

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

REGULAR MEETING

MINUTES – February 14, 2017

CALL TO ORDER:

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

Absent: None

OPENING CEREMONIES

INVOCATION: Pastor Josh Gerbracht, First Assembly of God

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

PRESENTATIONS: Proclamation - Healthy Heart Month - presented to Lena Quinonez, Apple Valley Parks and Recreation and Kevin Mahany, St. Mary's Medical Center.

PUBLIC COMMENTS

Kristi Sedlack, Apple Valley, expressed concern regarding loose dogs in her neighborhood.

Gwen Gollmeyer, Apple Valley, stated that she and the group in attendance were present with a desire to become more involved in the community and to show their support for tolerance.

Sharon Gollmeyer, Apple Valley, expressed concern regarding the change in billing cycles for trash in sewer payments. She stated that the explanations given regarding the issue were technical in nature and she believed that responsibility should have been taken. She noted that she also stood united with the members in the audience regarding tolerance.

John Laraway, Apple Valley, urged the Town Council not to fall prey to Agenda 21 giving up control of its freedoms. He also spoke against tolerance with other countries such as Islam and requested that the Town of Apple Valley disallow construction of any mosques.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

Council Member Stanton commented on committee meetings and events that she attended.

Mayor Pro Tem Bishop commented on committee meetings and events that he attended.

Mayor Nassif commented on committee meetings and events that he attended.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Mayor Pro Tem Bishop commented on the frustration level of residents with the recent actions of Sacramento passing various legislation that may have negative impacts on the Town of Apple Valley. He questioned whether or not research could be conducted to determine if any action could be taken by the Town.

Council Member Stanton requested a future agenda item be brought back for consideration regarding Development Code 9.08.1300 regarding Walls and Fences. She asked staff to present to Council a plan that might allow chain link fencing in single family residential infill lots.

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

- A. Regular Meeting – Tuesday, February 28, 2017 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Mayor Nassif announced that he 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 Items Number 2 and 3. 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 Items Number 2 and 3.

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 1-9.

Vote: Motion carried 5-0-0-0

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

Absent: None.

Council Member Cusack abstained from voting on specific warrants listed under Agenda Item Number 2 and 3. Mayor Nassif abstained from voting on specific warrants listed under Agenda Item Number 2 and 3.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – January 24, 2017**

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. **December 2016 Commercial Warrants and Wire Transfer Schedules**
Recommendation:
That the Town Council receive, ratify and file the Commercial Warrants and Wire Transfer Schedules as presented.
3. **January 2017 Commercial Warrants and Wire Transfer Schedules**
Recommendation:
That the Town Council receive, ratify and file the Commercial Warrants and Wire Transfer Schedules as presented.
4. **December 2016 Payroll / Benefits Warrants Schedule**
Recommendation:
That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.
5. **January 2017 Payroll / Benefits Warrants Schedule**
Recommendation:
That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.
6. **Treasurer's Report – December 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 the Town Council receive and file the December 2016 Treasurer's Report.
7. **Adopt Ordinance No. 491 – An Ordinance of the Town Council of the Town of Apple Valley, California, to Amend Title 9 Development Code Modifying Chapters 9.25, 9.28 and 9.35 as it Pertains to Setback Reductions through the Approval of a Deviation Permit within the Ranchos Residential Overlay District**
Recommendation:
Adopt Ordinance No. 491.
8. **Release of Securities for Tract Map Numbers 17062, 17186 and 17186-1**
Recommendation:
Find that the construction of various improvements required for Tracts 17062, 17186 and 17186-1 is complete and approve the fifty-percent (50%) reduction of the performance securities.
9. **Inter-fund Loan Agreement – General Fund/AVCE Fund**
Recommendation:
Adopt Inter-fund loan agreement between the General Fund and the Apple Valley Choice Energy Fund in an amount not-to-exceed \$2,500,000 for organizational and operational purposes for a term not-to-exceed seven (7) years.

PUBLIC HEARINGS

10. **FY 2016-2017 Enhancing Law Enforcement Activities Subaccount (ELEAS – COPS Grant)**
Mayor Nassif opened the public hearing at 7:08 p.m.

Captain Frank Bell, Apple Valley Police Department, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:10 p.m.

MOTION

Motion by Council Member Cusack, seconded by Mayor Pro Tem Bishop, to adopt the attached Resolution No. 2017-05 accepting the COPS grant in the amount of \$114,974 and authorize the allocation of the FY 2016-2017 Enhancing Law Enforcement Activities Subaccount (ELEAS) to supplement the juvenile officer position.

Vote: Motion carried 5-0-0-0

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

Absent: None.

11. Introduce Ordinance No. 492 – An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Chapter 6.30 of the Apple Valley Municipal Code as it relates to Nuisances

Mayor Nassif opened the public hearing at 7:11 p.m.

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

There being no requests to speak, Mayor Nassif closed the public hearing at 7:17 p.m.

Questions of staff were asked by the Town Council regarding the draft amendment. Discussion also ensued regarding the regulation of property.

MOTION

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

1. **Find** that the proposed adoption of Ordinance No. 492 is not subject to and is Exempt from CEQA based upon findings under CEQA Guidelines, Section 15061 Sub (b)(3) that can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.
2. **Move** to waive the reading of Ordinance No. 492 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

Absent: None.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 492.

MOTION

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

3. **Move** to Introduce Ordinance No. 492 amending Chapter 6.30 as it relates to Nuisances.
4. **Direct** staff to file a Notice of Exemption.

Vote: Motion carried 5-0-0-0

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

Absent: None

12. **Adopt Resolution No. 2017-06, A Resolution of the Town Council of the Town of Apple Valley, California, to Record Delinquent Utility Fees and Costs against Real Property Located in the Town of Apple Valley and Directing that Said Assessments Constitute a Lien upon Said Properties**

Mayor Nassif opened the public hearing at 7:20 p.m.

Kofi Antobam, Assistant Finance Director, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:24 p.m.

MOTION

Motion by Council Member Emick, seconded by Council Member Cusack, to adopt Resolution No. 2017-06, confirming delinquent utility fees and costs against real property located in the Town, and directing that said assessments constitute a lien upon said properties.

Vote: Motion carried 5-0-0-0

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

Absent: None

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

13. **Discussion regarding Modifying Existing Regulations for Garage/Yard Sales**

Lori Lamson, Assistant Town Manager, presented the staff report as filed with the Town Clerk. She commented that in reviewing the regulations of other communities, some cities preferred the use of regulated Town-wide garage sales that could be considered for the Town of Apple Valley.

Council Member Stanton spoke against regulated yard sales. She believed that residents should be allowed to set their own dates and times for personal yard sales.

Discussion ensued regarding the need to balance the rights of the residents to have yard sales with the amount of time and money spent on enforcement of violators.

John Laraway, Apple Valley, recommended that yard sale signs be required to list the address of the home having the sale.

It was the consensus of the Town Council to regulate business yard sales as they relate to commercial sales of new merchandise and continue with the compliance already dictated in the Town's Municipal Code.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, stated that votes are ongoing regarding AB 1 which refers to the State's Transportation Bill. He also stated that the Town is working to establish a time and date to conduct a workshop to update Town's Vision 20/20.

DEPARTMENTAL REPORTS AND BUSINESS

None.

CLOSED SESSION

14. Closed Session

Mayor Nassif stated that if needed, Council Member Cusack will be abstaining from one (1) 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 Nassif adjourned to Closed Session at 8:00 p.m. to discuss items 14A-14K.

- 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.
- K. Negotiations with Real Property Negotiator – Parcel Number: 3087-351-23. Negotiating Party: Town Negotiator - Town Manager. Negotiations involve both price and terms.

Upon returning from Closed Session at 9:14 p.m., Mayor Nassif announced that there was the following reportable action taken:

The Town Council, in order to avoid costs and expenditures of protracted litigation, has unanimously approved a settlement agreement resolving a lawsuit filed against the Town from 2016 involving Apple Valley resident, Christina Lopez-Burton. As part of that settlement the Town will conduct a periodic wastewater study to develop its user fees and charges. The Town will also transfer the sum of \$798,000 from its General Fund to the Wastewater Fund to fund Wastewater Capital Improvement Projects and will pay statutory attorney's fees in exchange for dismissal of Christina Lopez-Burton's lawsuit.

ADJOURNMENT

Motion by Council Member Stanton, seconded by Council Member Emick, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:16 p.m.

Scott Nassif, Mayor

LaVonda M-Pearson, Town Clerk