

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

**REGULAR MEETING**

**MINUTES – January 27, 2015**

**CALL TO ORDER:**

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

Absent: None.

**OPENING CEREMONIES**

**INVOCATION:** Reverend Michael Coffee, Community Church at Jess Ranch

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Cub Scout Troops 156, 356 and 956.

**PRESENTATIONS:**

Special Presentation - Eldon Heaston, Mojave Desert Air Quality Management District (MDAQMD) presented a plaque to Mayor Larry Cusack for his service on the MDAQMD Board.

Certificate of Appreciation – Equestrian Committee Past Member, Tony Tyler (Not Present)

Certificate of Appreciation – Presented to the Apple Valley Optimist Club

Employee of the Quarter – Kristin Hebertson, Animal Shelter Supervisor

Presentation on Sago Property / Domestic Violence Programs – Mr. Darryl Evey, Family Assistance Program

Update on Equestrian Committee Activities – Ray Sims, Chairman of Committee

Presentation on The Homeless Outreach and Proactive Enforcement (H.O.P.E.) – San Bernardino County Sheriff's Department – Deputy Jeff Collins

**PUBLIC COMMENTS**

Gloria Gilmore, Apple Valley, expressed concern regarding the lack of street lights in the Town of Apple Valley.

Regina Longona, Apple Valley, also expressed concern regarding the lack of lights and speed limits in the community, as well as, the lack of stop signs. She commented on the numerous deaths that have occurred that she believes is a result of these issues. She respectfully requested that the Town Council consider having the local areas surveyed in order to reassess the areas.

Kelly Maxwell, representing Orenda Veterans Project, commented on the project and the programs it offers. He also commented on the various organizations that help support the project by offering free programs. He thanked Mr. Jeff Collins for his assistance with the program. He also commented on the various grants they have received including \$25,000.00 from the Veteran's Administration.

Ross Sevy, District Director for Assemblyman Jay Obernolte, introduced himself to the Town Council and the community. He stated that the Assemblyman's local office is open and he and his staff are ready to assist the public as needed.

Tom Piper, Apple Valley, commented on the success of residents in the Town of Apple Valley.

Tony Penna, Apple Valley Ranchos Water Agency, provided the Town Council with a brief update regarding the various drought conditions throughout the state. He stated that Apple Valley Ranchos Water Agency continues with drought and conservation efforts. He also announced the Mojave Water Agency's Cash for Grass program will begin on February 1, 2015.

Eric Larsen, Apple Valley Ranchos Water Agency, provided the Town Council with additional information on the Dashboard Report provided this evening, as it pertains to the unaccountable water for 2014. He also commented on Apple Valley Ranchos Water Agency's first project for 2015, to replace old water mains in Apple Valley.

Al Rice, Apple Valley, expressed concern regarding the Town's noticing practices.

Allen Jones, representing Veterans with Injuries, proposed to the Town using Civic Center Park for a fundraiser during Labor Day to assist the Veterans in the community.

Phillip Rivera, Apple Valley, commented on the illegal off-road traffic near his residence. He stated that AQMD put a fence around the area that was used to prevent off-roading; however he has been told that the fence will be removed due to the Town's Municipal Code. He respectfully requested that this issue be addressed.

Frank Robinson, Town Manager, commented on previous discussions regarding this issue.

John Laraway, Apple Valley, spoke regarding the Apple Valley water issue. He recommended that a bond not be used to purchase the water company.

<b>COUNCIL MEMBER COMMITTEE/COMMISSION PARTICIPATION</b>
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Council Member Emick commented on committee meetings and events that she attended.

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

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

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

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

### TOWN COUNCIL ANNOUNCEMENTS

#### **Suggested items for future agenda:**

Mayor Pro Tem Stanton requested, with the consensus of the Town Council, to bring back a report regarding the fencing of private property. She would like the report to include status on the Wal-Mart property adjacent to Town Hall.

Council Member Nassif requested, with the consensus of the Town Council, that the report include possible enforcement and/or restriction of vehicle traffic in these areas.

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

**A. Regular Meeting – Tuesday, February 10, 2015 – Council Chambers at 6:30 p.m.**

### TOWN COUNCIL CONSENT AGENDA

Mayor Cusack 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. There is a need to add Agenda Item Number 16e – Negotiations with Real Property Negotiator: Property located at APN 3112-181-01 pursuant to Government Code Section 54956.8 and 54954.5 (b).

#### **MOTION**

Motion by Council Member Emick, seconded by Council Member Bishop, that there is a 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 16e – Negotiations with Real Property Negotiator: Property located at APN 3112-181-01 pursuant to Government Code Section 54956.8 and 54954.5 (b).

Vote: Motion carried 5-0-0-0

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

Absent: None.

Mayor 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.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1 – 12.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**Council Member Nassif abstained from voting on Agenda Item Number 6**

1. **Approval of Minutes of the Town Council**  
**A. Regular Meeting – December 9, 2014**  
**Recommendation:**  
That the Town Council approve the subject minutes as part of the consent agenda.
2. **November 2014 Commercial Warrants Schedule**  
**Recommendation:**  
That the Town Council receive, ratify, and file the Commercial Warrants Schedule as presented.
3. **November 2014 Payroll/Benefits Warrants Schedule**  
**Recommendation:**  
That the Town Council receive, ratify and file the payroll/benefits warrants as presented.
4. **Treasurer’s Report – Month of November 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 November 2014 Treasurer’s Report.
5. **Treasurer’s Report – Month of December 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 December 2014 Treasurer’s Report.
6. **Claimant – Southern California Edison (SCE)**  
**Recommendation:**  
Reject the claim of Southern California Edison (SCE).
7. **Claimant – Robert and Beverly Goss**  
**Recommendation:**  
Reject the claim of Robert and Beverly Goss.
8. **Claimant – Robert and Sabrina Hartshorn**  
**Recommendation:**  
Reject the claim of Robert and Sabrina Hartshorn.
9. **Approve and Authorize a Construction Funding Agreement with San Bernardino Associated Governments (SANBAG), for Yucca Loma Road Widening in Conjunction with the Yucca Loma Bridge over the Mojave River**  
**Recommendation:**  
That the Town Council approve the Construction Funding Agreement with San Bernardino Associated Governments (SANBAG), for Yucca Loma Road Widening in conjunction with the Yucca Loma Bridge Project.
10. **Accept the Final Map for Tract Map No. 18917-2**  
**Recommendation:**

Move to accept the final map, securities, and agreements for Tract Map Number 18917-2.

**11. Release of Securities for Tract Map Numbers 17186 and 17186-1**

**Recommendation:**

Find that the construction of various improvements required for Tracts 17186 and 17186-1, is complete, and approve the 50% reduction of the performance securities.

**12. Adopt Resolution No. 2015-03, A Resolution of the Town Council of the Town of Apple Valley, California, Proclaiming February as Apple Valley Spay and Neuter Awareness Month**

**Recommendation:**

Adopt Resolution No. 2015-03, proclaiming February as Apple Valley Spay and Neuter Awareness Month.

**PUBLIC HEARINGS**

**13. A Request to Consider an Amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Modifying Section 9.74.160 “Temporary Real Estate Signs” of Chapter 9.74 “Signs and Advertising Displays”**

Mayor Cusack opened the public hearing at 8:27 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Town Clerk. She confirmed that members of the real estate community were present to discuss this item at the Planning Commission Meeting. She also stated that adoption of this ordinance would allow the Town to be industry standard.

There being no requests to speak, Mayor Cusack closed the public hearing at 8:34 p.m.

**MOTION**

Motion by Mayor Pro Tem 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. 466, in its entirety, and read by title only.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop; Emick; Nassif; Mayor Pro Tem Stanton; Mayor Cusack.  
Absent: None

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 466.

#### **MOTION**

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

5. **Introduce** Ordinance No. 466, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Section 9.74.160 "Temporary Real Estate Signs" of Chapter 9.74 "Signs and Advertising Displays".
6. **Direct** staff to file a Notice of Exemption.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop; Emick; Nassif; Mayor Pro Tem Stanton; Mayor Cusack.  
Absent: None

### **REPORTS, REQUESTS AND COMMUNICATIONS**

#### **BUSINESS OF THE COUNCIL**

14. **Adopt Resolution No. 2015-02, A Resolution of the Town Council of the Town of Apple Valley, California - Results of Painted on Wall Sign Survey**

Pam Cupp, Associate Planner, presented the staff report as filed with the Town Clerk.

Council Member Nassif questioned whether or not signs would need to be changed to current standards if changes to the name of the business were made.

Discussion ensued regarding whether or not existing signs could be grandfathered in if the name of the business was changed.

It was the consensus of the Town Council, based on statements by the Town Attorney, that the resolution be amended to include any modification to copy.

#### **MOTION**

Motion by Council Member Nassif, seconded by Council Member Emick, to adopt Resolution No. 2015-02, declaring the legal, non-conforming status of all existing painted on wall signs as identified within a recently conducted survey, as amended.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop; Emick; Nassif; Mayor Pro Tem Stanton; Mayor Cusack.  
Absent: None.

## 15. Synthetic Drugs Update

Captain Lana Tomlin, Apple Valley Sheriff's Department presented an update on Synthetic Drugs.

The Town Council discussed whether or not the Town of Apple Valley should adopt an ordinance prohibiting synthetic drugs at this time.

John Brown, Town Attorney, questioned whether or not the state would consider an ordinance regarding possession to be constitutional. He believed that if possession is a problem, then perhaps the state of California should amend its Health and Safety Code to include possession. He stated he would bring back to Council, for their consideration, more information as it pertains to this issue.

This was a receive and file item only.

### TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Jim Andersen, Code Enforcement Manager, commented on the success of Tire Amnesty Day. He stated that in total, they have received over 100,000 tires since the inception of this program. He also commented on the Code Enforcement year-end report that is available to the public.

Joseph Moon, Environment and Transit Services Manager, commented on the new ads for sale for bus shelters. He stated that to date, they have received over \$10,000 for shelter ads. He also commented on new shelters installed in the community and also the inclusion of solar lighting to many of the shelters.

Orlando Acevedo, Economic Development Manager, commented on Apple Valley being listed #68 for "Best Cities" to raise a family. He also spoke of additional rankings where Apple Valley has ranked high. He stated that next month, he will be bringing an update to the Town Council on Economic Development in the Town.

Frank Robinson, Town Manager, announced he will be attending the City Manager's Department Meeting tomorrow, along with Assistant Town Managers Lori Lamson and Marc Puckett. He stated that the event is hosted by the League of California Cities.

### DEPARTMENTAL REPORTS AND BUSINESS:

#### STAFF REPORTS

#### CORRESPONDENCE

### CLOSED SESSION

## 16. Closed Session

Mayor Cusack, with the consensus of the Town Council, adjourned to Closed Session at 9:25 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 – Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one case): Town of Apple Valley vs. Ana J. Matosantos, Director of the Department of Finance.
- E. Negotiations with Real Property Negotiator: Property located at APN 3112-181-01 pursuant to Government Code Section 54956.8 and 54954.5 (b).

**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 10:58 p.m.

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Larry Cusack, Mayor

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La Vonda M-Pearson, Town Clerk