

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

REGULAR MEETING

MINUTES – January 23, 2018

CALL TO ORDER:

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

Absent: None.

OPENING CEREMONIES

INVOCATION: The invocation was led by Pastor Steve Colangelo, Lucerne Bible Fellowship

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Kevin Simon, Community Development Citizens Advisory Committee Member

PRESENTATIONS: Certificate of Appointment – Kevin Simon, Community Development Citizens Advisory Committee

Teen Zone Awards – Jonathan Settle, Recreation Assistant

PUBLIC COMMENTS

Francelia Alcantar, Apple Valley, expressed concern about medical marijuana flyers being left on her windshield. She expressed concern about the distribution of material to families who are not in support of the use of marijuana.

Marcy Taylor, Apple Valley Historical Advisory Committee, asked questioned about the committee and the Legacy Trails committee. She commented on the role of the Town of Apple Valley with the Museum and stated that she would like to continue the partnership with the Town of Apple Valley.

Bruce Hollenbeck, Apple Valley, commented on the history of this Town fading. He believed it would be productive for the museum to partner with the Historical Advisory Committee.

Darrogg Batten, Apple Valley, spoke on their continued desire to have a stop sign placed in the Jess Ranch Area. He believed something should be done for the community. He also questioned the status of the water takeover.

Kasha Herrington, Apple Valley, concurred with the statement made by the prior speaker regarding the flyer placed on her vehicle. She believed that the Town should consider regulating cannabis which would provide the Town an avenue to pursue violators within our community.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

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

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

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

- A. Regular Meeting – Tuesday, February 13, 2018 – Council Chamber
Regular Session at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Mayor Bishop, with the consensus of the Town Council pulled Agenda Item Number 2 for discussion.

Motion by Council Member Emick, seconded by Mayor Pro Tem Cusack, to approve the Consent Calendar Agenda Item Number 1, and that Agenda Item Number 2 be pulled for discussion.

Vote: Motion carried 5-0-0-0

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

Absent: None.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – January 9, 2017**

Recommendation:

Approve the subject minutes as part of the consent agenda.

PULLED FOR DISCUSSION

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

Lawrence McCarthy, Apple Valley, asked questions regarding the status of this project. He did not believe that the work has been completed.

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

MOTION

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

1. Accept the work completed as part of the Navajo Road Rehabilitation Project No. 2015-01 for a total contract cost of \$876,171.14.
2. Direct the Town Clerk to file the Notice of Completion for the contract work.
3. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

Vote: Motion carried 5-0-0-0

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

Absent: None.

PUBLIC HEARINGS

3. **An Amendment to Title 9 "Development Code" of The Town of Apple Valley Municipal Code by Amending Section 9.71.140 of Chapter 9.71 Relating to the Town's Acceptance of Lien Agreements as Securities for Subdivision Improvement Agreements.**

Mayor Bishop opened the public hearing at 7:30 p.m.

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk. He explained the built in sunset clause that will terminate.

Carlos Rodriguez, CEO, Building Industry Association, spoke of tools available to assist with development efforts and urged the Town Council to support the passage of Ordinance No. 496.

Andrew Pham, Nu Pac Investments, commented on the difficulty to secure financing for projects. He believed that the proposal to accept lien agreements as securities will benefit the Town adding a new method of financing.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 7:40 p.m.

MOTION

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

1. **Determine** that, pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) because the Ordinance relates to implementation of provisions of the Subdivision Map Act and is not a project as defined in Section 15378 of the CEQA Guidelines and will not result in a direct or reasonably foreseeable indirect physical change in the environment.
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. 496 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.
Absent: None.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 496.

MOTION

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

5. **Introduce** Ordinance No. 496, an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code modifying
6. Direct staff to file a Notice of Exemption.

Vote: Motion carried 5-0-0-0

Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.
Absent: None.

4. Adopt Resolution No. 2018-01, A Resolution Revising the Rate Structure and Rates for Apple Valley Choice Energy (AVCE).

Mayor Bishop opened the public hearing at 7:45 p.m.

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

Kirby Dusel, Consultant, Pacific Energy Advisors, explained that rates are continually monitored so that AVCE remains 3% below the edison rate.

Doug Robertson, Town Manager, explained how the rates are monitored at the Town and confirmed that the rates have been reduced.

There being no requests to speak, Mayor Bishop closed the public hearing at 7:55 p.m.

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Cusack, to adopt Resolution No. 2018-01 revising the rate structure and rates for Apple Valley Choice Energy (AVCE).

Vote: Motion carried 5-0-0-0

Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.
Absent: None.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

5. **Introduce Ordinance No. 495 – An Ordinance of the Town Council of The Town of Apple Valley Amending Chapter 2.15 (Town Treasurer) of Title 2 of The Town of Apple Valley Municipal Code Relating to the Office of The Town Treasurer and Chapter 2.60 (Personnel)**

of Title 2 of the Town of Apple Valley Municipal Code Relating to Exceptions of Chapter 2.60.

Doug Robertson, Town Manager, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Cusack, to **WAIVE** reading of Ordinance 495 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

Absent: None.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 495.

MOTION

Motion by Council Member Emick, seconded by Council Member Stanton, to **INTRODUCE** Ordinance No. 495 – An Ordinance of the Town Council of the Town of Apple Valley Amending Chapter 2.15 (Town Treasurer) and Chapter 2.60 (Personnel) of Title 2 of The Town of Apple Valley Municipal Code by Amending Sections 2.15.010 and 2.15.020 Relating to the Office and Compensation of the Town Treasurer and Section 2.60.030 Relating to Exceptions of Chapter 2.60.

Vote: Motion carried 5-0-0-0

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

Absent: None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Town Manager Report

- Town Manager may call upon employees during this time to give updates on Town programs, projects and/or legislative update.

Doug Robertson, Town Manager, updated the Town Council on the completion of the upgrades to the playground facilities and the reopening of the Dog Park. He also announced that the CERT Program has received 25 new participants with new classes being offered in April for anyone who would like to join.

CLOSED SESSION

8. Closed Session

Mayor Bishop stated that if needed, Mayor Pro Tem 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 Bishop recessed the meeting of the Apple Valley Town Council at 8:02 p.m. to closed session to discuss the following:

- 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, CPUC Application No. 17-04-024 - In the Matter of the Application of Mesa-Crest Water Company (U333W) and Liberty Utilities (Park Water) Corp. (U314W) for an Order Authorizing Mesa-Crest Water Company to Sell and Liberty Utilities (Park Water) Corp. to Purchase the Utility Assets of Mesa-Crest Water Company.

Upon returning from Closed Session at 8:40 p.m., Mayor Bishop announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Council Member Nassif, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:41 p.m.

Art Bishop, Mayor

La Vonda M-Pearson, Town Clerk