

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

**SPECIAL MEETING  
MINUTES – November 17, 2015**

**CALL TO ORDER:**

Mayor Cusack called to order the regular session of the Apple Valley Town Council and the Successor Agency at 5:30 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

**OPENING CEREMONIES**

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

Mayor Cusack announced that he would recuse himself from the discussion of items on the agenda as it pertains to Apple Valley Ranchos Water Company, due to a potential conflict of interest as his company does business with that entity. He turned over the conduct of the meeting to Mayor Pro Tem Stanton.

**MAYOR CUSACK WAS EXCUSED FROM THE DAIS AT 5:33 P.M.**

**PUBLIC HEARING**

**1. Town Council Consideration of the Apple Valley Ranchos Water System Acquisition Project Final Environmental Impact Report**

Mayor Pro Tem Stanton opened the public hearing at 5:34 p.m.

Lori Lamson, Assistant Town Manager, presented the staff report as filed with the Town Clerk.

Dr. Jennifer Haddow, Project Manager with Rincon Consultants Inc., presented a Power Point Presentation to the Town Council which outlined the following: The project's objectives, the Environmental Impact Report's (EIR) review process, chronology, issues that were analyzed in the EIR in response to written comments received to both the Initial Notice of Preparation (NOP) and the Amended NOP, the project's impact and all alternatives that were considered.

**PUBLIC COMMENTS**

Mayor Pro Tem Stanton identified, for the record, receipt of twenty-six (26) public comment cards submitted, requesting not to speak, however were in opposition to Agenda Item Nos. 1 and 2 respectively. In addition, three (3) letters have been submitted and available for public review.

Kevin Brogan, Counsel for Apple Valley Ranchos Water Company (AVRWC) stated its objection to both the draft EIR and its final form. AVRWC believed it was an advocacy piece being provided by the Town to demonstrate why it should condemn AVRWC. AVRWC believed the decision to acquire AVRWC and its water system had been predetermined. AVRWC contended that the EIR failed to address the following: Property description, operational studies, evidence that the Town could operate the system, the impact of Yermo's water system and evaluating the severance of Yermo from the system. Mr. Brogan requested that the EIR be re-circulated and re-submitted addressing the issues stated above.

The following members of the public spoke in opposition to the Town Council's consideration of the Apple Valley Ranchos Water System Acquisition Project Final Environmental Impact Report:

1. Greg Raven
2. Leane Lee
3. Darroll Batten
4. Matthew Alaniz
5. Erin M. Fox
6. Mark Stowe
7. Sheree Wafford
8. David Mueller
9. Christina Burton
10. Ann Skinner
11. Al Rice
12. Katie Manning
13. Diana Carloni-O'Malley
14. Steve Folkes, Represented by Michael Lent
15. Apple Valley Property Owner/Landlord - George

The following members of the public spoke in favor of the Town Council's Consideration of the Apple Valley Ranchos Water System Acquisition Project Final Environmental Impact Report:

1. Rick Piercy
2. Lance Arnt
3. David Christman
4. Bill McDaniel
5. Adolph Collaso
6. Gretchen Secrest
7. Terry Hepner

There being no additional requests to speak, Mayor Pro Tem Stanton closed the public hearing at 6:55 p.m.

**RECESSED MEETING**

Mayor Pro Tem Stanton recessed the meeting of the Apple Valley Town Council meeting at 6:56 p.m.

### **MEETING RECONVENED**

Mayor Pro Tem Stanton reconvened the meeting of the Apple Valley Town Council meeting at 7:16 p.m.

Lori Lamson, Assistant Towner Manager, responded to questions and concerns expressed by members of the public during public comments. Ms. Lamson explained the process on notification and how the distribution list was compiled with respect to the Final EIR.

Charity Schiller, Best Best & Krieger, clarified that Item 1 addressed only the scope and analysis of CEQA and the legal standards surrounding the issue. Ms. Schiller explained that a majority of the property to be acquired is located within Town limits; only a small portion of the system is located in San Bernardino County and the City of Victorville. Therefore, based on the majority, it was appropriate that the Town take on the role of lead agency for CEQA purposes.

Dr. Haddow addressed concerns from the public about ADA requirements stating that those needs would be met on an as needed basis. She also noted that those impacts were addressed in the EIR using the most recent data available.

Council Member Nassif questioned, and staff responded, explaining why the CEQA process was being handled at this time.

Council Member Bishop commented on the public's right to be heard and he appreciated all, whether pro or con but wanted to reassure the public that the Town Council had been listening to the concerns expressed by the public on this issue.

Council Member Emick commented on the EIR process and thanked staff for their hard work on this matter.

Mayor Pro Tem Stanton clarified that the Yermo water system, as a stand-alone, would not impact the AVRWC system. She also wanted to assure the public that the Town Council takes this matter very seriously and would act in the best interest of the citizens.

### **MOTION**

Motion by Council Member Nassif, seconded by Council Member Emick, to adopt Resolution No. 2015-42, a Resolution of the Town Council of the Town of Apple Valley Adopting Environmental Findings Pursuant to the California Environmental Quality Act, Certifying the Apple Valley Ranchos Water System Acquisition Project Final Environmental Impact Report (SCH #2015061078) and approving the project.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Cusack.

**2. Town Council Consideration of Two Proposed Resolutions of Necessity Authorizing the Town of Apple Valley's Acquisition of Apple Valley Ranchos Water Company's Apple Valley Water System by Eminent Domain and the Filing of a Complaint**

Mayor Pro Tem Stanton opened the public hearing at 7:42 p.m.

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

Mr. Robinson provided a brief overview of each finding under the Resolution of Necessity and provided a chart, which illustrated water rate comparisons among the local high desert cities.

**PUBLIC COMMENTS:**

Kevin Brogan, Counsel for Apple Valley Ranchos Water Company (AVRWC), requested that AVRWC's November 12, 2015 letter be made part of the record at this night's proceeding. Mr. Brogan summarized some of the objections contained in the letter that he submitted into the public record. Some of those objections included his belief that: The description of the property was too vague and uncertain, the Town could not establish that the public interest and necessity required the condemnation of AVRWC, the Town could not establish that the project was planned or located in a manner that would be most compatible with the greatest public good, the Town had not established that it had made an adequate offer required by Government Code Section 7267.2 and the Yermo water system could not be segregated without considerable expense and/or impairment of value.

The following members of the public spoke in opposition of the Town Council's Consideration of Two Proposed Resolutions of Necessity Authorizing the Town of Apple Valley's Acquisition of Apple Valley Ranchos Water Company's Apple Valley Water System by Eminent Domain and the Filing of a Complaint:

1. David Mueller
2. Tom Piper
3. Leane Lee
4. Leigh Jordan
5. Chuck Hanson
6. Pat Hanson
7. Eric Larsen
8. Kevin Phillips
9. Tony Penna
10. Greg Sorrenson
11. Diana Carloni-O'Malley
12. Al Rice

The following members of the public spoke in support of the Town Council's Consideration of Two Proposed Resolutions of Necessity Authorizing the Town of Apple Valley's Acquisition of Apple Valley Ranchos Water Company's Apple Valley Water System by Eminent Domain and the Filing of a Complaint:

1. Bernadette McNulty
2. Mark Shoup
3. Patrick Doran

There being no additional requests to speak, Mayor Pro Tem Stanton closed the public hearing at 8:42 p.m.

Marc Puckett, Assistant Town Manager, clarified for the benefit of the Town Council the financial issues that were brought up during public comments. He indicated that AVRWC provided very little information about their financials to the Town. He briefed the Town Council on potential savings to the public should the Town acquire the water agency.

A lengthy discussion ensued regarding whether or not bonds would be used to purchase AVRWC, various water rights, and retaining appropriate permits.

**MOTION**

Motion by Council Member Emick, seconded by Council Member Nassif, to adopt Resolution No. 2015-43, a Resolution of Necessity of the Town of Apple Valley Authorizing Acquisition by Eminent Domain of those portions of Apple Valley Ranchos Water Company's Water System known as the Apple Valley Water System to the extent located within the Town of Apple Valley.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Cusack

**MOTION**

Motion by Council Member Nassif, seconded by Council Member Bishop, to adopt Resolution No. 2015-44, a Resolution of Necessity of the Town of Apple Valley Authorizing Acquisition by Eminent Domain of those portions of Apple Valley Ranchos Water Company's Water System known as the Apple Valley Water System to the extent located within portions of the City of Victorville and an unincorporated area of the County of San Bernardino, State of California, or otherwise outside the boundaries of the Town of Apple Valley.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Cusack

**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 9:45 p.m.

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Barb Stanton, Mayor Pro Tem

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Debra Thomas, Deputy Town Clerk