

**TOWN OF APPLE VALLEY  
TOWN COUNCIL/COMMUNITY RESOURCE FOUNDATION/SUCCESSOR AGENCY**

**REGULAR MEETING  
MINUTES – January 14, 2014**

**CALL TO ORDER:**

Mayor Bishop called to order the meeting of the Apple Valley Town Council/Community Resource Foundation/Successor Agency at 5:02 p.m.

Roll call was taken with the following members present:

Roll Call

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

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**PUBLIC COMMENTS**

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None.

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**CLOSED SESSION**

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**MOTION**

Motion by Council Member Nassif, seconded by Mayor Pro Tem Cusack, and unanimously carried, to adjourn to Closed Session at 5:03 p.m. to discuss the following:

**1. Closed Session**

- A. Negotiations with Real Property Negotiator – Parcel Number(s): 0480-021-32, and 0479-131-07. Negotiating Parties: County Real Estate Services or Designee. Town Negotiator(s): Town Manager, or Designee. Negotiations involve both price and terms of payment.
- B. Conference with Legal Counsel – Existing Litigation – Pursuant to paragraph (1) of Subdivision (d) of Government Code Section 54956.9. Case Name: Rodriguez v. Town of Apple Valley, CIVVS 1103746.
- C. Conference with Legal Counsel – Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one case): Town of Apple Valley vs. Ana J. Matosantos, Director of the Department of Finance.
- D. Conference with Legal Counsel – Existing Litigation –Pursuant to Subdivision (d)(1) of Government Code Section 54956.9. Case Name: Town of Apple Valley v. Ortiz Lopez, CIVDS1313505.

Upon returning from Closed Session at 5:50 p.m., Mayor Bishop announced the following reportable action:

Mayor Bishop announced that on Closed Session item 1A, The Town Council unanimously voted to move forward with the property negotiations at a cost not to exceed \$300,000. He stated that the Town is working with Fairway Equity LLC, on this matter.

John Brown, Town Attorney, announced that on Closed Session item 1D, based on testimony from the Town of Apple Valley and Mr. Ortiz Lopez, the temporary restraining order that was granted against the individual was dissolved and the matter has been closed. He stated that the Town will dismiss the lawsuit.

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

## TOWN COUNCIL REGULAR SESSION

### CALL TO ORDER:

Mayor Bishop 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 Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: None.

## OPENING CEREMONIES

**INVOCATION:** Reverend Michael Coffee, Jess Ranch Church, Apple Valley

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Ms. Lou Stine, Apple Valley Senior Center.

### PRESENTATION:

1. Lion's Club Gift of Sight Program – Ms. Lena Quinonez, Recreation Supervisor
2. September 2013 Beacon Spotlight Award Presentation – Ms. Nancy Jackson, Region Manager, Southern California Edison
3. Apple Valley Ranchos Water Semi-Annual Update – Mr. Scott Weldy, General Manager

## PUBLIC COMMENTS

Chuck and Pat Hanson, Apple Valley, commended the Town Council for the work that they do for the community. They expressed concern regarding the Apple Valley Animal Shelter and the lack of receiving assistance from them during the holiday season.

Kevin Mahany, St. Mary's Medical Center, thanked the Town for their work with the Healthy Apple Valley program and their cooperative efforts with St. Mary's. He also thanked the Lions Club for their Gift of Sight Program.

Tom Piper, Apple Valley, made comments regarding the United States government.

### COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

Council Member Stanton commented on committee meetings and events that she attended. She commented on her desire to develop a program for our veterans where they will be able to ride the VVTA buses for free of charge.

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

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

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

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

### TOWN COUNCIL ANNOUNCEMENTS

#### **Suggested items for future agenda:**

Council Member Stanton respectfully requested with the consensus of the Town Council for an update on our Animal Shelter to include animal dispositions and shelter hours during holidays.

Mayor Bishop with the consensus of the Town Council requested an item be brought before the Town Council to discuss naming the Yucca Loma Bridge.

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

##### **A. Regular Meeting – Tuesday, January 28, 2014 at 6:30 p.m.**

### TOWN COUNCIL CONSENT AGENDA

Mayor Bishop 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, Mayor Pro Tem 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.

Kerry Cannon, Apple Valley, commented on Agenda Item Number 6 regarding the "Regulation of Medical Marijuana Dispensaries Formalizing the Adopted Urgency Ordinance to Clarify Compliance with Federal and State Law and California Case Law". She responded to comments made at the last council meeting regarding the use of marijuana within the Town and the federal regulations regarding the use of marijuana.

Council Member Stanton asked questions regarding Agenda Item Number 9, "Amending the Personnel Policies and Procedures Manual".

Kisha McDonald, Human Resources Analyst, explained that approval of this item would reduce the Town's financial liability by allowing employees to cash up to 40 hours of accrued vacation hours without the need to have previously taken vacation hours within a certain timeframe.

Marc Puckett, Assistant Town Manager, Finance and Administration, reiterated the statements made by Ms. McDonald regarding the ability for employees to cash in their vacation hours. He explained that some employees do not have the opportunity to take their vacations due to staffing issues within their department which may cause them to max out on their leave.

Council Member Stanton also asked questions regarding Agenda Item Number 12, "Service Agreement for Electronic Waste Recycling with Gold'n West Surplus, Inc.". She questioned why the Town would not renegotiate the contract instead of extending the contract.

Joseph Moon, Special Projects Manager, stated that he did conduct research prior to extending the contract and believes that the contract with Gold'n West Surplus, Inc. was still deemed to be the most qualified. He also commented on the excellent service that they had provided the Town of Apple Valley.

Council Member Stanton thanked staff for their responses.

### **MOTION**

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 2-13, respectfully.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**Council Member Nassif and Mayor Pro Tem Cusack abstained from voting on specific warrants listed under Agenda Item Number 3.**

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

**A. Regular Meeting – December 10, 2013**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

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

**Recommendation:**

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

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

**Recommendation:**

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

**5. Treasurer's Report – November 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 the Town Council receive and file the November 2013 Treasurer's Report.

**6. Adopt Ordinance No. 455 – An Ordinance of the Town Council of the Town of Apple Valley, Adoption of Regulation of Medical Marijuana Dispensaries Formalizing the Adopted Urgency Ordinance to Clarify Compliance with Federal and State Law and California Case Law**

**Recommendation:**

Adopt Ordinance No. 455

7. **Adopt Ordinance No. 456 – An Ordinance of the Town Council of the Town of Apple Valley, Revising Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending various sections within Chapter 9.74, “Signs and Advertising Displays”.**  
**Recommendation:**  
Adopt Ordinance No. 456
8. **Adopt Ordinance No. 457 – An Ordinance of the Town Council of the Town of Apple Valley, Amending the LCER Specific Plan to Permit a Cluster of Eighteen (18) Classroom Portals Sited as a Plaza Learning Center Development of the Existing K-12 Lewis Center for Educational Research School Site (The “Academy for Academic Excellence”).**  
**Recommendation:**  
Adopt Ordinance No. 457
9. **Adopt Resolution No. 2014-01, A Resolution of the Town Council of the Town of Apple Valley Amending the Personnel Policies and Procedures Manual**  
**Recommendation:**  
That the Town Council adopt the attached Resolution No. 2014-01, a Resolution of the Town Council of the Town of Apple Valley amending Rule 6, Section 6.19 Vacation Buy Back of the Personnel Policies and Procedures for the Town of Apple Valley.
10. **Acceptance of Work, Notice of Completion and Release of Retention for the Kiowa Road Improvements – Phase II – Project No. 2012-06**  
**Recommendation:**  
That the Town Council:
  1. Accept the work completed as part of the Kiowa Road Improvements – Phase II – Project No. 2012-06, for a total cost of \$663,811.97.
  2. Direct the Town Clerk to file the Notice of Completion for the contract work.
  3. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.
11. **CLAIMANT – Mary S. Ryan**  
**Recommendation:**  
Reject the claim from Mary S. Ryan
12. **Two-Year Extension of Service Agreement for Electronic Waste Recycling with Gold’n West Surplus, Inc.**  
**Recommendation:**  
It is recommended that the Town Council authorize the Town Manager to execute a two-year extension of the current Service Agreement for electronic waste recycling with Gold’n West Surplus, Inc.
13. **Adopt Resolution Number 2014-03, A Resolution of the Town Council of the Town of Apple Valley, California, Amending Resolution Number 2011-14, Rules 1 and 11 of the Town of Apple Valley Rules of Procedure for Town Council Meetings, Setting the Time for Closed Session Discussion to the End of the Meeting.**  
**Recommendation:**  
Adopt Resolution No. 2014-03, a Resolution of the Town Council of the Town of Apple Valley, California, amending Resolution Number 2011-14, Rules 1 and 11, of the Town of Apple Valley Rules of Procedure for Town Council Meetings.

**PUBLIC HEARINGS**

- 14. A Request to Amend Title 9 "Development Code" of the Town Of Apple Valley Municipal Code Amending Section 9.29 "Specific Use Regulations for Residential Districts" of the Code by Amending the Development Standards of Photovoltaic Solar Farms within the Apple Valley Dry Lake Area within the Town of Apple Valley; and**

**An Amendment to the North Apple Valley Industrial Specific Plan (NAVISP) Section III "Development Standards and Guidelines" by Amending the Photovoltaic Solar Farms Development Standards.**

Mayor Bishop opened the public hearing at 7:49 p.m.

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

Council Member Nassif asked for clarification regarding the proposed changes made to the Development Code for this item.

Council Member Stanton asked a series of questions regarding the height of the fencing around the farms. She expressed concern regarding placement of these farms in any areas that may impact citizen views or quality of living in any way.

Discussion ensued regarding proposed solar farms and how these farms would impact the community. Also discussed were the mandates that solar farms have to adhere to before they could be approved and developed.

Nancy Jackson, Region Manager, Southern California Edison, commented on California utilities under contract that meet the State's 33% standard for power from renewable sources. She stated that at this time there are not enough projects that meet the 33% mandate and that the Legislature is looking to increase it.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 8:24 p.m.

John Brown, Town Attorney, stated that the Town Council, if desired could call for a moratorium this issue.

Council Member Nassif stated that while he supports the amendment, he would like to see a future agenda item to discuss guidelines for the future planning of solar projects in the North Apple Valley Specific Plan and how the Town envisions solar projects before development dictates where it will go.

Mayor Pro Tem Cusack expressed concern regarding solar plants without a proposed project in the area.

Lori Lamson, Director of Community Development, commented on discussions that were previously held regarding the original intent of placing solar farms in the dry lake beds.

Council Member Stanton requested that this item be continued until a more thorough report could be completed.

Ms. Lamson explained that at this time, there are no real guidelines addressed in the code regarding this issue. She believed that approval of this item would be a stepping stone and that the Town Council could build from this item as needed.

The Town Council thanked Ms. Lamson for the clarification.

**MOTION:**

Motion by Council Member Nassif, seconded by Mayor Pro Tem Cusack, to:

1. **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 activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
2. 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.
3. **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.
4. **Move** to waive the reading of Ordinance No. 458 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

Absent: None.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 458.

**MOTION**

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

5. **Introduce** Ordinance No. 458, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code amending Section 9.29 "Specific Use Regulations For Residential Districts" of the Code related to development standards of photovoltaic solar farms within the Apple Valley Dry Lake area and an amendment to the North Apple Valley Industrial Specific Plan (NAVISP) Section III "Development Standards and Guidelines" by amending the photovoltaic solar farms development standards.
6. Direct staff to file a Notice of Exemption.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**REPORTS, REQUESTS AND COMMUNICATIONS**

**BUSINESS OF THE BOARD/COUNCIL**

**15. Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended June 30, 2013**

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

Greg Fankhanel, Van Lent and Fankhanel, LLP, commented on the audit process for the CAFR. He thanked the Town staff for their work in assisting them and providing them with the necessary information which made their jobs much easier. He briefly reviewed the CAFR document and explained some of the line items within the document.

**MOTION**

Motion by Council Member Nassif, seconded by Council Member Stanton, and unanimously carried, to receive and file the Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 2013.

**16. Presentation of the Apple Valley Community Resource Foundation 2012-13 Annual Report**

**(Apple Valley Community Resource Foundation)**

Kathie Martin, Marketing and Public Affairs Officer, presented the staff report as filed with the Board Secretary.

This was a receive and file item only, there was no action taken.

**17. Discussion of Capital Campaign Opportunities for a Shade Structure at the Amphitheater (Apple Valley Community Resource Foundation)**

Kathie Martin, Marketing and Public Affairs Officer, presented the staff report as filed with the Board Secretary.

Board Member Emick spoke of his optimism for this project. He believed that a committee should be established that would include members of the public.

Vice-Chairman Cusack recommended pursuing the grants as recommended by staff. He agreed that we need to develop a basic concept and then move forward.

Board Member Stanton concurred with the statements by her colleagues. She also recommended the use of social media when reaching out to the community on this project.

Board Member Nassif commented on the proposed shade structure and also recommended moving forward with this item.

Frank Robinson, Town Manager, stated that he would like to develop a structure committee. He believed an internal committee to include board members and staff along with a few outside entities will assist with renderings. He believed that once that is established, the public could become involved and develop a focus group. He recommended that staff come back to the



Board to present a proposed structure plan to move forward with the Capital Campaign Opportunity for the shade structure.

It was the consensus of the Board to authorize the Town Manager to move forward with the capital campaign and to bring back the proposed structure plan to the Board for review and approval.

**18. Status Report on the Town of Apple Valley “Healthy Apple Valley” Program; and Adopt Resolution No. 2014-02, A Resolution of the Town Council of the Town of Apple Valley, California, Proclaiming February 2014 as American Heart Month**

Lena Quinonez, Recreation Supervisor, presented the staff report as filed with the Town Clerk.

**MOTION**

Motion by Council Member Emick, seconded by Council Member Nassif, and unanimously carried, to receive and file the status report on the “Healthy Apple Valley” Program and adopt Resolution No. 2014-02, A Resolution of the Town Council of the Town of Apple Valley, California, proclaiming February 2014 as American Heart Month.

**19. Discussion on Smoking Policy in Parks**

Ralph Wright, Parks and Recreation Manager, presented the staff report as filed with the Town Clerk.

Discussion ensued regarding whether or not to allow smoking in the parks. Also discussed was how a smoking policy could be enforced within the parks.

John Brown, Town Attorney, stated that the Town of Apple Valley would be within its right to ban smoking in parks. He stated that there is no constitutional right to smoke in the United States.

**MOTION**

Motion by Mayor Pro Tem Cusack, seconded by Council Member Nassif, and unanimously carried, to direct staff to prepare an ordinance modifying and amending the ordinance that was adopted in June 2008, in a manner that is consistent with the Town Council’s discussion.

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

Marc Puckett, Assistant Town Manager, Finance and Administration, informed the Town Council that the Town of Apple Valley had been awarded the “Distinguished Budget Presentation Award”. He stated that the Town is the only high desert community to receive this award.

Frank Robinson, Town Manager, announced that Council Member Emick and Council Member Stanton will join him on a committee to raise money for a shade structure with a goal of raising \$35,000 for the project. He also announced that we are currently working with our Federal Government Affairs representative in the planning of our annual Legislative Advocacy trip to Washington DC.

Mr. Robinson also discussed the meeting held last year between the Town and the congressional delegates, the Department of Transportation (DOT), and other Federal agencies in the effort to promote the "Victor Valley Congestion Relief Project" regarding the construction of Yucca Loma Bridge and related regional improvements. He stated that subsequently, the Town submitted an application to the Department of Transportation (DOT) for funds from the highly competitive TIGER V program, but was unsuccessful. Mr. Robinson is pleased to report that the House and Senate unveiled the details of the omnibus budget bill yesterday, which includes a 20 percent jump in TIGER funding for this year to \$600 million, an increase from \$500 million in 2013. He stated that if the bill is approved as expected, Town staff will focus on preparation of a new application for the 2014 TIGER round of funding.

Mr. Robinson commented on the groundbreaking for the Yucca Loma Bridge. He thanked Brad Miller, Town Engineer, for a job well done on this project.

Lastly, Mr. Robinson announced there will be future agenda items to discuss churches in commercial areas as well as the Yucca Loma Bridge naming. He stated there will also be an economic development update on the next agenda. Mr. Robinson reminded the Council and public that next week is the League of California Cities New Mayors/Councilmember's Academy in Sacramento.

#### **DEPARTMENTAL REPORTS AND BUSINESS:**

#### **STAFF REPORTS**

#### **CORRESPONDENCE**

### **ADJOURNMENT**

Mayor Bishop reminded the public that the Town of Apple Valley will be closed on Monday, January 20, 2014 for the Martin Luther King Jr. holiday.

Motion by Council Member Nassif, seconded by Mayor Pro Tem Cusack, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 10:05 p.m. with prayers, thoughts and warm wishes to Mayor Pro Tem Cusack's Mother, Ms. Bonnie Cusack and his sister, Ms. Patty Ball during their convalescent. The Town Council and staff are wishing them both a speedy recovery.

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Art Bishop, Mayor

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La Vonda M-Pearson, Town Clerk