

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

**REGULAR MEETING
MINUTES – June 10, 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.

Absent: Mayor Bishop.

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| OPENING CEREMONIES |
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INVOCATION: Pastor Mark Mikels, Sonlife Community Church

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Council Member Barb Stanton

PRESENTATIONS:

1. Volunteer Certificates of Commendation - Alicia Dannelley, Recreation Coordinator
2. Greener Apple Valley Poster Winners - Joseph Moon, Special Projects Manager
3. Metro High Desert Corridor – Project Update, Danielle Valentino, Metro Community Relations Manager, Will Lamborn, Metro Interim Project Manager, Karl Price, Caltrans Senior Environmental Planner
4. Apple Valley Ranchos Update – Tony Pena, General Manager

The Town Council asked a series of questions of Mr. Pena and Chris Schilling, Park Water Company, regarding water usage, costs and fees.

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| PUBLIC COMMENTS |
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Wally Linn, Apple Valley, expressed concern regarding the fate of our Country. He believed the Town should further enhance its patriotism by putting up flags along Highway 18 four times a year recognizing various holidays. He recommended the flags be placed from Apple Valley Road to Navajo Road. He encouraged the Town to stand behind this idea.

Richard Rorex, Apple Valley, stated that he was willing to donate the cost for the flags.

Linda Delay, Church for Whosoever, thanked the Town Council for all their support for the Literacy Center. She commented on the end of the year celebration and the positive comments they received from the public.

Babette Dershem, Apple Valley, expressed concern regarding the funding for her home rehabilitation program being cancelled because she was found to be in non-compliance with the contract due to her request for a mole test. She believed this was not appropriate and requested assistance from the Town Council.

Frank Robinson, Town Manager, stated that due to the threat of litigation with this matter, the Town is could not provide a response at this time.

Tom Piper, Apple Valley, commented on the cost of water in the Town of Apple Valley.

Brandon Lew, Apple Valley, representing Oasis Spa, stated that the Mayor visited his business and the signs that he has on his property in response to the last Town Council Meeting where comments were made regarding the sign code.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

Council Member Emick commented on committee meetings and events that he attended. He also commented on the production of the Music Man next week and invited everyone to attend this family event. It will be held June 19 – 20, 2014.

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Council Member Stanton, with the consensus of the Town Council, requested an item be presented at a future agenda to discuss Temporary Use Permits for vacant industrial buildings.

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

A. Regular Meeting – Tuesday, June 24, 2014 at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Mayor Pro Tem Cusack 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. He stated that he also 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, 3, 4, 5, 6, 7, 8, 9, 10 and 11, respectfully.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Bishop.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – May 13, 2014**
Recommendation:
That the Town Council approve the subject minutes as part of the consent agenda.

3. **April 2014 - Payroll/Benefits Warrants Schedule**
Recommendation:
That the Town Council receive, ratify, and file the payroll/benefits warrants as presented.

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

5. **Claimant – Salvador Ortiz-Lopez**
Recommendation:
Reject the claim of Salvador Ortiz-Lopez.

6. **Adopt Ordinance No. 461 – An Ordinance of the Town Council of the Town of Apple Valley Pertaining to Places of Assembly as an Ancillary Use**
Recommendation:
That the Town Council Adopt Ordinance No. 461

7. **Adopt 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**
Recommendation:
That the Town Council Adopt Ordinance No. 462

8. **Award Contract for Street Maintenance at Various Locations**
Recommendation:
That the Mayor and Town Council accept the bid submitted by Cooley Construction for the Town's Street Maintenance Services Contract, FY 2014-15, and award a contract for

the project to Cooley Construction subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

9. Award Contract for Street Striping Services at Various Locations

Recommendation:

That the Mayor and Town Council accept the bid submitted by Cal-Stripe, Inc. for the Town's Street Striping Services Contract, FY 2014-15, and award a contract for the project to Cal-Stripe, Inc. subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

10. Approve a Budget Amendment for the Town's Portion of the Mojave River Watershed Group Expenses

Recommendation:

That the Town Council approve a Budget Amendment to appropriate \$11,382 to pay the Town's portion of expenses incurred by the Mojave River Watershed Group for the 2013/14 fiscal year.

11. Legislation Requiring Local Agencies to Review its Conflict of Interest Code to Comply with the Political Reform Act

Recommendation:

Direct the Town Manager to review its code and submit a notice by October 1, 2014 to the Town Council that either amendments are required or that no amendments are necessary.

12. Review and Approval to Advertise the Rancherias Road Improvements – Project 2012-13

Recommendation:

1. That the Town Council reviews and approves the project plans, specifications, and bid documents for the construction of the Rancherias Road Improvements project.
2. That the Town Council authorizes staff to solicit bids for construction of said project.

13. Change of Ownership, Release of Original Securities, Approved New Agreements and Securities for Tract Map 15286

Recommendation:

That the Town Council approve new securities and agreements, subject to approval as to form by the Town Attorney and as to content by the Town Manager, reflecting 100% security for the remaining improvements yet to be completed. The securities and agreements will remain in place until all public improvements within Tract Map No. 15286 are complete and eligible for the one-year maintenance period to begin.

14. Formation of an Ad-Hoc Committee for the Multi-Species Habitat Conservation Plan

Recommendation:

Ratify the appointment of Scott Nassif and Barb Stanton to form the Ad-Hoc Committee for the Multi-Species Habitat Conservation Plan.

15. Adopt-A-Cat Month Awareness Campaign

Recommendation

1. Direct staff to implement Adopt-A Cat Month during the Month of June.
2. Direct staff to offer cat adoptions at a discounted rate of \$20.00 for the month of June.

3. Direct staff to offer cat adoptions with a microchip at a discounted rate of \$10.00 for any cat that is already spayed or neutered during the Month of June.
4. Direct staff to offer microchip services for owned cats at a discounted rate of \$10.00 per cat during the Month of June.

2. April 2014 - Commercial Warrants Schedule

MOTION

Motion by Council Member Emick, seconded by Council Member Stanton, to receive, ratify, and file the Commercial Warrants Schedule as presented.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Bishop.

Council Member Nassif abstained from voting on warrants specifically dealing with NAPA Auto Parts.

MOTION

Motion by Council Member Emick, seconded by Council Member Stanton, to receive, ratify, and file the Commercial Warrants Schedule as presented,

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Bishop.

Mayor Pro Tem Cusack abstained from voting on warrants specifically dealing with Apple Valley Communications.

PUBLIC HEARINGS

16. **A Resolution Establishing Sewer User Charges Inclusive of an Increase in an Amount of Three Dollars and Twenty-Four Cents (\$3.24) per Equivalent Dwelling Unit per Month and Establishing an Operative Date for Application of the Proposed Increase**

Mayor Pro Tem Cusack opened the public hearing at 8:37 p.m.

Marc Puckett, Assistant Town Manager, presented the staff report as filed with the Town Clerk. He stated that if it was determined that no majority protest exists, the Town Council could adopt Resolution 2014-18 revising the sewer user fees.

Mr. Puckett announced that 8,246 forms were mailed out to homeowners and that 745 protests were received including undeliverables. Based on that information, no majority protest exists.

There being no requests to speak, Mayor Pro Tem Cusack closed the public hearing at 8:44 p.m.

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick, to adopt Resolution No. 2014-18, revising the sewer user fees for the use of Town Sewers.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Bishop.

17. Resolution No. 2014-15, A Resolution of the Town Council of the Town of Apple Valley, California, Approving Budget Appropriations and Adopting the Operating and Capital Improvement Budget for all Funds for Fiscal Year 2014-15.

Mayor Pro Tem Cusack opened the public hearing at 8:46 p.m.

Marc Puckett, Assistant Town Manager, presented the staff report as filed with the Town Clerk. He noted that a revised resolution was provided to Council reflecting changes that were discussed at the budget workshop.

Discussion ensued regarding the budget for the golf course and the improvements to the revenue of the golf course. Also discussed was the animal services contract with the County of San Bernardino.

There being no requests to speak, Mayor Pro Tem Cusack closed the public hearing at 8:57 p.m.

The Town Council thanked staff for their hard work and dedication to the community.

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick, to adopt Resolution No. 2014-15, A Resolution of the Town Council of the Town of Apple Valley, California, approving a budget appropriation and adopting the budget, including the operating and capital improvement budget for all funds for Fiscal Year 2014-15.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Bishop.

18. Adoption of Fiscal Year 2014-2015 Appropriations Limit

Mayor Pro Tem Cusack opened the public hearing at 9:01 p.m.

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

There being no requests to speak, Mayor Pro Tem Cusack closed the public hearing at 9:02 p.m.

MOTION

Motion by Council Member Stanton, seconded by Council Member Emick, to adopt Resolution No. 2014-16, A Resolution of the Town Council of the Town of Apple Valley, California, establishing the Fiscal Year 2014-2015 Appropriations Limit for the Town of Apple Valley at \$31,824,647 by using the Town's population growth for the population adjustment and the California per capita income growth for the inflationary adjustment.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Bishop.

19. Review of the FY 2014-2015 Statement of Investment Policy

Mayor Pro Tem Cusack opened the public hearing at 9:03 p.m.

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

There being no requests to speak, Mayor Pro Tem Cusack closed the public hearing at 9:07 p.m.

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick, to adopt Resolution No. 2014-17 approving the Statement of Investment Policy for Fiscal Year 2014-2015 and delegating the investment activities to the Town Treasurer.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Bishop.

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, recognized the Apple Valley Police Department and Police Activities League for the tournament held at the Apple Valley Golf Course, where funds in the amount of \$15,000 was raised to go towards after school activities. Mr. Robinson also provided the Council with pictures of the Yucca Loma Bridge. He stated that these pictures were taken by cameras that are mounted at the site, to allow the viewing of the bridge as it is being built. Mr. Robinson announced plans for a tour of the bridge in the near future.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick, to adjourn to Closed Session at 9:15 p.m. to discuss the following:

20. Closed Session

- A. Conference with Real Property Negotiators (per Government Code Section 54956.8). Property: APN #3087-171-08; Negotiating Parties: Tom Hrubik, Operations Manager, HDC Group, LLC, and Town Negotiator(s): Town Manager and Assistant Town Manager or Designee. Under Negotiation: Negotiations involve both price and terms of payment.
- B. Conference with Legal Counsel - Existing Litigation (Paragraph (1) of subdivision (d) of Section 54956.9) Briggs v. The Town of Apple Valley; San Bernardino Superior Court Case No. CIVVS 1103746.
- C. Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Paragraph (2) of subdivision (d) of Section 54956.9: one or more potential cases.
- D. 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 Park Water Company-Apple Valley Ranchos Water Company Water System (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.

Upon returning from Closed Session at 11:23 p.m., Mayor Pro Tem Cusack announced that there was no reportable action taken.

ADDED ITEM

Mayor Pro Tem Cusack announced that there was an immediate need to take action on an item that came to the attention of the Town after the agenda was posted. The item was “Design of an Irrigation Well at the Apple Valley Golf Course”.

MOTION

Motion by Council Member Emick, seconded by Council Member Stanton, that there was an immediate need to discuss an item that came to the attention of the Town after the agenda was posted. The item was to discuss, "Design of an Irrigation Well at the Apple Valley Golf Course".

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Bishop.

Dennis Cron, Assistant Town Manager, presented a staff report as filed with the Town Clerk.

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick, that the Town Council authorize an agreement with Hall and Foreman for the design of an irrigation well at the Apple Valley Golf Course and that a funding transfer be made in the amount of \$80,000 from the General Fund to the Apple Valley Golf Course

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Bishop.

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 11:30 p.m.

Larry Cusack, Mayor Pro Tem

La Vonda M-Pearson, Town Clerk