

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

REGULAR MEETING/ADDENDUM

MINUTES – August 9, 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

Absent: None

OPENING CEREMONIES

INVOCATION: Pastor James Campbell, JC Enterprises

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

PRESENTATIONS: Fire District Ballot Measure, Fire Chief Sid Hultquist

PUBLIC COMMENTS

Cindy Toms, Apple Valley Kiwanis, announced a 9/11 memorial event that will be held at Civic Center Park on Saturday, September 10 at 9:00 a.m. She invited the Mayor to attend and speak at the event.

Patricia Perry, Apple Valley, expressed concern regarding incidents that have occurred in her home where she resides on Central Road. She stated that she has reached out for assistance to no avail. She respectfully requested the Town intervene with this matter.

Matthew Fairchild, Apple Valley, commented on the need for sidewalks in Apple Valley for added safety in the community.

Chris Ackerman, Apple Valley Chamber of Commerce, provided an update to the Town Council on events and activities that have occurred or are planned for Chamber members.

Tom Piper, Apple Valley, expressed concern regarding comments made by code enforcement officers in the community.

John Laraway, Apple Valley, expressed concern regarding the high number of regulations that the government places on citizens.

Cecil Volsch, High Desert Association of Realtors, expressed concern regarding the HERO and PACE programs.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

Council Member Cusack 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:

Council Member Cusack would like Town staff to address the municipal code as it relates to use of cargo containers in the Apple Valley Village PBID.

Council Member Cusack would like Town staff to address issues with a local housing tract.

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

**A. Regular Meeting – Tuesday, September 13, 2016 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Mayor Stanton announced that there was an immediate need to take action on an item that came to the attention of the Town after the agenda was posted. The need is to add Agenda Item Number 10 I. Personnel matters – Government Code Section 54957/Public Employee Discipline/Dismissal/Release.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Cusack, that there is an immediate need to add an item to the agenda that came to the attention of the Town after the agenda was posted. Motion to add item 10 I to the agenda stating that this item arose after the posting of the agenda and to add agenda item number 10 I, Personnel Matters – Government Code Section 54957/Public Employee Discipline/Dismissal/Release.

Vote: Motion carried 5-0-0-0

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

Absent: None.

Mayor Stanton announced that Mayor Pro Tem 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. Council Member Cusack also has a remote interest in specific warrants on tonight's Commercial Warrants dealing with Apple Valley Communications for the Town of

Apple Valley as owner of Apple Valley Communications; therefore, he, too, will be abstaining from voting on warrants for Apple Valley Communications listed under Agenda Item Number 2.

Mayor Pro Tem Nassif and Council Member Cusack also abstained from voting on Agenda items numbered 6 and 7 as business owners in the Apple Valley Village Property and Business Improvement District.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1-7A, as amended.

Vote: Motion carried 5-0-0-0

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

Absent: None.

Council Member Cusack abstained from voting on specific warrants listed under Agenda Item Number 2 and Agenda Items Numbered 6 and 7 as a business owner in the district. Mayor Pro Tem Nassif abstained from voting on specific warrants listed under Agenda Item Number 2 and Agenda Items Numbered 6 and 7 as a business owner in the district.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – July 26, 2016**
Recommendation:
Approve the subject minutes as part of the consent agenda.

2. **June 2016 - Commercial Warrants Schedule**
Recommendation:
That the Town Council receive, ratify and file the Commercial Warrants Schedule as presented.

3. **June 2016 Payroll / Benefits Warrants Schedule**
Recommendation:
That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.

4. **Award the Bid for the Purchase and Installation of a Prefabricated Restroom Building for Thunderbird Park**
Recommendation:
Award the bid for purchase and installation of a prefabricated restroom building for Thunderbird Park from CXT Incorporated in the not too exceed amount of \$68,621.33.

5. **Establishing Date and Time Certain for Public Hearing for Affirmatively Furthering Fair Housing (AFFH) Plan**
Recommendation:
That the Town Council establish September 27, 2016 at 6:30 p.m., as the date and time certain for the purpose of conducting a public hearing necessary to develop the Town's Affirmatively Furthering Fair Housing Plan in preparation for the 2017-2021 Consolidated Plan.

6. **Fiscal Year 2016-17 Budget of the Apple Valley Village Property and Business Improvement District (PBID) Association**
Recommendation:
That the Town Council approve the Fiscal Year 2016-17 Budget of the Apple Valley Village Property and Business Improvement District Association (Association).

7. **ADOPT Resolution No. 2016-26, a Resolution of the Town Council of the Town of Apple Valley, California, Approving the Levy and Collection of Assessments for Fiscal Year 2016-17 within the Apple Valley Village Property and Business Improvement District (PBID)**

Recommendation:

That the Town Council adopt Resolution No. 2016-26, approving the Levy and Collection of Assessments for Fiscal Year 2016-17 within the Apple Valley Village Property and Business Improvement District (PBID).

PUBLIC HEARINGS

8. **A Request to Introduce Ordinance No. 486, An Ordinance of the Town Council of the Town of Apple Valley, California, Establishing a Community Choice Aggregation Program**

Mayor Stanton opened the public hearing at 7:38 p.m.

Joseph Moon, Public Services Manager, presented the staff report as filed with the Town Clerk.

Kirby Dusel, Pacific Energy Advisors, presented an overview of the Community Choice Aggregation Program (CCA) implementation plan.

Brian Goldstein, Pacific Energy Advisors, continued with the presentation discussing the key elements of the Apple Valley Choice Energy program.

Questions were asked by members of the Town Council regarding fiscal impacts as a result of non-compliance with state mandates, Town participation, power delivery, distribution and billing tiers.

Lawrence McCarthy, Apple Valley, commented on the implementation plan and the impact that it would have on its customers.

Richard Rorex, Apple Valley, commented on the opt out policy of the CCA. He believed residents should be encouraged to opt in and not opt out if this program is a benefit for the community.

Marc Puckett, Assistant Town Manager, noted that customers would not be required to give a deposit. He also explained that customers would opt out one time at the beginning of the program. Thereafter, this process is not necessary. He also commented on the benefit of the CCA that provides a benefit to residents by reducing rates at a minimum of 1-5%.

Frank Robinson clarified that deposits would only be required for customers whose previous non-paid bills with another service provider or those establishing credit as outlined on page 8-42 in the report.

There being no additional requests to speak, Mayor Stanton closed the public hearing at 8:50 a.m.

Mayor Pro Tem Nassif commented on the attractiveness of this program for future development and businesses in the community.

Council Member Bishop believed that this program would be a direct benefit to our citizens. He stated that he would support the program.

Council Member Cusack stated that he supported moving forward with this program and the benefits it will provide to the business community.

Council Member Emick concurred with the statements made by the Council. He too felt this program would be a great service for our citizens.

Mayor Stanton stated that this program will help the citizens and the Town of Apple Valley.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Emick, to waive the reading of Ordinance No. 486 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. 486

MOTION

Motion by Council Member Bishop, seconded by Mayor Pro Tem Nassif, to introduce Ordinance No. 486 adopting the Apple Valley Choice Energy (AVCE) Implementation Plan and Statement of Intent.

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

9. Discussion on Private Roads

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

This was a receive and file item only. There was no action taken.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Fire Chief Sid Hultquist, Apple Valley Fire Protection District, updated the Town Council and the public on the Pilot Fire. He stated that the fire is currently at 7700 acres. He also announced that mandatory evacuations have been lifted. The school districts of Apple Valley and Hesperia will remain closed due to air quality. Currently approximately 1400 firefighters are working on this incident.

Frank Robinson, Town Manager, announced that a tax seminar would be held Wednesday, August 17, 2016 beginning at 9:00 a.m. He also announced that the Desert Mountain Division meeting would be held on Friday, August 12, 2016 in Mammoth, California.

CLOSED SESSION

10. 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 Liberty Utilities if needed, due to a potential conflict of interest. She stated that his company does business with the above referenced company.

Mayor Stanton adjourned to Closed Session at 9:22 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.

- H. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No. CIVDS160498 – Christina Lopez – Burton vs. Town of Apple Valley.
- I. Personnel Matters – Government Code Section 54957/Public Employee Discipline/Dismissal/Release.

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

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 10:11 p.m.

Barb Stanton, Mayor

La Vonda M-Pearson, Town Clerk