



**TOWN OF APPLE VALLEY  
TOWN COUNCIL/SUCCESSOR AGENCY  
REGULAR MEETING AND ADDENDUM  
MINUTES – August 26, 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 Pastor Bryan Brock, Life Point Baptist Church.

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

**PRESENTATIONS:** Military Banner Program – Mr. Charles Linn.

**PUBLIC COMMENTS**

Tom Piper, Apple Valley, stated that he was running for Apple Valley Town Council. He believed that Code Enforcement Department personnel should be reduced to a maximum of five (5) individuals. He commented on additional changes that he believed should occur within the department.

David Smith, Lucerne Valley, commented on the Coolwater-Lugo Transmission Project near Milpas Drive. He expressed concern regarding the problems he believed would come from the construction of the windmills and how it will affect the high desert. He urged Council to not approve the project.

Tony Penna, General Manager, Apple Valley Ranchos Water Company, commented on the drought. He spoke on the rules and regulations that may occur that will affect ratepayers in the Town. He also commented on the reduction of water usage for Apple Valley residents.

**COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION**

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

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

Council Member Nassif 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 Nassif commented on the North Wind Peak Project. He stated the windmill projects are slated to be 500 feet in the air. He also commented on the Desert Renewable Energy Conservation Plan and how that fits into the other project. Council Member Nassif expressed concern regarding how the projects will affect Apple Valley. He noted that the windmills are located right outside the sphere of influence; however, he questioned whether or not they would have any impact on the community. He also noted that the Coolwater-Lugo Transmission Project is the third component of this venture and will bring a lot of wind projects along the corridor. Council Member Nassif would like to see an item added to a future agenda regarding the windmills.

Frank Robinson, Town Manager, stated that he would meet with Council Member Nassif for additional clarification in order to develop a future agenda item.

Council Member Stanton also commented on renewable energy projects. She expressed concern regarding the County's ability to operate off of a renewable policy that they just put in place. Because of this, she urged that all communities in the high desert be aware of the changes that can take place very quickly and to consider how certain projects will affect the land. Council Member Stanton also recommended that the Town lobby with neighboring cities to join forces and work together in order to prevent any project that may be harmful to the high desert area.

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

- A. Special Meeting – Wednesday, August 27, 2014 – Council Chambers at 7:00 p.m.**
- B. Regular Meeting – Tuesday, September 23, 2014 – Council Chambers at 6:30 p.m.**

### TOWN COUNCIL CONSENT AGENDA

Mayor Bishop announced that there is an immediate need to add an item to Closed Session that occurred after the posting of the agenda. The item is Conference with Legal Counsel – Anticipated Litigation - Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9. One case: California Public Utilities Commission v. Walker et al. - CIVBS1200448 - San Bernardino Superior Court. The emergency need to add this item subsequent to the posting of the agenda is for Town Council to consider whether or not to oppose the purchase by Apple Valley Ranchos Water Company.

## **MOTION**

Motion by Council Member Emick, seconded by Council Member Nassif, to add an emergency item that came to the attention of the Town subsequent to the posting of the agenda. Motion to add agenda item number 7d Conference with Legal Counsel – Anticipated Litigation - Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9. One case: California Public Utilities Commission v. Walker et al. - CIVBS1200448 - San Bernardino Superior Court.

Vote: Motion carried 5-0-0-0

Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: None

Council Member Stanton requested, with the consensus of the Town Council, that Agenda Item Number 4 be pulled for discussion.

Mayor Pro Tem Cusack stated that he would be abstaining from voting on Agenda Item Number 5. He stated that he had a potential conflict as a business owner in the area.

Council Member Nassif stated that he would be abstaining from voting on Agenda Item Number 5. He stated that he had a potential conflict as a business owner in the area.

## **MOTION**

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 1, 2, 3, and 5 and that item number 4 be pulled for discussion.

Vote: Motion carried 5-0-0-0

Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: None.

**Mayor Pro Tem Cusack abstained from voting on Agenda Item Number 5.**

**Council Member Nassif abstained from voting on Agenda Item Number 5.**

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

#### **A. Regular Meeting – August 12, 2014**

##### **Recommendation:**

That the Town Council approve the subject minutes as part of the consent agenda.

### **2. Award Contract for the Rancherias Road Improvement – Project No. 2012-13**

##### **Recommendation:**

1. Award a contract to Matich Corporation in the amount of \$785,000.00 for the Rancherias Road Improvement Project – Project No. 2012-13, subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.

2. Approve Budget Amendment 15-01 to allocate \$790,000.00 from the Measure I fund to this project (\$677,000.00 FY 13/14 carry over and \$113,000.00 additional).

**3. Agreement between the Town of Apple Valley and the Apple Valley Unified School District for Use of the Swimming Pool**

**Recommendation:**

Approve the updated Swimming Pool Use Agreement between the Town and the Apple Valley Unified School District (AVUSD).

**5. Agreement for Services with the Apple Valley Village Property and Business Improvement District Association**

**Recommendation:**

That the Town Council approve the Agreement for Services between the Town and the Apple Valley Village Property and Business Improvement District Association (PBID).

**PULLED FOR DISCUSSION**

**4. Agreement for Business Retention Services with Apple Valley Chamber of Commerce**

Orlando Acevedo, Economic Development Manager, presented the staff report as filed with the Town Clerk.

Council Member Stanton commented on the agreement as written. She questioned the number of members who belong to the Apple Valley Chamber of Commerce and the various types of memberships.

Sam Pulice, Apple Valley Chamber of Commerce, answered questions and concerns of the Town Council. He clarified, for the benefit of Council, the meaning of the term "Ribbon Cutting Only Member". He also stated that many of those members conduct online business which does not require a building. He also answered Council's questions regarding top tax producers that have been honored by the Chamber.

Council Member Nassif commented on the origination of the Business Retention program and its transition from a coordinator to the Chamber. He asked a series of questions regarding the goals accomplished last year by the Chamber, as well as what the new goals were for this year, in particular as it relates to the Business Retention program. He also asked for clarification between the services provided by the Chamber to non-member versus member. He believes the usage of signs have a big impact on businesses. He encouraged the Chamber to partner with the Town to discuss any issues, challenges and opportunities that come from signs, as well as, educate local businesses on sign policy. He would also like the Chamber to provide feedback regarding whether or not local businesses are pleased with how the Town is handling the sign issues.

Mr. Pulice answered questions by Council regarding the goals accomplished by the Chamber, as well as goals for the upcoming year. He explained, for the benefit of Council, the services provided by the Chamber to non-member versus member.

Casey Armstrong, Apple Valley Chamber of Commerce explained that the high desert did not receive any funding from the state; therefore, the chamber has had to collaborate with hospitals and other agencies to provide the marketing themselves. She announced that this year the Chamber is looking to work with the Town to hold a healthcare summit;

a service she believes is desperately needed in the community. She also explained the importance of scheduling the summit in November when open enrollment begins.

Discussion ensued to plan workshops where the Town and Chamber can come together to discuss issues that are relevant to the business sector (currently there are four (4) planned) and to discuss types of receptions to honor our existing businesses.

Council Member Nassif stated that they received quarterly updates from each department on their status. He believed that it may be helpful to receive updated reports from the Chamber directly or through the Economic Development Department.

David Mueller, Liberty-Tribune.com, stated that there is a roast for Sheriff McMahon at the Chamber. He commented on the involvement of Neighbors United, the Chamber and others who are involved in political activities using the taxpayers money.

Council Member Stanton recommended that this item be continued to a future meeting.

Mr. Pulice urged the Council to move forward with this item and allow the Chamber to provide the services that are needed in the Town.

Ms. Armstrong commented on the benefit of the Town's partnership and the need to continue to work together to bring needed services to the community.

John Brown, Town Attorney, briefly addressed the public comment made where he felt raised allegations of conflict of interest, violations of the Internal Revenue Code, as well as violations of state and federal law. Mr. Brown reviewed, for the benefit of Council, the provisions listed within the agreement, which have been included by the Town Attorney's office. He felt confident that neither the Town nor the Chamber is in violation of any of those provisions; and that the Town is fully protected should the Council choose to approve this agreement.

### **MOTION**

Motion by Council Member Stanton, seconded by Council Member Nassif, to approve an annual Agreement for Business Retention Services between the Town and the Apple Valley Chamber of Commerce in an amount not-to-exceed \$19,800.00.

Vote: Motion carried 5-0-0-0

Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: None.

**PUBLIC HEARINGS**

None.

**REPORTS, REQUESTS AND COMMUNICATIONS**

**BUSINESS OF THE COUNCIL**

**6. Ordinance No. 464 - An Ordinance of the Town Council of the Town of Apple Valley Amending Apple Valley Municipal Code Section 6.30.030(F)(1) Regarding Unlawful Nuisances and the Boarding Up of Property**

Jim Andersen, Code Enforcement Manager, presented the staff report as filed with the Town Clerk.

Mr. Andersen responded to questions by Council regarding the status of the hill top house. He stated that the home is currently boarded up and secured.

John Laraway, Apple Valley, stated that he would like to view the ordinance before it is changed.

**MOTION**

Motion by Council Member Emick, seconded by Council Member Nassif, to waive the reading of Ordinance No. 464 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: None.

La Vonda M-Pearson, Town Clerk, read the title of Ordinance No. 464.

**MOTION**

Motion by Council Member Nassif, seconded by Council Member Emick, to introduce Ordinance No. 464, an Ordinance of the Town Council of the Town of Apple Valley amending Apple Valley Municipal Code Section 6.30.030(F)(1) regarding unlawful nuisances and the boarding up of property.

Vote: Motion carried 5-0-0-0

Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: None.

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

Brad Miller, Town Engineer, showed various slides on the progress of the Yucca Loma Bridge project.

Captain Tomlin, Apple Valley Police Department, on behalf of the Apple Valley Police Activities League, commented on the Mud Run. She spoke of its success and the revenue received was approximately \$20,000.00. She thanked everyone for their support. She also commented on the upcoming Shock program for students throughout the high desert.

Frank Robinson, Town Manager, commented on the Joint Legislative Audit Committee (JLAC) and thanked Senator Steve Knight, City of Victorville, City of Hesperia, Supervisor Lovingood, and Congressman Cook. He also commented on the upcoming League of California Cities meeting.

Patrick Carroll, Building Official, updated Council on the 3600 permit applications processed last year, 5500 inspections and 1100 plan checks. He stated that the total valuation was over \$53 million in construction. Currently, compared to last year, we have an increase of approximately 14% over than where we were this time last year.

Mr. Robinson closed the open meeting with a video of the Town of Apple Valley Ice Bucket Challenge!

**DEPARTMENTAL REPORTS AND BUSINESS:**

**STAFF REPORTS**

**CORRESPONDENCE**

**REMARKS**

Mayor Bishop thanked Boy Scout Troop 656 for their attendance.

**CLOSED SESSION**

**7. Closed Session**

**MOTION**

Motion by Council Member Emick, seconded by Mayor Bishop, to adjourn to Closed Session at 8:20 p.m. to discuss the following:

- A. 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.
- B. Conference with Legal Counsel – Anticipated Litigation – Initiation of litigation pursuant to Paragraph (4) of subdivision (d) of Section 54956.9: one potential case.

- C. 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 Rate Charges for Water Service by \$3,127,463.00 or 14.88% in 2015, \$2,056,455.00 or 8.48% in 2016, and \$2,160,731.00 or 8.19% in 2017.
- D. Conference with Legal Counsel – Anticipated Litigation - Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9; One case: California Public Utilities Commission v. Walker et al - CIVBS1200448 - San Bernardino Superior Court

Vote: Motion carried 5-0-0-0

Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: None.

Upon returning from Closed Session at 9:27 p.m., Mayor Bishop announced that Closed Session will continue to tomorrow night.

<b>ADJOURNMENT</b>
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Motion by Council Member Emick, seconded by Council Member Nassif, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 9:27 p.m.

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Art Bishop, Mayor

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La Vonda M-Pearson, Town Clerk