

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

**REGULAR MEETING**

**MINUTES – July 25, 2017**

**CALL TO ORDER:**

Mayor Nassif called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:32 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:** The invocation was led by Pastor Earl, Victorville Life Church

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Town Manager Frank Robinson

**PRESENTATIONS:** Presentation – Laura Morales, Regional Director, League of California Cities to Frank Robinson, Town Manager

Presentation – Town Council to Frank Robinson, Town Manager

**PUBLIC COMMENTS**

Lawrence McCarthy, Apple Valley, publicly apologized for an error he made in his calculation of the Town Manager's salary. He stated that the manager had not received a \$13,000 a month raise as he originally believed.

Jim Blackburn, Apple Valley, commented on the positive impact of legalizing cannabis throughout California.

Kasha Harrington, Apple Valley, commented on the sale of cannabis in the community. She believed it should be allowed.

**COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION**

Council Member Cusack commented on the passing of his nephew, Corey Brommet. He thanked everyone for their prayers.

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:**

Council Member Stanton commented on recent changes that have occurred with the HERO program. She recommended that a presentation be given to better inform the Council and the public.

Council Member Stanton also recommended that a future presentation be given regarding the local control cities have as it relates to SB 94 Cannibus: Medicinal and Adult Use. Council Member Emick suggested the report include information on the current regulations on butane.

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

- A. Regular Meeting – Tuesday, August 8, 2017 – Council Chamber  
Regular Session at 6:30 p.m.**

### TOWN COUNCIL CONSENT AGENDA

- 1. Approval of Minutes of the Town Council  
A. Regular Meeting – July 11, 2017**

#### **MOTION**

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the minutes for the regular meeting of July 11, 2017.

Vote: Motion carried 5-0-0-0

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

Absent: None.

- 2. Award Navajo Road Rehabilitation – Project No. 2015-01**

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk.

#### **MOTION**

Motion by Mayor Pro Tem Bishop, seconded by Council Member Emick, to award a contract to All American Asphalt for the Navajo Road Rehabilitation -- Project No. 2015-01 subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

Vote: Motion carried 5-0-0-0

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

Absent: None

**3. Professional Services Agreement for Solution Strategies to Provide Funding for the Completion of the Multi-Species Habitat Conservation Plan/Natural Communities Conservation Plan**

Mayor Pro Tem Bishop thanked staff for their hard work on this project.

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

**MOTION**

Motion by Council Member Stanton, seconded by Council Member Emick, to award the attached Professional Services Agreement for Solution Strategies, Inc. for \$353,000 to fund the completion of the Multi-Species Habitat Conservation Plan/Natural Communities Conservation Plan.

Vote: Motion carried 5-0-0-0

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

Absent: None

**4. Professional Services Contract for 5 BARS to Conduct a Wireless Telecommunication Master Plan and Marketing Plan for Town Owned Property**

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

Katie Burns, 5 BARS, commented on SB649 and the impact that it will have on communities. She stated that communities will be protected if they have a signed contract with a marketing plan prior to the bill being approved and signed by the Governor.

John Brown, Town Attorney, commented on whether or not there would be a need to bring this item back to the Town Council should the terms of the agreement be changed.

Ms. Lamson explained that revenue received by the Town from existing cell towers, will not be affected or have any impact on future revenue generated by this contract.

Questions were asked by the Town Council Members regarding the impact this contract would have on the community.

**MOTION**

Motion by Mayor Pro Tem Bishop, seconded by Council Member Cusack, to award the attached Professional Services Agreement to 5 Bars Communities a dba of XG Communities, LLC to provide professional services to the Town, pertaining to the development of a Master Plan for the location of wireless telecommunication facilities on Town owned property and market 3<sup>rd</sup> party wireless telecommunication providers to enter into a contract to locate and provide revenue to the Town.

Vote: Motion carried 5-0-0-0  
Yes: Council Members Cusack; Emick; Stanton; Mayor Pro Tem Bishop; Mayor Nassif.  
Absent: None

## PUBLIC HEARINGS

### 5. **Lighting and Landscape Assessment District #1 – Engineer’s Annual Report and Levy of Assessment for FY 2017-2018**

Mayor Nassif opened the public hearing at 7:58 p.m.

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Nassif closed the public hearing at 8:04 p.m.

#### **MOTION**

Motion by Council Member Stanton, seconded by Council Member Cusack, to adopt Resolution No. 2017-26, “A Resolution of the Town Council of the Town of Apple Valley confirming diagram and assessment and levying assessment for fiscal year 2017-2018”.

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**

### 6. **Voting Ballot on Proposed Renewal of Apple Valley Village Property and Business Improvement District (PBID)**

Mayor Nassif stated that he and Council Member Cusack have a potential conflict of interest with this item as property owners in the business improvement district. Therefore, he and Council Member Cusack were excused from discussion of this item.

**MAYOR NASSIF AND COUNCIL MEMBER CUSACK WERE EXCUSED FROM THE DAIS AT 8:05 P.M.**

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

Captain Frank Bell, Apple Valley Police Captain, commented on the services that they provide within the business improvement district that are paid through the PBID.

#### **MOTION**

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the ballot in support of the renewal and boundary modification of the Apple Valley Village Property and

Business Improvement District (PBID), as owner of certain properties located in the proposed PBID, and authorize the Town Manager to sign on behalf of the Town.

Vote: Motion carried 3-0-0-2

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

Absent: Council Member Cusack; Mayor Nassif.

**MAYOR NASSIF AND COUNCIL MEMBER CUSACK RETURNED TO THE DAIS AT 8:17 P.M.**

**7. Discussion of the Regulations for Cul-De-Sacs in the Multi-Use Trail Standards**

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

Council Member Stanton expressed concern regarding the Equestrian Committee being empowered to make proposed solutions to the development code. She believed that it may be feasible to forward this information to the Planning Commission for their review.

Discussion ensued regarding the impact that the language in the code regarding the empowerment of the committee has on the development code and the community.

**MOTION**

Motion by Council Member Emick, seconded by Council Member Stanton, to forward this issue to the Planning Commission for further review and recommendation to the Town Council; also that the report to the Town Council include discussion on the necessity of the continued need for a Town sponsored equestrian board.

Vote: Motion carried 5-0-0-0

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

Absent: None

**8. Nominees to the Town of Apple Valley – Hilltop Ad Hoc Committee**

Lori Lamson, Assistant Town Manager, presented the staff report as filed with the Town Clerk. She announced that current appointments to the committee include Kevin Mahany, Bob Tinsley, Tom Hoegerman and Deana Wilson. She stated that property owner Don Brown will also be a participant.

Ms. Lamson stated that the committee could last in excess of three (3) years.

**MOTION**

Motion by Council Member Cusack, seconded by Council Member Emick, that the following nominees be appointed to the Ad Hoc Committee:

Council Member Cusack to nominate:	Ed Smith
Council Member Emick to nominate:	Donald Tatera
Council Member Stanton to nominate:	Trina Severt
Mayor Pro Tem Bishop to nominate:	Rick Piercy
Mayor Nassif to nominate:	Steve Richard

Vote: Motion carried 5-0-0-0

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

Absent: None

**9. Selection of Town Council Voting Delegate and Voting Alternate to League of California Cities' 2017 Annual Conference**

**MOTION**

Motion by Council Member Emick, seconded by Council Member Stanton, to Nominate Mayor Nassif as voting delegate and Council Member Stanton and Mayor Pro Tem Bishop as voting alternates representing the Town of Apple Valley at the League of California Cities' 2017 Annual Conference.

Vote: Motion carried 5-0-0-0

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

Absent: None

**10. Discussion of Cancellation of Town Council Meetings of September 12, 2017 and October 10, 2017**

La Vonda M-Pearson, Town Clerk presented the staff report as filed with the Town Clerk. She indicated that the date listed for the October meeting in the agenda was incorrect and should read October 10, 2017.

**MOTION**

Motion by Mayor Pro Tem Bishop, seconded by Council Member Emick, to cancel the meeting of September 12, 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**

**DEPARTMENTAL REPORTS AND BUSINESS**

None.

**CLOSED SESSION**

**11. 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 8:40 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.
- J. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1708307 – Sky Haven Ranch vs. Town of Apple Valley

Upon returning from Closed Session at 9:45 p.m., Mayor Nassif announced that there was 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 9:46 p.m.

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Scott Nassif, Mayor

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La Vonda M-Pearson, Town Clerk