

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

**REGULAR MEETING**

**MINUTES – January 26, 2016**

**CALL TO ORDER:**

Mayor Stanton 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; Cusack; Emick; Mayor Pro Tem Nassif; Mayor Stanton

**OPENING CEREMONIES**

**INVOCATION:** Pastor Cheryl Denny, Apple Valley Faith Center

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Mayor Pro Tem Nassif

**PRESENTATIONS:** Transparency Report: AV Ranchos Acquisition Process Expenditures to Date - Marc Puckett, Assistant Town Manager

**PUBLIC COMMENTS**

Tom Piper, Apple Valley, believed that robots would be the future of American workers. This would result in the loss of jobs in the United States. He believed that members in the community need to be educated so that they would be employable in the future.

Jonathan Kevles, PACE Program, requested that the Town Council revisit this program that provides funding for the community to make needed repairs to their homes. He spoke of the policies and procedures that the PACE Program must adhere to in order to remain funded.

**COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION**

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

Mayor Stanton commented on committee meetings and events that she attended.

**TOWN COUNCIL ANNOUNCEMENTS**

**Suggested items for future agenda:**

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

- A. Regular Meeting – Tuesday, February 9, 2016 – Council Chamber  
Regular Session at 6:30 p.m.**

**TOWN COUNCIL CONSENT AGENDA**

Motion by Council Member Bishop, seconded by Council Member Emick, to approve the Consent Calendar items numbered 1-8, respectfully.

Vote: Motion carried 5-0-0-0

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

Absent: None.

- 1. Approval of Minutes of the Town Council**
  - A. Regular Meeting – January 12, 2016**

**Recommendation:**  
Approve the subject minutes as part of the consent agenda.
- 2. Fee Waiver Request for American Cancer Society Relay for Life for Use of the Civic Center Park/Amphitheater**

**Recommendation:**  
For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$3,120.00.
- 3. Professional Veterinary Services - Spay/Neuter Surgeries**

**Recommendation:**  
Approve the Professional Veterinary Services - Spay/Neuter Surgeries Fee Schedule with an effective date of February 1, 2016, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.
- 4. Authorization to Award a Professional Services Agreement for the Apple Valley Safe Routes to School Master Plan - Project No. 2015-05**

**Recommendation:**  
Award a Professional Services Agreement to KOA Corporation for the Apple Valley Safe Routes to School Master Plan - Project No. 2015-05 subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.
- 5. Town Council Consideration of Proposed Resolution Declaring Intention to Reimburse Expenditures from the Proceeds of Obligations to be Issued by the Town and Directing Certain Actions**

**Recommendation:**  
That the Town Council take the following action: Adopt Resolution No. 2016-01, in accordance with United States Income Tax Regulations Section 1.150-2.

**6. Maintenance of Effort Base Year Level**

**Recommendation:**

That the Town Council adopt Resolution No. 2016-02, which sets the Maintenance of Effort Base Year Level for Fiscal Year 2008/2009 at \$0.

**7. Adopt Resolution No. 2016-03 - A Resolution of the Town Council of the Town of Apple Valley, California, Authorizing Submittal of Applications to the Department of Resources Recycling and Recovery (CalRecycle) Effective Until Rescinded by the Signature Authority of this Governing Body**

**Recommendation:**

That the Town Council adopt Resolution No. 2016-03, a Resolution of the Town Council of the Town of Apple Valley authorizing the Town Manager to execute Department of Resources Recycling and Recovery (CalRecycle) grants on behalf of the Town of Apple Valley.

**8. Accept the Final Map for Parcel Map No. 19536**

**Recommendation:**

Approve the final map for Parcel Map No. 19536.

**PUBLIC HEARINGS**

**9. Resolution of Necessity Determining that the Public Interest and Necessity Require the Acquisition of Right of Way, Identified as Portions of Assessor Parcel Nos. 0399-251-01, 0399-261-01 and 0399-261-02, for a Pedestrian and Bike Trail along the Eastern Levee of the Mojave River**

John Brown, Town Attorney, introduced the process that will be taken for discussion and presentation of this item.

Mark Easter, Best, Best and Krieger, discussed the legalities associated with this item and the findings that would need to be made in order to adopt the resolution.

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

Council Member Bishop asked for clarification from Mr. Miller that concrete would be used for the proposed trail.

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

Gary Ledford, Property Owner, presented a PowerPoint presentation for the benefit of the Town Council illustrating his objection to the proposed resolution.

Mayor Pro Tem Nassif asked questions of Mr. Ledford regarding proposed uses for the property in question.

Sherwood Beck, Vice President, Jess Ranch Homeowner's Association, stated that he was in support of the proposed project.

Denney Strong, Apple Valley, commented on the proposed project. He recommended the project be completed; however, he wanted to ensure that the property rights of the owner were protected.

Rusty Green, Apple Valley, recommended the project be completed.

Thurston Smith, Apple Valley, recommended that all parties involved discuss the matter for possible resolution.

Mr. Ledford noted that he would be out of Town for three (3) weeks, but would be willing to meet and discuss this matter with staff upon his return.

Discussion ensued regarding whether or not any other options or opportunities were available to possibly mitigate this matter.

Mr. Miller explained for the benefit of the Town Council that the Town had diligently pursued discussions and negotiations with Mr. Ledford and his representatives to come up with solutions to acquire the property.

Mr. Easter addressed Section 8 of the proposed Resolution of Necessity and how the process would work should the Town Council decide to adopt the resolution tonight. In addition, Mr. Easter briefly described each step for legal possession of the property interest to be acquired and the Town's certification deadline.

There being no additional requests to speak, Mayor Stanton closed the public hearing at 8:30 p.m.

#### **MOTION**

Motion by Mayor Pro Tem Nassif, seconded by Council Member Emick, to adopt Resolution No. 2016-04 for the acquisition in fee by eminent domain of portions of the property described as Assessor Parcel Nos. 0399-251-01, 0399-261-01 and 0399-261-02, located in the Town of Apple Valley, California, for the Mojave River Walk South Project.

Vote: Motion carried 5-0-0-0

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

Absent: None.

#### **10. A Request to Consider an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Modifying Chapter 9.31 "Residential Design Standards" as it Relates to Single Family Infill and Subdivision Development**

Mayor Stanton opened the public hearing at 8:38 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Town Clerk.

John Laraway, Apple Valley, believed that adoption of this ordinance would eliminate an individual's personal property rights for the design of their home.

There being no requests to speak, Mayor Stanton closed the public hearing at 8:51 p.m.

**MOTION**

Motion by Council Member Emick, seconded by Council Member Bishop, 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. 481 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

Absent: None.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 481.

**MOTION**

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

5. **Introduce** Ordinance No. 481, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying Chapter 9.31 "Residential Design Standards" as it relates to single family infill and subdivision development.
6. **Direct** staff to file a Notice of Exemption.

Vote: Motion carried 5-0-0-0

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

Absent: None.

11. **An Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Amending Table 9.28.030-A(B)(8) as it Relates to the Keeping of Llamas and Alpacas and Amending Section 9.29.030D as it Relates to Small Domestic Animals**

Mayor Stanton opened the public hearing at 8:56 p.m.

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

There being no requests to speak, Mayor Stanton closed the public hearing at 9:01 p.m.

### **MOTION**

Motion by Council Member Emick, seconded by Mayor Pro Tem Nassif, 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. 482 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

Absent: None.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 482.

### **MOTION**

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

5. **Introduce** Ordinance No. 482, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Table 9.28.030-A(B)(8) as it relates to small domestic animals.
6. **Direct** staff to file a Notice of Exemption.

Vote: Motion carried 5-0-0-0

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

Absent: None.

## **REPORTS, REQUESTS AND COMMUNICATIONS**

### **BUSINESS OF THE COUNCIL**

#### **12. Security Enhancing Measures for the Town of Apple Valley Council Chamber and Town Hall**

Captain Lana Tomlin, Apple Valley Police Department, presented the report as filed with the Town Clerk.

Mayor Stanton recommended a cost analysis be conducted based on Captain Tomlin's recommendation.

Tom Piper, Apple Valley, believed that this type of security measure was not necessary in the Chamber.

Discussion ensued regarding possible security measures that could be taken to enhance the safety and welfare of individuals in the Council Chambers.

It was the consensus of the Town Council to direct the Apple Valley Police Department to develop a plan based on the recommendations of the Town Council and bring back the matter to a future meeting for further review and approval.

**13. Vacancy on the Equestrian Advisory Committee**

Motion by Council Member Emick, seconded by Mayor Pro Tem Nassif, to nominate Sarah Johnson to the Town of Apple Valley Equestrian Advisory Committee.

Vote: Motion carried 5-0-0-0

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

Absent: None.

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

Frank Robinson, Town Manager, stated that the Senate passed Assembly Bill 21 dealing with Medical Marijuana Cultivation Licenses. Following their action last year, many cities passed their own local ordinances to maintain control. The legislature now feels that action was premature and should be addressed. The League of California Cities supports the legislature but still advises cities to pass their ordinances as soon as possible to maintain local control.

Secondly, the Town conducted its first Shred Fest this year allowing residents to bring boxes of old documents to destroy. Mr. Joseph Moon, Environmental and Transit Services Manager, is in charge of this program and provided an update that 385 boxes of documents were shred with 148 participants.

**CLOSED SESSION**

**14. Closed Session.**

Mayor Stanton announced that Council Member Cusack would be abstaining from one (1) or more of the closed session items as it pertained to Apple Valley Ranchos Water Company if needed, due to a potential conflict of interest. She stated that his company does business with the above referenced company.

Mayor Stanton adjourned the meeting of the Apple Valley Town Council at 9:24 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 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. 14-11-013 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.
- D. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8. Property: Apple Valley Ranchos Water Company; Authority Negotiator: Town Manager; Negotiating Parties: Liberty Utilities Co., Liberty WWH, Inc., Algonquin Power & Utilities Corp., Park Water Company, Western Water Holdings LLC, Tony Penna, General Manager, Apple Valley Ranchos Water Company; Under Negotiation: Price and Terms of Payment.
- E. Negotiations with Real Property Negotiator – Parcel Number: 3112-181-01 located at Highway 18, between Dale Evans Parkway & Rancherias Road, Apple Valley; Negotiating Parties: 360 Apple West, LLC; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.
- F. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1517935 - Apple Valley Ranchos Water Company vs. Town of Apple Valley Et Al.
- G. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1600180 – Town of Apple Valley vs. Apple Valley Ranchos Water Company Et Al.

Upon returning from Closed Session at 10:22 p.m., Mayor Stanton announced that there was no reportable action taken.

<b>ADJOURNMENT</b>
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Motion by Council Member Emick, seconded by Mayor Pro Tem Nassif, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 10:23 p.m.

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Barb Stanton, Mayor

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La Vonda M-Pearson, Town Clerk