

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

**REGULAR MEETING**

**MINUTES – November 18, 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.

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| <b>OPENING CEREMONIES</b> |
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**INVOCATION:** Pastor Steve Colangelo, Lucerne Valley Bible Fellowship

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Mayor Pro Tem Cusack.

**PRESENTATIONS:**

**Community Calendar Contest Winners, Charlene Engeron, Public Relations Specialist**

**Volunteer Recognition Presentation, Alicia Dannelley, Recreation Coordinator**

**Apple Valley Ranchos Water Company (AVRWC) Report, Tony Penna, General Manager**

Council Member Nassif commented on the advantages that municipal water companies have over privately owned water companies in relation to grants, low interest loans and water bonds. He asked a series of questions regarding the details behind grants and how they work.

Chris Schilling, Apple Valley Ranchos Water Company, responding to questions by the Council, commented on the benefits that come from grant funding. He explained that grant funding is considered a taxpayer grant that does not need to be paid back. He expressed an interest on behalf of Apple Valley Ranchos Water, in collaborating with the Town of Apple Valley on where to source additional grant funding

Council Member Stanton questioned the main resistance that the company has to selling. She commented on the rates that are charged for the different companies and asked what the fees are based on. She also expressed concern regarding an insert placed in the Apple Valley Chamber Newsletter regarding negative comments about the Town Council placed by Apple Valley Ranchos Water Company. She did not believe that it was appropriate that this type of negativity was allowed to be placed in the newsletter by the Chamber of Commerce. She stated that she was disappointed at the decision made by the Chamber to publish the insert.

Council Member Emick also expressed concern regarding the insert. He stated that he was appalled that Apple Valley Ranchos Water Company made a decision to prepare such a notice. He stated that he supported the Chamber but did not agree with it's decision.

Mr. Penna explained the reasoning for requesting the insert be published. He believed that his business felt that they were under attack by a government entity and that they needed to obtain the attention of all businesses in the Town.

Discussion ensued by the Town Council and Apple Valley Ranchos Water regarding the information being provided to the public regarding this issue.

John Brown, Town Attorney, asked a series of questions regarding the City of Missoula, Montana and their offer to acquire Mountain Water Company. If they are successful in acquiring Mountain Water Company, is Apple Valley Ranchos Water Company prepared to present information to the Town Council as to the effects on the operation of Park Water Company losing essentially one-third (1/3) of its customers. Mr. Brown also questioned whether or not Apple Valley Ranchos Water Company anticipates, in their application to the Public Utilities Commission, a possible sale of Park Water Company by Carlisle, and whether or not they will address the possibility of losing one-third (1/3) of the assets of Park Water Company.

Additional discussion and comments continued regarding Apple Valley Ranchos rates, the concerns expressed by citizens and the discussions to purchase the water company.

Dennis Cron, Assistant Town Manager, confirmed during the discussions that staff has worked with numerous people at the water company regarding rate applications and filings.

Mr. Brown thanked Apple Valley Ranchos Water Company for the update. He provided clarification for members of the Town Council and the public regarding statements made by Apple Valley Ranchos as well as confirm the Town's right and ability to pursue purchase of the company.

#### **PUBLIC COMMENTS**

Lakita Johnson, Community Liason, commented on the homeless population in the Town of Apple Valley and the homeless count that is scheduled to occur in the near future. She also commented on the need to improve transportation and make it more accessible, especially to individuals that work late hours.

Pat Hanson, Apple Valley, stated her water bills are significantly less than water provided by Apple Valley Ranchos Water Company. She also commented on the 4<sup>th</sup> Annual God and Country Breakfast and thanked Wally Linn for his service to the community by providing this event.

Wally Linn, Apple Valley, thanked the Town Council, the community and the entire high desert's overwhelming support of the God and Country Breakfast.

Lorrie Steele, Mojave Communities Conservation Collaborative, commented on an educational summit that they will be conducting and requested the use of the Town facilities for this event.

Tom Piper, Apple Valley, congratulated Council Member Emick; Council Member Nassif; and Council Member Stanton on their re-election.

William Cadiz, Apple Valley, expressed concern regarding a tank that is leaking water at Sycamore Rocks Park in Apple Valley. He stated that after contacting the Parks and Recreation department, he was informed that tank is owned by the Apple Valley Unified School District.

Steve Samply, Apple Valley, stated he moved from Downey, California where their water service was also provided by Park Water Company. He commented that his water bill is significantly higher for his home in Apple Valley.

Dave Thomas, Apple Valley, thanked the Town Council for bringing on Sierra Management Group and the improvements that have been made to the Apple Valley Golf Course.

**APPLE VALLEY CHAMBER OF COMMERCE –  
QUARTERLY BUSINESS RETENTION UPDATE**

Sam Pulice, Apple Valley Chamber of Commerce, presented the quarterly Business Retention Update. He commented on upcoming events that will be hosted by the Chamber of Commerce.

**COUNCIL MEMBER 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 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, with the consensus of the Town Council, requested an item be presented to discuss homeless task forces. She also requested a report on the findings made with respect to the count, as well as an update.

Mayor Bishop, with the consensus of the Town Council, requested an item be presented to discuss panhandling.

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

- A. Regular Meeting – Tuesday, December 9, 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 items that came to the attention of the Town after the agenda was posted. The need is to add Agenda Item Numbers 17D – 17J dealing with seven (7) properties and negotiations with those property owners. Properties are located at APNs 3088-431-31, 0444-216-01, -13, -14; 0441-217-05, 0444-552-02, 0444-553-01, 0444-562-05, and 0444-563-01; Negotiating Parties: Property Owners; Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.

### **MOTION**

Motion by Council Member Stanton, seconded by Council Member Nassif, that there is an immediate need to take action on items that came to the attention of the Town after the agenda was posted. Motion to add Agenda Item Numbers 17D – 17J dealing with seven (7) properties and negotiations with those property owners. Properties are located at APNs 3088-431-31, 0444-216-01, -13, -14; 0441-217-05, 0444-552-02, 0444-553-01, 0444-562-05, and 0444-563-01; Negotiating Parties: Property Owners; Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.

Vote: Motion carried 5-0-0-0

Yes: Council Members 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 5. He stated that Mayor Pro Tem Cusack 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 5.

Council Member Stanton, with the consensus of the Town Council, requested that Agenda Item Numbers 10 through 13 be pulled for discussion.

Motion by Council Member Stanton, seconded by Council Member Emick, to approve the Consent Calendar items numbered 1 - 9, respectfully.

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 – October 28, 2014**

**Recommendation:**

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

**2. High Desert Regional Energy Leader Partnership Program Agreement and Resolution**

**Recommendation:**

That the Town Council adopt Resolution No. 2014-43, a resolution declaring support for an Energy Partnership between Southern California Edison and the City of Adelanto, Town of Apple Valley, City of Barstow, City of Hesperia and City of Victorville, to be known as "High Desert Regional Energy Leader Partnership".

**3. Claimant – Victor Valley Transit Authority**

**Recommendation:**

Reject the claim of Victor Valley Transit Authority.

**4. Claimant – Babette Dershem**

**Recommendation:**

Reject the claim of Babette Dershem.

**5. September 2014 - Commercial Warrants Schedule**

**Recommendation:**

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

**6. September 2014 - Payroll/Benefits Warrants Schedule**

**Recommendation:**

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

**7. Yucca Loma Bridge Contract Amendment #10 of the Yucca Loma Bridge/Yates Road/Green Tree Boulevard Project Contract Agreement, in the amount of \$404,000.00 for Additional Design, Right-of-Way Services, and Construction Support.**

**Recommendation:**

Approve the Yucca Loma Bridge Project Contract Amendment # 10 with Dokken Engineering, the project's design contractor, in the Not-to-Exceed the amount of \$404,000.00, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

**8. Yucca Loma Bridge Construction Management Services Contract Amendment #1 of the Yucca Loma Bridge/Yates Road Contract Agreement, in the amount of \$1,009,661.26, to expand the Services to include Yucca Loma Road Widening and Drainage Improvements.**

**Recommendation:**

Approve the Yucca Loma Bridge Construction Management Services Contract Amendment #1 with Parsons, the project's Construction Management Contractor, in the not-to-exceed amount of \$1,009,661.26, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

9. **Resolution No. 2014-44 of the Town Council of the Town of Apple Valley, California, Amending Resolution No. 2009-50, Amending the Conflict of Interest Code Pursuant to the Political Reform Act by Reference to the Standard Conflict of Interest Code Set Forth in Section 18730 of the Regulations of the Fair Political Practices Commission as Amended**

**Recommendation:**

That the Town Council adopt Resolution No. 2014-44.

**REMOVED FROM CONSENT CALENDAR**

10. **Approve Resolution 2014-46, Approving A Five Year Professional Services Agreement With Sierra Golf Management, Inc. To Provide Management Services At the Apple Valley Golf Course**

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

Jeff Christianson, Owner, Sierra Golf Management, Inc. thanked the Town Council for the opportunity to manage its golf course. He commented on the challenges facing the golf course industry, but believes that with perseverance, they will be successful.

Mr. Christianson introduced his staff for the benefit of the Town Council and staff.

Ron Zirles, Apple Valley, commented on the benefit of the new golf management company. He thanked Sierra Golf Management for their hard work in improving this facility.

Tom Piper, Apple Valley, commented on what he believes is the deficit in the golf course fund.

**MOTION**

Motion by Council Member Emick, seconded by Mayor Pro Tem Cusack, to approve Resolution 2014-46, A Resolution to Approve an Amended and Restated Five (5) Year Professional Services Agreement between the Town of Apple Valley (Town) and Sierra Golf Management, Inc. (SGM) to provide Golf Course Management Services at the Apple Valley Golf Course (AVGC), and authorize the Town Manager to execute the Contract Agreement, Subject to Approval by the Town Attorney as to form and the Town Manager as to content.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**REMOVED FROM CONSENT CALENDAR**

11. **Amendment to the Agreement to Provide Animal Sheltering Services for the County of San Bernardino**

Gina Schwin-Whiteside, Animal Services Manager, presented the staff report as filed with the Town Clerk.

**MOTION**

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

1. Direct staff to finalize the details of the Amendment to the Agreement to provide Animal Sheltering Services for the County of San Bernardino.
2. Authorize staff to execute the finalized Agreement to provide Animal Sheltering Services for the County of San Bernardino, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**REMOVED FROM CONSENT CALENDAR**

**12. AVAS Adopt-A-Pet Extravaganza**

Gina Schwin-Whiteside, Animal Services Manager, presented the staff report as filed with the Town Clerk. She stated that a revised report was distributed by the Town Clerk.

Gina Schwin-Whiteside, Animals Services Manager, responded to questions by Council regarding license renewals and fees to adopt a pet..

**MOTION**

Motion by Council Member Stanton, seconded by Council Member Emick, to authorize staff to temporarily reduce pet adoption fees by forty percent (40%) from November 19 through December 23, 2014 for the AVAS Adopt-a-Pet Extravaganza program and work with local businesses to sponsor additional incentives and free pet products that will be included with each adoption/rescue.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**REMOVED FROM CONSENT CALENDAR**

**13. Award Contract for Appraisal Services to Hayward Consulting Group**

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

Mayor Pro Tem Cusack questioned whether or not the Town Attorney believed he should vote on this item due to his financial interest in Apple Valley Ranchos Water Company.

John Brown, Town Attorney, commented on previous discussions held regarding Mayor Pro Tem Cusack having a financial interest in Apple Valley Ranchos Water Company. He clarified, for the benefit of Council, that Mayor Pro Tem Cusack is only being asked to undertake a business valuation of the asset of Apple Valley Ranchos Water Company

and is not being asked to initiate condemnation; nor is it foreseeable that it will have an impact on his economic interest. Therefore, he can vote on this matter at this time.

Chris Schilling, Apple Valley Ranchos Water Company, commented on their desire to work with the Town of Apple Valley as a partner in the community. However, he believes that due to the current issues taking place, it may be fractured. He expressed concern as to what he believes is a potential seizure of assets by the Town.

Eric Larsen, Finance Director, Apple Valley Ranchos Water Company, commented on their commitment to the Town. He commented on the cost that the Town of Apple Valley will incur should they attempt to take over the water agency.

### **MOTION**

Motion by Council Member Stanton, seconded by Council Member Cusack, that the Town Council authorize the Town Manager to execute the finalized Agreement with Hayward Consulting Group to provide Appraisal Services to advise the Town on issues related to the business valuation of Apple Valley Ranchos Water Company.

Vote: Motion carried 5-0-0-0

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

Absent: None.

## **PUBLIC HEARINGS**

### **14. Public Hearing #1 – Public Input for 2015-2016, 4<sup>th</sup> Year Action Plan**

Mayor Bishop opened the public hearing at 9:45 p.m.

Christopher Moore, Housing and Community Development Specialist II, presented the staff report as filed with the Town Clerk.

Gregory Barnes, St. John of God – Health Care Services, commented on the services they provide to the High Desert community. He respectfully requested continued funding for their services through block grant funding.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 9:50 p.m.

### **15. FY 2014-15 Supplemental Law Enforcement Services Funds (SLESF – COPS Grant)**

Mayor Bishop opened the public hearing at 9:51 p.m.

Lieutenant Eddie Stark, Apple Valley Police Department, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Bishop closed the public hearing at 9:52 p.m.



**MOTION**

Motion by Council Member Nassif, seconded by Mayor Pro Tem Cusack, to adopt the attached Resolution No. 2014-45 accepting the COPS grant in the amount of \$111,737.00 and authorize the allocation of the FY 2014-15 Supplemental Law Enforcement Services Funds (SLESF) to supplement the Juvenile Officer positions.

Vote: Motion carried 5-0-0-0

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

Absent: None

**REPORTS, REQUESTS AND COMMUNICATIONS**

**BUSINESS OF THE COUNCIL**

**16. A Discussion of the Recently Adopted 2013 Climate Action Plan Update**

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

Discussion ensued regarding the Climate Action Plan adopted by the other communities.

Ms. Miller recommended dropping the ten percent (10%) over Title 24 at the staff level. She also requested that the motion be changed to include the recommendation to drop the ten percent (10%).

**MOTION**

Motion by Council Member Cusack, seconded by Council Member Nassif, to drop the 10% from the recently adopted 2013 Climate Action Plan.

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**

Frank Robinson, Town Manager, commented on upcoming events for the New Year including the legislative trip to Washington D.C. and the International Conference of Shopping Centers Conference. He announced the Larry Chimbole Dinner, the Winter Wonderland Event that begins at 2:00 p.m. with the Tree Lighting Ceremony at 6:00 p.m.

Mr. Robinson congratulated the Town Council Members on their re-election. He spoke of the upcoming Mayor and Council Members academy and thanked the Town Council for their commitment to this event in January.

**DEPARTMENTAL REPORTS AND BUSINESS:**

**STAFF REPORTS**

## **CORRESPONDENCE**

### **CLOSED SESSION**

#### **17. Closed Session**

The Town Council adjourned to Closed Session at 10:07 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. Negotiations with Real Property Negotiator. Property located at APN 3088-431-31; Negotiating Parties: Mechammil (1); 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 0444-216-01, 13, 14; Negotiating Parties: Maida (1); Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- F. Negotiations with Real Property Negotiator. Property located at APN 0444-217-05; Negotiating Parties: Rattray (1); Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- G. Negotiations with Real Property Negotiator. Property located at APN 0444-552-02; Negotiating Parties: Williams (2); Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- H. Negotiations with Real Property Negotiator. Property located at APN 0444-553-01; Negotiating Parties: Crouse (2); Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- I. Negotiations with Real Property Negotiator. Property located at APN 0444-562-05; Negotiating Parties: Prather/Lloyd (2); Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.
- J. Negotiations with Real Property Negotiator. Property located at APN 0444-563-01; Negotiating Parties: Kim Jong (2); Town Negotiator(s): Town Engineer or Designee. Negotiations involve both price and terms of payment.

**ADJOURNMENT**

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 11:20 p.m.

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Art Bishop, Mayor

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La Vonda M-Pearson, Town Clerk