
6. **Receive and file** the AB 1234 Reporting Requirement Schedule for the months of July 2013

**7. Item Pulled**

Council Member Huntington moved to adopt the Consent Agenda items 3-6. Council Member Rowe seconded. Motion carried 5-0 on a voice vote.

**Item 7- Warrant Register**

Council Member Leone inquired about the payment made to the San Bernardino County Sheriff's Department.

Council Member Leone moved to ratify the Payroll Registers total of \$284,450.79 for checks dated July 19, 2013 and August 2, 2013; Ratify the Warrant Registers total of \$514,349.83 for checks dated August 1 to August 7, 2013. Mayor Pro Tem Lombardo seconded. Motion carried 5-0 on a voice vote.

**CLOSED SESSION**

1. Public Employee Discipline/Dismissal/Release
2. Conference with Legal Counsel--Anticipated Litigation  
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: 1 case

Mayor Abel opened public comment on the closed session items.

Ed Montgomery, Yucca Valley spoke on past concerns with Nuaimi, prior to Nuaimi's employment with the Town of Yucca Valley.

Jose Olivar, Colton, spoke against paying Nuaimi a severance.

Curt Duffy, Yucca Valley spoke of community healing and stated opposition in paying Nuaimi a severance.

James Walker, Yucca Valley, spoke and submitted a written statement in protest of paying Nuaimi a severance.

Gary Grossich, Bloomington spoke on past concerns with Nuaimi, prior to Nuaimi's employment with the Town of Yucca Valley.

Ben Holstrom, Twentynine Palms urged the Town Council to consider dismissing Nuaimi with cause.

Margo Sturges, Yucca Valley commented on the wording of Nuaimi's dismissal on the agenda and the contents of the separation agreement.

Hilary Slotta, Yucca Valley spoke of concern about comments the Town Council heard from out

of town residents.

Fritz Koenig, Yucca Valley commented on the wording of the agenda and the process for dismissing Nuaimi. Three written comments submitted by Mr. Koenig prior to the meeting were also placed into the record. These written comments were regarding the proposed settlement agreement included in the 8/20/13 Town Council agenda packet.

With no others wishing to speak, Mayor Abel closed public comment and the Town Council moved to closed session at 6:45 p.m.

The Yucca Valley Town Council reconvened from closed session at 8:41 p.m.

Report out from Town Council Closed Session by Town Attorney, Lona Laymon:

“We are returning from Town Council Closed Session on two items, Employee Discipline/Dismissal/Release and Anticipated Litigation. With respect to the public employee discipline/dismissal/release the Town Council met in closed session and determined to sever without cause, Mr. Mark Nuaimi from his position as Town Manager pursuant to any negotiated severance agreement which severance agreement shall be ratified in open session. The currently proposed severance agreement is agendaized as Agenda Item #8. The vote on the action is as follows: Lombardo, yes; Huntington, yes; Rowe, yes; Abel, yes; and Leone, no.”

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

**DEPARTMENT REPORTS**

**8. Severance and General Release Agreement**

Staff report presented by Town Attorney, Lona Laymon:

“Thank you Mayor and Council. Following the Special Town Council Meeting of August 14, 2013, Town Council placed Town Manager Mark Nuaimi on leave, pending consideration of his dismissal. Tonight the Council in closed session determined to proceed with that dismissal pursuant to renegotiated severance agreement securing for the Town, the fastest possible, legal severance process. We present that agreement to you now with this Agenda Item #8. The agreement basically implements Section 3.3 of Mr. Nuaimi’s second amended and restated employment agreement. Based upon legal analysis and the Town Council’s thorough review of all options the severance and general release agreement provides the Town with the most cost-effective solution while obtaining maximum liability and risk reduction protection. Staff wishes

to dispel the speculation that Mr. Nuaimi's dismissal was based upon any specific charges or grievances brought against him. The disputed issue underlines severance agreement as stated in there is precisely what is stated in the severance agreement itself. While Mr. Nuaimi has delivered positive progress to the Town he has also become a focal point of community divisions. As a result of this, the Council considered the alternatives of severing Mr. Nuaimi with a severance agreement versus severing him without a negotiated severance agreement. I also believe that it is appropriate to dispel speculation about the Town's use of code provisions and whether they apply to Mr. Nuaimi. I would note that Section 3.5 of Mr. Nuaimi's contract, his current contract, states, "It waives any rights provided under the City's personnel system or policies and any rights provided to the Town Manager under the Yucca Valley Municipal Code." Finally, please note that until further action, Mr. Shane Stueckle serves as the Acting Town Manager by operation of law under Yucca Valley Municipal Code section 2.08.040. Staff will be happy to answer further questions following public comment. I do add the caveat however that there will be an official press release regarding this matter and also caution that staff comments are limited by, from my respect, the attorney-client privilege as well as any confidentiality that applies to closed session discussions."

Mayor Abel opened public comment on the item.

Mark Nuaimi, Fontana, thanked the Town Council for the opportunity to serve as the Town Manager.

James Walker, Yucca Valley noted that though he appreciates the stance the Town Council has taken, he doesn't agree with paying Nuaimi a severance.

Fritz Koenig, Yucca Valley commented on supposed conflict within the severance agreement.

Ed Montgomery, Yucca Valley spoke of opposition of the Town Council's decision.

Charles McHenry, Yucca Valley commented on the difficult decisions facing the Town Council and would like to see the community put differences aside and work together.

Margo Sturges, Yucca Valley spoke in opposition of Town Council's decision.

With no others wishing to speak, Mayor Abel closed public comment.

Motion stated by Town Attorney, Lona Laymon:

"That the Town Council approves the severance agreement and dismisses Mr. Nuaimi from his employment contract, with that employment contract being terminated only upon the date the severance agreement actually goes into effect. And, if there is a motion and a second, I recommend a roll call vote."

Council Member Rowe moved legal counsel’s recommendation. Council Member Huntington seconded. Motion carried 4-1 on a roll call vote, with Council Member Leone voting no.

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

**FUTURE AGENDA ITEMS**

Huntington requested that the Town Council consider a resolution in support of the Morongo Basin Transit Authority due to recent funding reductions. Town Council agreed.

**PUBLIC COMMENT**

Fritz Koenig, Yucca Valley requested that the Town Council speak about what was discussed in closed session.

**MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS**

- 9. Council Member Leone** - none
- 10. Council Member Rowe** thanked Town staff for the wonderful summer concerts.
- 11. Council Member Huntington** stated that SANBAG is looking to get county areas more involved. Also, Measure I committee adopted action for additional funding for major highways, creating planning options for future Morongo Basin projects.
- 8. Mayor Pro Tem Lombardo** stated it was a difficult week and hopefully everyone can heal and move forward.
- 9. Mayor Abel** expressed his appreciation for the public comments and this situation has been difficult for the Town Council, Town Staff and everyone involved.

**ANNOUNCEMENTS**

Next Town Council Meeting, 6:00 p.m. Tuesday, September 3, 2013, Yucca Valley Community Center, Yucca Room

**ADJOURNMENT**

There being no further business, Mayor Abel adjourned the meeting at 9:15 p.m.

Respectfully submitted,

Lesley Copeland, CMC  
Town Clerk