

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

**REGULAR MEETING  
MINUTES – November 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; Nassif; Stanton; Mayor Pro Tem Bishop; Mayor Emick.

Absent: None.

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**PUBLIC COMMENTS**

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None.

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**CLOSED SESSION**

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Mayor Emick announced that it has come to the attention of the Town that there is an immediate need to take action on an item that arose after the agenda was posted. The item to be added is Conference with Legal Counsel – Existing Litigation pursuant to subdivision (d) of Section 54956.9, Town of Apple Valley v. Green Tree Health and Healing et al, CIVDS 1312432.

**MOTION**

Motion by Council Member Nassif, seconded by Council Member Cusack, and unanimously carried, that there was a need to add an item to the agenda as an item that arose after the agenda was posted – Agenda Item Number 1C - Conference with Legal Counsel – Existing Litigation pursuant to subdivision (d) of Section 54956.9, Town of Apple Valley v. Green Tree Health and Healing, et al CIVDS 1312432.

**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 – Existing Litigation – Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one or more potential cases). Case Names: Trojan Wellness, Inc., et al. v. The Town of Apple Valley, CIVVS 1204476 and Town of Apple Valley v. House of Zen Medical Community Patients Association, CIVDS 1310022.

- B. Conference with Legal Council – Anticipated Litigation – Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one or more potential cases).
- C. Conference with Legal Counsel – Pending Litigation – Significant Exposure to litigation pursuant to subdivision (d) of Section 54956.9 Town of Apple Valley v. Green Tree Health and Healing, et al CIVDS 1312432.

Upon returning from Closed Session at 6:17 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 6:32 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 Royce Bessera, Church for Whosoever.

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Boy Scout Travis Gillette.

#### **PRESENTATIONS:**

Certificate of Appointment – Ms. Jill Hemingway, Community Development Citizens Advisory Committee

Community Calendar Winners – Charlene Engeron, Public Relations Specialist

Presentation – Town of Apple Valley - 25<sup>th</sup> Anniversary – Kathie Martin

### **PUBLIC COMMENTS**

Richard Rorex, Apple Valley, commented on the recent fires in Apple Valley. He commended the Apple Valley Fire Department for the great work they do. He also commented on the upcoming ground breaking for the Yucca Loma Bridge and thanked staff for a job well done.

Tom Piper, Apple Valley, recommended that the Apple Valley map be amended to include representation for each district and explained why he felt it would benefit the community.

David Mueller, hi dessert politics.org, Liberty Tribune.com, commented on the committee he represents that is against Measure D. He expressed concern regarding remarks made by individuals that support yes on Measure D. He believed that individuals have the right to pick and choose on issues and should not be condemn by others.

#### **COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION**

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

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

Council Member Stanton commented on committee meetings and events that she attended. She also stated that she has been in communication with Congressman Cook and Supervisor Ramos regarding an incentive program for Veterans

Mayor Pro Tem Bishop commented on committee meetings and events that he attended. He also announced that the PAL Program will have a sheriff's trailer to fill with toys for children in the community on Friday, November 30, 2013.

Mayor Emick commented on committee meetings and events that he attended. He also announced that the Town Clerk's office will be hosting the Christmas Tea on Tuesday, December 10, 2013 beginning at 5:30 p.m. and invited the public to attend. He also announced that the City of Victorville will have their parade on Saturday, December 7, 2013.

#### **TOWN COUNCIL ANNOUNCEMENTS**

**Suggested items for future agenda:**

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

- A. Regular Meeting – Tuesday, December 12, 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 5. 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 5.

David Mueller, Liberty Tribune.org, commented on Agenda Item Number 6 regarding the Treasurer's Report. He expressed concern regarding the funding for the Apple Valley Golf Course. He believed that the information is inaccurate due to the commercial warrants not matching the contract services.

Marc Pucket, Assistant Town Manager, Finance/Administration, commented on the Golf Course Schedule of Revenues and Expenditures Changes in fund balance. He reminded the public and Town Council of discussions held during the budget process regarding the need for an operating transfer into the golf course fund from the general fund in order to balance the Revenues and Expenditures. He noted that the amount needed to balance the Expenditures and Revenues for the golf course is \$333,892.00; this amount represents an anticipated deficit for FY 2013/2014.

Mr. Puckett noted, for the benefit of the Council and public, that the revenue for FY 2013/2014 increased in the amount of \$34,000 and that the total operating expenditures have decreased in the amount \$128,000 over the same period in the prior year.

Mr. Pucket answered questions by the Council regarding the amount of money spent this year on the operation of water. He noted one factor is the new operator and the change in water schedule. He also stated that the Town is in the works of changing the watering schedule so that it is more efficient.

## **MOTION**

Motion by Mayor Pro Tem Bishop, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 2-7, respectfully.

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 5.**

**2. Approval of Minutes of the Town Council  
A. Regular Meeting – October 22, 2013**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**3. National Pollutant Discharge Elimination System Stormwater Permit Implementation Agreement Formalizing the Mojave River Watershed Group**

**Recommendation:**

That the Town Council:

A. Approve the National Pollution Discharge Elimination System (NPDES) Stormwater Permit Implementation Agreement with the County of San Bernardino (County) and the cities of Victorville and Hesperia, collectively known as the Mojave River Watershed Group.

B. Authorize the Mayor to execute the Agreement.

**4. September 2013 - Payroll / Benefits Warrants Schedule**

**Recommendation:**

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

5. **September 2013 - Commercial Warrants**

**Recommendation:**

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

6. **Treasurer's Report – September 2013 and Schedules of Revenues, Expenditures and Changes in Fund Balance for the Parks and Recreation Fund and the Apple Valley Golf Course Fund**

**Recommendation:**

That Town Council receive and file the September 2013 Treasurer's Report.

7. **Measure I, 5-Year Plan**

**Recommendation:**

That the Town Council:

- A. Approve FY 2013/2014 through 2017/2018 Measure I, 5-year plan.
- B. Adopt Resolution No. 2013-41, "A Resolution of the Town Council of the Town of Apple Valley, State of California, Adopting the Measure I Five Year Capital Improvement Program".

**PUBLIC HEARINGS**

8. **A Request To Revise Title 9 "Development Code" Of The Town Of Apple Valley Municipal Code By Amending Subsection "B" Of Table 9.28.030-A "Permitted Uses" Within Section 9.28, "Residential Districts" As It Relates To Permitted Uses Within Residential Districts That Require Animal Keeping Permits In The Town Of Apple Valley**

Mayor Emick opened the public hearing at 7:28 p.m.

Pam Cupp, Assistant Planner, presented the staff report as filed with the Town Clerk.

Ms. Cupp clarified, for the benefit of the Town Council and public, the maximum number of animals allowed within multi-zoned areas with an Animal Keeping Permit.

There being no requests to speak, Mayor Emick closed the public hearing at 7:32 p.m.

Council Member Stanton requested an update regarding the feral cats program.

Gina Whiteside, Animal Control, explained the change to the Development Code that is needed in order to officially allow the program to be implemented. She also stated that more programs will be introduced to the Town Council in the near future.

**MOTION**

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

- A. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from environmental review because the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the environment, the activity is not subject to CEQA.

- B. **Find** the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code, and adopt the Findings.
- C. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
- D. **Move** to waive the reading of Ordinance No. 454 in its entirety and read by title only.

Yvonne Rivera, Deputy Town Clerk, read the title to Ordinance No. 454.

**MOTION**

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

- E. **Introduce** Ordinance No. 454, revising Title 9 “Development Code” of the Town of Apple Valley, Municipal Code by amending Subsection “B” of Table 9.28.030-A “Permitted Uses” within Section 9.28 “Residential Districts” as it relates to permitted uses within residential districts that require Animal Keeping Permits in the Town of Apple Valley.
- F. **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.

**9. Supplemental Law Enforcement Services Funds (SLESF – Cops Grant)**

Mayor Emick opened the public hearing at 7:35 p.m.

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

Council Member Nassif thanked the Council and staff for continuing to fund the Juvenile Officer positions.

There being no requests to speak, Mayor Emick closed the public hearing at 7:39 p.m.

**MOTION**

Motion by Council Member Nassif, seconded by Council Member Stanton, to adopt attached Resolution No. 2013-40 accepting the COPS grant in the amount of \$112,380 and authorize the allocation of the funds to the FY 2013-14 Supplemental Law Enforcement Services Funds (SLESF) to supplement the Juvenile Officer position.

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**

**10. Establishment of Consolidated Plan/Third Year Action Plan Priority Needs for FY 2014-2015**

Christopher Moore, Housing and Community Development Specialist II, presented the staff report as filed with the Town Clerk. He recommended no changes be made to five-year plan.

Council Member Stanton asked questions regarding HUD requirements including how the program works.

Linda Delay, Phoenix Academy, expressed appreciation for the grant program. She stated that because of the program, the school was able to have a Computer Lab available to the students as well as transportation to the lab.

Mr. Moore explained the focus of the grant monies and how it benefits certain projects including Public Services.

Mayor Pro Tem Bishop commented on community block grants and the process of having to choose which agencies are given money for their cause. He also commended the committee members who volunteer their time to review each application.

Council Member Stanton expressed concern regarding the lack attendance and input from potential grant recipients at the Council meetings.

Council Member Cusack stated that the Community Development Citizens Advisory Committee (CDCAC) members visit the agencies that apply for grants. He stated that unfortunately, each year, the available funding has been reduced.

Mr. Moore announced there will be a workshop held by the CDCAC, to introduce the program to agencies and assist them with the application process.

**MOTION**

Motion by Council Member Nassif, seconded by Mayor Pro Tem Bishop, to approve the following list of Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) funding priorities, as established in the Strategic Plan, to be used as a guideline by the Community Development Citizens Advisory Committee (CDCAC) in making recommendations to the Town Council for the 2014-2015 Action Plan.

1. Preserve the existing Housing Stock.
2. Expand the supply of affordable Housing.
3. Assist in reducing housing costs for extremely low and low- income households.
4. Assist special needs persons with reducing housing costs and with meeting their Rehabilitation needs.
5. Increase Affordable Homeownership Opportunities.
6. Eliminate blighted conditions and Substandard Housing through enhanced Code Enforcement activities and demolition.
7. Provide shelter and related services to meet the needs of the Homeless population and support the development of a Continuum of Care System on a Region-Wide Basis.
8. Affirmatively Further Fair Housing to ensure equal access to Housing for Low Income, Ethnic Minorities and Special Needs Groups.
9. Coordinate public and private efforts to reduce Lead-Based Paint Hazards and protect young children.
10. Create safer, more attractive and more accessible neighborhoods and stimulate Economic growth through the improvement of infrastructure.
11. Provision of Public Facilities and Park Improvements.
12. Address Public Service Needs.
13. Expand the economic base and promote greater employment opportunities for residents.

Vote: Motion carried 5-0-0-0

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

Absent: None.



**11. Contract for Yucca Loma Bridge over the Mojave River and Yates Road Improvements – Project No. 2013-04**

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk. He reminded the Town Council that the bid opening was held October 10, 2013 and after reviewing all bid proposals, the contract has been awarded to Security Paving, Incorporated, who is the lowest bidder.

Mr. Miller introduced and thanked the following individuals who will be involved with the construction phase of the project.

Liz Diamond, Dokken Engineering  
Rebecca Neeves, Dokken Engineering  
Ernie Figueroa, Parsons Engineering  
Paula Pereira, Charles Abbott & Associates

Council Member Nassif expressed his appreciation to staff for their work on the project.

Council Member Cusack congratulated staff for their work. He stated that it has been a long time coming.

Mayor Pro Tem Bishop also thanked staff on behalf of citizens. He stated that he is looking forward to the completion of the new bridge.

Mayor Emick also expressed gratitude for the hard work by staff, as well as Dokken Engineering and Parsons Engineering. He stated that he, too, is looking forward to the construction of the bridge, and cannot wait to see it through all of its different phases as it progresses.

Council Member Stanton thanked Ms. Diamond for her work and also attending the meeting tonight.

**MOTION**

Motion by Council Member Nassif, seconded by Council Member Stanton, to award a contract to Security Paving Company, Inc. for the Yucca Loma Bridge over the Mojave River and Yates Road Improvements construction services in an amount not to exceed \$ 37,265,833.50 (thirty seven million, two hundred sixty-five thousand, eight hundred thirty-three dollars, and fifty cents).

Vote: Motion carried 5-0-0-0

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

Absent: None.

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

Frank Robinson, Town Manager, announced that the Legislature approved a constitutional amendment SCA 3, an amendment introduced by Senator Mark Leno from San Francisco. The amendment shifts the burden of cost for complying with the Brown Act and the Public records act to all jurisdictions rather than being a mandate funded by State. He stated that should the legislation pass, it will be factored into our future budgets.

Mr. Robinson was pleased to announce that in honor of Veterans Day, the Town has a new link on its webpage that offers resources for Veterans as well as the general public who has access to our website.

Mr. Robinson also announced that there will be a future agenda item to discuss a capital campaign for a structure to be designed and built around the amphitheatre. He stated that the Town has an opportunity to apply for a grant and has enlisted Blaze and Associates to pursue this grant for the Town which is called "Our Place in Innovation Grant". He reminded the public that the Town of Apple Valley will be celebrating its 25<sup>th</sup> anniversary on Thursday, November 14, 2013.

**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 8:05 p.m.

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Curt Emick, Mayor

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La Vonda M-Pearson, Town Clerk