

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

REGULAR MEETING

MINUTES – June 13, 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 Emick, Stanton, Mayor Pro Tem Bishop, Mayor Nassif.

Absent: Council Member Cusack

OPENING CEREMONIES

INVOCATION: Pastor Josh Gerbracht, First Assembly of God

PLEDGE OF ALLEGIANCE: Flag Salute, Boys Scout Troop 357

PRESENTATIONS: Presentation – Employee of the Quarter presented to Adriana Atteberry, Administrative Secretary, Animal Services

Presentation – Town Clerk’s Internship Program, La Vonda M-Pearson, Town Clerk

Special Recognition – Don Ferrarese, Apple Valley Community Advocate

PUBLIC COMMENTS

Kirby Brill, Mojave Water Agency, introduced the new General Manager, Mr. Tom Mc Carthy, to the Town Council and public. Mr. Brill thanked the Town Council for their continued support during his 17-year tenure with the Mojave Water Agency.

Tom Mc Carthy, General Manager, introduced himself and provided a brief history of his work experience. He stated that he is excited to begin a new working relationship with the Town of Apple Valley.

Bill Szymborski, Apple Valley, express concern regarding fireworks in Apple Valley. He respectfully requested that the Town Council raise awareness of illegal fireworks in Apple Valley.

Barbara Clements, Apple Valley, read a statement into the record regarding a bill that comes from the Federal Government regarding revenue from the sales of medical marijuana. She respectfully requested that the Town Council consider legalizing marijuana in Apple Valley.

Kasha Herrington, Apple Valley, congratulated the Town Council on the success of Measure F.

Thurston "Smitty" Smith, Apple Valley, commented on the 10-mile Family Fun Ride Event to be held in October. He thanked the agencies that support the bike tours and encouraged the public to visit www.victorvillebicycletour.com for more information. He also commented on the new bicycle signs that came from the sponsorship they received. He requested that the bicycle signs be posted throughout the Town.

Jim Blackburn, Apple Valley, congratulated the Town Council on the success of Measure F. He also commented on medical cannabis. He read into the record an article from the New England Journal of Medicine regarding medical benefits that come from marijuana.

Martha Ramirez, Broken Hearts Ministry, commented on the success of the food bank. She stated that 36 thousand pounds of food was distributed to the community. She thanked Pastor Medina for his hard work and continued support. She respectfully requested the Council continue its support for the funding needed to help those in need.

Patricia Perry, Apple Valley, expressed concern regarding what she believed to be a lack of response by the Apple Valley Police Department. She also commented on the ongoing harassment she receives from her neighbors. Ms. Perry respectfully requested assistance by the Council regarding these matters.

John Laraway, Apple Valley, congratulated the Town Council on the success of Measure F; he looks forward to the Town managing the water services. He also commented on the recent terrorist attack in London.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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:

None.

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

**A. Regular Meeting – Tuesday, June 27, 2017 – Council Chamber
Regular Session at 6:30 p.m.**

It was the consensus of the Town Council to hear Agenda Item Number 8 at this time.

8. Appeal of the Intent to Revoke Business License #00013688 Issued to Bright Futures Academy, LLC.

Mayor Nassif opened the Public Hearing at 7:31 p.m.

Marc Puckett, Assistant Town Manager, presented the staff report as filed with the Town Clerk.

Captain Frank Bell, Apple Valley Police Department, explained the reasons for the recommendation to revoke the business license issued to Bright Futures Academy. He also commented on the information included in the written response from Bright Futures Academy.

Captain Bell commented on the high volume of calls made by Bright Futures Academy. He also expressed concern regarding the safety and welfare of the students.

Captain Bell answered a series of questions by the Town Council regarding the false alarms that were set off by the school.

Noah Green, Attorney at Law, responded to the concerns expressed by Captain Bell. He provided the Town Council with an explanation of the false alarms received by the Police Department. He respectfully requested that the Council reconsider revoking the business license for Bright Futures Academy. Mr. Green also commented on Blue Night Security, a new security service that began patrolling the campus as of June 1, 2017.

Discussion ensued regarding the issues surrounding Bright Futures Academy.

Betti Colucci, Principal, answered questions by the Council regarding the new school site in Adelanto, which is expected to open on September 15, 2017. She noted that the transfer of students will not occur until the school has been certified by the Department of Education. Ms. Colucci respectfully requested to receive information from Captain Bell, as it relates to the total number of calls over the last eight (8) weeks, which she believes has substantially dropped with the involvement with Blue Night Securities.

Ms. Colucci commented on how the school plans to correct the recent incidents that took place.

Jerry Plascencia, Bright Futures Academy, spoke in favor of Bright Futures Academy. He also commented on the security services for the school.

Jeff Le Comte, Principal, commented on his experience and accomplishments at Bright Futures Academy. He also addressed the alarm system at the school and the effect it's had on the Town's resources. Mr. Le Comte also answered questions by the Council regarding the services by Blue Night Security.

Peter Rocafort, Program Director, commented on his responsibilities at the school as Program Director. He also commented on the Behavioral Support Plan for the school.

Vincent Stagor, Program Director, commented on the services they provide to students with special needs.

PUBLIC COMMENTS:

The following individuals spoke in favor of Bright Futures Academy:

Katie Lozano, Apple Valley

Carrie Childress, Apple Valley

Jean Bryson, St. Timothy's Episcopal Church

Jameelah Phillips, Apple Valley

Fred Daniels, Apple Valley

Kimberly Casady, Apple Valley

Richard Turnbull, Apple Valley

Ernesto Unabird, Apple Valley

Tracey Whitford, Apple Valley

Captain Bell provided information to Ms. Colucci regarding the number of calls received since the beginning of June 2017.

Discussion ensued regarding the concerns expressed by the parents of students who attend Bright Futures Academy, as well as the management by staff at Bright Futures Academy.

Mayor Nassif recommended continuing the item to allow Bright Futures Academy the opportunity to come back to the Council with a plan to correct the issues surrounding the school. He is also requesting that the Apple Valley Police Department come back to the Council with a report.

Betti Colucci, Principal, respectfully requested a six (6)-month period in which the Town Council obtains data from Sheriff's Department. She also noted the dates the school will be closed for summer session.

Discussion ensued regarding a remediation plan by Bright Futures Academy.

John Brown, Town Attorney, stated that the remediation plan needs to clearly state what steps have been taken to provide a more safe and secure environment, including a new security plan in writing, as well as a plan to remediate calls for service. It must also include the issues that address the alarm system, fencing, plans of service, transportation, and separation of services.

Frank Robinson, Town Manager, brought to the attention of the Town Council, the continuation and requirement to have a progress report provided to the Council prior to the opening of the school on August 10, 2017. Therefore, he suggested that the school report back to the Council at their first meeting on August 8, 2017.

MOTION:

Motion by Mayor Pro Tem Bishop, seconded by Council Member Stanton, and unanimously carried, to:

Continue its Public Hearing of June 13, 2017, to consider the appeal of Bright Futures Academy, LLC and deferred temporarily its consideration of the staff recommendation to deny the appeal of Bright Futures Academy, LLC, and uphold the recommendation of the Town Manager of the Town of Apple Valley, to revoke Business License #000013688 (Bright Futures Academy, LLC). The purpose of the continuance is to give Bright Futures Academy, LLC an opportunity to gather and present additional facts and circumstances of remediation of the evidence presented to the Town Council suggesting that the revocation of Business License #000013688 is necessary to health, safety or welfare of the community. The public hearing on revocation is continued to Tuesday, December 12, 2017. In the interim, Bright Futures Academy, LLC is requested to return to the Town Council meeting of August 8, 2017 to present evidence of remediation, including but not limited to , steps taken to make the student environment of Bright Futures Academy more safe and secure, as well as to prepare updated security plans both on and off campus, to implement training programs, including remedial training, to insure safe and effective alarm systems, to evaluate and install security fencing and other physical improvements to insure campus safety, to update security plans and updates, to formalize written plans of service for students attending Bright Futures Academy so as to minimize disruptive behavior and remediate physical conflicts between students, administrators, teachers and parents and reduce calls for service and to make improvements to transportation systems and security.

It is anticipated that these remediation efforts will be formally coordinated with the San Bernardino County Office of Education, school's districts that have placed students at Bright Futures Academy and the Desert/Mountain Special Education Local Plan Area. A formal remediation report in writing is to be presented to the Town Council at the continued public hearing. Nothing shall preclude the Town from recommencing this public hearing in the event the California Department of Education should revoke or suspend the certification of Bright Futures Academy.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Cusack.

RECESSED MEETING

Mayor Nassif declared a recess of the Apple Valley Town Council Regular Meeting at 9:46 p.m.

MEETING RECONVENED

Mayor Nassif reconvened the meeting of the Apple Valley Town Council Regular Meeting at 10:00 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.

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

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Cusack.

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 – May 30, 2017

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. Treasurer's Report – April 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 April 2017 Treasurer's Report.

3. May 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. May 2017 Payroll / Benefits Warrants Schedule

Recommendation:

That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.

5. Support Letter to Congressman Paul Cook Supporting the Desert Community Lands Act (H.R. Bill 2365) for the Apple Valley Off-Highway Vehicle Recreation Area Conveyance Contained within the Legislation

Recommendation:

Support H.R. 2365 and designate the Mayor to sign the attached letter on behalf of the Town.

6. Approve Wastewater Facilities Transfer Agreement with Victor Valley Wastewater Reclamation Authority

Recommendation:

That the Town Council approve the Wastewater Facilities Transfer Agreement with VVWRA.

PUBLIC HEARINGS

CONTINUED PUBLIC HEARING FROM APRIL 25, 2017

7. Second Public Hearing for 2017-2021 Consolidated Plan and FY17-18 Action Plan for the Community Development Block Grant (CDBG) and the Home Investment Partnerships (HOME) Programs

Mayor Nassif opened the public hearing at 10:05 p.m.

Orlando Acevedo, Assistant Director, Economic Development & Housing, presented the staff report as filed with the Town Clerk.

Mr. Acevedo answered questions by the Town Council regarding the carry-over dollars in the amount Fourteen Thousand, One-Hundred Fifty-Three Dollars (\$14,153.00).

Mayor Nassif suggested an invitation to the upcoming Meet and Greet be sent Congressman Cook's office, and that stall also request support from the Senate's office.

Linda Delay, Church for Whosoever, provided the Town Council with a brief overview of their participation with the grant program. She thanked Pastor Royce for his constant encouragement and support. Ms. Delay read into the record a letter by a student thanking the center for their service to the community.

Mayor Nassif closed the public hearing at 10:15 p.m.

MOTION

Motion by Council Member Emick, seconded by Council Member Stanton, that the Town Council approve the Community Development Citizen Advisory Committee recommendations for approval of the 2017-2021 Consolidated Plan and the funding of proposed projects under the 2017-2018 First-Year Action Plan; and authorize the Town Manager to execute all necessary HUD documents on behalf of the Town.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Cusack.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

9. Renewal and Boundary Modification of the Apple Valley Village Property and Business Improvement District (PBID)

MAYOR NASSIF RECUSED HIMSELF FROM THE DAIS AT 10:18 P.M.

Orlando Acevedo, Assistant Director, Economic Development & Housing, presented the staff report as filed with the Town Clerk.

Mr. Acevedo answered questions by the Town Council regarding the boundaries of the Apple Valley Village Property and Business Improvement District (PBID). He noted that the PBID is adding five (5) properties; one is located on Osage Court, and the other four are located on Central Road.

Mayor Pro Tem Bishop commented on the collaborative effort by the merchants to improve the PBID. He congratulated staff for a job well done.

MOTION

Motion by Council Member Stanton, seconded by Council Member Emick, that the Town Council adopt Resolution No. 2017-15, a Resolution of Intention to renew and modify the boundaries of the Apple Valley Village Property and Business Improvement District (PBID or District) and to levy and collect assessments therein and to hold a public hearing on August 8, 2017.

Vote: Motion carried 3-0-1-1

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

Noes: None

Abstain: Mayor Nassif

Absent: Council Member Cusack

MAYOR NASSIF RETURNED TO THE DAIS AT 10:24 P.M.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on AB 1250, a bill that allows counties and cities to contract for special services, and is currently being challenged by Sacramento. He also commented on SB 649; a bill on wireless telecommunications services that would force counties and cities across the country, to lease their public properties to these wireless companies. Mr. Robinson informed the Council of the Town's intention to draft letters in opposition of the bills. He also noted that the League's status on AB 1250 is oppose.

Mr. Robinson also commented on an article written by Mr. Pat Orr regarding Measure F and Mr. Gregg Snyder, Director of Public Works.

Mr. Robinson announced there will be a future presentation to Council regarding the Hill Top House. He also congratulated Ms. Lori Lamson for her appointment to the Sub-Committee for Community Choice Aggregate.

DEPARTMENTAL REPORTS AND BUSINESS

None.

CLOSED SESSION

Mayor Nassif adjourned to Closed Session at 10:31 p.m. to discuss items 10A-10I.

10. 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 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.

Upon returning from closed session at 12:39 a.m., Mayor Nassif announced that there is no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Council Member Stanton, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 12:40 a.m.

Scott Nassif, Mayor

Yvonne Rivera, Deputy Town Clerk