

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

**REGULAR MEETING**

**MINUTES – September 27, 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 Stanton

Absent: Mayor Pro Tem Nassif

**OPENING CEREMONIES**

**INVOCATION:** Brother Brad Rook, Church of Jesus Christ Latter Day Saints

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

**PRESENTATIONS:** Mayor Stanton to Administer Oath of Office to New Disaster Service Workers

Local Public Safety Heroes Month Recognition presented to Police Captain Lana Tomlin, Apple Valley Sheriff's Division and Fire Chief Sid Hultquist, Apple Valley Fire Protective District

**PUBLIC COMMENTS**

Matthew Fairchild, Apple Valley, expressed concern regarding the need for sidewalks in the Town of Apple Valley.

Lawrence McCarthy, Apple Valley, asked questions regarding the commercial warrants on the last agenda.

Lina Vasquez Lopez, Apple Valley, expressed concern regarding difficulty she is having with the Animal Services Division and animals in her neighborhood.

Tom Piper, Apple Valley, commented on the need for cameras on officers.

**COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION**

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

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

Council Member Bishop 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:**

None.

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

**A. Regular Meeting – Tuesday, October 25, 2016 – Council Chamber  
Regular Session at 6:30 p.m.**

### TOWN COUNCIL CONSENT AGENDA

Mayor Stanton announced that there is 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 17J. Conference With Legal Counsel – Existing Litigation (Subdivision (A) Of Section 54956.9) Briggs V. The Town of Apple Valley; San Bernardino Superior Court Case No. CIVVS 1103746.

#### **MOTION**

Motion by Council Member Emick, seconded by Council Member Bishop, 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. Motion to add Agenda Item Number 17J. Conference With Legal Counsel – Existing Litigation (Subdivision (A) Of Section 54956.9) Briggs V. The Town of Apple Valley; San Bernardino Superior Court Case No. CIVVS 1103746.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop; Cusack; Emick; Mayor Stanton.

Absent: Mayor Pro Tem Nassif.

#### **MOTION**

Council Member Bishop requested Agenda Items numbered 12 and 13 be pulled from the agenda.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1-11, and that Agenda Items numbered 12 and 13 be pulled from the Consent Calendar.

Mayor Stanton announced that she would be voting no on Agenda Item Number 2.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop; Cusack; Emick; Mayor Stanton.

Absent: Mayor Pro Tem Nassif.

1. **Approval of Minutes of the Town Council**
  - A. **Regular Meeting – September 13, 2016**  
**Recommendation:**

Approve the subject minutes as part of the consent agenda.

2. **Adopt Ordinance No. 487 – An Ordinance of the Town Council of the Town of Apple Valley, California, to Amend 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**  
**Recommendation:**  
Adopt Ordinance No. 487
3. **Adopt Ordinance No. 488 – An Ordinance of the Town Council of the Town of Apple Valley, California, to Amend Title 9 Development Code Repealing Provisions Regulating Sex Offender Residency**  
**Recommendation:**  
Adopt Ordinance No. 488
4. **Adopt 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, 8.14, 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 Green Building Code, the 2016 Edition of the California Residential Code, the 2016 Edition California Energy Code and Adopting other Regulations Relating to Building Requirements**  
**Recommendation:**  
Adopt Ordinance No. 489
5. **Treasurer’s Report – June 2016 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 Town Council receive and file the June 2016 Treasurer’s Report.
6. **Treasurer’s Report – July 2016 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 Town Council receive and file the July 2016 Treasurer’s Report.
7. **Claimant – Ryan Jacob Wolf**  
**Recommendation:**  
Reject the claim of Ryan Jacob Wolf.
8. **Claimant – Jennifer De La Cruz**  
**Recommendation:**  
Reject the claim of Jennifer De La Cruz
9. **Adopt Resolution No. 2016-30, A Resolution of the Town Council of the Town of Apple Valley, California, Authorizing Certain Individuals to Execute For and In Behalf of the Town of Apple Valley for the Purpose of Obtaining Financial Assistance in the event of an Emergency.**  
**Recommendation:**

Adopt Resolution No. 2016-30, a Resolution of the Town Council of the Town of Apple Valley, California, authorizing certain individuals to execute for and in behalf of the Town of Apple Valley for the purpose of obtaining financial assistance in the event of an emergency.

**10. Adoption Resolution No. 2016-31, A Resolution of the Town Council of the Town of Apple Valley, California, Authorizing the Application for Grant Funds from the California Urban Rivers Grant Program Under the Water Quality, Supply and Infrastructure Improvement Act of 2014 (Proposition 1)**

**Recommendation:**

That the Town Council adopt Resolution No. 2016-31, approving the Application for Grant Funds from the California Urban Rivers Grant Program Under the Water Quality, Supply and Infrastructure Improvement Act of 2014 (Proposition 1).

**11. Emergency Planning/Services Joint Agreement between the Town of Apple Valley, Apple Valley Fire Protection District and the Apple Valley Unified School District**

**Recommendation:**

That the Town Council ratify the Emergency Planning/Services Joint Agreement between the Town of Apple Valley, Apple Valley Fire Protection District and the Apple Valley Unified School District.

**PULLED FROM THE CONSENT AGENDA**

**12. Acceptance of Improvements, Town Center Drive**

Council Member Bishop thanked staff for their work on this project.

**MOTION**

Motion by Council Member Cusack, seconded by Council Member Bishop, to formally accept the public improvements on Town Center Drive, between Jess Ranch Parkway and Apple Valley Road, and include this segment of roadway in the Town's Maintained Roadway Network.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop; Cusack; Emick; Mayor Stanton.

Absent: Mayor Pro Tem Nassif.

**13. Donation to the Victor Valley Bicycle Tour**

Discussion ensued regarding a monetary donation to the Victor Valley Bicycle Tour.

Thurston "Smitty" Smith, Apple Valley, shared with the Town Council that the bicycle trail crossing the Yucca Loma Bridge will be included into the 2017 Victor Valley Bicycle Tour.

**MOTION**

Motion by Council Member Bishop, seconded by Council Member Cusack, to approve the donation of \$1,250.00 in support of the Victor Valley Bicycle Tour, planned for Saturday, October 29, 2016.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop; Cusack; Emick; Mayor Stanton.

Absent: Mayor Pro Tem Nassif.

## PUBLIC HEARINGS

### 14. Public Hearing for Affirmatively Furthering Fair Housing (AFFH) Plan

Mayor Stanton opened the public hearing at 7:19 p.m.

Orlando Acevedo, Assistant Director of Economic and Community Development, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Stanton closed the public hearing at 7:22 p.m.

#### **MOTION**

Motion by Council Member Bishop, seconded by Council Member Cusack, to consider public comments received and recommendations of the Community Development Citizen Advisory Committee (CDCAC) and approve the Assessment of Fair Housing (AFH).

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop; Cusack; Emick; Mayor Stanton.

Absent: Mayor Pro Tem Nassif.

## REPORTS, REQUESTS AND COMMUNICATIONS

### **BUSINESS OF THE COUNCIL**

### 15. Discussion regarding Modification to the Development Code Regulations as it pertains to Allowing Flexibility to Setbacks within the Ranchos Tract Overlay Area

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

It was the consensus of the Town Council to direct staff to move forward with this item.

### 16. Discussion regarding Modification to the Development Code Regulation for Cargo Containers in the Commercially Zoned Property within the Village PBID Area

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

It was the consensus of the Town Council to direct staff to move forward with this item.

### 16A. Adopt Resolution No. 2016-32 – A Resolution of the Town Council of the Town of Apple Valley, California, Supporting Measure A on the November 8, 2016 Ballot for the Apple Valley Fire Protection District

The Town Council Members each expressed their support for Measure A and the need for this measure to be approved at the November 8, 2016 election.

Mayor Stanton read a fact sheet regarding the Measure.

## **MOTION**

Motion by Council Member Bishop, seconded by Council Member Cusack, to adopt Resolution No. 2016-32, A Resolution of the Town Council of the Town of Apple Valley supporting Measure A on the November 8, 2016 Ballot for the Apple Valley Fire Protection District.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop; Cusack; Emick; Mayor Stanton.

Absent: Mayor Pro Tem Nassif.

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

Ralph Wright, Parks and Recreation Manager, commented on recent and diverse events that have occurred at the Town during the last two (2) weeks, including the eyesight and dental program, Pokethon and the Reverse Triathlon. He thanked staff for their hard work.

Frank Robinson, Town Manager, commented on new and upcoming bills currently supported by the League of California Cities. This includes AB 1787, Local Government Translation Services, a bill requiring the legislative body, who limit time for public comment, to double that time if the person speaking needs a translator. Additionally, AB 2693, Property Assessed Clean Energy (PACE), enhances existing consumer protections and disclosures associated with the PACE program.

Brad Miller, Town Engineer, commented on the bids submitted for the Riverwalk Project. He stated that a grant was received for the project and the Town will be able to perform additional paving to extend the project.

## **CLOSED SESSION**

### **17. Closed Session**

Mayor Stanton announced that Council Member Cusack will be abstaining from one or more of the closed session items as it pertains to Liberty Utilities Company, due to a potential conflict of interest, as his company does business with the above company.

Mayor Stanton adjourned the meeting of the Apple Valley Town Council at 7:50 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. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1507221 – Leane Lee v. Town of Apple Valley.
- J. Conference With Legal Counsel – Existing Litigation (Subdivision (A) Of Section 54956.9) Briggs V. The Town of Apple Valley; San Bernardino Superior Court Case No. CIVVS 1103746.

Upon returning from Closed Session at 8:52 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 8:53 p.m.

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Barb Stanton, Mayor

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La Vonda M-Pearson, Town Clerk