

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

**REGULAR MEETING**

**MINUTES – March 24, 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:** Pastor Steve Colangelo, Lucerne Bible Fellowship

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

**PRESENTATIONS:**

Presentation – Dreamers Visionaries Leaders Recognition to Apple Valley Town Council

Presentation – Teen Volunteer Recognition Awards, Alicia Dannelley, Recreation Coordinator

Presentation – Preliminary Business Valuation Estimates of Apple Valley Ranchos Water Company, Marc Puckett, Assistant Town Manager.

Mr. Puckett answered questions of the Town Council regarding the presentation.

John Brown, Town Attorney, reminded the Town Council and the public that the sale of Park Water Company is pending; therefore, there are no assurances that the sale would ever be completed. Mr. Brown also commented on how the process of acquiring municipal water systems work and provided some background information on how the California Public Utilities Commission grants annual rate increases.

**PUBLIC COMMENTS**

Tom Piper, Apple Valley, commented on reduced costs for solar panels and the lack of sidewalks in certain areas of Apple Valley.

Bernadette McNulty, Apple Valley, commented on her participation on the Blue Ribbon Water Committee and the expertise of its committee members. She commented on the history of Apple Valley Ranchos Water Company, its increased value and asked that the work of the Blue Ribbon Water Committee be resumed.

Chuck Hanson, Apple Valley, expressed concern regarding the Town of Apple Valley's efforts to purchase the water company.

Pat Hanson, Apple Valley, expressed concern regarding the Town's potential takeover of the local water agency.

Tony Penna, General Manager, Apple Valley Ranchos Water Agency, spoke against the Town of Apple Valley purchasing the water agency.

Maggie Vee, Village Artist Collection, briefed the Town Council on the Village Artist Collection and the benefits it would bring to the Village.

Eric Larsen, Apple Valley Ranchos Water Company, invited the public to investigate the agency's position as it relates to the Town's purchase of the water agency. He does not believe rates would decrease with the Town's purchase.

Mike Lent, Apple Valley, believed that the Town of Apple Valley should not consider the purchase of Park Water Systems.

David Mueller, Apple Valley, commented that he believed the Town had violated the Brown Act based on actions that he witnessed via the internet. He stated that the water agency should remain privately owned and that government should not get involved.

John Brown, Town Attorney, in response to an accusation that the Town of Apple Valley's employees violated the Brown Act clarified for the benefit of the public that Mr. Dennis Cron, Assistant Town Manager, was testifying in Missoula, Montana because of a subpoena served by attorneys for Mountain Water Company. In addition, Mr. Brown stated that the Brown Act is not applicable to Town employees.

#### COUNCILMEMBER 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.

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, April 14, 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 listed under Business of the Council that came to the attention of the Town subsequent to the posting of the agenda. This item is to establish date and time certain for Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Public Hearing No. 2 (Consolidated Plan – Fourth-Year 2015-2016 Action Plan). He asked for a motion to add item Number 3A to the agenda that came to the attention of the Town subsequent to the posting of the agenda.

## **MOTION**

Motion by Council Member Emick, seconded by Council Member Bishop, that there was 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 3A – Setting the Date and Time Certain for Public Hearing No. 2 dealing with Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME).

Vote: Motion carried 5-0-0-0

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

Absent: None.

David Mueller, Apple Valley, expressed concern regarding Agenda Item Number 3 and the cost to refurbish the well at the golf course. He believed that the Town was not acting in good faith as it relates to the golf course.

Lawrence McCarthy, Apple Valley, expressed concern regarding Agenda Item Number 3. He believed that issues dealing with the pump should have been identified prior to the Town purchasing the course.

Motion by Council Member Emick, seconded by Council Member Nassif, to approve the Consent Calendar items numbered 1-3, as presented.

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 – March 10, 2015**

**Recommendation:**

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

**2. Acceptance of Work, Notice of Completion, and Release of Retention for the Deep Creek Road Overlay, Project No. 2014-03**

**Recommendation:**

That the Town Council:

1. Accept the work completed as part of the Deep Creek Road Overlay, Project 2014-03, for a total cost of \$245,586.33.
2. Direct the Town Clerk to file the Notice of Completion for the contract work.
3. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

**3. Approve Additional Funding to Complete the Refurbishing of the Existing Well at the Apple Valley Golf Course**

**Recommendation:**

That the Mayor and Town Council approve a budget amendment and authorize an expenditure in an amount not to exceed \$84,000.00, to complete the work necessary to refurbish the existing irrigation well at the Apple Valley Golf Course.

**PUBLIC HEARINGS**

None

**REPORTS, REQUESTS AND COMMUNICATIONS**

**BUSINESS OF THE COUNCIL**

**ADDED TO THE AGENDA**

**3A. Establishing Date and Time Certain for Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Public Hearing No. 2 (Consolidated Plan – Fourth-Year 2015-2016 Action Plan**

Christopher Moore, Housing Specialist II, presented the staff report as filed with the Town Clerk.

**MOTION**

Motion by Council Member Nassif, seconded by Council Member Emick, to establish April 28, 2015 at 6:30 p.m. as the date and time certain for the purpose of conducting the second of two (2) public hearings necessary to develop the Town's Consolidated Plan – Fourth Year Action Plan.

Vote: Motion carried 5-0-0-0

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

Absent: None

**4. Public Hearing #2 – Consolidated Plan Fourth-Year Action Plan for the Community Development Block Grant (CDBG) and the Home Investment Partnerships (HOME) Programs for Fiscal Year 2015-2016**

**MOTION**

Motion by Council Member Emick, seconded by Mayor Pro Tem Stanton, to continue this item to the meeting of April 28, 2014.

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, commented on receiving a grant for the Safe Route to School Master Plan Program in the amount of \$199,000.00 from the Department of Transportation.

Frank Robinson, Town Manager, announced that Kathie Martin, Marketing and Public Affairs Officer, has been selected as the winner of the 2015 Paul B. Clark Award from the California Association of Public Information Officials (CAPIO). He congratulated Kathie Martin on this great achievement.

Mr. Robinson also commented on the concrete pour at the Yucca Loma Bridge site. He stated that pictures of the event will be made available soon for viewing.

## **DEPARTMENTAL REPORTS AND BUSINESS**

### **STAFF REPORTS**

### **CORRESPONDENCE**

## **CLOSED SESSION**

### **5. Closed Session**

Mayor Cusack announced that he will be abstaining from one or more of the Closed Session items as it pertains 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, with the consensus of the Town Council, adjourned to closed session at 8:25 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 – 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 CLOSED SESSION AND THE MEETING OF THE APPLE VALLEY TOWN COUNCIL AND SUCCESSOR AGENCY AT 9:10 P.M.**

Upon returning from Closed Session at 9:56 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 9:57 p.m.

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Larry Cusack, Mayor

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La Vonda M-Pearson, Town Clerk