

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

**REGULAR MEETING AND ADDENDUM**

**MINUTES – October 27, 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; Nassif; Mayor Pro Tem Stanton; Mayor Cusack

Absent: Council Member Emick (Arrived Late).

Mayor Cusack announced the passing of Joan Frances Armel Lopez, longtime resident and standing member of the Town of Apple Valley Historical Committee. He requested with consensus of the Town Council that this meeting be dedicated in her honor.

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| <b>OPENING CEREMONIES</b> |
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**INVOCATION:** Minister James Campbell, JC Enterprises

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Council Member Nassif

**PRESENTATION:** Recognition Awards from Apple Valley PBID Association to  
"2015 Happy Trails Parade" Award Recipients

Proclamation presented to the California Writers Club in  
Recognition of its Annual Dorothy C. Blakely Memoir Project

Employee of the Quarter presented to Virgil Rush,  
Community Enhancement Officer

**COUNCIL MEMBER EMICK ARRIVED AT 6:51 P.M.**

**MOTION**

Motion by Council Member Bishop, seconded by Council Member Emick, that Agenda Item #20, regarding the Vacancy on the CDCAC Committee be moved to be heard immediately following the Consent Calendar.

Vote: Motion carried 5-0-0-0

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

Absent: None.

## PUBLIC COMMENTS

Thurston "Smitty" Smith, Equestrian Committee Member, provided a brief update to the Town Council and the public on the Victor Valley Bicycle Tour.

Tony Penna, General Manager, Apple Valley Ranchos Water Company (AVRWC), provided an update to the Town Council and the public on the proposed rate increase by the Public Utilities Commission in an effort to balance the efforts of the customers with that of the water agencies.

Mayor Pro Tem Stanton commented on the constant increases by the water agencies and the negative effect that it is having on the community and schools. She expressed concern regarding the cost of her water bill, which was in excess of \$300.00 for a one person home, all the grass removed and the trees on bubblers.

Mr. Penna commented on the various stages of the water tiers. He also commented on services that AVRWC has in an effort to assist residents in reducing their water costs.

Council Member Emick commented on being at Stage 2 instead of Stage 1 and the comment made by Mr. Penna that Stage 2 had to be implemented in order to have a savings.

Mr. Penna responded explaining how AVRWC has the ability to monitor past and present water usage in order to determine whether or not it would be beneficial to move to a higher stage.

Leigh Jordan, Apple Valley Ranchos Water Agency, responded to questions that were asked by members of the Town Council at the last meeting he attended. He named numerous water agencies that also implemented a surcharge. He announced that the water agency is planning to revert back to Stage 1 effective November 1, 2015. He commended the members of the public for their progress and ability to conserve as requested. He also stated that the PUC is proposing to implement new rates that will assist AVRWC with their conservation target. If the proposed reductions are not achieved, AVRWC will revert back to Stage 2 surcharges.

Mayor Pro Tem Stanton asked for clarification on how the November 1 change would affect the rate and usage.

Mr. Jordan clarified that Stage 1 will not require a surcharge. He also commented on the surcharges that were collected and the proposed use for those funds. In the event there is excess, it will be refunded to the public.

Chuck Hanson, Apple Valley, questioned what the Town of Apple Valley was going to do in order to reunite the community.

David Mueller, Apple Valley, read a statement that he submitted for publication in the Apple Valley Daily Press. He questioned how the services that the Town provides enhances the lives of the taxpayers in the community.

Greg Raven, Apple Valley, commented on the type of grass used in the community by the Town of Apple Valley. He spoke of the drought surcharges that are paid by a minority of customers in the Town. He illustrated his belief of the amount of water used by residents.

Tom Piper, Apple Valley, commented on the Apple Valley Citizens on Patrol Program. He stated that he would like to volunteer for the program. He also spoke of ride along services that should be offered by the Sheriff's department.

Terrie Self, Apple Valley, spoke of the constant increases in her water bill. She stated that she conserves as much as possible. She contacted AVRWC and after a survey she was simply told her meter was broken. She believed that she was not treated fairly by the water company and urged citizens to monitor their meters.

Richard Rorex, Apple Valley, stated that the 2016 Man About Town event would begin this week. He commented that the crown has been won by Mayors in other communities for the past two years; therefore, he recommended that the Town of Apple Valley make a pledge to bring the crown back to Apple Valley.

David Christman, Apple Valley, commented on the high water rates and the comments and statements made by AVRWC representatives to defend its increases.

Adolph Collaso, Apple Valley, spoke of the high prices that he is paying for his water service. He spoke of the numerous radio ads by AVRWC advising customers that they will assist them with their water costs and they are still seeking rate increases. He stated that he was notified by a realtor that they are considering having potential buyers sign a disclosure to ensure residents are aware of the high cost of water in this community.

Kari Leon, Apple Valley Realtor, stated that the resident who spoke previously was her client and stated that she informed Agio Realty of the cost of her bill. She indicated that other new homeowners had also expressed the same concern.

Frank Rodgers, Apple Valley, stated that the rates could be reduced if AVRWC limited the number of commercials it plays. He stated that he questioned AVRWC employees on their maintenance, repair and operation, and basic costs and they appeared to be unaware. He explained that as a private citizen he wants to become more involved in the process.

Salvador Ortiz, Apple Valley, expressed concern regarding the amount of taxes that he currently pays. He believed that if the Town purchased the water agency, the costs would continue to increase.

#### **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.

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:**

Council Member Bishop, with the consensus of the Town Council, asked staff to look into the matter surrounding the closure of the San Bernardino County Library Apple Valley location. He would like information on what impact its closure has had on the Town. He would like to know what the status of repairs is and what the Council and staff could do to help get the building reopened.

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

- A. Regular Meeting – Tuesday, November 10, 2015 – Council Chamber  
Regular Session at 6:30 p.m.**

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| <b>TOWN COUNCIL CONSENT AGENDA</b> |
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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.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve and adopt the Consent Calendar items numbered 1, 2, 3, 4, 7, 9, 10, 11, 12, 13, 14, 15 and 16; and that agenda items numbered 5, 6 and 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.

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

**1. Approval of Minutes**

**A. Regular Meeting – September 22, 2015**

**Recommendation:**

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

**2. August 2015 - Commercial Warrants Schedule**

**Recommendation:**

That the Town Council receive, ratify, and file the Commercial Warrants Schedule as presented.

**3. August 2015 Payroll / Benefits Warrants Schedule**

**Recommendation:**

That the Town Council receive, ratify, and file the Payroll/Benefits Warrants as presented.

**4. Treasurer's Report – August 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 August 2015 Treasurer's Report

7. **Adopt Ordinance No. 476 – An Ordinance of the Town Council of the Town of Apple Valley, California, Adopting Development Code Amendment No. 2015-004 Amending Title 9 “Development Code” of the Town of Apple Valley Municipal Code, as it Pertains to Regulations for Fencing Vacant Land and Vacant Developed Parcels**  
**Recommendation:**  
That the Town Council adopt Ordinance No. 476.
9. **Bear Valley Bike Path – Project No. 2012-03**  
**Recommendation:**
  1. That the Town Council review and approve the project plans, specifications, and bid documents for the Bear Valley Bike Path – Project No. 2012-03.
  2. That the Town Council authorize staff to solicit bids for construction of said project.
10. **CLAIMANT – Rodrigo Antonio Pimentel**  
**Recommendation:**  
Reject the claim of Rodrigo Antonio Pimentel.
11. **CLAIMANT – David M. Barrett and Gregory S. Noel**  
**Recommendation:**  
Reject the claim of David M. Barrett and Gregory S. Noel.
12. **CLAIMANT – Jeri Lynn Wade**  
**Recommendation:**  
Reject the claim of Jeri Lynn Wade
13. **Agreement with Neighborhood Housing Services of the Inland Empire (NHSIE) for Reconstruction/Resale of a Single-Family Residence**  
**Recommendation:**  
Authorize the Town Manager to enter into the attached Agreement between the Town of Apple Valley and Neighborhood Housing Services of the Inland Empire for the Reconstruction/Resale of a fire damaged and foreclosed Single-Family Residence project approved for funding in the 2015-2016 Fourth Year Action Plan.
14. **Authorization to Submit an Application to the State Office of Grants and Local Services (OGALS) for the Roberti-Z Berg-Harris Block Grant Program**  
**Recommendation:**  
Authorize the Town Manager or his designee to submit an application to the State Office of Grants and Local Services.
15. **Measure I, 5-Year Plan**  
**Recommendation:**
  1. That the Town Council Approve FY 2015-2016 through 2019-2020 Measure I, 5-year expenditure plan.
  2. Adopt Resolution No. 2015-39, “A Resolution of the Town Council of the Town of Apple Valley, State of California, Adopting the Measure I Five-Year Capital Improvement Program”.

**16. Approval to Reject Bids and Re-advertise the Albertson's/Apple Valley Inn Pathway Improvements - Project No. 2015-07**

**Recommendation:**

1. That the Town Council reject bid(s) for the Albertson's/Apple Valley Inn Pathway Improvements – Project No. 2015-07.
2. That the Town Council authorize staff to re-advertise and solicit bids for construction of said project.

**PULLED FROM THE CONSENT CALENDAR**

**5. Adopt Ordinance No. 472 – An Ordinance of the Town Council of the Town of Apple Valley Amending 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”**

Kari Leon, Apple Valley Realtor, commented on the effectiveness of signs and displays for businesses. She expressed concern that the signs recommended in the ordinance were too small and suggested that they be increased.

Council Member Nassif clarified that the proposed ordinance did not amend the size of the signs allowed in the Town limits.

**MOTION**

Motion by Council Member Bishop, seconded by Council Member Emick, to adopt Ordinance No. 472.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**6. Adopt Ordinance No. 475 - An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Title 5, Chapter 5.06 of the Apple Valley Municipal Code to Establish a Fee to Support Public, Educational and Governmental Access Facilities Applicable to State Video Service Franchises and to make other Conforming Amendments**

David Mueller, Apple Valley, questioned the use of the PEG fees as listed in the staff report. He stated that many communities are incorrectly using the PEG fees by placing these funds in the General Fund.

Marc Puckett, Assistant Town Manager, provided clarification as to the correct use of PEG fees.

**MOTION**

Motion by Council Member Emick, seconded by Council Nassif, to adopt Ordinance No. 475.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**8. Acceptance of Work, Powhatan Road Street Improvements - Project No. 2015-03**

David Mueller, Apple Valley, expressed concern regarding the lack of information available for the public on projects that the Town manages.

**MOTION**

That the Town Council:

1. Accept the work completed as part of the Powhatan Road Improvements – Project No. 2015-03, for a total cost of \$449,713.17.
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 thirty (30) days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**20. Vacancy on the Town of Apple Valley Community Development Citizens Advisory Committee (CDCAC)**

Motion by Council Member Bishop, seconded by Council Member Emick, to nominate Eddie Dean to the Town of Apple Valley Community Development Citizens Advisory Committee (CDCAC).

Vote: Motion carried 5-0-0-0

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

Absent: None.

**PUBLIC HEARINGS**

**17. General Plan Amendment No. 2015-002: A Request to Consider a Change to the General Plan Land Use Designation from (R-E) Residential Estate (1 DU per 1 to 2.5 gross acres) to General Commercial (C-G).**

**Zone Change No. 2015-002: The proposed Zone Change would change the Project Site from (R-E) Residential Estate (1 DU per 1 to 2.5 gross acres) to General Commercial (C-G)**

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

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

There being no requests to speak, Mayor Cusack closed the public hearing at 8:49 p.m.

**MOTION**

Motion by Council Member Bishop, seconded by Council Member Emick, 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. 2015-002 and Zone Change No. 2015-002 will not have a significant effect on the environment.
2. **Adopt** the Negative Declaration prepared for General Plan Amendment No. 2015-002 and Zone Change No. 2015-002.
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. 2015-38, approving General Plan Amendment No. 2015-002;
5. **Move** to waive the reading of Ordinance No. 477 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 477.

### **MOTION**

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

6. **Introduce** Ordinance No. 477, approving Zone Change No. 2015-002; 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**

#### **CONTINUED ITEM FROM MEETING OF SEPTEMBER 22, 2015**

18. **Discussion to Adopt Resolution No. 2015-35, A Resolution Consenting to the Inclusion of Properties within the Territory of the Town of Apple Valley in the California Statewide Communities Development Authority Open PACE Program**

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

Duane Baker, San Bernardino Associated Governments, explained the PACE Program and the opportunities that the program provides residents. He also stated that additional disclosure information is being provided to residents so that they are aware of the advantages and disadvantages of these types of programs.

Mayor Pro Tem Stanton asked questions about the term of the loan for home improvement projects. She also questioned whether or not the realtors association supported this program.



Mr. Baker stated that he was aware that high desert realtors did not recommend these types of programs; however, he was unaware of how realtors in other areas assessed the program. Josh Brock, HERO Program Administrator, stated that there are approximately 6,000 contractors signed up for the program and that forty (40) contractors have been removed from the program. He explained the reasons why contractors would be suspended and/or removed from the program.

The members of the Town Council asked a series of questions with responses provided by Mr. Baker, on the types of loans available, interest rates, and competition.

Jonathan Kevles, Renew Financial Program Administrator, California First PACE Program, stated that he believes the PACE program is beneficial to employees and that they are the only program to offer twenty-five (25) year loans for solar that is a lease. He stated that the equity in a building could be used to qualify for the program for businesses.

Kari Leon, Agio Real Estate, provided information to the Town Council regarding the PACE Program and the concerns that are being addressed by other agencies regarding the lien process. She also commented on additional disclosures that the realtor association believes should be addressed.

Cecil Volsch, Real Estate Broker, also commented on concerns of the HERO and PACE programs. He explained how the loans have a negative effect on the housing market and the equity that is lost.

Jim Shuben, Apple Valley, commented on the solar industry and the improvements that they are making. He believes that allowing additional options would assist homeowners when choosing a program to better serve their needs. He stated that the realtors are correct in some aspects, but believe they are misinformed on how the loan must be repaid if the property is sold.

A lengthy discussion ensued regarding the programs and the options that the programs provide as well as the concerns expressed by the realtors.

### **MOTION**

Motion by Council Member Nassif to adopt Resolution No. 2015-35, consenting to the Inclusion of properties with the Town of Apple Valley in the California Statewide Communities Development Authority (CSCDA) Open PACE Program.

Motion died for lack of a second.

Mayor Pro Tem Stanton recommended this item be continued for a minimum of three (3) months to allow the concerns expressed by both the realtor association and the parties to be resolved.

After additional Town Council discussion, it was the consensus of the Town Council to table this item until the beginning of 2016.

**19. Selection of a Development Entity for Affordable Rental Housing**

Heather Wylie, Housing Specialist, presented the staff report as filed with the Town Clerk.

A presentation was given by members of the Community Development Housing Organization on the validity of this project.

**MOTION**

Motion by Council Member Nassif, seconded by Mayor Pro Tem Stanton, to authorize and direct staff to enter into negotiations for the development of an affordable rental housing project on the Town-owned, approximate ten (10)-acre site on Sioux Road, west of Navajo Road, with Coachella Valley Housing Coalition, for the purpose of bringing forth a Disposition and Development Agreement (DDA) for review and approval by Town Council at a later date.

Vote: Motion carried 5-0-0

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

Absent: None.

**TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE**

Frank Robinson, Town Manager stated that the Town's application for a TIGER Grant was not successful. However, the Town did receive word that First District Robert Lovingood has taken a \$75,000 grant to fund Opportunity High Desert to the next Board of Supervisors meeting. He also stated that the Town has received notification that due to some reorganization a new representative by the name of Bob Stines has been assigned to the Town from Southern California Edison.

Lastly, Mr. Robinson encouraged the Town Council to attend a Public Awareness and El Nino Public Information Meeting hosted by the San Bernardino County Fire Department to be held on October 28, 2015 at the Victorville City Hall.

**CLOSED SESSION**

**21. 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 as his company does business with the above company.

Mayor Cusack adjourned the meeting of the Apple Valley Town Council at 11:08 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 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.
- 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: 360 Apple West, LLC; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.

**ADDED PER ADDENDUM**

- G. Negotiations with Real Property Negotiator – Parcel Numbers: 0399-251-01, 0399-261-01 and 02, located south of Bear Valley Road and west of Jess Ranch Road. Negotiating Parties: Gary Ledford, et.al; Town Negotiator(s) -Town Manager and/or his Designee. Negotiations involve both price and terms.
- H. Negotiations with Real Property Negotiator – APN #3087-171-07, 08, 11 and 12; Negotiating Parties: Tom Hrubik, HDC Group, LLC; Town Negotiator(s): Town Manager or Designee. Negotiations involve both price and terms of payment.

**MAYOR CUSACK WAS EXCUSED FROM CLOSED SESSION AT 12:10 A.M.**

Upon returning from Closed Session at 12:46 a.m., Mayor Pro Tem Stanton reported that the Town Council had no reportable action.

**ADJOURNMENT**

Motion by Council Member Emick, seconded by Council Member Bishop, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 12:47 a.m. in loving memory and honor of Joan Frances Armel Lopez.

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Larry Cusack, Mayor

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La Vonda M-Pearson, Town Clerk