

AGENDA

**APPLE VALLEY TOWN COUNCIL/
SUCCESSOR AGENCY**

NOVEMBER 15, 2016

ADJOURNED REGULAR SESSION BEGINS AT 6:30 P.M.

PLEASE SILENCE CELL PHONES AND PAGERS UPON ENTERING THE CHAMBER

The meeting will occur in the Council Chamber located at 14955 Dale Evans Parkway in Apple Valley, California.

This is an agenda for the scheduled meeting of the Town Council of the Town of Apple Valley.

This agenda contains a brief description of each item of business to be considered at today's meeting. In accordance with the Brown Act, this meeting agenda is posted at least 72 hours prior to the regularly scheduled meeting. The agenda, its supporting documents and all writings received by the Town Council related to these items are public records and available for review during regular business hours in the Town Clerk's office in the Town Council Chamber. The agenda and its supporting documents, along with live and archived video of the meeting, can be viewed online at <http://www.applevalley.org>. However, the online agenda may not include all available supporting documents or the most current version of documents.

Materials related to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the Town Clerk's Office at 14955 Dale Evans Parkway, Apple Valley, CA during normal business hours. Such documents are also available on the Town of Apple Valley website at www.applevalley.org subject to staff's ability to post the documents before the meeting.

Items listed on the Consent Calendar are expected to be routine and non-controversial and, unless the Town Council directs that an item be held for further discussion, the entire Consent Calendar will be acted upon as the first item of business. If the Town Council directs that an item listed on the Consent Calendar be held for further discussion, the item will be addressed immediately after approval of the Consent Calendar.

In accordance with the Rules of Procedure, members of the public may address the Town Council on any item on the agenda and on any matter that is within the Town Council's jurisdiction. To address the Town Council regarding an item, complete and submit the yellow card entitled Request to Speak. Please indicate on the card whether you are speaking under Public Comments or on an item that is listed on the agenda and please list the item number.

When called, approach the podium and if desired, please state your name before giving your presentation. Speakers may address the Town Council for up to three (3) minutes. Speakers are to address the Town Council as a whole through the Presiding Officer. Comments to individual Council Members and/or staff are not permitted.

Individuals, who demonstrate disruptive conduct during Town Council meetings that prevent the Town Council from conducting its meeting in an orderly manner, are guilty of a misdemeanor as stated in PC403, disrupting a public meeting and are subject to removal from the chamber or arrest. The Town of Apple Valley recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the Town Clerk's Office at (760) 240-7000 two working days prior to the scheduled meeting for any requests for reasonable accommodations.

TOWN COUNCIL REGULAR SESSION

CALL TO ORDER THE REGULAR SESSION OF THE TOWN COUNCIL MEETING – 6:30 p.m.

ROLL CALL

COUNCIL MEMBERS:

Bishop _____, Cusack _____, Emick _____, Mayor Pro Tem Nassif _____, Mayor Stanton _____.

(WHERE APPROPRIATE OR DEEMED NECESSARY, ACTION MAY BE TAKEN ON ANY ITEM LISTED IN THE AGENDA)

OPENING CEREMONIES

INVOCATION: Pastor Josh Gerbracht, First Assembly of God

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

PUBLIC COMMENTS

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

Boards, Committees and Commissions

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

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

TOWN COUNCIL CONSENT AGENDA

Recommendation: Adopt all below listed items on the Consent Agenda in one motion. The Consent Agenda is composed of routine non-controversial items of business and will be adopted in whole in one motion unless a request is made by a Council Member to remove a specific item.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – October 25, 2016**
Recommendation:
Approve the subject minutes as part of the consent agenda.

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

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

4. **Treasurer’s Report – September 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 September 2016 Treasurer’s Report.

5. **A Memorandum of Understanding between the Town of Apple Valley and the County of San Bernardino Regarding the Preparation and Implementation of the Multi-Species Habitat Conservation Plan/Natural Communities Conservation Plan**
Recommendation:
Approve and direct the Mayor to sign the Memorandum of Understanding (MOU) between the Town and the County of San Bernardino (County) for the continued preparation and implementation of the Multi-Species Habitat Conservation Plan/Natural Communities Conservation Plan (MSHCP/NCCP).

6. **Authorize Entering into an Agreement for the James Woody Lighting Project #368-16-05000866900 through Southern California Edison’s Customized Solution Program**
Recommendation:
Authorize the Town Manager or his Designee to proceed with the On Bill Financing (OBF) Project # 368-16-05000866900 through Southern California Edison and authorize entering into the OBF Agreement for the not to exceed amount of \$58,275.60.

7. **Set First Public Hearing for 2017-21 Consolidated Plan and 2017-18 First Year Action Plan**
Recommendation:
That the Town Council establish December 13, 2016, at 6:30 p.m., as the date and time certain for the purpose of conducting the first of two (2) public hearings related to the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs necessary to develop the Town’s 2017-21 Consolidated Plan and 2017-18 First Year Action Plan.

8. Fee Waiver Request for American Cancer Society Relay for Life for Use of the Civic Center Park/Amphitheatre

Recommendation:

For good cause shown and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$2,750.02.

9. Approval for Data Management and Customer Call Center Services for the Apple Valley Choice Energy (AVCE) CCA

Recommendation:

1. That the Town Council approve Noble Americas Energy Solutions to provide Data Management and Customer Call Center Services for the Apple Valley Choice Energy (AVCE) CCA.

2. That the Town Council authorize the Town Manager to execute the contract.

10. Approval of Legal Services Engagement Letter for the Apple Valley Choice Energy (AVCE) CCA

Recommendation:

1. That the Town Council Accept the Troutman Sanders LLP Legal Services Engagement Letter for Apple Valley Choice Energy (AVCE).

2. That the Town Council authorize the Town Manager to execute the Engagement Letter.

11. Yucca Loma Road Street and Striping Improvements (Safe Routes to School) – Project No. 2016-01

Recommendation:

That the Town Council award a contract to Sully-Miller Contracting Company for the Yucca Loma Road Street and Striping Improvements – Project No. 2016-01 in an amount not to exceed \$389,000.00 (Three hundred eight-nine thousand dollars).

12. Amendment 2 for Time Extension of the Construction Funding Agreement for the Yucca Loma Bridge – Project No. 2013-04

Recommendation:

That the Town Council approve Amendment No. 2 of Construction Funding Agreement C12227, between San Bernardino Associated Governments and the Town of Apple Valley, for the Yucca Loma Bridge over the Mojave River, subject to approval as to form by the Town Attorney.

13. Mojave Riverwalk South Project – Project No. 2015-08

Recommendation:

That the Town Council approve the Common Use Agreement, Contract No. 16-____, with the San Bernardino County Flood Control District, subject to approval as to form by the Town Attorney and as to content by the Town Manager.

14. A Resolution of the Town Council of the Town of Apple Valley, California, Amending the Classification Plan for the Town of Apple Valley

Recommendation:

That the Town Council adopt the attached Resolution No. 2016-36, a Resolution of the Town Council of The Town of Apple Valley, California, Amending the Current Classification Plan.

PUBLIC HEARINGS

15. An Amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Amending Code Sections 9.35 and 9.36 to Allow and Establish Standards for Cargo Containers in the Village Commercial (C-V) Zoning District

Recommendation:

Move to open the public hearing and take testimony. Close the public hearing. Then:

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. 490 in its entirety and read by title only.
5. **Introduce** Ordinance No.490, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying Chapters 9.35 and 9.36 as it relates to the use of cargo containers in the Village Commercial (C-V) zoning districts.
6. Direct staff to file a Notice of Exemption.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

None.

TOWN MANAGER’S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

None.

CLOSED SESSION

16. Closed Session

- 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 vs. Town of Apple Valley.
- J. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1517800 – Krause, Kalfayan, Benink & Slavens, LLP vs. Town of Apple Valley.

ADJOURNMENT

MOTION

Time: _____