

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

**REGULAR MEETING**

**MINUTES – September 13, 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

<b>OPENING CEREMONIES</b>
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**INVOCATION:** Pastor Joseph Valery, Victory in Jesus Bible Faith Center

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

**PRESENTATIONS:** Support Apple Valley Events (SAVE) Sponsor Recognition, Kathie Martin, Marketing and Public Affairs Officer

Disaster Service Workers Recognition, Joseph Ramos, Emergency Services Officer

Citizens Against Legalizing Marijuana (CALM) Presentation, Scott Chipman

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

<b>PUBLIC COMMENTS</b>
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Jean Weisner, Apple Valley, commented on her husband's medical needs and expressed her support for medical marijuana.

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

Jim Peugh, Apple Valley Lions Club, invited the Town Council to attend its free Health Fair & Vision Screening scheduled for Saturday, September 17, 2016, at James Woody Community Center.

Tom Piper, Apple Valley, requested more transparency from the Town with respect to the water acquisition and commented on his understanding of the bonds needed to acquire the water company.

Pat Hanson, Apple Valley, requested that the Town's bike lanes be named in memory of her late husband, Chuck Hanson.

Dan Leary, Apple Valley Fire Protection District, provided clarification on Measure A and the services it will provide.

Doug Qualls, Apple Valley, provided statistics in support of Measure A.

Sean Gillette, Vanguard Academy, invited the Town Council to attend the school's Lego Robotics Tournament scheduled for Saturday, November 5, 2016.

Frank Kelly, No Drugs America, expressed his opposition to medical marijuana. He is concerned about the large population in California supporting its recreational use and his desire to keep it out of the hands of children.

Claudette Harris, Graduate Student of Cal State Fullerton, stated that 18 and 19 year old individuals can easily get medical marijuana cards and commented on how easy it is to abuse.

John Laraway, Apple Valley, opposed the recreational use of marijuana; however he supports the medical use aspect.

William Furmage, Apple Valley, requested that a bike lane be put in place on Mockingbird traveling west to the plaza where Sonic Burgers is located.

Andrew Castrillon, Apple Valley, described for the Town Council his mother's ailments and supports medical marijuana use.

Eric Larsen, Liberty Utilities, rebutted some of the comments made by Mr. Marc Puckett in his Transparency Report. He stated that Liberty Utilities ratepayers are not paying for the eminent domain defense; the money used to support any type of campaign is provided by the Liberty Utilities owners.

Barbara Clements, Apple Valley, supports the use of medical marijuana.

Alex Wolverton, Apple Valley, supports the use of medical marijuana.

Lisa Johnson, Apple Valley, supports the use of medical marijuana due to her health issues.

Dan Johnson, Apple Valley, supports the use of medical marijuana due to his health issues.

Kelly Bergstrom, Apple Valley, supports the Town's proposed Ordinance No. 487.

Katie Polson, Apple Valley, supports the use of medical marijuana.

<b>COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION</b>
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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.

Mayor Pro Tem Nassif expressed concern about a Letter to the Editor penned by Ms. Leane Lee and printed in the Daily Press on September 11, 2016, regarding her accusations that the Town of Apple Valley lacks transparency with respect to the Town's Assessment District 98-1.

Marc Puckett, Assistant Town Manager, addressed the Town Council and provided clarification on the Assessment District 98-1 and its annual assessments. Additionally, Mr. Puckett provided Council with documentation that is available to the public upon request.

### TOWN COUNCIL ANNOUNCEMENTS

#### **Suggested items for future agenda:**

Council Member Emick provided Council with an activities list provided by SANBAG and asked that staff bring some of the projects back for consideration.

Council Member Bishop asked that staff bring back a staff report addressing the naming of bike lanes in honor of Chuck Hanson.

Council Member Emick requested that an ordinance be brought forward addressing butane.

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

**A. Regular Meeting – Tuesday, September 27, 2016 – Council Chamber  
Regular Session at 6:30 p.m.**

### TOWN COUNCIL CONSENT AGENDA

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.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1-14.

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. Mayor Pro Tem Nassif abstained from voting on specific warrants listed under Agenda Item Number 2.**

1. **Approval of Minutes of the Town Council**
  - A. **Regular Meeting – August 9, 2016**  
**Recommendation:**  
Approve the subject minutes as part of the consent agenda.
  
2. **July 2016 - Commercial Warrants Schedule**  
**Recommendation:**  
That the Town Council receive, ratify and file the Commercial Warrants Schedule as presented.
  
3. **July 2016 Payroll / Benefits Warrants Schedule**  
**Recommendation:**  
That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.
  
4. **Claimant – Michael A. Madsen**  
**Recommendation:**  
Reject the claim of Michael A. Madsen.
  
5. **Claimant – Bernadette Marie Lopez**  
**Recommendation:**  
Reject the claim of Bernadette Marie Lopez.
  
6. **Agreement between the Town of Apple Valley and the Apple Valley Unified School District for Use of the Swimming Pool**  
**Recommendation:**  
Approve the updated Swimming Pool Use Agreement between the Town and the Apple Valley Unified School District (AVUSD).
  
7. **Adopt Ordinance No. 486 – An Ordinance of the Town Council of the Town of Apple Valley to Adopt the Apple Valley Choice Energy (AVCE) Implementation Plan and Statement of Intent**  
**Recommendation:**  
Adopt Ordinance No. 486 adopting the Apple Valley Choice Energy (AVCE) Implementation Plan and Statement of Intent.
  
8. **Advertise Townwide Class II Bikeway Upgrade – Project No. 2016-03**  
**Recommendation:**
  1. That the Town Council review and approve the project plans, specifications and bid documents for the Townwide Class II Bikeway Upgrade -- Project No. 2016-03.
  2. That the Town Council authorize staff to solicit bids for construction of said project.
  
9. **Mojave Riverwalk South Project – Project No. 2015-08**  
**Recommendation:**  
Award a contract to C.S. Legacy for the Mojave Riverwalk South Project No. 2015-08 subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.
  
10. **Bear Valley Bike Path – Project No. 2012-03**  
**Recommendation:**  
Award a contract to Riverside Construction for the Bear Valley Road Bike Path Project – Phase 1, No. 2012-03 subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.

**11. Acceptance of Work, Notice of Completion and Release of Retention for the Yucca Loma Bridge/Yates Road — Project No. 2013-04**

**Recommendation:**

That the Town Council:

1. Accept the work completed as part of the Yucca Loma Bridge over the Mojave River and Yates Road Improvements – Project No. 2013-04, for a total cost of \$37,241,579.20 (thirty seven million, two hundred forty one thousand, five hundred seventy nine dollars and twenty cents).
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.

**12. Adopt Resolution No. 2016-27 Designating the Town Manager and/or Town Engineer as the Town's Agent to Execute for and on Behalf of all Matters Pertaining to the Department of Transportation of the State of California**

**Recommendation:**

Adopt Resolution No. 2016-27, A Resolution of the Town Council of the Town of Apple Valley, California, designating the Town Manager and/or Town Engineer, as the Town's agents for all matters pertaining to the Department of Transportation of the State of California.

**13. Adopt Resolution No. 2016-28 of the Town Council of the Town Of Apple Valley, California, Amending Resolution No. 2014-44, Amending the Conflict of Interest Code Pursuant to the Political Reform Act by Reference to the Standard Conflict of Interest Code Set Forth in Section 18730 of the Regulations of the Fair Political Practices Commission As Amended**

**Recommendation:**

That the Town Council adopt Resolution No. 2016-28.

**14. Cutting Off Our Supply – Spay/Neuter Incentive Program and Licensing Late Fee Amnesty**

**Recommendation:**

That the Town Council authorize the Director of Animal Services to implement the CUTTING OFF OUR SUPPLY - SPAY/NEUTER INCENTIVE PROGRAM AND LICENSING LATE FEE AMNESTY, including approving discounts in adoption fees, microchips, return-to-owner fees, amnesty on dog license late fees (1 year only) and spay/neuter vouchers when donations have been secured to offset the discounts without impacting the operating budget of the Department.

**Mayor Stanton recessed the meeting of the Apple Valley Town Council at 9:55 p.m.**

**Mayor Stanton reconvened the meeting of the Apple Valley Town Council at 10:03 p.m.**

**PUBLIC HEARINGS**

**15. A Request to Consider an Amendment to Title 9 Development Code to Add Section 9.36.230 Prohibiting Dispensaries, Cannabis Manufacturers and the Cultivation and Delivery of Cannabis and to Remove Redundancies in the Municipal Code**

Mayor Stanton opened the public hearing at 10:04 p.m.

John Brown, Town Attorney, introduced Jordan Ferguson, Town Attorney to present the staff report as filed with the Town Clerk.

**PUBLIC COMMENTS:**

Mayor Stanton read a letter, into the record, from Mr. William McDaniel supporting Ordinance No. 487.

The following members of the public oppose the Town's proposed Ordinance No. 487:

Pamela Epstein  
Kasha Herrington  
Francis Shawwecker  
Diana Cosato  
Laura Hardin  
Thomas Place  
Wade Corley  
David Thomas  
Joshua L.  
Tyra Hoytt  
Norman H.  
James Blackburn  
Linda Tomko  
John Laraway  
Lydia Corley  
Rachael DeBolt  
Sarah Thompson

The following members of the public support the Town's proposed Ordinance No. 487:

JoAnn Betty  
Frecia Johnson  
Aja Shaw

The following members of the public oppose the Town's proposed Ordinance No. 487, however did not wish to comment:

J.D.  
Derek Scott  
Brittany  
Scott Magee  
Joel Cruz  
Miguel Gonzalez, Jr.  
Ben Bradley  
Savannah Morrell  
Christopher Lopez

There being no additional requests to speak, Mayor Stanton closed the public hearing at 11:36 p.m.

Lengthy discussion ensued and addressed the personal, medical and commercial use of marijuana if Proposition 64 passes at the state level.

Mr. Ferguson also commented on how Ordinance No. 487 addresses public safety issues that he believed could be caused by Proposition 64.

Council Member Emick described his history with drug companies and how pharmaceuticals are being pushed on the pharmacies. He also commented on his experience with the heroin/opiate addiction and the public safety issue surrounding medical marijuana.

Council Member Bishop requested clarification on steps to set up the planning and permit regulations based on Proposition 64's passage.

Council Member Cusack clarified that residents obtaining their medical marijuana will not be hindered by this Ordinance.

Mayor Pro Tem Nassif explained that the intent of this ordinance is to extend the regulations that local jurisdictions have in the event of passage of this proposition.

Mayor Stanton would like Council to re-consider allowing cannabis deliveries in the Town of Apple Valley.

### **MOTION**

Motion by Council Member Bishop, seconded by Council Member Emick, move 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. 487 in its entirety and read by title only.

Vote: Motion carried 4-0-1-0

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

No: Mayor Stanton.

Absent: None.

Debra Thomas, Deputy Town Clerk, read the title to Ordinance No. 487.

## **MOTION**

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

5. **Introduce** Ordinance No. 487, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by adding Section 9.36.230 Prohibiting Dispensaries, Cannabis Manufacturers and the Cultivation and Delivery of Cannabis in the Municipal Code.
6. Direct staff to file a Notice of Exemption.

Vote: Motion carried 4-0-1-0

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

No: Mayor Stanton

Absent: None.

### **16. An Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code Repealing Provisions Regulating Sex Offender Residency**

Mayor Stanton opened the public hearing at 12:20 a.m.

Jordan Ferguson, Town Attorney, presented the staff report as filed with the Town Clerk.

There being no additional requests to speak, Mayor Stanton closed the public hearing at 12:25 a.m.

## **MOTION**

Motion by Council Member Bishop, seconded by Mayor Pro Tem Nassif, move 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. 488 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.

Debra Thomas, Deputy Town Clerk, read the title to Ordinance No. 488.

**MOTION**

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

5. **Introduce** Ordinance No. 488, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by repealing provisions regulating sex offender residency.
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.

17. **Introduce Ordinance No. 489 - An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Title 8 of the Town of Apple Valley Municipal Code by Amending Chapters 8.10, 8.12, 8.16, 8.18, 8.21, 8.22 and 8.26, Adopting, as modified, the 2016 Edition of the California Building Code Volumes 1 and 2 including the Appendix and Standards, the 2016 Edition of the California Electrical Code, the 2016 Edition of the California Plumbing Code, the 2016 Edition of the California Mechanical Code, the 2016 Edition of the California Energy Code, the 2016 Edition of the California Residential Code, the 2016 Edition of the California Green Building Code and Adopting other Regulations Relating to Building Requirements**

Mayor Stanton opened the public hearing at 12:26 a.m.

Patrick Carroll, Building Official presented the staff report as filed with the Town Clerk's office.

There being no additional requests to speak, Mayor Stanton closed the public hearing at 12:28 a.m.

**MOTION**

Motion by Council Member Bishop, seconded by Mayor Pro Tem Nassif, move 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, stating that 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 Municipal Code and adopt the Findings.

3. **Find** that the proposed Town 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. 489 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.

Debra Thomas, Deputy Town Clerk read the title Ordinance 489.

### **MOTION**

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

5. **Introduce** Ordinance No. 489, amending Chapters 8.10, 8.12 & 8.22 of the Municipal Code as it relates to the adoption of the California Code of Regulations, Title 24, Parts 1-12.

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**

18. **Selection of Town Council Voting Delegate and Voting Alternate to League of California Cities' 2016 Annual Conference**

Mayor Stanton, presented the staff report as filed with the Town Clerk.

Mayor Stanton nominated Mayor Pro Tem Nassif to serve as the Voting Delegate to the League of California Cities' 2016 Annual Conference. Mayor Pro Tem Nassif nominated Mayor Stanton as a voting alternate and Mayor Stanton nominated Council Member Bishop as a second voting alternate.

### **MOTION**

Motion by Council Member Emick, seconded by Council Member Cusack, move to:

Nominate Mayor Pro Tem Nassif to serve as the Voting Delegate to the League of California Cities' 2016 Annual Conference and Mayor Stanton and Council Member Bishop as the voting alternates.

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**

None.

**CLOSED SESSION**

Lori Lamson, Assistant Town Manager stated that due to the late hour, Agenda Item No. 19 will be continued to the next Town Council meeting scheduled for September 27, 2016.

**ADJOURNMENT**

Motion by Council Member Bishop, seconded by Council Member Emick, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 12:35 a.m.

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Barb Stanton, Mayor

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Debra Thomas, Deputy Town Clerk