

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

REGULAR MEETING

MINUTES – April 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; Nassif; Mayor Pro Tem Stanton; Mayor Cusack

Absent: None

OPENING CEREMONIES

INVOCATION:

The Invocation was given by Pastor Royce Beserra, Church for Whosoever.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Council Member Bishop.

PRESENTATION:

Employee of the Quarter – Tara Alvarez – Code Enforcement Technician

Presentation – Donate Life – Ambassador Lena Russell

PUBLIC COMMENTS

Phillip Rivera, Apple Valley, commented on off-road vehicles traveling near his property. He stated that these individuals have been warned but continue to trespass and violate the health, safety and welfare of the residents in the area. He recommended these violators be cited.

Tom Piper, Business Owner in Apple Valley, commented on an issue with law enforcement. He believed cameras on officers would benefit both sides involved.

Tony Penna, General Manager, Apple Valley Ranchos Water Company, discussed the drought in California and the Governor's request to reduce usage by 25%.

Carol Keifer, Apple Valley Ranchos Water Company, introduced herself as the new Operation Superintendent. She provided Council with a brief description of her background and experience.

Richard Cambridge, Apple Valley, commented on the water discussions in the Town of Apple Valley. He expressed concern regarding the various fees that are associated with water service in the community and surrounding areas.

Lawrence McCarthy, Apple Valley, stated that cement trucks should be referred to as concrete trucks. He also commented on previous statements made regarding the purchase of the golf course.

Richard Rorex, Apple Valley, invited the public to the Man About Town event at 6:00 p.m. in the Apple Valley Conference Center on Saturday, April 25, 2015.

Al Rice, Apple Valley, questioned the purpose of an appraisal for Apple Valley Ranchos Water Company, the firm chosen to conduct the appraisal and the type of work the firm would be conducting.

John Laraway, Apple Valley, expressed concern regarding a military take over. He strongly encouraged the Town Council not to allow military exercises in the Town of Apple Valley.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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 recommended, with the consensus of the Town Council, that a future item be prepared on the reduction of water usage in the Town of Apple Valley, as well as, an update on landscaping policies.

Council Member Bishop also recommended, with the consensus of the Town Council, that a future item be prepared to discuss the Home Veteran Programs from the State of California.

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

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

TOWN COUNCIL CONSENT AGENDA

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. Mayor Cusack stated that he, too, 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, too, will be abstaining from voting on the warrants for Apple Valley Communications listed under Agenda Item Number 2.

Mayor Cusack announced that he has several Request to Speak cards for Agenda Item Number 7; therefore he recommended this item be pulled for discussion.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1-6, and that item number 7 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.

Council Member Nassif and Mayor Cusack abstained from voting on specific warrants listed under Agenda Item Number 2.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – March 24, 2015**
Recommendation:
Approve the subject minutes as part of the consent agenda.

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

3. **February 2015 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 February 2015 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 February 2015 Treasurer’s Report.

5. **Initiation of a Development Code Amendment Regarding Temporary Political Signs and Digital Advertising Displays**
Recommendation:
Initiate a Development Code Amendment and forward this issue to the Planning Commission for discussion and a recommendation by the Planning Commission that will be returned to the Council for consideration.

6. **Initiation of a General Plan Amendment and Zone Change to Modify the Current Land Use and Zoning pertaining of Two (2) Sites (APNs 0440-085-06 and 0440-085-13)**
Recommendation:
Move to initiate a General Plan Amendment and Zone Change and forward this project to the Planning Commission for their recommendation.

PULLED FOR DISCUSSION

7. Adopt a Resolution Supporting Wilderness, Wild and Scenic Rivers, National Monuments, National Park and Preserve Additions in the California Desert

Recommendation:

Frank Robinson, Town Manager, presented the staff report as filed with the Town Clerk.

Hal Messinger, Apple Valley, expressed concern regarding politicians taking over the property.

Paul Lang, Apple Valley, stated that he is opposed to the federal land grab.

Jim Corcoran, Apple Valley, stated that he is opposed to this item.

John Laraway, Apple Valley, stated that California does not need another federal land grab and control over the property.

Tony Wright, Oath Keeper, stated that his organization is watching the issue carefully and recommended that this item not be supported by the Council.

Jim Conkle, Citizen, stated that he has worked twelve (12) years on this project. He stated this is not a land grab, but an item that will support the rights of all citizens and help the economy. He respectfully requested that the Town Council support the resolution.

David Lamfram, Barstow, spoke in support of the California Desert Conservation Act. He stated that the land referred to is existing federal land.

Council Member Nassif commented on the previous discussions that have taken place regarding this issue and the need to preserve open space in the high desert. He stated that he is in support of this resolution that he believed would help preserve the heritage of the high desert.

Council Member Bishop stated that he met with the Bureau of Land Management on this issue many years ago. He, too, spoke of the numerous discussions that have taken place on this matter and the need to preserve the land.

Council Member Emick spoke in support of this resolution and the need to preserve the desert.

Mayor Pro Tem Stanton spoke in support of this resolution and the need to preserve the area for future generations.

Mayor Cusack commented on a previous presentation made on this topic. He stated that he too, supports this resolution in order to protect the existing land.

MOTION

Motion by Council Member Nassif, seconded by Council Member Bishop, to adopt Resolution No. 2015-10, A Resolution of the Town of Apple Valley Supporting Wilderness, Wild and Scenic Rivers, National Monuments, National Park and Preserve Additions in the California Desert.

Vote: Motion carried 5-0-0-0

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

Absent: None.

PUBLIC HEARINGS

8. General Plan Amendment No. 2013-02, A Request for Approval of a General Plan Amendment to Change the Current Land Use Designation of (R-E) Residential Estate (1 DU per 1 to 2.5 Gross Acres) to (R-SF) Residential Single-Family (1 DU Per 0.4 To 0.9 Net Acres) and Zone Change No. 2013-01 from (R-E) Residential Estate (1 DU Per 1 to 2.5 Gross Acres) to (R-SF) Residential Single-Family (1 DU Per 0.4 To 0.9 Net Acres) Zoning Designation

Mayor Cusack opened the public hearing at 8:10 p.m.

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

Mayor Pro Tem Stanton asked a series of questions regarding traffic in the area.

Council Member Nassif asked questions about the General Plan Amendment and Zone Change requested.

Ms. Miller and Town Engineer Brad Miller answered questions and concerns of the Town Council.

Chris Morgan, Applicant, briefed the Town Council and the audience on the history of this project.

Mayor Cusack recognized the following individuals who wished to speak on this item.

Al Rice, Apple Valley, expressed concern regarding the traffic that will take place in the residential areas.

John Laraway, Apple Valley, spoke in opposition of this project.

Mr. Morgan answered questions raised during public comments as it related to traffic and pedestrian concerns, as well as the public noticing requirements.

There being no additional requests to speak, Mayor Cusack closed the public hearing at 8:41 p.m.

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. 2013-02 and Zone Change No. 2013-01 will not have a significant effect on the environment.

2. **Adopt** the Negative Declaration prepared for General Plan Amendment No. 2013-02 and Zone Change No. 2013-01.
3. **Find** that the proposed Resolution and Ordinance are consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and, as such, shall promote the health, safety and general welfare of the citizens of Apple Valley, and that Ordinance No. 467 approving conforming rezoning is consistent with the General Plan Amendment established by Resolution No. 2015-09.
4. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for February 18, 2015, support the required Findings for approval of the proposed General Plan Amendment and Zone Change and adopt the Findings.
5. **Adopt** Resolution No.2015-09 approving General Plan Amendment No. 2013-02.
6. **Move** to waive the reading of Ordinance No. 467 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. 467.

MOTION

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

7. **Introduce** Ordinance No. 467 amending that portion of Title 9 (Development Code) of the Town of Apple Valley Municipal Code, Section 9.05.040 "Adoption of the Official Zoning Map" subsection "B" by approving the conforming rezoning from (R-E) Residential Estate (1 DU per 1 to 2.5 gross acres) to (R-SF) Residential Single-Family (1 DU per 0.4 to 0.9 net Acres) Zoning designation for APNs: 3087-171-07 and easterly portion of 3087-161-04.
8. **Direct** staff to file a Notice of Determination with the San Bernardino County Clerk of the Board.

Vote: Motion carried 5-0-0-0

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

Absent: None.

9. **A Request to Amend the Jess Ranch Planned Unit Development (PUD) to Allow the Future Development of Lot Nos. 69 thru 204 and Lots 210 thru 219 within Recorded Tract Map No. 14484 to Change from Recreation Vehicle (RV) Lots to Single Family Residential Lots in Accordance with the Medium Density Residential Development Standards of the Jess Ranch PUD. Lots 1 thru 68 and Lots 220 thru 227 will remain as RV Lots within the Jess Ranch Lakes RV Resort**

Mayor Cusack opened the public hearing at 8:48 p.m.

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

Paul Onufer, Applicant, stated that he was present to answer any questions of the Town Council.

Carl Coleman, Altec Engineering Corporation, thanked staff for their diligence and hard work.

Ms. Miller responded to questions by the Council regarding whether or not the size of the homes on these lots are consistent.

There being no requests to speak, Mayor Cusack closed the public hearing at 9:02 p.m.

MOTION

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

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that 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 may have a significant effect on the environment, the activity is EXEMPT from further CEQA review for Specific Plan No. 2012-01 Amendment No. 1.
2. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for March 18, 2015, support the required Findings for approval of the proposed amendment to the PUD and adopt the Findings.
3. **Move** to waive the reading of Ordinance No. 468 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. 467.

MOTION

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

4. **Introduce** Ordinance No. 468, approving Specific Plan No. 2012-01 Amendment No.1.
5. **Move** to approve the amendment subject to revised Conditions of Approval for TM No. 14484.
6. **Direct** staff to file a Notice of Determination and Exemption 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

10. Discussion of Cancellation of Town Council Meetings of April 28, 2015 and May 12, 2015 Due to the Need for a Special Meeting Discussion

La Vonda M-Pearson, Town Clerk, presented the staff report as filed with the Clerks Office.

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to cancel the meetings of April 28, 2015 and May 12, 2015 and call for a Special Meeting on April 28, 2015 to discuss the water acquisition.

Vote: Motion carried 5-0-0-0

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

Absent: None.

11. Award Contract for the Apple Valley Golf Course Irrigation Well Equipping Project

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

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to award a contract to Principles Contracting, Inc, the lowest qualified bidder for the Apple Valley Golf Course Irrigation Well Equipping Project, 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 Bishop; Emick; Nassif; Mayor Pro Tem Stanton; Mayor Cusack.

Absent: None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Brad Miller, Town Engineer, provided a PowerPoint presentation on the progress of the Yucca Loma Bridge project. He also provided the Town Council with a timeline for the next phase of the project, which included placing steel with an additional concrete pour.

Frank Robinson, Town Manager, provided the Town Council with an update regarding the Department of Finance 2015-2016 State Budget Proposal. He stated that although there was an attempt made by the Department of Finance to remove certain rights on behalf of local cities in order to continue the litigation process, various cities testified before the Senate Budget Subcommittee No. 4 regarding the Department of Finance Redevelopment Dissolution Proposal. The League of California Cities Legislative Director, Dan Carrigg, also provided the League members with information that allowed a number of Panels to review the process and as a result, the Department of Finance State Budget Proposal is being rethought. He stated that with the committee members repeatedly pressing serious concerns over the Department of Finance proposal, it has caused the Assembly and Senate Budget Subcommittees to review this again, and he anticipated that the Department of Finance will propose revising the language. Mr. Robinson stated he would keep the Council informed on this issue.

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, 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 9:23 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: 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 AT 9:45 P.M.

Upon returning from Closed Session at 11:08 p.m., Mayor Pro Tem Stanton reported that there was no reportable action taken.

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 11:09 p.m.

Larry Cusack, Mayor

La Vonda M-Pearson, Town Clerk