

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

**REGULAR MEETING
MINUTES – May 13, 2014**

CALL TO ORDER:

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

Absent: None.

OPENING CEREMONIES

INVOCATION:

The Invocation was given by Mr. Jim Andersen, Code Enforcement Manager.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Superintendent Tom Hoegerman.

PRESENTATION:

Presentation – Intern Appreciation Certificates, Town Clerk’s Office

Presentation – Junior Fair Board Members

Presentation – Project Hope, Captain Lana Tomlin, Apple Valley Police Department

PUBLIC COMMENTS

Chris Schilling, President, Apple Valley Ranchos Water Company, announced that Tony Pena has been promoted to the position of General Manager and Eric Larsen has received the position of Manager of Financial Services for Apple Valley Ranchos. He commented on the water conservation of Apple Valley residents and commended them for their efforts. He announced that their proposed rate increase was reduced to half its original request.

Tony Pena, General Manager, Apple Valley Ranchos Water Company, thanked the community for their attendance at the rate payer hearings. He stated that they would like to come to a future meeting to address some of the concerns that were expressed at the hearings. He continued the comments of Mr. Schilling regarding the water rates to Apple Valley residents.

Buddy Prat, Apple Valley, thanked the Town Council for their support of the youth programs in the community. He commented on a new youth organization called the Apple Valley Youth Football Rebels and Cheerleading Organization. He stated that Rebel stands for "Reaching Everyone by Elevating League Standards". He announced that more information can be found at avrebels .org.

Brett Brass, Apple Valley, stated that his family has operated a pool business for over 27 years. He expressed concern regarding receiving a violation for the sign painted on his building that was professionally done several years ago. He explained the reasons why he believed his business should be grandfathered and not have to comply with the Town's sign ordinance.

Council Member Nassif commented on a grant program for businesses located in the village area. He believed this may be an opportunity to help business owners pay for signs.

Robert Denike, Cinderella Tailoring, also expressed concern regarding signs that are on the businesses located in Apple Valley. He feels businesses are being held hostage. He stated his business is located at 17933 Highway 18.

Debbie Mesquit, Business Owner, stated that she was also cited by Code Enforcement for a sign that she has had at her location for 20 years. She also expressed concern regarding the sign ordinance.

Kitty Smith, Apple Valley, read a poem that described the numerous illegal activities that she has witnessed in her neighborhood.

Linda Delay, Apple Valley, expressed her appreciation to the Town Council for allowing the National Day of Prayer.

Greg Williamson, Apple Valley, expressed concern regarding the sign code ordinance.

Brandon Law, Business Owner, also expressed concern regarding the sign code ordinance.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

Council Member Emick commented on committee meetings and events that he attended. He also commented on Night at the Shelter, and the Music Man.

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

Council Member Nassif commented on committee meetings and events 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:

Mayor Pro Tem Cusack commented on the signage issues that were addressed by the public. He recommended with the consensus of the Town Council, that an agenda item be prepared recommending review of the sign code.

Council Member Stanton recommended an item be placed on the agenda regarding prayers at Council Meetings. She would also like an update on the Animal Services Contract with the County of San Bernardino.

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

A. Regular Meeting – Tuesday, June 10, 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 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.

MOTION

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 1-11.

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 2.

1. Approval of Minutes of the Town Council

A. Regular Meeting – April 22, 2014

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. March 2014 - Commercial Warrants Schedule

Recommendation:

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

3. March 2014 - Payroll/Benefits Warrants Schedule

Recommendation:

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

4. Treasurer's Report – March 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 March 2014 Treasurer's Report.

5. **Authorization to Certify Environmental Clearances**
Recommendation:
Adopt Resolution No. 2014-13.
6. **FY 2014-15 Budget of the Apple Valley Village Property and Business Improvement District (PBID) Association**
Recommendation:
That the Town Council approve the Fiscal Year 2014-15 Budget of the Apple Valley Village Property and Business Improvement District Association (Association).
7. **SR-18/Apple Valley Road Intersection Realignment Project Contract Amendment No. 2**
Recommendation:
Approve Amendment No. 2 to the November 2008 Agreement between the Town of Apple Valley and Dokken Engineering for engineering service on the State Route 18/Apple Valley Road Intersection Realignment Project for an amount not-to-exceed \$169,680.
8. **Resolution No. 2014-14, A Resolution of the Town Council of the Town of Apple Valley, Approving the Application for Grant Funds for the Development of a Feasibility Study under the Title XVI Water Reclamation and Reuse Program**
Recommendation:
Adopt Resolution No. 2014-14, a Resolution of the Town Council of the Town of Apple Valley, California, approving and authorizing the Town Manager or designee, to submit the application for grant funds for the development of feasibility study under the Title XVI Water Reclamation and Reuse Program.
9. **Bear Valley Road Bike Path Project – Design Contract Amendment No. 1**
Recommendation:
Approve Design Contract Amendment No. 1 with Hall and Foreman, Inc. for engineering services on the Bear Valley Road Bike Path Project for an amount not-to-exceed \$31,800.
10. **Bear Valley Road Bike Path Project – Memorandum of Understanding between the College and the Town**
Recommendation:
Approve the Memorandum of Understanding between the College and the Town of Apple Valley for the construction of a new Class 1 Bike Path that will connect the Town of Apple Valley to the upper campus of the College.
11. **Memorial Plaque for Lawrence “Chops” Aguayo**
Recommendation:
That the Town Council approve purchase and installation of a bronze memorial plaque in memory of Lawrence “Chops” Aguayo.

PUBLIC HEARINGS

12. **A Request to Amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code Amending Chapter 9.08, 9.35 and 9.36 as it relates to Places of Assembly as an Ancillary Use**

Mayor Bishop opened the public hearing at 8:37 p.m.

Carol Miller, Senior Planner, presented the staff report as filed with the Town Clerk. Ms. Miller provided clarification to the Town Council regarding peak and off peak hour usage.

There being no requests to speak, Mayor Bishop closed the public hearing at 8:45 p.m.

Discussion ensued regarding whether or not fees can be amended in this recommendation.

Frank Robinson, Town Manager, stated that it would be beneficial to the Town Council and staff to place all fees in the Town of Apple Valley fee schedule.

MOTION

Motion by Council Member Stanton, seconded by Council Member Nassif, 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. 461 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. 461.

MOTION

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

5. **Introduce** Ordinance No. 461, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Title 9 "Development Code" Sections 9.08 "Definitions", 9.35.030-A "Permitted Uses", and 9.36 "Specific Use Regulations/ Commercial and Office Districts" by adding subsection 9.36.220 "Places of Assembly as an Ancillary Use".
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.

13. Purchase of Property Available from Tax Lien Sales by the County of San Bernardino for the Purpose of Constructing New Affordable Housing Projects

Mayor Bishop opened the public hearing at 8:51 p.m.

Lori Lamson, Assistant Town Manager, presented the staff report as filed with the Town Clerk.

Council Member Stanton questioned and Ms. Lamson explained that other funding sources may be used to purchase additional properties if available.

There being no requests to speak, Mayor Bishop closed the public hearing at 8:55 p.m.

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Cusack, to direct staff to purchase said property using HOME funds, if made available through tax lien sales by the County of San Bernardino.

Vote: Motion carried 5-0-0-0

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

Absent: None.

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

14. Ordinance No. 462 – An Ordinance of the Town Council of the Town of Apple Valley Amending Sections 11.68.020 and 11.68.040 of Chapter 11.68 of Title 11 of the Town of Apple Valley Municipal Code to Revise the Definition of Smoking to Include Electronic Smoking Devices and to Revise Various Provisions regarding the Prohibition of Smoking in or Upon Public Facilities and Public Parks of the Town

John Brown, Town Attorney, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to waive the reading of Ordinance No. 462 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. 462.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to introduce Ordinance No 462, an Ordinance of the Town Council of the Town of Apple Valley amending Sections 11.68.020 of Chapter 11.68 of Title 11 of the Town of Apple Valley Municipal Code, to revise the definition of smoking to include electronic smoking devices and to revise various provisions regarding the prohibition of smoking in or upon public facilities and public parks of the Town.

Vote: Motion carried 5-0-0-0

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

Absent: None.

15. Discussion on User Groups

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

Patrick Doran, Apple Valley Little League, stated that they are required to only sign players within the Town and Lucerne Valley. He stated that they meet the policies of the Town; however, last year deviation was made to the policy giving another user priority use of the fields. He stated that they support the other organizations; however, he feels out of Town residents should pay a higher fee.

Joseph Martinez, Apple Valley, stated that they also need the use of the fields as a Pony League. He expressed concern regarding being viewed as second best. However, he feels that the community has a choice to play pony league and shouldn't be considered less worthy than other leagues. He recommended that the playing field be leveled. He stated that their organization brings over 700 individuals to the community.

John Lloyd, Apple Valley, Mavs Pony League, also commented on their use of Brewster Park for practice and games. He stated that they need the use of the fields in order to retain their players.

Stephen Delarteret, Field Director and President of High Desert Pony League, commented on his organization. He explained that he works with various Councils to promote a different way of playing baseball. He explained that they have approximately 180 players from Apple Valley. He appreciates the cooperation from the Town and is thankful for the opportunity to play their games on Sunday in Apple Valley.

Jamie Cerf, Pony Baseball/Softball, expressed concern regarding the need to utilize field time at Apple Valley parks.

James Phelan, Apple Valley Little League, commented on all the work that was done in the parks by the Apple Valley Little League. He does not feel that what is taking place with the various leagues is fair to the Apple Valley League.

Council Member Emick stated that he would like to see both leagues succeed in Apple Valley. He commented on the need for more ball fields.

Mayor Pro Tem Cusack also commented on the frustration amongst the Leagues in an effort to get field time.

Council Member Stanton acknowledged that Apple Valley players should receive some sort of a priority; however she believes all students should have the opportunity to play. She suggested that each league remain the status quo so that all players can play until more fields can be built.

Council Member Nassif commented on the current field use policy. He spoke of the history of the Apple Valley Little League, their contribution to the improvement of the fields and commented on the need for more fields to be able to allow more user groups. He also commented on the exchange service policies as part of the organizational fees. He felt by allowing other communities to participate, it would help to promote Apple Valley; however, he is concerned there are not enough revenues to match. He also spoke of the City of Palmdale Park and Recreation Department and the contributions they have made to their community.

Mayor Bishop commented on this being a very difficult issue to address. He stated that he does not see a quick solution to this problem at this time. He stated that based on the testimony heard, he recommended we remain at status quo at this time until a solution can be found.

Mayor Bishop thanked Council Member Nassif for bringing the item forward for discussion.

There was no action taken on this item.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, thanked the Town Council Members and staff, as well as Supervisor Lovingood, and representatives from the City of Victorville, City of Adelanto and Victor Valley Wastewater Reclamation Authority, for their attendance during our recent trip to Washington DC. He also thanked Jennifer Heim for her outstanding work in coordinating the trip and making sure they arrived home safely. He announced that the ICSC Conference will begin this week in Las Vegas. He stated that all five high desert cities will join together as Opportunity High Desert at the conference. He also stated that Legislative Action Days was held on April 23, 2014 where discussions held included two bills being opposed by the League; AB 2188 regarding permits for solar energy and AB 2561 which requires cities and counties to allow each land use zone to be eligible for growing and selling agricultural products.

Mr. Robinson announced the Desert Mountain Division meeting will be held this Friday at 11:00 a.m. in the Conference Center.

Marc Puckett, Assistant Town Manager, distributed the proposed budget packets. He would like to have the budget workshop completed and presented to the Town Council on June 10, 2014.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

16. Closed Session

MOTION

Motion by Council Member Stanton, seconded by Council Member Emick, to adjourn to Closed Session at 9:58 p.m. to discuss the following:

- A. Conference with Legal Counsel – Existing Litigation – (Subdivision (A) of Section 54956.9) Briggs v. The Town of Apple Valley; San Bernardino Superior Court Case No. CIVVS 1103746.
- B. Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Paragraph (2) of subdivision (d) of Section 54956.9: One Case.
- C. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluation: Title: Town Manager

Upon returning from Closed Session at 11:47 p.m., Mayor Bishop announced the following reportable action:

Mayor Bishop announced that on Closed Session item 16C, there is a need to conduct a Personnel Committee Meeting to review the Town Manager's contract and bring back their recommendations to the Town Council.

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick, and unanimously carried, to direct the Personnel Committee to review the Town Manager's contract and report back to the Town Council with their recommendations.

Vote: Motion carried 5-0-0-0

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

Absent: None.

ADJOURNMENT

Motion by Council Member Emick, seconded by Council Member Nassif, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 11:47 p.m. in memory of Mr. Lawrence "Chops" Aguayo and Mr. Robert "G" Sagona.

Art Bishop, Mayor

La Vonda M-Pearson, Town Clerk