

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

REGULAR MEETING

MINUTES – July 28, 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 Emick; Nassif; Mayor Pro Tem Stanton; Mayor Cusack

Absent: Council Member Bishop

OPENING CEREMONIES

INVOCATION: Pastor Kristopher Schaal, Life Point Baptist Church

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

PRESENTATIONS: None.

SPECIAL COMMENTS

At the request of Mayor Cusack, Gina Schwin-Whiteside, Animal Services Manager, provided the Town Council and members of the public with the actual steps taken by Animal Services staff regarding an incident that occurred on July 17, 2015 at the Town of Apple Valley's Animal Shelter.

Ms. Schwin-Whiteside explained that on the date above, staff reached out to five (5) different rescues to place four (4) puppies that were scheduled for euthanasia. She commented on the deadline that was in place and staff's efforts to find homes for the puppies.

Ms. Schwin-Whiteside stated that unfortunately, the social media posts had skewed the timeline of the incident and that the facts posted were incorrect. She emphasized that the Animal Services Department currently extends the hold time for animals beyond what is required by law in hopes of finding homes for all animals.

The Town Council thanked Ms. Schwin-Whiteside and the Animal Services Division for the work that they do at the shelter. They pledged their support to these individuals and questioned whether or not legal action could be taken against individuals who threaten or badger staff.

PUBLIC COMMENTS

Tom Piper, Apple Valley, commented on the positive maintenance program in Apple Valley.

Shelby Singleton, Rescue Organization, commented on her former volunteer experience with Ace of Hearts Dog Rescue and her current work with the High Desert shelters. She stated that she believed High Desert shelters work more toward the benefit of saving animals. She commended the Apple Valley Animal Services Division for their hard work at its shelter.

Chuck Hanson, Apple Valley, expressed concern regarding the Town Council's decision to move forward with the acquisition of Apple Valley Ranchos Water Company. He believed that the public have made it clear that they do not want the Town to purchase the water company.

Dave Covell, Apple Valley, commented on receiving a notice of violation for materials on his property. His representative stated that numerous individuals have assisted Mr. Covell since he is disabled; however, they requested additional time in order to build a shed to bring the property into compliance.

Leigh Jordan, Executive Vice President, Apple Valley Ranchos Water Company, clarified statements that were made by him that he believed were misconstrued by others. He spoke of Ranchos right to be the exclusive retailer of reclaimed water within its boundaries.

Mayor Pro Tem Stanton asked Mr. Jordan to confirm whether or not Apple Valley ratepayers would be responsible for the \$2 million in lost revenue as it related to the City of Missoula's water acquisition.

Mr. Jordan stated that the agreement with the City of Missoula was that Carlyle would allow them to make an offer to purchase; Carlyle considered it and it was declined. Mr. Jordan also informed the Town Council that there has never been a plan to sell Park Water Company subsidiaries individually. Therefore, Apple Valley Ranchos Water Company is not and has not ever been for sale.

Council Member Nassif advised Mr. Jordan that he did not believe it was the intent of a previous Council to sell the Town of Apple Valley's reclaimed water to Apple Valley Ranchos Water Company at a wholesale price, and have them turn around and sell it back to the Town at a profit.

Edwin Durham, Apple Valley, moved to the Town from Arcadia. He was surprised that his water bill was three (3) to four (4) times higher than his bill in Arcadia and he lives in an apartment. He encouraged the Town to move forward with the purchase.

John Laraway, Apple Valley, commented on reasons why people relocate to the High Desert. He recommended that the Town Council loosen regulations that make it difficult for residents to improve their property.

Cecil Volsch, Apple Valley, commented on the HERO program. He spoke of its popularity, what the program offers as well as the consequences a property owner faces when the loan goes straight to the property tax bill. He explained that it becomes a lien on the property and if a mortgage is paid off, it becomes in the first position. He stated that contractors are drastically overcharging for this program and requested that the Town Council look into this program.

Briana Isaac, Apple Valley, commented on the gem in the Apple Valley Animal Shelter. She spoke of volunteering at the shelter and has witnessed the employees doing a phenomenal job in placing animals into good loving homes.

Wendy Smith, Apple Valley, thanked the Animal Services Division for the excellent work that they do in the shelter. She commented on the incident in question and believed that it was the rescues fault that this occurred.

Annie Lancaster, Apple Valley, stated that she was appalled by the misrepresented attacks on the Town of Apple Valley Animal Shelter through social media. She stated that these negative repeated attacks against Town employees are uncalled for and not warranted. She stated that Ace of Hearts dropped the ball regarding this uproar. She respectfully requested that Ace of Hearts be banned from working in the community, as she believes they are a cancer to the Town and that Town Council stand up for its shelter and employees.

Vicky Slade, Lucerne Valley, spoke in support of the Apple Valley Services Division. She stated that the media attack by rescue organizations against our shelter is unfair and not true. She also stated that many of those attacks are from individuals who do not reside in the community. She asked that everyone remain supportive of our local shelter.

Beth Brussell-Horton, Awakhen Animal Rescue, spoke in support of the Animal Services Division and thanked them for the work that they do in the community. She stated that Ace of Hearts Rescue appears to be using this matter in order to seek donations for their own organization.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

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

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

Mayor Pro Tem Stanton commented on committee meetings and events that she attended. She also announced her recent appointment to the League of California Cities, Board of Directors.

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Council Member Emick questioned whether something could be done to support the Town of Apple Valley Animal Services Division.

John Brown, Town Attorney, recommended a brief closed session under Conference with Legal Council, discussing what legal remedies may be available to assist the Apple Valley Animal Services Division. Mr. Brown stated that although there is broad protection as it relates to free speech, it does not include harassment.

Mayor Pro Tem Stanton requested more information on drones due to the incident which happened recently with our local fire emergencies.

Frank Robinson, Town Manager stated the County is currently reviewing the issue of the use of drones.

Mr. Brown stated that he has information on some current law for drones and will provide that information to the Town Manager.

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

A. Regular Meeting – Tuesday, August 11, 2015 – Council Chambers at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Mayor 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 is a Closed Session discussion on “Negotiations with Real Property Negotiators – Property: North of the Town of Apple Valley Limits Owned and Controlled by the Federal Department of Interior, within the County of San Bernardino, South of Stoddard Wells Road in the Off Road Vehicle Area Managed by BLM; Negotiating Parties: Property Owner - Federal Government; Town Negotiator(s) - Town Manager or Designee. Negotiations involve both price and terms.”

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, 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. Motion to add Agenda Item Number 8(G) – Closed Session – Negotiations with Real Property Negotiator.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Bishop.

Mayor Cusack, with the consensus of the Town Council, removed the following items from the Consent Calendar for discussion: Agenda Items 2 and 3.

Motion by Council Member Nassif, seconded by Council Member Emick, to approve the Consent Calendar items numbered 1 and 4, respectfully.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Bishop.

1. Approval of Minutes of the Town Council

A. Regular Meeting – July 14, 2015

Recommendation:

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

4. Adopt Ordinance No. 471, An Ordinance of the Town Council of the Town of Apple Valley, Modifying Chapter 9.77 of the Municipal Code as it Relates to Modifications to Existing Wireless Telecommunication Towers and Antennas Consistent with Federal Law

Recommendation:

Adopt Ordinance No. 471.

PULLED FOR DISCUSSION

2. Application to San Bernardino Associated Governments (SANBAG) for Local Transportation Funds – Article 8 – Other Purpose Claim

John Laraway, Apple Valley, expressed concern regarding the amount of funding for this project.

Frank Robinson, Town Manager, briefed the Town Council and the public on the allocation and use of this funding for the community. He indicated that if the funds were not used, the Town would lose those funds.

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Stanton, to authorize the Assistant Town Manager - Finance & Administration to apply for remaining Local Transportation Funds – Article 8 – Other Purpose Claim in the amount of \$639,202 for Fiscal Year 2014-2015.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Bishop.

PULLED FOR DISCUSSION

3. **Adopt Ordinance No. 470, an Ordinance of the Town Council of the Town of Apple Valley, Adding Chapter 8.38 to Title 8 (Buildings and Construction) of the Town of Apple Valley Municipal Code Relating to Permitting of Small Residential Rooftop Solar Systems**

John Laraway, Apple Valley, recommended that this item be pulled until the public can have an opportunity to review it and speak on it.

Lorrie Steely, Apple Valley, spoke in support of this item. She recommended that the Town be the trendsetter with solar systems. She stated that her organization would be willing to work with the Town to identify quality contractors for the program.

Tom Piper, Apple Valley, commented on the program in the City of Lancaster for the installation of solar equipment.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to adopt Ordinance No. 470.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Bishop.

PUBLIC HEARINGS

5. **A Request to Consider an Amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Modifying Section 9.74.110 (G) "Digital Advertising Displays" of Chapter 9.74 “Signs And Advertising Displays”**

Mayor Cusack opened the public hearing at 8:15 p.m.

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

Council Member Nassif commented on the recommendation of the Planning Commission as it relates to digital signs. He questioned the discussions that took place at the meeting before a recommendation was made.

Mayor Pro Tem Stanton commented on the minimum site frontage recommended for digital signs.

John Smith, Apple Valley, stated that he lives about 2,500 feet from Granite Hills High School. He commented on the distraction of the sign and believed the Town Council should possibly consider time constraints on the use of the signs in lieu of the dark sky ordinance in the Town.

Discussion ensued regarding the need to provide the Planning Commission with additional direction in order to develop a policy.

The Town Council expressed concern regarding disallowing all digital signs in the Town of Apple Valley.

It was the consensus of the Town Council to remand this item back to the Planning Commission for further consideration and discussion on the following: time limit, the dark sky ordinance, commercial locations, retail locations, area of digitization, space between signage, quality of signage, major roadways, general commercial/regional commercial based on zoning and conservative in size.

6. A Resolution of the Town Council of the Town of Apple Valley, California, Amending and Establishing Specified Fees for Town Services

Mayor Cusack opened the public hearing at 8:45 p.m.

Patrick Carroll, Building Official, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Cusack closed the public hearing at 8:47 p.m.

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Stanton, to adopt Resolution Number 2015-27, a Resolution of the Town Council of the Town of Apple Valley, California, amending and reducing specified fees for certain permits often requiring one (1) inspection.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Bishop.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

7. Selection of Town Council Voting Delegate and Voting Alternate to the League of California Cities' 2015 Annual Conference

Motion by Mayor Pro Tem Stanton, seconded by Council Member Emick, to nominate Council Member Nassif as the voting delegate representing the Town of Apple Valley at the League of California Cities' 2015 Annual Conference.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Bishop.

Motion by Council Member Nassif, seconded by Council Member Emick, to nominate Mayor Pro Tem Stanton, Number Two (2) and Mayor Cusack, Number Three (3) as voting alternates representing the Town of Apple Valley at the League of California Cities' 2015 Annual Conference.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Bishop.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Kathie Martin, Marketing and Public Affairs Officer, announced upcoming events in the Town: The State of the Town is scheduled for August 19, 2015, beginning at 11:00 a.m.; The Town's Summer Concert Series on July 30, 2015, with A Hard Day's Night, a Beatles tribute band; August 6, 2015 Neon Nation, an 80's tribute band beginning at 6:00 p.m. She announced that the August 6 concert would include special recognition for the Summer Concert Series' sponsors beginning at 7:00 p.m.

Ms. Martin stated that immediately following the Summer Concert Series begins the Town's Concerts in the Courtyard, as well as other events scheduled throughout October 2015.

Lana Tomlin, Police Captain, commented on the use of body worn cameras by deputies. She stated that the cost factor is not extreme; however, the Sheriff wants to ensure that the process is conducted correctly. She stated that two (2) stations in the County have been selected for the pilot program including the Town of Apple Valley. She spoke on the issues that need to be addressed prior to moving forward with this program for accuracy, as well as identifying the costs to store and manage the data.

Captain Tomlin also announced that August 4, 2015, is National Night Out sponsored by Target and the Apple Valley Police Station. This event highlights America's night out without crime.

Frank Robinson, Town Manager, stated that the Apple Valley Golf Course well is up and running and that the final connections are being completed. He also stated that staff would like to congratulate Mayor Pro Tem Stanton on her appointment to the League Board of Directors and thanked her and Council Member Nassif for representing the Town.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

8. 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 8:59 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 – 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.
- F. Negotiations with Real Property Negotiator – Parcel Number: 3112-181-01 located at Highway 18, between Dale Evans Parkway & Standing Rock, Apple Valley; Negotiating Parties: Property Owner; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.

Upon returning from Closed Session at 9:52 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 Emick, seconded by Council Member Nassif, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:53 p.m.

Larry Cusack, Mayor

La Vonda M-Pearson, Town Clerk