

**TOWN OF APPLE VALLEY
TOWN COUNCIL/SUCCESSOR AGENCY**

**REGULAR MEETING
MINUTES – July 10, 2012**

CALL TO ORDER:

Mayor Stanton called to order the meeting of the Apple Valley Town Council/Successor Agency at 6:34 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Council Member Emick; Council Member Nassif; Mayor Pro Tem Coleman; Mayor Stanton.

Absent: Council Member Roelle (arrived late)

PUBLIC COMMENTS

None.

CLOSED SESSION

1. Closed Session

None.

OPENING CEREMONIES

INVOCATION:

The Invocation was led by Pastor Danotra Johnson, Victory in Jesus

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Mayor Stanton

PRESENTATIONS: Military Banner Presentation – Beau Humphrey

PUBLIC COMMENTS

Mike Welty, Apple Valley, suggested that when it comes to federal funds, we should decline the funding to avoid being told how to spend our money.

David Mueller, highdesertpolitics.org, commented on not receiving a ballot to vote on improvements to the PBID. He questioned the CDBG funding that will be used for improvements to the PBID Village area.

Lawrence McCarthy, Apple Valley, expressed concern regarding a discussion that he had with the Town Engineer regarding speed limits on Apple Valley Road and how the speed surveys are conducted.

Michael Eidenberger, Apple Valley, commented on reading a statement regarding the Town of Apple Valley seeking to increase its fees. He asked that the enforcement of non-licensed contractors and businesses be done before increasing the fees of licensed workers.

Millie Huntley, Apple Valley, commented on the numerous projects in Apple Valley that have remained uncompleted. She believed that before the Town Council approves additional projects, those projects should be completed.

Al Rice, Apple Valley, commented on comments made at previous meetings regarding the speed limits on Apple Valley Road. He spoke of traffic concerns that he has witnessed on Apple Valley Road.

Diana O'Malley, Apple Valley, expressed concern regarding online identify theft in the Town of Apple Valley. She urged the community to be extremely vigilant in their neighborhoods and to report any suspicious activities to authorities.

Donald Miller, Apple Valley, commented on the number of vacancies in the Town of Apple Valley. He also expressed concern regarding the vandalism that occurs in vacant properties.

Tony Penna, Apple Valley Ranchos Water, invited the public and the Town Council to the Community Outreach event to be held at the Annex on Wednesday, July 25, 2012 from 6:00 p.m. to 7:30 p.m.

Chuck Hanson, Apple Valley, invited everyone to the Tour de Apple Valley event on October 20, 2012. He spoke of the exciting events that will take place on that day.

Sandy McKay, Apple Valley, spoke to the public about her Medical Marijuana collective in the Town of Apple Valley.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Council Member Nassif commented on committees and events that he attended. He also announced that Assembly Bill 910 regarding the Parking Lot Ordinance failed because the Legislature felt too many issues surrounded the bill.

Council Member Emick commented on committees and events that he attended.

Mayor Pro Tem Coleman commented on committees and events that she attended.

Mayor Stanton commented on committees and events that she attended.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Mayor Stanton commented on the fireworks in the Town of Apple Valley during the 4th of July celebrations. She respectfully requested staff prepare a report for review by the Town Council with

information on which communities allow fireworks. She believed that it could be a financial benefit for our nonprofits. Mayor Stanton also reminded staff of her previous request for a report on mandatory spay and neutering in the Town of Apple Valley.

Time, Date & Place for Next Town Council Regular or Special Meeting:

A. Regular Meeting – Tuesday, July 24, 2012

Closed Session at 5:00 p.m.

Regular Session at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Mayor Stanton announced that it has been brought to the attention of the Town Council/Successor Agency that there is a need to take action on an item that arose after the posting of the agenda. That item is for a Closed Session discussion – Conference with legal counsel – anticipated litigation pursuant to subdivision (b) of the Government Code Section 54956.9

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Coleman, and unanimously carried to add agenda item number 11 – Closed Session - Conference with Legal Counsel – anticipated litigation pursuant to subdivision (b) of the government code section 54956.9 - based on the need to take action on this item arising after the agenda was posted.

Mayor Stanton also announced that Councilman Nassif had a remote interest in certain warrants on tonight's commercial warrants for the Town of Apple Valley as the owner of NAPA Auto Parts. Therefore he will be abstaining from voting on Agenda Item Number 4.

MOTION

Motion by Mayor Pro Tem Coleman seconded by Council Member Emick, to approve and adopt the Consent Calendar items numbered 2 - 7, respectfully.

Vote: Motion carried 4-0-0-1

Yes: Councilmember's Emick; Nassif; Mayor Pro Tem Coleman; Mayor Stanton.

Absent: Council Member Roelle.

Council Member Nassif abstained from voting on Agenda Item Number 4.

2. Approval of Minutes of the Town Council

A. Regular Meeting – June 26, 2012

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Claimant – Jason Hackett

Recommendation:

Reject the claim of Jason Hackett.

4. May 2012 Commercial Warrants Schedule

Recommendation:

That the Town Council receive, ratify, and file the Commercial Warrants Schedule as presented.

5. Payroll/Benefits Warrants Schedule – Month of May 2012

Recommendation:

That the Town Council receive, ratify, and file the payroll/benefits warrants as presented.

6. SR-18/Apple Valley Road Intersection Improvement Project Contract Amendment No. 1

Recommendation:

Approve Amendment No. 1 to the November 2008 Agreement between the Town of Apple Valley and Dokken Engineering for engineering services on the State Route 18/Apple Valley Road Intersection Improvement Project for an amount not-to-exceed \$275,040.00.

7. Treasurer’s Report – Month of May 2012 and Schedule of Revenues, Expenditures and Changes in Fund Balance for the Parks & Recreation Fund and the Apple Valley Golf Club Fund

Recommendation:

That the Town Council Receive and file the May 2012 Treasurer’s Report.

PUBLIC HEARINGS

8. Undergrounding Utility District No. 4 Along Yucca Loma Road Between Mohawk Road And Rancherias Road

Mayor Stanton opened the public hearing at 7:30 p.m.

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Stanton closed the public hearing at 7:31 p.m.

MOTION

Motion by Mayor Pro Tem Coleman, seconded by Council Member Emick, to adopt Resolution No. 2012-38 “A Resolution of the Town Council of the Town of Apple Valley, California, making a finding that the overhead facilities should be installed underground, declaring the formation of Underground Utility District No. 4 and ordering the installation of utilities underground”.

Vote: Motion carried 4-0-0-1

Yes: Councilmember’s Emick; Nassif; Mayor Pro Tem Coleman; Mayor Stanton.

Absent: Council Member Roelle.

9. Reconsideration of Appeal (No. 2012-01) of the Planning Commission Denial of General Plan Amendment No. 2010-02, Zone Change No. 2010-02 and Tentative Tract Map No. 18763 for the Proposed Subdivision of Approximately 135 Acres into 168 Single-Family Lots and a 10-Acre Park/Retention Basin Located Directly South Side of Sitting Bull Road East of Apple Valley Road.

Mayor Stanton opened the public hearing 7:33 p.m.

Carol Miller, Senior Planner, presented the staff report as filed with the Town Clerk.

Chris Morgan, Developer, presented a PowerPoint presentation regarding the proposed subdivision on Sitting Bull Road.

COUNCILMAN ROELLE ARRIVED AT 7:35 P.M.

Council Member Emick asked a series of questions regarding traffic and the general plan.

Brad Miller, Town Engineer, commented on the traffic improvements that would be made with the completion of this project.

Lori Lamson, Acting Director of Community Development, explained why the general plan was not updated for this type of use prior to this project coming forward to the Planning Commission and the Town Council.

Mayor Stanton asked a series of questions to Mr. Morgan regarding the size and cost of the homes proposed.

Mr. Morgan gave an estimate of approximately \$400,000 for the cost of the homes, possibly in the future.

Ron McCray, McCray Group, spoke on quality well planned projects that his organization builds in communities. He commented on his proposal for 133 acres of land that he owns. He stated that he has spent over \$1 million in an attempt to make this project successful.

The following individuals spoke in support of the project:

Janice Moore, Apple Valley Chamber of Commerce
Mehdi Mostaedi, Apple Valley
Rebecca Otwell, Apple Valley
Jason Lamoreaux, Apple Valley
Kari Leon, Agio Realty, Apple Valley
Janie Phillips, Century 21 Fairway, Apple Valley
Rob Turner, Apple Valley
Dawn Harrison, Apple Valley
Bess Kline, Victor Valley Association of Realtors
Diana O'Malley, Apple Valley
Ev Butcher, Apple Valley
Bob Tinsley, Apple Valley
Rebecca Otwell, Shear Realty
Michelle Scoullar, Victorville
Mike Harridge, Apple Valley
Bruce Kallen, Apple Valley

The following individuals spoke in opposition of the project:

Millie Huntley, Apple Valley
Lawrence McCarthy, Apple Valley
Christina Burton, Apple Valley
Gayle Flinchum, Apple Valley
David Mueller, highdesertpolitics.org.

Bonita Rouch, Apple Valley
Al Rice, Apple Valley
Bob Sagona, Apple Valley
George Butts, Apple Valley
Bernadette McNulty, Apple Valley

Council Member Emick responded to statements made by the public regarding whether or not he resides in the Town of Apple Valley.

John Brown, Town Attorney, commented on the statues that require residency in Apple Valley. He also commented on the legal procedure followed in California that requires making applications to the Attorney General in the State of California to bring a civil suit to determine whether or not someone has established or given up residency. Mr. Brown recommended that until such legal procedure has taken place, we need to conduct the Council meetings based on the people's business and limiting the discussions to the items on the agenda..

RECESSED MEETING

Mayor Stanton declared a recess of the Apple Valley Town Council at 9:15 p.m.

RECONVENED MEETING

Mayor Stanton reconvened the meeting of the Apple Valley Town Council at 9:35 p.m.

Bruce Kallen, Apple Valley, finished his comments regarding the procedures of the Planning Commission.

Mr. Morton summarized his final comments by answering some of the questions and concerns of the public.

There being no additional requests to speak, Mayor Stanton closed the public hearing at 9:38 p.m.

Council Member Emick thanked the members of the public for their attendance at the meeting. He spoke on the reasoning for bringing this item back for reconsideration.

Council Member Roelle commented that he was opposed to the zone change due to the uniqueness of Apple Valley and the need to hold the zoning standards.

Mayor Pro Tem Coleman spoke in support of the project. She also questioned the validity of the signatures presented to the Town Council at a previous meeting that listed members of the public who opposed the project. She noted that there were statements from a speaker who stated he did not sign the petition but his signature was listed on the document.

Council Member Nassif stated that he believes this is a good project for the Town of Apple Valley. He spoke of the development that has occurred within the Town over the past several years and stated that he supported the project as submitted.

Mayor Stanton stated that she prefers the estate lots and the way that the zoning is currently designated. She stated that she could not support this project.

Ms. Carol Miller, Senior Planner, reviewed for the benefit of the public and Town Council, each of the matters separately beginning with the materials as listed on page 9-94. She explained that Resolution 2012-40 is a resolution overturning the Planning Commission's denial of the general plan amendment and zone change should the Council vote to approve this item..

MOTION

Motion by Mayor Pro Tem Coleman, seconded by Council Member Nassif to approve Resolution No. 2012-40, a resolution overturning the Planning Commission's denial of General Plan Amendment and zone change Nos. 2010-02 and Tentative Tract Map No. 18763, and approving a request for approval of a General Plan Amendment to change the current land use designation of (R-E) residential estate (1 du per 1 to 2.5 gross acres) to (R-SF) residential single-family (1 du per 0.4 to 0.9 net acres) and a zone change from the current zoning designation (R-E) residential estate (1 du per 1 to 2.5 gross acres) to (R-SF) residential single-family (1 du per 0.4 to 0.9 net acres) zoning designation. Assuming approval of GPA/ZNC No. 2010-02, the applicant has requested to subdivide the total 135 acre site into 168 single-family lots, apns: 3087-161-05 and 09

Vote: Motion carried 3-2-0-0

Yes: Councilmember's Emick; Nassif; Mayor Pro Tem Coleman

Noes: Councilmember Roelle; Mayor Stanton

Absent: None

Ms. Carol Miller, Senior Planner, continued with her review of the second phase as listed on page 9-98, Resolution No. 2012-41 adopting the General Plan Amendment to change the current land use designation.

MOTION

Motion by Mayor Pro Tem Coleman, seconded by Council Member Emick to adopt Resolution No. 2012-41, a resolution adopting General Plan Amendment to change the current land use designation of (R-E) Residential Estate (1 DU Per 1 to 2.5 Gross Acres) to (R-SF) Residential Single Family (1 DU per 0.4 to 0.9 Net Acres), APN's: 3087-161-05 and 09.

Vote: Motion carried 3-2-0-0

Yes: Councilmember's Emick; Nassif; Mayor Pro Tem Coleman

Noes: Councilmember Roelle; Mayor Stanton

Absent: None

MOTION

Motion by Mayor Pro Tem Coleman, seconded by Council Member Nassif, and unanimously carried to waive the reading of Ordinance No. 434 in its entirety and read by title only

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 434.

MOTION

Motion by Mayor Pro Tem Coleman, seconded by Council Member Nassif, to introduce Ordinance No. 434

Vote: Motion carried 3-2-0-0

Yes: Councilmember's Emick; Nassif; Mayor Pro Tem Coleman

Noes: Councilmember Roelle; Mayor Stanton

Absent: None.

MOTION

Motion by Mayor Pro Tem Coleman, seconded by Council Member Nassif, to amend condition EC-32, as it appears in either the Resolutions or the Ordinance.

Vote: Motion carried 3-2-0-0

Yes: Councilmember's Emick; Nassif; Mayor Pro Tem Coleman

Noes: Councilmember Roelle; Mayor Stanton

Absent: None.

LEGISLATIVE MATTERS

10. Selection of Town Council Voting Delegate and Voting Alternate to League of California Cities' 2012 Annual Conference

Motion by Mayor Stanton, seconded by Mayor Pro Tem Coleman, and unanimously carried to nominate Council Member Nassif as Voting Delegate and Mayor Stanton and Council Member Emick as Voting Alternates to the League of California Cities' 2012 Annual Conference.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

None

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on a meeting he will be attending tomorrow in Sacramento regarding Economic Development.

Mr. Robinson announced to the public that the County of San Bernardino has issued a heat advisory warning. He encouraged the public to refer to County of San Bernardino's website for any updates regarding the warning.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

Motion by Mayor Stanton, seconded by Council Member Emick, and unanimously carried, to adjourn to Closed Session at 10:13 p.m. to discuss the following:

11. Closed Session

- A. Conference with Legal Counsel – Anticipated Litigation Pursuant to Subdivision (B) of the Government Code Section 54956.9

Upon returning from Closed Session at 10:34 p.m., Mayor Stanton announced that there was no reportable action taken.

ADJOURNMENT

Motion by Mayor Pro Tem Coleman, seconded by Council Member Emick, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 10:35 p.m.

Mayor

Town Clerk