

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

**REGULAR MEETING
MINUTES – March 12, 2013**

CALL TO ORDER:

Mayor Emick called to order the meeting of the Apple Valley Town Council/Successor Agency at 5:05 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Council Member Cusack; Stanton; Mayor Pro Tem Bishop; Mayor Emick. Absent: Council Member Nassif.

PUBLIC COMMENTS

None.

CLOSED SESSION

Mayor Emick stated that there was no need to discuss Item 1D as listed on the Closed Session agenda. He then announced that it has been brought to the attention of the Town Council 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 – Item 1E - Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation Pursuant to Subdivision (B)(1) of Section 54956.9 (2 Potential Cases).

MOTION

Motion by Council Member Stanton, seconded by Council Member Cusack, and unanimously carried, to add Closed Session item 1E for discussion.

MOTION

Motion by Council Member Stanton, seconded by Council Member Cusack, and unanimously carried, to adjourn to Closed Session at 5:08 p.m. to discuss the following:

1. Closed Session

- A. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluation: Title: Town Manager
- B. Conference with Legal Counsel – Existing Litigation - Pursuant to paragraph (1) of subdivision (d) of Government Code Section 54956.9. Case Name: David Holtz dba Holtz Construction v. Town of Apple Valley, et al. Case Number: San Bernardino County Superior Court Case No. CIVVS 1101079

- C. Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to litigation pursuant to subdivision (d) of Section 54956.9 (one or more potential cases).
- D. Negotiations with Real Property Negotiator – Parcel Number(s) 3087-481-05; Negotiating Parties: Mr. Joshua Kaye or Designee. Town Negotiator(s): Town Manager, Finance Director, Community Development Director or Designee. Negotiations involve both price and terms of payment. – **NO ACTION REQUIRED.**
- E. Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to litigation pursuant to subdivision (b)(1) of Section 54956.9 (2 potential cases)

COUNCIL MEMBER NASSIF ARRIVED AT 5:09 P.M.

Upon returning from Closed Session at 6:30 p.m., Mayor Emick announced that there was a motion by Mayor Pro Tem Bishop, seconded by Council Member, to approve a voluntary compliance agreement and to authorize the Town Manager to sign the agreement and initiate appropriately.

Mayor Emick recessed the meeting of the Apple Valley Town Council until 6:30 p.m.

TOWN COUNCIL REGULAR SESSION

Mayor Emick called to order the regular session of the Apple Valley Town Council at 6:30 p.m.

OPENING CEREMONIES

INVOCATION:

The Invocation was given by Pastor Royce Beserra, Church for Whosoever

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Mayor Pro Tem Bishop

PRESENTATION:

Making a Difference Recognition and Introduction – Mr. Dominic Cumo

Wellness Clinic for Women & Children - Sister Lisa Turay

Healthy Apple Valley and the Heart Games – Lena Quinonez, Recreation Supervisor

PUBLIC COMMENTS

David Mueller, Apple Valley, announced that he is no longer a writer for High Desert Politics. He stated that he now writes for the Tribune, an online newspaper. He commented on policies in place that he believes can be communistic. He challenged the Town to allow presentations from the public that could be perceived as negative feedback.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

Council Member Nassif thanked the Town Council and the public for their support during the passing of his Mother, Mrs. Mae Nassif.

Council Member Stanton expressed sympathy and concern in the passing of Mae Nassif and the bicyclist who lost his life in Apple Valley. She announced that staff is working on obtaining a new signal at Apple Valley Road and Tuscola Road. She also thanked the Parks and Recreation Department for their work in Civic Center Park.

Mayor Pro Tem Bishop thanked all those who presented during the Presentations on tonight's agenda.

Mayor Emick commented on meetings that he attended including the reading at the Apple Valley Library. He announced that the VVEDA meetings have been changed to bi-annual meetings. He stated that he would like to close the meeting tonight in the memory of Mr. Jack Clarke and Mrs. Mae Nassif.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

A. Regular Meeting – Tuesday, March 26, 2013 – Council Chambers

Closed Session at 5:00 p.m.

Regular Session at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

David Mueller, Apple Valley, commented on the revenues versus expenditures listed in the Treasurer's Report on Agenda Item Number 5.

Mayor Emick announced that Councilman Nassif has 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 3. Also, Councilman Cusack has a remote interest in certain warrants on tonight's Commercial Warrants for the Town of Apple Valley as owner of Apple Valley Communications; therefore, he too will be abstaining from voting on Agenda Item Number 3.

MOTION

Motion by Council Member Stanton, seconded by Mayor Pro Tem Bishop, to approve the Consent Calendar items numbered 2-10.

Vote: Motion carried 5-0-0-0

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

Absent: None.

Council Members Cusack and Nassif abstained from voting on Agenda Items Number 3.

2. **Approval of Minutes of the Town Council**
 - A. **Special Meeting – February 21, 2013**
 - B. **Regular Meeting – February 26, 2013**

Recommendation:
Approve the subject minutes as part of the consent agenda.

3. **January 2013 - Commercial Warrants Schedule**

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

4. **January 2013 – Payroll/Benefits Warrants Schedule**

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

5. **Treasurer’s Report – January 2013 and Schedules of Revenues, Expenditures and Changes in Fund Balance for the Parks and Recreation Fund and the Apple Valley Golf Club Fund**

Recommendation:
That the Town Council Receive and File the January 2013 Treasurer’s Report.

6. **Acceptance of Work, Notice of Completion and Release of Retention for the Civic Center Park Restroom Installation PR 2012-05**

Recommendation:

 1. Accept the work for the Civic Center Park Project PR 2012-05 for a total cost of \$57,074.16.
 2. Direct the Town Clerk to file the Notice of Completion for the contract work, notify surety and to exonerate contract bonds.
 3. Direct the Finance Director to release retained funds 35-days after the filing of the Notice of Completion, provided no claims are filed against the contractor.

7. **Approve and Authorize a Construction Agreement with San Bernardino County Public Works, Department of Transportation, and with San Bernardino Associated Governments, (SANBAG), for Yates Road Widening in Conjunction with the Yucca Loma Bridge over the Mojave River.**

Recommendation:
That the Town Council approve the Construction Agreement with San Bernardino County Public Works, Department of Transportation, and with San Bernardino Associated Governments (SANBAG), for Yates Road Widening in conjunction with the Yucca Loma Bridge Project.

8. **Approve and Accept Agreement Reached with Property Owner for Acquisition of Road Right-of-Way and Construction Easements for the Yucca Loma Road/Yates Road/Green Tree Blvd., Corridor Project.**

Recommendation:
That the Town Council approve and accept the acquisition agreements and authorize the Town Manager, or Town Engineer, to execute the Agreement and proceed with all necessary documents in connection therewith.

9. Contract Amendment No. 1 of the Dale Evans Parkway and Joshua Road Contract to Add Additional Construction Areas on Navajo Road, between Sandia Road and Tussing Ranch Road.

Recommendation:

Approve the Dale Evans Parkway and Joshua Road Project Contract Amendment #1 with Sully-Miller Contracting Co., to Add Additional Work Areas on Navajo Road between Sandia Road and Tussing Ranch Road, and Increase the Awarded Contract in the Additional Amount of \$6,000.00, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

10. Submission of Calhome Program Application to the California Department of Housing and Community Development (HCD)

Recommendation:

1. That the Town Council adopt Resolution 2013-11 authorizing the submittal of an application to the California State Department of Housing and Community Development (HCD) for funding under the CalHome Program;
2. Authorize the Town Manager and Community Development Director to execute, on behalf of the Town of Apple Valley, the application, the Standard Agreement, and all other documents required by HCD for participation in the CalHome Program, and any amendments thereto.

PUBLIC HEARINGS

11. A Resolution Establishing Trash User Fees Increases In An Amount Of Between \$0.42 - \$1.42 Per Month, Or, 5.57% - 7.62% Effective March, 13, 2013.

Mayor Emick opened the public hearing at 7:43 p.m.

Marc Puckett, Assistant Town Manager, Finance and Administration, presented the staff report as filed with the Town Clerk. Mr. Puckett commented on the protests received and announced that all undeliverable forms are included in the affirmative protest count.

Council Member Cusack questioned the reasons for the requested increase.

Mr. Puckett explained that Burrtec had previously requested the fee increase and it is based on the passage of this resolution.

Council Member Nassif questioned when the last increase was granted.

Mr. Puckett stated the last increase was August 2008. He announced that any fee increase not approved by resolution to be passed on to the public will be paid out of the general fund.

Council Member Stanton made comments regarding the increased amount per month for trash service as listed on the rate worksheet.

Mayor Pro Tem Bishop commented on the amount of time since Burrtec has been granted an increase in fees.

Richard Nino, Burrtec Waste, clarified questions of Council Member Nassif, that recycling efforts do help in reducing fee increases.

Charles Collarani, Apple Valley, recommended that instead of rate increases, the Town require residents to obtain larger cans where they can be more pro-active in recycling. He also

recommended that every resident have a can comparable with the number of occupants in the residence.

David Mueller, Apple Valley, commented on certain Council Members signing a no tax increase statement when running for office. He expressed concern regarding the fee increases in which he believes are not being correctly reported on finance documents.

John Laraway, Apple Valley, expressed concern regarding the lack of trash that he generates as a single occupant. He proposed a credit be given to individuals who do not take out their can on a routine basis.

John Freymueller, Apple Valley, recommended a senior discount be given to residents similar to programs in other communities.

Heinz Wolf, Apple Valley, spoke in opposition of the proposed fee increase. He did not believe that Burrtec should be able to benefit from the recyclables that residents generate on their behalf and still request an increase.

Dan Oksen, Apple Valley, agreed with the suggestion to provide a senior discount for trash service. He believed that the increase could be a burden on seniors in the community.

Mr. Nino commented on the proposed senior discount. He stated that it is based on jurisdiction and would be considered during the next evaluation period for the Town of Apple Valley.

Mayor Emick reminded the public that recycle trash bins are free.

There being no additional requests to speak, Mayor Emick closed the public hearing at 8:17 p.m.

The Town Council provided closing comments regarding this item.

MOTION

Motion by Mayor Pro Tem Bishop, seconded by Council Member Nassif, to determine that no majority protest exists and to adopt Resolution 2013-12

Vote: Motion carried 5-0-0-0

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

Absent: None.

12. A Resolution Establishing Sewer User Charges Inclusive Of An Increase In An Amount Of Three Dollars And Seventy Three Cents (\$3.73) Per Equivalent Dwelling Unit Per Month And Establishing An Operative Date For Application Of The Proposed Increase

Mayor Emick opened the public hearing at 8:27 p.m.

Marc Puckett, Assistant Town Manager, Finance and Administration, presented the staff report as filed with the Town Clerk. Mr. Puckett commented on the protests received and announced that all undeliverable forms are included in the affirmative protest count.

Council Member Nassif explained for clarification the level of the increase proposed by Victor Valley Waste Water Reclamation Authority (VWRA).

Dennis Cron, Assistant Town Manager, Municipal Operations and Contract Services, also commented on the mandates imposed on VWRA which increased the costs.

David Mueller, Apple Valley, commented on the amount of transfers listed in the Town of Apple Valley financial statements.

John Laraway, Apple Valley, commented on the proposed fee increase. He objected to the creeping increase that is being imposed on residents.

Dan Oksen, Apple Valley, expressed concern regarding the number of regulations imposed on cities that cause cities to increase fees on its residents.

There being no additional requests to speak, Mayor Emick closed the public hearing at 8:50 p.m.

The Town Council provided closing comments regarding this item.

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Bishop, having determined that no majority protest exists, adopt Resolution 2013-13 revising the sewer user fees for the use of Town sewers.

Vote: Motion carried 5-0-0-0

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

Absent: None.

LEGISLATIVE MATTERS

None

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

13. Fiscal Year 2012-2013 Mid-Year Budget Review

Marc Puckett, Assistant Town Manager, Finance and Administration, presented the staff report and powerpoint presentation as filed with the Town Clerk.

Mr. Puckett commented on his belief that retail activity will decrease within the next fiscal year based on a financial analysis and projection report.

Discussion ensued regarding transfer activity within the mid-year budget review packet.

David Mueller, Apple Valley, rebutted statements made by Mr. Puckett regarding the Town's current fund balance.

It was a consensus of the Town Council to receive and file the Fiscal Year 2012-2013 Mid-Year Budget Review Report.

14. Selection of Town Council Voting Delegate and Voting Alternate to Southern California Associated Governments

Mayor Pro Tem Bishop stated that he is available to attend the meeting as the delegate or alternate.

Council Member Stanton stated that she is very interested and would appreciate the Town Council's support to serve as delegate..

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Bishop, and unanimously carried, to nominate Council Member Stanton as voting delegate and Mayor Pro Tem Bishop as voting alternate representing the Town of Apple Valley at the 2013 Southern California Association of Governments (SCAG) General Assembly Annual Meeting.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on funding received from the County of San Bernardino on various projects including the street light district, RDA Project Area II, and the Victor Valley Economic Development Authority (VVEDA). He also commented on AB 1313, a new bill introduced by Assemblyman Donnelly. He stated that the intent of the bill is to help restore funding in the court system.

Mr. Robinson reminded the Town Council of the upcoming City/County Conference and the Council Workshop. He also announced that Kelly Undergrounding has moved into the former Public Works Yard.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

ADJOURNMENT

Motion by Council Member Nassif, seconded by Council Member Cusack, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 9:58 p.m. in memory of Mrs. Mae Nassif and Mr. Jack Clarke.

Curt Emick, Mayor

La Vonda M-Pearson, Town Clerk