

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

**REGULAR MEETING  
MINUTES – April 8, 2014**

**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:**

The Invocation was given by Pastor Josh Gerbracht, First Assembly of God, Apple Valley, CA

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Ms. Lena Russell

**PRESENTATION:**

Proclamation – Donate Life – Presented to Ms. Lena Russell

**PUBLIC COMMENTS**

Gregory M. Lamotte, National Association of Letter Carriers, Branch 411, representing the Letter Carriers in Apple Valley, respectfully requested the Town Council support the Post Office. He commented on the enforcement of the postal services and the requirements being enforced on its employees. He commented on the media stating incorrect information to make it appear that the postal service does not have any funding. He also commented on a prefunding mandate from Congress that requires the Postal Service to set aside enough money to pay for future health care retirement benefits for the next seventy-five years, in which he noted no other agencies are required to provide.

Richard Rorex, Apple Valley, announced the open house for the new Republican Headquarters in Apple Valley at 18838 Highway 18, Apple Valley, and beginning at 5:00 p.m. to 8:00 pm on Friday, April 11.

Midge Nicosia, Executive Director, Victor Valley Community Services Council, invited everyone to attend the ribbon cutting ceremony that will be held on April 24, 2014 at 2:00 p.m., for a new transportation program to help seniors with disabilities. She also announced they have a new grant available for senior veterinary care.

Tom Piper, Apple Valley, stated that he was going to run for Town Council. He respectfully requested each member who voted for him at the last election donate \$10.00 to his campaign.

John Brown, Town Attorney, responded to the comments made by Mr. Piper. He explained that comments made in a public forum by members of the public, as they relate to political campaigning, are protected by both the United States Constitution and the California Constitution; however, there are prohibitions on raising campaign money on public property. He further explained that general members of the Town Council are prohibited from raising money for political campaigns on any kind of public property, even under public comments; therefore, remarks should be limited to issues of public policy and concerns to the Town within the Town's jurisdiction.

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

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

Council Member Stanton commented on committee meetings and events that she attended.

Council Member Nassif commented on committee meetings and events he attended. He also commented on Assembly House Resolution 29, a resolution that recommends that government agencies should not use contract labor to provide municipal services. He also questioned how the adoption of this resolution would affect services provided to the Town by BB&K and Charles Abbott & Associates. He noted that in many cases resolutions turn into law; therefore, the League intends to follow this resolution.

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:**

Mayor Pro Tem Cusack recommended that an item be added to a future agenda requesting an inventory of unpaved roads. He stated that he would like the Town to identify any unpaved roads and possibly add it to our paving plan.

Mayor Bishop recommended that an item be added to a future agenda regarding the location of windmills within the Town.

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

- A. Regular Meeting – Tuesday, April 22, 2014 – Council Chambers  
At 6:30 p.m.**

#### **TOWN COUNCIL CONSENT AGENDA**

Mayor Bishop announced that there is an immediate need to take action on an item that came to the attention of the town after the agenda was posted. The need is to add Agenda Item Number 10g – Negotiation with Real Property Negotiator: Property Parcel Numbers 3087-361-04; 0442-015-01; 0441-103-09; 0440-023-09; 0440-023-10; 0440-085-06. Negotiations with San Bernardino County Assessor's Office on behalf of various Property Owner(s) (Tax Default Property). Town Negotiator(s): Town

Manager, Assistant Town Manager or Designee. Negotiations Involve Both Price And Terms of Payment.

### **MOTION**

Motion by Mayor Pro Tem Cusack, seconded by Council Member Emick, that there is an immediate need to take action on an item that came to the attention of the town after the agenda was posted. Motion to add Agenda Item Number 10g – Negotiation with Real Property Negotiator: Property Parcel Numbers 3087-361-04; 0442-015-01; 0441-103-09; 0440-023-09; 0440-023-10; 0440-085-06. Negotiations with San Bernardino County Assessor's Office on behalf of various Property Owner(s) (Tax Default Property). Town Negotiator(S): Town Manager, Assistant Town Manager or Designee. Negotiations Involve Both Price And Terms Of Payment.

Vote: Motion carried 5-0-0-0

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

Absent: None.

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 2. 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 2.

Tom Piper, Apple Valley, commented on Agenda Item Number 3 regarding the Treasurer's Report. He commented on what he believed showed a loss for the Apple Valley Golf Course and the Parks and Recreation Department.

Salvador Ortiz, Apple Valley, commented on Agenda Item Number 8 regarding, "Setting a Public Hearing for Sewer Fees". He believed that the increase in fees for businesses could cause them to close.

### **MOTION**

Motion by Council Member Emick, seconded by Council Member Nassif, to approve the Consent Calendar items numbered 1-8, respectfully.

Vote: Motion carried 5-0-0-0

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

Absent: None.

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

**A. Regular Meeting – March 25, 2014**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**2. February 2014 - Commercial Warrants Schedule**

**Recommendation:**

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

**3. February 2014 - Payroll/Benefits Warrants Schedule**

**Recommendation:**

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

**4. Treasurer's Report – February 2014 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 February 2014 Treasurer's Report.

**5. One (1) Year Time Extension of the Development Agreement with Neighborhood Housing Services of the Inland Empire (NHSIE) for the Acquisition, Rehabilitation and Resale of Foreclosed Single-Family Homes**

**Recommendation:**

That the Town Council approve a one (1) year time extension of the Development Agreement with Neighborhood Housing Services of the Inland Empire (NHSIE) for the Acquisition, Rehabilitation and Resale of foreclosed single family homes utilizing Neighborhood Stabilization Program 3 (NSP3) and program funding as identified in the Town's Five Year Consolidated Plan 2010-2011. The new expiration date will be April 17, 2015.

**6. Award Contract for Professional Engineering and Design Services for the Town Wide Class 2 Bike Lane Upgrade Project**

**Recommendation:**

1. Award a contract to Hall & Foreman, Inc. for Professional Engineering and Design Services in the amount of \$55,500, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.
2. Authorize the Town Manager to utilize the remaining \$4,500 in the project's budget to cover the cost of any other unforeseen incidentals relating to the completion of this phase of the project.

**7. Award Contract for Professional Engineering and Design Services for the Dale Evans Parkway Realignment Project**

**Recommendation:**

Award a contract to Hall & Foreman, Inc. for Professional Engineering and Design Services in the Amount of \$79,500, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

**8. Adopt Resolution No. 2014-10 - A Resolution Setting the Time and Place for a Public Hearing on Sewer User Charge Increases and Providing Direction to Staff to Proceed with the Special Notice Proceeding as Required by Law**

**Recommendation:**

That the Town Council adopts Resolution No. 2014-10 stating its intention to hold a Public Hearing on May 27, 2014 to increase sewer user charges and direct staff to proceed with the special notice as required by law.

## PUBLIC HEARINGS

### 9. Introduce Ordinance No. 460 – An Ordinance of the Town Council of the Town of Apple Valley amending Chapter 5.02 Business Regulations of the Apple Valley Municipal Code

John Brown, Town Attorney, stated that he was notified by a concerned citizen about the lack of an ordinance for Bingo Parlors within the Town limits. He explained that an ordinance was drafted; however after further review, it was determined by legal counsel that it may be more feasible to regulate these businesses through the State of California.

Frank Robinson, Town Manager, explained how the process of an ordinance can be placed on the agenda.

#### **MOTION**

Motion by Mayor Pro Tem Cusack, seconded by Council Member Emick, to table this item.

Vote: Motion carried 5-0-0-0

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

Absent: None.

## LEGISLATIVE MATTERS

None.

## REPORTS, REQUESTS AND COMMUNICATIONS

### **BUSINESS OF THE COUNCIL**

None.

## TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, reiterated the comments made regarding commented on House Resolution 29 that could eliminate the ability for cities to contract for services. He explained that the Town is monitoring this resolution. He believed that this resolution has serious implications and could become very costly. He also commented on the impact to smaller cities. Mr. Robinson reassured the public that the Town Council members are watching this very carefully.

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

#### **STAFF REPORTS**

#### **CORRESPONDENCE**

#### **REMARKS**

Mayor Bishop recognized members of Boy Scout Troop 157 that were in the audience.

Mayor Bishop also recognized Lieutenant Frank Bell who will be leaving the Apple Valley Station for another assignment. On behalf of the Apple Valley Town Council, he thanked him for his service to our community.

**CLOSED SESSION**

**10. Closed Session**

Motion by Council Member Emick, seconded by Council Member Nassif, to adjourn to Closed Session at 7:29 p.m. to discuss the following:

- A. Negotiations with Real Property Negotiator. Property located at APN 0473-451-11; Negotiating Parties: Desert Mountain Plaza Property; Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- B. Negotiations with Real Property Negotiator. Property located at APN 0473-461-08; Negotiating Parties: Alaska USA Federal Credit Union; Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- C. Negotiations with Real Property Negotiator. Property located at APN 0473-461-07; Negotiating Parties: National Guard Armory; Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- D. Negotiations with Real Property Negotiator. Property located at APN 0473-152-01; Negotiating Parties: The Southland Corporation (7-11); Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- E. Negotiations with Real Property Negotiator. Property located at APN 0473-151-16; Negotiating Parties: Apple Valley Gateway Property (El Pollo Loco); Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- F. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case Name: Application No. 14-01-002, In the Matter of the Application of Apple Valley Ranchos Water Company (U346W) for Authority to Increase Rates Charges for Water Service by \$3,127,463 or 14.88% in 2015, \$2,056,455 or 8.48% in 2016, and \$2,160.731 or 8.19% in 2017.
- G. Negotiations with Real Property Negotiator. – Property Parcel Numbers 3087-361-04; 0442-015-01; 0441-103-09; 0440-023-09; 0440-023-10; 0440-085-06. Negotiating Parties: San Bernardino County Assessor's Office on behalf of various property owners (Tax Default Property) Town Negotiator(s): Town Manager, Assistant Town Manager or Designee. Negotiations involve both price and terms of payment.

Vote: Motion carried 5-0-0-0

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

Absent: None.

<b>ADJOURNMENT</b>
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Motion by Council Member Emick, seconded by Mayor Pro Tem Cusack, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 10:00 p.m.

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Art Bishop, Mayor

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La Vonda M-Pearson, Town Clerk