

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

REGULAR MEETING

MINUTES – July 14, 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; Mayor Pro Tem Stanton; Mayor Cusack

Absent: Council Member Nassif

OPENING CEREMONIES

INVOCATION: The invocation was given by Pastor Josh Gerbracht, First Assembly of God

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

PRESENTATIONS: None.

PUBLIC COMMENTS

Greg Raven, Apple Valley, expressed concern regarding the AVR Scoping meeting that was held at the Town of Apple Valley. He commented on the lack of information provided at the meeting and the behavior of a Town employee. He demanded that this employee be terminated from the Town.

Lawrence McCarthy, Apple Valley, expressed concern regarding the lack of information provided to the community on the AVR acquisition process.

Chuck Hanson, Apple Valley, believed that the Town Council was not conducting the will of the people with its pursuit of the local water agency.

Al Rice, Apple Valley, commented on the AVR Scoping Acquisition meeting and the deficiencies that occurred in what he believed was improper posting of the meeting. He also expressed concern regarding the lack of information that was given to the public on this matter prior to the meeting.

Royce Green, Apple Valley, stated that he was in support of the Town of Apple Valley purchasing the Apple Valley Ranchos Water Company through eminent domain. He asked that the purchase be made as soon as possible.

Tom Lecoq, Apple Valley, thanked the Town Council for their work and dedication in the community. He stated that he was in full support of the Town acquiring Apple Valley Ranchos due to the high water rates imposed. He believed the rates were unacceptable and requested the Town move forward.

Tom Piper, Apple Valley Business Owner, commented on the benefits of offering WiFi throughout the Town limits.

Jacob Kuenz, Ygrene Energy Fund, stated that this program is similar to the HERO program. He stated that they would like to serve the commercial property owners in the community as well as home owners. As the high desert representative, he stated that he would like to discuss how the company can help benefit the city through increased permits, increased property values and more jobs.

John Laraway, Apple Valley, stated that he supported the takeover of Apple Valley Ranchos. He spoke on the increased costs of water to members in the community. He believed the rates increase whether the water usage is increased or decreased.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Council Member Bishop 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.

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Mayor Pro Tem Stanton commented on her previous request to have a financial expenditure report on the agenda regarding the water acquisition costs. She stated that she was informed that it would be on the agenda in the near future.

Mayor Pro Tem Stanton stated that she would like to have a discussion with the Town Council about the possibility of preparing the agenda's and sending them to the Town Council earlier than the current schedule. She stated that the Town Council receives a draft of the agenda on Tuesday before the meeting and that the hard copy is received on Thursday. She believed that it would be beneficial to receive the reports sooner so that the Town Council would have more time to review the reports.

Mayor Pro Tem Stanton also asked the Town Council to consider and bring forward for discussion a policy that any public records requests received be posted on the website in its entirety. She believed that this will show transparency especially during the Apple Valley Ranchos acquisition process.

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

A. Regular Meeting – Tuesday, July 28, 2015 – Council Chambers at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Mayor Cusack announced that he has a remote interest in specific warrants on tonight's commercial warrants dealing with Apple Valley Communication for the Town of Apple Valley as the owner of Apple Valley Communication; therefore, he, will be abstaining from voting on the warrants for Apple Valley Communications listed under Agenda Items Numbered 2 and 4.

Mayor Cusack, with the consensus of the Town Council, removed the following items from the Consent Calendar for discussion: 4, 5, 6, 8 and 9.

Motion by Council Member Bishop, seconded by Mayor Pro Tem Stanton, to approve the Consent Calendar items numbered 1, 2, 3, 5, 7 and 10 respectfully.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

Mayor Cusack abstained from voting on specific warrants listed under Agenda Item Number 2 dealing with Apple Valley Communication.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – June 23, 2015**
Recommendation:
Approve the subject minutes as part of the consent agenda.

2. **May 2015 - Commercial Warrants Schedule**
Recommendation:
That the Town Council receive, ratify, and file the Commercial Warrants Schedule as presented.

3. **May 2015 Payroll/Benefits Warrants Schedule**
Recommendation:
That the Town Council receive, ratify, and file the Payroll/Benefits Warrants as presented.

7. **Adopt Ordinance No. 469 – An Ordinance of the Town Council of the Town of Apple Valley, California, Modifying Chapter 2.28 of the Municipal Code as it Pertains to the Functions, Powers and Duties of the Equestrian Advisory Committee**
Recommendation:
Adopt Ordinance No. 469.

10. **Adopt Resolution No. 2015-26 Authorizing the Town Manager to Execute an Agreement with the California Department of Transportation for the Town of Apple Valley Safe Routes to Schools Master Plan.**
Recommendation:
That the Town Council adopt Resolution Number 2015-16, authorizing the Town Manager to execute an Agreement with the California Department of Transportation for the Town of Apple Valley Safe Routes to Schools Master Plan Project.

PULLED FOR DISCUSSION

4. FY 2014/2015 – Commercial Warrants Schedule

Al Rice, Apple Valley, commented on the warrants listed in the staff report and recommended that the Council thoroughly review the warrants before recommending approval.

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop to receive, ratify, and file the Commercial Warrants Schedule as presented.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

Mayor Cusack abstained from voting on specific warrants dealing with Apple Valley Communications.

PULLED FOR DISCUSSION

5. Treasurer's Report – April 2015 and Schedules of Revenues, Expenditures and Changes in Fund Balance for the Parks and Recreation Fund and the Apple Valley Golf Course Fund

Eric Larsen, Apple Valley Ranchos Water Company, asked questions regarding the funding and transactions listed in the Fund Balance report.

MOTION

Motion by Council Member Bishop, seconded by Council Member Emick, to receive and file the April 2015 Treasurer's Report.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

PULLED FOR DISCUSSION

6. Treasurer's Report – May 2015 and Schedules of Revenues, Expenditures and Changes in Fund Balance for the Parks and Recreation Fund and the Apple Valley Golf Course Fund

Eric Larsen, Apple Valley Ranchos Water Company, asked questions regarding the funding and transactions listed in the Fund Balance report.

MOTION

Motion by Council Member Bishop, seconded by Council Member Emick, to receive and file the May 2015 Treasurer's Report.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

PULLED FOR DISCUSSION

8. Fee Waiver Requests for Homes for our Troops

John Laraway, Apple Valley, asked for clarification on this item.

Mayor Pro Tem Stanton explained the need for this item for the benefit of the public.

MOTION

Motion by Council Member Bishop, seconded by Mayor Pro Tem Stanton, for good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$68.88.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

PULLED FOR DISCUSSION

9. Low Cost Adopt-A-Cat Month

Mayor Pro Tem Stanton questioned whether or not this program would be extended to dogs.

Gina Schwin-Whiteside, Animal Services Manager, indicated that the cats were highlighted for this program due to their low adoption rate. She stated that the adoptions for dogs were significantly higher.

Mayor Pro Tem Stanton thanked Ms. Schwin-Whiteside and the department for their hard work and dedication with the shelter. She also commented on the benefit of the catnip program.

MOTION

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

1. Direct staff to implement a low cost Adopt-A Cat Month during the month of August 2015
2. Direct staff to offer cat adoptions at a discounted rate of \$20.00 for the month of August 2015.
3. Direct staff to offer cat adoptions with a microchip at a discounted rate of \$10.00 for any cat that is already spayed or neutered during the month of August 2015.
4. Direct staff to offer microchip services for owned cats at a discounted rate of \$10.00 per cat during the month of August 2015.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

PUBLIC HEARINGS

11. Resolution No. 2015-24, To Record Delinquent Animal Control Fees, Utility Fees and Costs and Code Enforcement Fees against Real Property Located in the Town of Apple Valley and Directing that Said Assessments Constitute a Lien upon Said Properties

Mayor Cusack opened the public hearing at 7:35 p.m.

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

Karen Hicks, Apple Valley, expressed concern regarding the clean-up work that was performed on her property. She stated that the process was never completed by the contractor hired to perform the work.

Rob Petzel, Apple Valley, believed that he has been harassed by Code Enforcement Officers since owning his property. He stated that Supervisor Wood has worked with him in the past, but that the officers continue to bother him. He explained his health problems and stated that he needs additional time to conduct the clean-up.

There being no additional requests to speak, Mayor Cusack closed the public hearing at 7:43 p.m.

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Stanton, to adopt Resolution No. 2015-24, confirming delinquent utility fees and costs against real property located in the Town, and directing that said assessments constitute a lien upon said properties.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

12. Lighting and Landscape Assessment District #1 – Engineer’s Annual Report and Levy of Assessment for FY 2015-2016.

Mayor Cusack opened the public hearing at 7:45 p.m.

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Cusack closed the public hearing at 7:46 p.m.

MOTION

Motion by Mayor Pro Tem Stanton, seconded by Council Member Emick, to adopt Resolution No. 2015-25, A Resolution of the Town Council of the Town of Apple Valley confirming diagram and assessment and levying assessment for Fiscal Year 2015-2016.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

13. A Request to Consider an Amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Amending Chapter 9.77 as it Relates to Modifications to Existing Wireless Telecommunication Towers and Antennas Consistent with Federal Law

Mayor Cusack opened the public hearing at 7:47 p.m.

Carol Miller, Senior Planner, presented the staff report as filed with the Town Clerk. She explained the height limits for wireless carriers.

Discussion ensued regarding the process for towers and antennas to be installed within the Town limits including review and approval by the Planning Commission.

There being no requests to speak, Mayor Cusack closed the public hearing at 7:59 p.m.

MOTION

Motion by Council Member Bishop, seconded by Council Member Emick, 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. 471 in its entirety and read by title only.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 471.

MOTION

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

5. **Introduce** Ordinance No. 471, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Title 9 "Development Code" Section 9.77 as it relates to modifications to existing wireless telecommunication towers and antennas consistent with Federal Law.
6. Direct staff to file a Notice of Exemption.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

- 14. Introduce Ordinance No. 470 - An Ordinance of the Town Council of the Town of Apple Valley, Adding Chapter 8.38 to Title 8 (Building and Construction) of the Town of Apple Valley Municipal Code Relating to Permitting of Small Residential Rooftop Solar Systems**

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

Tom Piper, Apple Valley, stated that he previously brought this issue to the Council for review. He commented on the process used in the City of Lancaster and recommended that the Town implement that process.

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Stanton, to waive the reading of Ordinance No. 470 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 470.

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to Introduce Ordinance No. 470, an Ordinance of the Town Council of the Town of Apple Valley, California, 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

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Nassif.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on Assembly Bill 113 (RDA Bill) and the negative impact that this bill will have on cities throughout the State at an estimated loss to California communities of \$2 billion. He noted that fortunately no testimony was taken at the scheduled hearing due to a lack of votes to pass this bill to the floor.

John Brown, Town Attorney, provided information to the Town Council and the public regarding Senate Bill 660 which appears to be moving forward. He explained the impact that this bill will have on the current CPUC regulatory system.

Mr. Robinson informed the Town Council and the public of the Town of Apple Valley Animal Shelter's mission to break the world record for the largest Dog Obedience Lesson. He stated that this would be held on October 24, 2015 at the 10th Annual Paws and Claws Pet Fair. He also announced that the music for Thursday night's concert in the park would be provided by Blue Breeze.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

15. Closed Session.

Mayor Cusack adjourned the meeting of the Apple Valley Town Council at 8:15 p.m.

- 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: Park Water Company, The Carlyle Group, Carlyle Infrastructure Partners, Western Water Holdings LLC; Under Negotiation: Price and terms of Payment.

MAYOR CUSACK WAS EXCUSED FROM THE MEETING OF THE APPLE VALLEY TOWN COUNCIL AT 8:40 P.M.

Upon returning from Closed Session at 9:38 p.m. Mayor Pro Tem Stanton reported that the Town Council had no reportable action.

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 9:39 p.m.

Larry Cusack, Mayor

La Vonda M-Pearson, Town Clerk