

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

**REGULAR MEETING
MINUTES – June 25, 2013**

TOWN COUNCIL REGULAR SESSION

CALL TO ORDER:

Mayor Emick called to order the regular session of the Apple Valley Town Council at 6:32 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Council Members Cusack; Nassif; Stanton; Mayor Pro Tem Bishop; Mayor Emick. Absent: None.

OPENING CEREMONIES

INVOCATION:

The Invocation was given by Pastor Doris Eddy, Apple Valley Faith Center

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Council Member Nassif.

PRESENTATIONS:

Update on Victor Valley College Accreditation – Mr. Peter Allan, Acting Superintendent

Synthetic Drug Use – Apple Valley Sheriff's Department, Detective Derek Simpson

PUBLIC COMMENTS

Denny Strong, Apple Valley, recommended that a four way stop sign be placed on Apple Valley Road and Jess Ranch Parkway. He discussed the speed limit on the road and commented on the on-coming traffic that is difficult to see when they are traveling at a high rate of speed.

Bill Hannon, Lions Club, commented on the Synthetic Drug presentation and the lack of understanding that the public has regarding these types of drugs. He discussed the danger that these drugs impose on our youth and the community.

Chuck and Pat Hanson, Apple Valley, thanked the Town Council for their support with bicycling in the community. Mrs. Hanson commented on having a booth at Brewster Park Fourth of July Celebration to promote the Tour de Apple Valley event that will be held in October.

Arlene Yeadon, Apple Valley, expressed concern regarding synthetic drugs. She commented on an incident that occurred in her home in which her son was hospitalized and critically injured as a result of using these drugs. She pleaded with the Town Council to act in an effort to stop the sale of these drugs in Apple Valley.

Ron Venable, Friends of Apple Valley Library, commented on free events to the public that are provided by the Apple Valley Library. He commented on refurbishing the library after 10 years.

Michael Guabhoun, High Desert Coalition, spoke on synthetic drug use and the need to adopt an ordinance in order to assist in the enforcement of preventing the use and sale of synthetic drugs in Apple Valley.

David Mueller, Liberty Tribune, commented on statements made at the last Town Council Meeting in which he was told that he could not criticize individuals of staff. He stated that the government code allows him the ability to make such comments. He also expressed concern regarding the minutes and the way they were prepared. He believed that the minutes lacked key information that was necessary in order for a member of the public to get an accurate account of what happened at the Town Council meeting.

E.T. Snell, www.etsnell.com, thanked the members of the public who spoke regarding synthetic drug use in Apple Valley and providing that information to the public.

APPLE VALLEY CHAMBER OF COMMERCE – BUSINESS RETENTION UPDATE

Janice Moore, CEO, Apple Valley Chamber of Commerce, provided an update to the Town Council and the public regarding upcoming events at the Chamber of Commerce. She spoke on the State of the Town Address that would be held on July 17, 2013 and informed the public that there will be gallery seating free of charge for members of the public who would like to simply hear the address presented by the Town Council.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

Council Member Cusack commented on committee meetings and events that he attended.

Council Member Stanton commented on committee meetings and events that she attended. She asked questions regarding the enforcement of synthetic drug use and sale in the Town of Apple Valley. She requested a copy of the PowerPoint presentation that was presented on this matter.

Captain Lana Tomlin, Apple Valley Sheriff's Department, responded to questions and concerns of the Town Council regarding this issue.

Council Member Nassif commented on committee meetings and events that he attended.

Mayor Pro Tem Bishop commented on committee meetings and events that he attended.

Mayor Emick commented on committee meetings and events that he attended.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Council Member Nassif commented on the County, CAL-CAP and what the County bills the Town for as part of the CAL-CAP. He questioned the types of services that are provided to the Town by the County as well as how much sales tax and property tax the county receives from the Town of Apple Valley which he stated was approximately \$9.4 million.

Council Member Nassif requested a future agenda item be prepared to discuss how to best approach the county for clarification on these issues.

Council Member Stanton asked questions of the Town Attorney regarding the contract between the Town of Apple Valley and the Apple Valley Golf Course restaurant. She expressed concern regarding the details of the agreement and questioned whether or not the operation of the restaurant could be construed as a gift of public funds.

John Brown, Town Attorney, stated that it is not uncommon for governments to retain vendors or operators at a rate that would be less than what is charged in the public sector.

Council Member Stanton requested a future agenda item or closed session to continue discussion on this issue.

Mr. Brown explained for the benefit of the public the definition of a gift of public funds. He believed it would be appropriate to confer with legal counsel in Closed Session under anticipated litigation on this matter.

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

A. Regular Meeting – Tuesday, July 9, 2013

Closed Session at 5:00 p.m.

Regular Session at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Mayor Emick announced that the Town was recently notified that the JAG Grant funds received for the Police Activities League is \$238.00 greater than the estimated amount. Therefore staff has requested that the Motion for Item 7 (1) on the agenda be amended to "Approve Receipt of Justice Assistance Grant Funding in the amount of \$14,729.00".

Lawrence McCarthy, Apple Valley, expressed concern regarding the minutes for the last two Council meetings where he commented on the license agreement and the Request for Proposal (RFP) regarding the Apple Valley Golf Course. He believed the minutes are not an accurate representation of what he discussed and respectfully requested that they be amended.

David Mueller, Liberty Tribune, commented on Agenda Item Number 2. He expressed concern regarding the letter that he read into the record that was presented to the Town Council at the last meeting. He believed that legally, the letter should have been referenced in the minutes. He felt that the minutes are a misrepresentation of what actually occurred at the meeting.

Mr. Mueller also commented on Agenda Item Number 6. He expressed concern regarding the disparity in the reports between the budget document, the resolutions and what was printed in the Daily Press.

Mr. Brown announced that it is totally the purview of the Town Council to determine whether or not the minutes are an accurate representation of what happened at the Town Council Meeting.

The Town Council Members expressed that the minutes are a summary of the meeting and not a verbatim report of all events. It was noted that members of the public have the ability to watch the entire meeting via the web stream if they desire which are available for the meetings beginning January 2006.

MOTION

Motion by Mayor Pro Tem Bishop, seconded by Council Member Nassif, to approve the Consent Calendar items numbered 2-9 as amended.

Vote: Motion carried 5-0-0-0

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

Absent: None.

2. Approval of Minutes of the Town Council

A. Special Meeting – June 11, 2013

B. Regular Meeting – June 11, 2013

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Claimant – Heirs of David Allen Hixson

Recommendation:

Reject the claim from the heirs of David Allen Hixson

4. Claimant – Christopher Craig Cox

Recommendation:

Reject the claim from Christopher Craig Cox

5. Adopt Ordinance 448 – An Ordinance of the Town Council of the Town of Apple Valley, Amending Chapter 2.10 (Town Clerk) of Title 2 of the Town of Apple Valley Municipal Code Relating to the Office of the Town Clerk and Chapter 2.60 (Personnel) of Title 2 of the Town of Apple Valley Municipal Code Relating to Exceptions of Chapter 2.60

Recommendation:

That the Town Council adopt Ordinance No. 448

6. A Resolution of the Town Council of the Town of Apple Valley Amending the Personnel Policy and Procedure Manual, Salary Schedule, and Employee Classification Plan for the Town of Apple Valley

Recommendation:

That the Town Council adopt the attached Resolution No. 2013-27, A Resolution of the Town Council of The Town of Apple Valley amending the Personnel Policy and Procedure Manual, Salary Schedule, and Employee Classification Plan for the Town of Apple Valley.

- 7. Receipt of Jag Grant Funds for Fiscal Year 2013-14 into the Public Safety Grant Fund for Police Activities League Related Expenditures**
Recommendation:

 - 1) Approve receipt of Justice Assistance Grant funding in the amount of \$14,729.00, and
 - 2) Authorize the Town Manager to execute the Interlocal Agreement concerning distribution of the 2013 Justice Assistance Grant Award.

- 8. Award Contract for the Kiowa Road Improvements Phase II – Tussing Ranch Road to Del Oro Road – Project No. 2012-06**
Recommendation:

Award a contract to Sully-Miller Contracting Company in the amount of \$662,781.00 for the Kiowa Road Improvements Phase II – Project No. 2012-06, subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.

- 9. Lighting and Landscape Assessment District #1 - Engineer’s Annual Report And Levy of Assessment For Fy 2013-2014**
Recommendation:

 1. Adopt Resolution No. 2013-25, a Resolution of the Town Council of the Town of Apple Valley Directing the Filing of the Annual Report for the Town of Apple Valley Landscaping and Lighting Assessment District.
 2. Receive and approve the engineer's report as filed, or as amended.
 3. Adopt Resolution No.2013-26, a Resolution of the Town Council of the Town of Apple Valley Declaring its Intention to Order Improvements and to Levy and Collect Assessments for Fiscal Year 2013-2014.
 4. Direct the Town Clerk to publish the Resolution of Intention at least 10 days prior to the date of the public hearing.

PUBLIC HEARINGS

- 10. Appeal of the Intent to Revoke Business License #00010824 Issued to Metal Recovery Recycling Center**

Mayor Emick opened the public hearing at 8:35 p.m.

John Brown, Town Attorney, explained the process for the appeal regarding the intent to revoke a business license. He stated that under the Town of Apple Valley Municipal Code, the Town Manager has the authority to revoke a business license under certain conditions. He suggested to the Town Council that the two grounds for which revocation has been proposed is that (1) the business is operating in violation of law and (2) that the revocation is necessary for the health, safety and welfare of the community.

Deputy Chris Crosswhite, Apple Valley Sheriff’s Department, provided an agenda of events that has occurred between the Sheriff’s Department and Metal Recovery Recycling Center.

Council Member Stanton asked questions of Deputy Crosswhite regarding whether or not other businesses were reviewed.

The Town Council informed the owner of the business that he had thirty (30) minutes to speak on this matter.

Arsenio Alcantar, Business Owner, commented on how he began his business in the Town of Apple Valley. He stated that he was a scrapper and would pick up scraps from the parks and throughout the community. He commented on the encouragement that he received from the Town of Apple Valley Code Enforcement Department to increase his business. He stated that he eventually obtained his license so that he could open a business in the community.

Mr. Alcantar explained that he is a drug recovery individual who has been able to turn his life around for the best through his business. He stated that he has opened his doors to other recovering individuals who have suffered through drug addiction to give them an opportunity to obtain valuable employment.

Mr. Alcantar explained what he believes was some form of harassment by members of the Sheriff's Department. He commented on his active communication with the Sheriff's Department in order to be in compliance with the law. He explained in detail the incident in which he believes caused the Sheriff's Department to recommend that his license be revoked; however he respectfully requested that he be given an opportunity to correct the problems and improve his business. He acknowledged that errors had been made, but assured the Town Council that they were not intentional.

Franceha Alcantar, Business Owner, continued the appeal discussion explaining the interaction that she and her husband have had with the Apple Valley Sheriff's Department. She discussed the requirement by the State of California to retain their records for five (5) years. She explained how their business works hard for the betterment of the community and has tried to establish relationships within the community. She presented samples of the documents and files that their business retains in order to be in compliance with state law.

Council Member Stanton commented on conflicting statements from the Alcantar's regarding obtaining a Driver's License when material is brought to their business for sale.

Ms. Alcantar explained that not all material require a Driver's License for sale. She explained the process for sale of specific items at their facility.

Discussion ensued regarding the criminal complaint, whether or not video or pictures are required for the business and when the charges would be filed.

Council Member Nassif asked questions of Detective Culbertson regarding his interaction with the business.

Reserve Deputy Culbertson explained his communication with Metal Recovery Recycling Center beginning in August 2010, prior to the opening of their business.

Council Member Cusack questioned whether or not all other avenues have been exhausted prior to requesting that the business license be revoked.

Reserve Deputy Culbertson read from the Business Professional Code on possible fines for various offences. He stated that the Sheriff's Department independently had not imposed and form of restriction or fine on the business.

Anthony Alcantar, former employee, thanked the Town Council for the opportunity to speak on this issue. He commented on the need to become educated in the business when they first opened their business. He stated that the business, like the Town Council, is looking for ways to improve its operations. He stated that they are working to improve the community as a whole and respectfully requested that they be given an opportunity to continue their operations.

Karyna Alcantar, employee, stated that she is a Supervisor for the business. She explained that initially when they were first cited, they were still in the process of learning how to run the business more effectively. She admitted that mistakes were made, but they have made changes in order to insure that errors due not continue.

Tamra Jones, Business Associate, stated that the business was able to provide pictures with dates for the Sheriff's Department. She too stated that they have made mistakes in the past, but they have worked to correct them.

Monica Sandoval, Business Associate, explained that mistakes were made and apologized for the errors.

Vikter Soto, Employee, commented on his job at the business and the type of information that he takes to cover them. He stated that he believes he goes above and beyond to make sure that the business remains in compliance with not only the Town of Apple Valley, but also state law.

Phillip Martin, Apple Valley, commented on his position with the company and thanked the owner for giving him a job when he needed help.

E. T. Snell, Apple Valley, commented on what he believed was bypassing various steps and just revoking the business license. He commented on Ms. Alcantar being educated and felt that they deserved a second chance. He also recommended they update their video equipment.

Mayor Pro Tem Bishop questioned whether or not a business owner could reapply for a business license should it be revoked.

Mr. Brown stated that the penalty could be decided by the Town Council.

Council Member Cusack questioned whether or not a probation period can be given to the business owner instead of revoking.

Council Member Nassif questioned whether or not Code Enforcement is trained in this type of issue dealing with metal recovery facilities.

Frank Robinson, Town Manager, stated that this is a law enforcement matter. He noted that Code Enforcement is not trained.

Council Member Stanton provided comments regarding the appeal and applauded the worker that stated he complies no matter the cost. She recommended that probation with a fine be given to the business owner.

Discussion ensued regarding whether or not the business license should be revoked or some form of probation be given.

Council Member Nassif recommended that the business be placed on probation subject to random visits by Code Enforcement and the Sheriff's Department

Mr. Brown commented on finding good and sufficient cause to continue the hearing for six months to provide for a time to monitor efforts to remediate the violations and deficiencies noted subject the business license holder offsetting any cost incurred by the Town of Apple Valley and monitoring the plan.

Council Member Stanton would like to see a cost recovery for staff monitoring the plan.

MOTION

Motion by Council Member Nassif, seconded by Council Member Stanton, that the Town Council finds good and sufficient cause to revoke the business license of Metal Recovery Recycling Center; however, the Town will stay the revocation and permit the business to remain open for six (6) months during which time the Town of Apple Valley Code Enforcement and Sheriff's Department will monitor the business and bring back its findings at the end of the six (6) month period; also all costs incurred as a result of the monitoring will be subject to repayment from Metal Recovery Recycling Center.

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

11. Discussion on Private Alleys

It was the consensus of the Town Council that this item be tabled.

RECESSED MEETING

Mayor Emick recessed the meeting of the Apple Valley Town Council at 10:35 p.m.

MEETING RECONVENED

Mayor Emick reconvened the meeting of the Apple Valley Town Council at 10:59 p.m.

12. Discussion Regarding Pit Bulls

Gina Schwin-Whiteside, Animal Services Manager, presented the staff report as filed with the Town Clerk through a PowerPoint presentation. She responded to questions by the Town Council regarding the number of Pit Bull bites and licenses documented by the Town.

Council Member Nassif commented that dogs could be vicious regardless of the breed.

Council Member Cusack questioned the need to adopt a new ordinance if the current ordinance allows for enforcement of Pit Bulls.

Council Member Stanton expressed concern regarding the dangers of Pit Bulls. She recommended that additional information be obtained regarding what other communities are doing to monitor Pit Bulls in their communities.

Ms. Schwin-Whiteside commented on the requirements of legislation as it pertains to bite reports.

Carrie Erskine, Apple Valley, recommended that the Town Council impose a mandatory spay and neuter policy within the Town of Apple Valley.

E. T. Snell, Apple Valley, commented on a discussion that he had with his insurance carrier in which he indicated that most home owner claims deal with dog bites. He believed that the vicious ordinance should deal with all breeds.

Council Member Cusack questioned the intent of the ordinance. He asked if it was to remove Pit Bulls within Town limits or require them to be spayed or neutered.

Mayor Pro Tem Bishop commented on the budgetary shortfall should this item be approved. He stated that if it is approved, that it be done on a trial basis.

Ms. Schwin-Whiteside discussed the staff recommendations as listed within the staff report.

Council Member Nassif stated that he was not in agreement with a breed specific ordinance. He recommended staying the course and moving forward with Item Number 2, "Continue the current enforcement approach of Chapter 15.03, Potentially Dangerous or Vicious or Public Nuisance Animals".

Councilmember Stanton agreed with continuing the status quo. She also recommended that staff obtain more information on this issue and the possibility of mandatory spay and neuter for all animals.

It was the consensus of the Town Council that no action be taken at this time.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on a meeting held at SANBAG in which the high desert was recognized for their collaborative efforts with the creation of Operation High Desert. A token was given to each member rewarding them for "Vision in Action". He also commented on the new audio equipment in the Town Council Chambers and thanked Jason Hall and his team for their hard work.

Mr. Robinson stated that Council Member Nassif and Council Member Stanton would not be available at the Town Council Meeting of July 23, 2013. He recommended that an item be placed on the next agenda requesting cancellation of that meeting.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

ADJOURNMENT

Motion by Council Member Nassif, seconded by Mayor Pro Tem Bishop, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 11:50 p.m.

Curt Emick, Mayor

La Vonda M-Pearson, Town Clerk