

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

**REGULAR MEETING  
MINUTES – September 10, 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; Nassif; Stanton; Mayor Pro Tem Bishop; Mayor Emick.

Absent: None.

**PUBLIC COMMENTS**

None.

**CLOSED SESSION**

**MOTION**

Motion by Council Member Nassif, 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. Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one or more potential cases).

Upon returning from Closed Session at 6:15 p.m., Mayor Emick announced that there was no reportable action taken.

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

**TOWN COUNCIL REGULAR SESSION**

**CALL TO ORDER:**

Mayor Emick called to order the regular session of the Apple Valley Town Council at 6:35 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 Royce Beserra, Church for Whosoever.

### PLEDGE OF ALLEGIANCE:

The Flag Ceremony and Pledge of Allegiance was led by Cub Scouts Troops 356 and 956

Mayor Emick announced that the Town of Apple Valley has received numerous requests to speak cards on a specific topic. He requested the Town Attorney to address this issue.

John Brown, Town Attorney, stated that there is no item on the Town Council agenda that deals with Medical Marijuana. He explained that in the interest of time and to allow everyone the opportunity to be heard on items on the agenda, he recommended that the topic of discussion be limited to a specific amount of Town if that is the concurrence of the Town Council. He also stated that the Mayor can suggest that when there are that many speakers on a topic, that there is no aggregation of speakers so that those speakers who wish to speak each have an equal opportunity of speaking time. He read into the record those individuals who wished to express their support for High Desert Moms for Marijuana, House of Zen and Medical Marijuana, but did not want to speak:

C. Jackson

Edward Leisenfelder  
Lucerne Valley, CA

Tina Leisenfelder  
Lucerne Valley, CA

Terrence Simpson  
Apple Valley, CA

Nicole Thomason

Rob White  
Apple Valley, CA

Julie Zacharias  
Apple Valley, CA

Rionie (No last name given)  
Riverside, CA

Emily (No last name given)

Mayor Emick recommended to those individuals who wished to speak that repeated comments not be made in order to allow time for new and valid information. He suggested that the speaking time on this subject matter be limited to 20 minutes.

It was the consensus of the Town Council to limit the time for discussion to 20 minutes for this subject.

**PRESENTATIONS:**

Proclamation – United Way – Presented to Executive Director, Christine Briggs, Desert Communities United Way

Victor Valley Transit Authority (VVTA) Consolidation – Joseph Moon, Special Projects Manager

Mitch Aldaman, San Bernardino Associated Governments (SANBAG), commented on the transportation efforts of San Bernardino County. He spoke on the Desert Consolidation Study that was done in an effort to try and consolidate some of the desert communities. He explained that although Needles would not benefit from the consolidation, it appeared that the City of Barstow would benefit.

Kevin Kane, Executive Director, Victor Valley Transit Authority, briefly commented on the benefit the City of Barstow would obtain from the consolidation.

**PUBLIC COMMENTS**

Chuck and Pat Hanson, Apple Valley, commented on the 6<sup>th</sup> Annual Tour de Apple Valley Ride that will be taking place on October 19, 2013. They thanked the community for its support.

John Brown, Town Attorney, stated to the members of the Council that they may limit the time of the speakers that are in support of Medical Cannabis. The Mayor and the Council Members have come to a consensus that the time for discussion of Medical Cannabis and Dispensaries will be limited to 20 minutes. The following individuals spoke in support of Medical Cannabis and Dispensaries:

Peter Stehlik  
Lucerne Valley, CA

Kerry Cannon  
Apple Valley, CA

Christopher Shetler  
Apple Valley, CA

Audrey Cooper

Nesser Salem

Thomas G. Escobar  
Apple Valley, CA

Curtis Brown

Jill Linson  
Apple Valley, CA

Julaun Lewis

Corrine Trujillo

Kelly Tyner

Joseph Polverini

Mayor Emick read into the record the following individuals who were present and in favor of the subject but did not speak due to time:

Shelley Green  
Lucerne Valley, CA

Sarrah Williams  
Apple Valley, CA

Allen Chapman  
Apple Valley, CA

Mary Archer  
Apple Valley, CA

Erik Gonzalez  
Apple Valley, CA

David Martin

Lana Williams

Tom Piper, Apple Valley, commented on the benefits of solar panels. He recommended to the members of the Town Council to consider solar energy throughout the Town of Apple Valley.

<b>COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION</b>
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Council Member Cusack commented on committee meetings and events that he attended.

Council Member Stanton recommended that all residents remember and observe 9/11 tomorrow and those lives that were lost due to this tragedy.

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. He respectfully requested that the meeting be adjourned in memory of those who lost their lives on 9/11.

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

## TOWN COUNCIL ANNOUNCEMENTS

### Suggested items for future agenda:

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

- A. Regular Meeting – Tuesday, October 08, 2013  
Closed Session at 5:00 p.m.  
Regular Session at 6:30 p.m.

## TOWN COUNCIL CONSENT AGENDA

Mayor Emick announced that Council Member Nassif has a remote interest in specific warrants on tonight's commercial warrants dealing with NAPA Auto Parts for the Town of Apple Valley as the owner of NAPA Auto Parts. Therefore, he will be abstaining from voting on the Warrants for NAPA Auto Parts listed under Agenda Item Number 3. Also, Council Member Cusack has a remote interest in specific warrants on tonight's commercial warrants dealing with Apple Valley Communication for the Town of Apple Valley as owner of Apple Valley Communications; therefore, he too will be abstaining from voting on warrants for Apple Valley Communications listed under Agenda Item Number 3.

### MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Bishop, to approve the Consent Calendar items numbered 2-8.

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 specific warrants listed under Agenda Item Number 3.**

2. **Approval of Minutes of the Town Council**

A. **Regular Meeting – August 27, 2013**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

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

**Recommendation:**

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

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

**Recommendation:**

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

5. **Treasurer's Report – June 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 June 2013 Treasurer's Report.

6. **Adopt Ordinance No. 451 – An Ordinance of the Town Council of the Town of Apple Valley Amending Development Code Section 9.29.160 for Compliance with Federal and State Fair Housing Laws (Development Code Amendment No. 2013-004)**

**Recommendation:**

That the Town Council adopt Ordinance No. 451

7. **Fee Waiver Request for the Hanson Cycling Foundation Use of Town Hall Recreation Center and Civic Center Park for The Tour De Apple Valley**

**Recommendation:**

For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$165.25.

8. **Adoption of Resolution No. 2013-36 Authorizing the Town Manager or Town Engineer to Execute Agreements with the California Department of Transportation to Reimburse the Town for Emergency Repairs Due to Winter Storms.**

**Recommendation:**

Staff recommends that the Town Council adopt Resolution No. 2013-36 "A Resolution of the Town Council of the Town of Apple Valley, California, authorizing the Town Manager or Town Engineer to execute agreements with the California Department of Transportation to reimburse the Town for emergency repairs due to winter storms.

**PUBLIC HEARINGS**

9. **Introduce Ordinance No 452 – An Ordinance of the Town Council of the Town of Apple Valley Amending Chapter 12.38 Commercial Vehicle Parking of the Apple Valley Municipal Code**

Mayor Emick opened the public hearing at 7:46 p.m.

Jim Andersen, Code Enforcement Manager, presented the staff report as filed with the Town Clerk.

Mayor Pro Tem Bishop thanked Mr. Andersen for the inclusion of emergency vehicles within the code.

Donna Fitzgerald, Apple Valley, commented on a neighbor who has a commercial truck which is disturbing to residents due to its size and weight. She hoped that this new ordinance would prohibit this disturbance from occurring.

There being no additional requests to speak, Mayor Emick closed the public hearing at 7:52 p.m.

Council Member Stanton asked questions regarding whether or not this ordinance would assist the individuals expressing concern at the meeting.

Mr. Andersen stated that the Code Enforcement Department would have to review this issue including determining the actual weight of the vehicle before they could make a decision.

**MOTION**

Motion by Council Member Nassif, seconded by Council Member Cusack, and unanimously carried to:

1. Find that the proposed Ordinance No. 452 is not subject to and is Exempt from CEQA, based upon findings under CEQA Guidelines, Section 15061 Sub (b)(3) that can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.
2. Move to waive the reading of Ordinance No. 452 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 452.

### **MOTION**

Motion by Council Member Nassif, seconded by Council Member Cusack, to:

3. Introduce Ordinance No. 452 amending Chapter 12.38 Commercial Vehicle Parking.
4. Direct Staff to File a Notice of Exemption.

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**

None.

## **TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE**

Frank Robinson, Town Manager, commented on bill tracking. He stated that the federal grant funds are under contract for the multi-species habitat which we anticipate will be done in October 2015. Mr. Robinson also announced the grand opening of Ulta Beauty in Jess Ranch on Friday, September 13, 2013 at 10:00 a.m.

Mayor Emick commented on the theatre production, *Les Miserables* that will be held in the City of Victorville. He encouraged those interested in theatre to attend a show.

### **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 8:02 p.m. in memory and honor of all those who lost their lives assisting others on September 11, 2001.

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Curt Emick, Mayor

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La Vonda M-Pearson, Town Clerk