

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

REGULAR MEETING

MINUTES – August 25, 2015

CALL TO ORDER:

Mayor Cusack called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:30 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: The Invocation was given by Pastor Cheryl Denny, Apple Valley Faith Center

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Pro Tem Barb Stanton.

ANNOUNCEMENT: Mayor Cusack announced that Agenda Item No. 10 dealing with the Apple Valley Airport Master Plan Update would be pulled from discussion under Business of the Council. No discussion or action will be taken on this item.

PRESENTATIONS: Certificates of Commendation - Teen Zone – Alicia Dannelley, Recreation Coordinator

Presentation – Institute of Public Strategy - Bill Hannon, High Desert Community Coalition

Semi-Annual Congressional Update from the Office of Congressman Paul Cook – Wally Linn, Representative

PUBLIC COMMENTS

Leigh Jordan, Executive Vice President, Apple Valley Ranchos Water Company (AVRWC), disputed comments made by John Brown at the August 11, 2015 meeting regarding the CPUC process for rate increases versus the Proposition 218 process.

Council Member Bishop commented on the fact that only AVRWC is asking for a drought surcharge. He asked how many communities are also issuing this surcharge and how many residents are paying the surcharge.

Mr. Jordan responded stating he was not in a position to list all the water purveyors in the state and that he could not answer whether or not they were charging a surcharge. He stated that residents whose water usage was over the allotment set by the actual residential use in 2013 were charged the surcharge. He stated that he could provide the actual information of those residences if the Council desired.

Mayor Pro Tem Stanton commented on her attendance at the water conference held last Friday, August 21, 2015. She learned there was water reliability until the year 2035 and wanted to know why we jumped directly to Stage 2, which implements penalties for water usage.

Mr. Jordan responded that AVRWC went to Stage 2 to allow room to revert to Stage 1 if it looked as though it would be hitting its target of water use reductions. AVRWC has many customers who use a large amount of water for outdoor consumption, which is substantially more than the average customer uses. The State Water Resources Control Board targeted those consumers who use the most water and implemented the requirement of a surcharge. Every dollar collected would offset those surcharges in the upcoming year.

Mayor Cusack stated that the money for the drought surcharge was not being given to the State but was being returned to Apple Valley Ranchos for future surcharge reductions.

Council Member Nassif requested Mr. Jordan provide the Town Council with a list of other water purveyors who also charge a drought surcharge at the next meeting.

Council Member Emick asked Mr. Jordan how the public is able to obtain information from AVRWC to learn about the fixed costs, money going back and forth, and its comments that it is tracking surcharges.

Mr. Jordan stated that the CPUC has experienced staff that can provide members of the public with information on the requirements that it places on water companies to assist it with findings, work papers and documentation. This information must be provided to the CPUC to track all of the numbers.

Chuck Hanson, Apple Valley, stated that he was disappointed with the actions of the Town Council and urged them to not support the acquisition of Apple Valley Ranchos Water Company.

Council Member Bishop responded stating that he knew and understood that Mr. Hanson did not live in the Apple Valley Ranchos Water District area. He asked whether Mr. Hanson's water purveyor charged a drought surcharge.

Mr. Hanson stated that he did not pay the water bill.

David Mueller, Apple Valley, asked everyone to go to the State Water Resources Control Board to review its June 2015 Water Supplier Conservation Compliance Reports. Of all the suppliers of water, the only company in compliance with the state's mandate is AVRWC. Mr. Mueller also complained about the Town's slow response to water conservation efforts and what he believes is a slow response to his records requests.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

A. Regular Meeting – Tuesday, September 22, 2015 – Council Chambers at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Motion by Council Member Emick, seconded by Mayor Pro Tem Stanton, to approve the Consent Calendar items numbered 1-7, and that Agenda Item Number 8 be pulled for discussion.

Vote: Motion carried 5-0-0-0

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

Absent: None.

- 1. Approval of Minutes of the Town Council**
A. Regular Meeting – August 11, 2015

Recommendation:

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

- 2. Adopt Ordinance No. 473, An Ordinance of the Town Council of the Town of Apple Valley, to Modify Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Amending Chapter 9.25 “Deviation Permits” and Chapter 9.35 “Commercial Districts” as it Pertains to Allowing a Reduction in Landscaping and Setback Requirements for the Development of Substandard Commercial Lots**

Recommendation:

Adopt Ordinance No. 473.

- 3. Agenda Publishing**

Recommendation:

This is a receive and file item.

- 4. Fee Waiver Request for the Salvation Army Thanksgiving Day Dinner November 26, 2015, at the James Woody Community Center**

Recommendation:

For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$96.50.

5. Fee Waiver Request for the Boy Scout Troop 257 Eagle Court Of Honor Ceremony September 26, 2015, at the James Woody Auditorium

Recommendation:

For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$197.00.

6. Adopt Resolution No. 2015-31, a Resolution of the Town Council of the Town of Apple Valley, California, Amending the Personnel Policy and Procedure Manual for the Town of Apple Valley

Recommendation:

That the Town Council adopt the attached Resolution No. 2015-31, a Resolution of the Town Council of The Town of Apple Valley amending the Personnel Policy and Procedure Manual for the Town of Apple Valley.

7. Review and Approval to Advertise the Albertson/Apple Valley Inn Pathway Improvements - Project No. 2015-07

Recommendation:

1. That the Town Council review and approve the project plans, specifications, and bid documents for the Albertson/Apple Valley Inn Pathway Improvements-Project No. 2015-07.

2. That the Town Council authorize staff to solicit bids for construction of said project.

PULLED FOR DISCUSSION

8. Pets and Patriots Month

Gina Schwin-Whiteside, Apple Valley Services Manager, presented the staff report as filed with the Town Clerk. She spoke of the benefit of this program that would honor our patriots.

Mayor Pro Tem Stanton thanked Ms. Schwin-Whiteside for all of her hard work at the shelter. She recommended, with the consensus of the Town Council, to offer a special rate for veterans.

Frank Robinson, Town Manager, stated that the special rate to be offered could be handled administratively.

Motion by Council Member Emick, seconded by Mayor Pro Tem Stanton, to adopt Resolution No. 2015-34, A Resolution of the Town Council of the Town of Apple Valley, declaring September 2015 as Pets and Patriots Month.

Vote: Motion carried 5-0-0-0

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

Absent: None.

PUBLIC HEARINGS

9. General Plan Amendment No. 2015-001, A Request to Modify the General Plan Land Use Designation for a Two (2) Acre Portion of Lenny Brewster Sports Complex (APN 0440-085-13) From Very Low Density Residential (R-VLD) to Open Space (OS); to Modify the General Plan Land Use Designation for a 19.5 Acre Parcel Within the Town of Apple Valley Dry Lake (APN 0440-085-06) From Very Low Density Residential (R-VLD) to Public Facilities (P-F); and a Request to Change to General Plan Road Designation of Navajo

Road, Between Gustine Road and Fresno Road, From a Secondary to a Local Industrial; Changing Fresno Road, Between Navajo Road and Dakota Road From a Secondary to a Local Industrial; and Changing Gustine Road, Between Navajo Road and Dakota Road, from Local Industrial to Secondary.

Zone Change No. 2015-001 is a Request to Change the Zoning Designation for a Two (2) Acre Portion of Lenny Brewster Sports Complex (APN 0440-085-13) from Very Low Density Residential (R-VLD) to Open Space Recreation (OS-R) and to Change a 19.5 Acre Parcel within the Town Of Apple Valley Dry Lake (APN 0440-085-06) from Very Low Density Residential (R-VLD) to Public Facilities (P-F).

Location: APN 0440-085-13 is Located at the Northwesterly Edge of 21024 Otoe Road (Brewster Park); APN 0440-085-06 Located on the North Side of Otoe Road, Approximately 1,300 Feet West of Navajo Road; Navajo Road, Between Gustine Road and Fresno Road; Fresno Road, Between Navajo Road and Dakota Road; and Gustine Road, Between Navajo Road and Dakota Road.

Mayor Cusack opened the public hearing at 8:00 p.m.

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

David Mueller, Apple Valley, expressed concern regarding the property identified in the report by APN Numbers. He stated that individuals would not be able to identify the property as listed and therefore he believed that the public notices issued were not correct. He commented on what he believed to be percolation ponds in the area and that this all ties into the subregional plant in the same location.

There being no additional requests to speak, Mayor Cusack closed the public hearing at 8:06 p.m.

Lori Lamson, Assistant Town Manager, clarified that this item is in no relation to the subregional plant that is being built near Brewster Park and indicated that the plant is quite a distance from this location.

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to:

1. **Determine** that, in conformance with the requirements of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposed General Plan Amendment No. 2015-001 and Zone Change No. 2015-001 will not have a significant effect on the environment.
2. **Adopt** the Negative Declaration prepared for General Plan Amendment No. 2015-001 and Zone Change No. 2015-001.
3. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for July 15, 2015 support the required Findings for approval of the proposed General Plan Amendment and Zone Change, and adopt the Findings.

4. **Adopt** Town Council Resolution No. 2015-32, approving General Plan Amendment No. 2015-001;
5. **Move** to waive the reading of Ordinance No. 474, 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. 474.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to:

6. **Introduce** Ordinance No. 474, approving Zone Change No. 2015-001; and
7. **Direct** staff to file a Notice of Determination with the San Bernardino County Clerk of the Board of Supervisors.

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

THIS ITEM WAS REMOVED FROM THE AGENDA. NO ACTION WAS TAKEN

~~10. **Resolution of the Town Council of the Town of Apple Valley Stating its Acceptance of the Apple Valley Airport Master Plan Update and Recommendation to the County of San Bernardino Board of Supervisors that it Approve the Apple Valley Airport Master Plan Update**~~

11. Discussion of Drone Operations in Town Boundaries

Kathie Martin, Marketing and Public Affairs Officer, presented the staff report as filed with the Town Clerk.

Chief Sid Hultquist, Apple Valley Fire District, commented on the benefit of drones. However, he recognized the problems with drones and drone operators that could prohibit emergency personnel from safely doing their job. He believed that this was an important issue that should be addressed due to the impact that it could have on the community and the safety of our residents.

John Laraway, Apple Valley, believed that drone operators who fly on private property should be penalized.

Mayor Pro Tem Stanton recommended that staff conduct further research on this item.

Frank Robinson, Town Manager, recommended that staff also draft a Resolution of Support to the state legislators.

This is a receive and file item.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, stated that Mayor Pro Tem Stanton and Marc Puckett, Assistant Town Manager, would be travelling to Sacramento on Thursday to testify on behalf of the Town on AB 113.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

12. Closed Session

Mayor Cusack announced that he would be abstaining from one or more of the closed session items as it pertained to Apple Valley Ranchos Water Company if needed, due to a potential conflict of interest. He stated that his company does business with the above company.

Mayor Cusack adjourned the meeting of the Apple Valley Town Council to closed session at 8:26 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 or more potential cases.
- 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 – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case Name: Application No. 14-11-013 Joint Application of Liberty Utilities Co., Liberty WWH, Inc., Western Water Holdings, LLC, Park Water Company (U314W), and Apple Valley Ranchos Water Company (U346W) for Authority for Liberty Utilities Co. to Acquire and Control Park Water Company and Apple Valley Ranchos Water Company.
- E. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8. Property: Apple Valley Ranchos Water Company; Authority Negotiator: Town Manager; Negotiating Parties: Chris Schilling, Chief Executive Officer, Park Water

Company, The Carlyle Group, Carlyle Infrastructure Partners, Western Water Holdings LLC, Tony Penna, General Manager, Apple Valley Ranchos Water Company; Under Negotiation: Price and Terms of Payment.

Upon returning from Closed Session at 8:50 p.m., Mayor Cusack reported that the Town Council had no reportable action and that there was no discussion, which required him to abstain during Closed Session.

ADJOURNMENT

Motion by Council Member Bishop, seconded by Council Member Emick, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:51 p.m.

Larry Cusack, Mayor

La Vonda M-Pearson, Town Clerk