

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

**REGULAR MEETING**

**MINUTES – May 9, 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:** Mr. Orlando Acevedo, Assistant Director of Economic Development

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

**PRESENTATIONS:** Property Business Improvement District (PBID) Update, - Jack Collingsworth, PBID President

Housing and Urban Development (HUD) Funding Update, Orlando Acevedo, Assistant Director – Economic Development and Housing

**PUBLIC COMMENTS**

Matthew Fairchild, Apple Valley, presented suggestions that he believed would stimulate the Apple Valley economy.

Jim Blackburn, Apple Valley, believed the Town should allow marijuana businesses for the purposes of both recreational and medicinal use in Apple Valley.

Janate Valenzuela, Apple Valley, commented on Measure F and questioned the difference between the cases in Claremont, Montana and Apple Valley. She also questioned the total cost of eminent domain as well as the legal fees.

Alex Wolverton, Apple Valley, spoke on the need for safe access to marijuana for residents. He also recommended that members of the community vote Yes on Measure F so that the water would be locally owned.

Patricia Perry, Apple Valley, expressed concern regarding continued harassment that she is experiencing by her neighborhoods. She stated that she is trying to resolve the issue.

Kate Manning, Apple Valley, commented on Town leadership in Apple Valley and her belief that the Town is overspending its finances.

Kasha Herrington, Apple Valley, stated that she supports the Council's endeavor to purchase Liberty Water. She thanked the Town Council for their diligence

#### COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

Council Member Emick commented on committee meetings and events that he 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:

None.

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

- A. Regular Meeting – Tuesday, May 23, 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 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 3.

Motion by Council Member Emick, seconded by Mayor Pro Tem Bishop, to approve the Consent Calendar items numbered 1-6.

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 3. Mayor Nassif abstained from voting on specific warrants listed under Agenda Item Number 3.**

1. **Approval of Minutes of the Town Council**
  - A. **Regular Meeting – April 25, 2017**
  - B. **Special Meeting – May 3, 2017**

**Recommendation:**  
Approve the subject minutes as part of the consent agenda.
2. **Treasurer’s Report – March 2017 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 March 2017 Treasurer’s Report.
3. **April 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. **April 2017 Payroll / Benefits Warrants Schedule**

**Recommendation:**  
That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.
5. **A Resolution of the Town Council of the Town of Apple Valley, California, Amending the Personnel Policy and Procedure Manual for the Town of Apple Valley**

**Recommendation:**  
That the Town Council adopt the attached Resolution No. 2017-11, A Resolution of the Town Council of The Town of Apple Valley, California, amending the Personnel Policy and Procedure Manual for the Town of Apple Valley.
6. **Claimant – Tyrone E. Turner**

**Recommendation:**  
Reject the claim of Tyrone E. Turner

**PUBLIC HEARINGS**

None.

**REPORTS, REQUESTS AND COMMUNICATIONS**

**BUSINESS OF THE COUNCIL**

7. **Consider Adoption of Resolution in Support of Measure F**

Thomas Rice, Assistant Town Attorney, presented the staff report as filed with the Town Clerk. He clarified that the Attorney fees for eminent domain are not at an accelerated rate.

Council Member Stanton asked if the Town acquires Liberty utilities, can rates be reduced.

Marc Puckett, Assistant Town Manager, confirmed that the Town of Apple Valley will be able to reduce rates should the Town be successful in the eminent domain process. He explained the

process that would enable the Town of Apple Valley to reduce its rates due to savings in profits and taxes. In addition, savings would be realized due to not paying the profit-sharing costs and administrative overhead charges which could equate to a total savings of over \$11 million.

The Town Council Members asked questions regarding the ability for the Town to lower debt. Clarification was also requested, for the benefit of the public to distinguish the differences between the court cases in Claremont, Missoula Montana and the Town of Apple Valley as it relates to the water acquisition process.

Lawrence McCarthy, Apple Valley, stated that although the majority of his questions were answered, he still requested clarification on costs, interest rates, fees and payments to management for water services.

Kristi Sedlak, Apple Valley, stated that she supported the Town's endeavor to acquire the water company. She expressed concern regarding the high-water rates imposed by Liberty Utilities.

Tamra Doran, Apple Valley, stated that she supported Measure F. She thanked the Town Council for their diligence in pursuing the water company.

Tony Tyler, Apple Valley, stated that he supports the Town Council in passing Measure F.

Gina Borowski, Apple Valley, expressed concern regarding Measure F.

Bryen Wright, Apple Valley, asked questions regarding the potential savings if the Town acquires Liberty Utilities. He also asked questions regarding solutions to improve the financial stability of the Town of Apple Valley.

The Town Council Members each pledged their support for the passage of Measure F.

### **MOTION**

Motion by Mayor Pro Tem Bishop, seconded by Council Member Stanton, to adopt Resolution No. 2017-12, A Resolution of the Town Council of the Town of Apple Valley, California, Endorsing Measure F.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**8. Consider the Appointment of Assistant Town Manager, Lori Lamson, to the Position of Interim Town Manager Upon the Retirement of Town Manager, Frank Robinson, and Related Actions**

Frank Robinson, Town Manager, presented the staff report as filed with the Town Clerk.

### **MOTION**

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

1. Establish the temporary position of "Interim Town Manager" effective July 29, 2017, and Appoint Assistant Town Manager, Lori Lamson to this position;
2. If Item No. 1 is affirmed, authorize the Mayor and Town Manager to discuss Council's expectations, contract terms and compensation for this appointment with Assistant Town Manager, Lori Lamson; and
3. Agendize for a future Regular Council Meeting, date to be determined, consideration and action on contract terms and compensation for the Interim Town Manager appointment.

Vote: Motion carried 5-0-0-0

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

Absent: None.

**9. Discussion to Adjourn the Meeting of May 23, 2017 to May 30, 2017**

Mayor Nassif explained that members of the Council will be attending the ICSC Conference during the week of May 22 and requested the Town Council consider adjourning the meeting to Tuesday, May 30, 2017.

**MOTION**

Motion by Council Member Cusack, seconded by Council Member Emick, to adjourn the meeting May 23, 2017 of the Apple Valley Town Council to May 30, 2017.

Vote: Motion carried 5-0-0-0

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

Absent: None.

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

Frank Robinson, Town Manager, commented on Assembly Bill 1250, relating to public records. He stated that if passed, the bill could severely restrict a city's ability to conduct services.

**DEPARTMENTAL REPORTS AND BUSINESS**

None.

**CLOSED SESSION**

**10. Closed Session**

Before adjourning to Closed Session, Mayor Nassif announced the passing of community member Richard "Dick" Allen. He commented on the amount of community service that Dick provided to the Town of Apple Valley and the loss that will be felt by the community. He

respectfully suggested, and the Town Council concurred, to adjourn the meeting in memory of Mr. Richard "Dick" Allen.

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 8:40 p.m. to discuss items 10A-10I

- 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 Real Property Negotiators – Pursuant to Government Code Section 54956.8. Property: Apple Valley Ranchos Water Company (now Liberty Utilities (Apple Valley Ranchos Water) Corp.); 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.
- D. 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.
- E. 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.
- F. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1704285 – Carrillo Et Al. 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.: CIVDS1704206 – Golden State Environmental Justice Alliance vs. Town of Apple Valley Et Al.
- H. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1704262 – Sierra Club vs. Town of Apple Valley Et Al.
- I. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluation. Title: Town Manager.

**ADJOURNMENT**

Motion by Council Member Emick, seconded by Mayor Pro Tem Bishop, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council in memory of former Fire District Board Member, Planning Commissioner and community advocate Richard "Dick" Allen at 9:45 p.m.

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Scott Nassif, Mayor

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LaVonda M-Pearson, Town Clerk