

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

REGULAR MEETING

MINUTES – November 14, 2017

CALL TO ORDER:

Mayor Nassif called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:32 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 Elder Will Jefferson, Life Church

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

PRESENTATIONS: Employee of the Quarter – Town of Apple Valley, Tashina Miniszewski, Senior Office Assistant

Employee of the Quarter – Town of Apple Valley Sheriff's Department – Clay Lacey, Deputy Sheriff

Making a Difference Recognition – Mr. and Mrs. Silveroli, Apple Valley Glass

Certificate of Recognition – Jonathan Cosico, Eagle Scout Project, Refurbishment of the Welcome to Apple Valley Historical Sign

SHOCK Program Overview – Deputy Sheriff Derek Griego

Update on the Apple Valley Branch Library, Mr. Terry Thompson and Mr. Michael Jimenez, San Bernardino County

Presentation - Traffic Patrol Program - Lt. Ades, San Bernardino County Sheriff's Department

Presentation – Property Assessed Clean Energy (PACE) Program, Dustin Reilich – **Unable to Attend**

PUBLIC COMMENTS

Jimmy Waldron, High Desert Homeless Services, questioned whether the Town could assist the organization with funding opportunities and supplies.

Lawrence McCarthy, Apple Valley, stated that striping on roads can occur shortly after cure time. He stated that the striping on Apple Valley Road has not been completed after 34 days. He also commented on the use of rumble strips.

Patricia Perry, Apple Valley, commented on name calling and harassment that she has experienced by her neighbors.

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

Mayor Nassif announced the passing of Richard "Dick" Pearson, former Mayor and Council Member for the Town of Apple Valley. He stated that Mr. Pearson was a member of the very first Apple Valley Town Council.

Council Member Stanton announced the passing of Kymberley Suchomel. She spoke of her community involvement and dedication to the Phoenix Foundation, a non-profit organization that helps families in need of burial expenses.

The Town Council Members expressed their deepest and heartfelt sympathies and unanimously recommended that the meeting be adjourned in their honor.

Suggested items for future agenda:

None.

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

- A. Regular Meeting – Tuesday, December 12, 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. 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.

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12 and 13 respectfully, and that Agenda item number 9 be pulled for a separate vote.

Vote: Motion carried 5-0-0-0

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

Absent: None.

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

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – October 24, 2017**
 - B. **Special Meeting – November 2, 2017**

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. **October 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.

3. **October 2017 Payroll / Benefits Warrants Schedule**

Recommendation:

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

4. **Claimant - Anna Shaw, Survivor of Kirpal Singh Dhaliwal**

Recommendation:

Reject the claim of Anna Shaw, survivor of Kirpal Singh Dhaliwal.

5. **Acceptance of Work, Notice of Completion and Release of Retention for the Yucca Loma Road Widening – Project 2015-02**

Recommendation:

That the Town Council:

1. Accept the work completed as part of the Yucca Loma Road Widening – Project 2015-02, for a total cost of \$8,399,022.76 (eight million, three hundred ninety-nine thousand, twenty-two dollars and seventy-six cents).
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.

6. **Adopt Ordinance No. 494, An Ordinance of the Town Council of the Town of Apple Valley, California, Re-Authorizing Ordinance No. 475 and Amending Title 5, Chapter 5.06 regarding the Fee Paid to the Town by State Video Franchise Holders to Support Public, Educational, and Government Access (“PEG”) Purposes**
Recommendation:
Adopt Ordinance No. 494
7. **Award Contract for Signal Modification at Westmont Drive – Project No. 2017-02**
Recommendation:
Award a contract to PTM General Engineering Services, Inc. for the Signal Modification at Westmont Drive - Project No. 2017-02 subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.
8. **Set First Public Hearing for 2018-19 Second Year Action Plan**
Recommendation:
That the Town Council set December 12, 2017, at 6:30 p.m., as the date and time for conducting the first of two public hearings related to the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs to develop the Town’s 2018-19 Second Year Action Plan in conformance with the 2017-21 Consolidated Plan.
10. **Claimant – Phillip Joseph Amador**
Recommendation:
Reject the claim of Phillip Joseph Amador
11. **Adopt Resolution No. 2017-34, A Resolution of the Town Council of the Town of Apple Valley, California, Setting the Time and Place for a Public Hearing on Sewer User Charge Increases and Providing Direction to Staff to Proceed with the Special Notice Proceeding as Required by Law**
Recommendation:
That the Town Council adopt Resolution No. 2017-34 stating its intention to hold a Public Hearing on January 9, 2018 to increase sewer user charges and direct staff to proceed with the special notice as required by law.
12. **Measure I, 5-YEAR PLAN**
Recommendation:
 - A. That the Town Council Approve FY 2017/2018 through 2021/2022 Measure I, 5-year plan
 - B. Adopt Resolution No. 2017-35, A Resolution of the Town Council of the Town of Apple Valley, California, Adopting the Measure I, 5-Year Capital Improvement Program
13. **FY 2018/2019 Capital Project Needs Analysis**
Recommendation:
That the Town Council Approve FY 2018/2019 Capital Project Needs for the Town of Apple Valley for the Measure I, Major Local Highways Program.

PULLED FOR DISCUSSION

9. Optimist Club Request to Locate American Flags Along Both Sides of the Outer Highway 18 from Navajo Road to the East, to Town Limits on the West

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

Wally Linn, Apple Valley, thanked the Town Council for supporting this project. He also thanked the Optimist Club for their willingness and assistance with this project.

Rob Cochran, Optimist Club, spoke on the project and sought the assistance of residents to place the flags in the community.

MOTION

Motion by Mayor Pro Bishop, seconded by Council Member Stanton, to approve this request and direct staff to work with the Optimist Club to find appropriate locations to place flags along the Outer Highway 18 from Navajo Road to the westerly Town limit.

Vote: Motion carried 5-0-0-0

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

Absent: None.

PUBLIC HEARINGS

14. Hotel Transient Occupancy Tax Reimbursement Agreement

Mayor Nassif opened the public hearing at 8:18 p.m.

Orlando Acevedo, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk. He provided a timeline for the proposed project.

Jason Lamoreaux, Caldwell Commercial Realtor, believed that the proposed location would be perfect for a hotel. He explained that the developer anticipates submitting plans within 30 days. He commented on the size of the hotel and the possibility for meeting and conference rooms within the facility. The entire project may include approximately seven (7) parcels.

Mr. Acevedo stated that the specific plan in the Jess Ranch Market Place area allows for a height limitation of 50 feet.

Thomas Rice, Town Attorney, reminded the Town Council that the item for discussion is limited to the review of a tax reimbursement agreement.

Council Member Stanton expressed concern regarding the amount of future funding requested at 100% being committed to the developer for this project.

There being no requests to speak, Mayor Nassif closed the public hearing at 8:37 p.m.

MOTION

Motion by Council Member Stanton to continue this item until the Town Council can be provided with clear and concise language as to the name of the proposed business.

Motion failed due to the lack of a second.

Mayor Nassif re-opened the public hearing at 8:47 p.m.

Mr. Acevedo explained the reimbursement agreement referenced in the staff report for the City of Palm Springs and how it could apply in Apple Valley.

Mr. Lamoreaux commented on the challenges in locating a hotel in a community that does not have freeway frontage. He explained the process that will be taken by the developer to insure the success of the project. He also stated that 70 rooms would be most feasible for the hotel.

There being no requests to speak, Mayor Nassif closed the public hearing at 8:55 p.m.

Council Member Stanton disagreed with some of the provisions listed in the agreement. She believed that the Town Council should wait until a permanent Town Manager is appointed. However, based on the discussions and explanations provided by staff, she concurred with moving forward with the agreement with the understanding that the Town would have an opportunity to revisit this item upon completion of final negotiations.

MOTION

Motion by Mayor Pro Tem Bishop, seconded by Council Member Emick, to direct the Town Manager to finalize negotiations and execute the Transient Occupancy Tax Reimbursement Agreement with Desai Family Trust, a hotel development and operating entity.

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

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.

Lori Lamson, Interim Town Manager announced the award for the Safe Routes to School program by American Council of Engineering Companies. She also stated that the Town is one step closer to receiving a monetary award for the Hilltop House. She announced that a tour of the facility would be given later this week by the grantors of the award.

Lt. Ades provided an update on the CVS Medical Disposal Unit. He stated that the program has been extremely successful collecting over 60 lbs. of medication.

Kathie Martin, Director of Marketing and Quality of Life, provided an update to the Town Council and the public of all the upcoming events through the end of the year.

CLOSED SESSION

15. 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 the meeting of the Apple Valley Town Council at 9:05 p.m. 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. Personnel Matters - Government Code Section 54957 - Consider Public Employee Appointment/Employment: Title: Town Manager.
- G. 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.
- H. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1714692 - Town of Apple Valley Et Al vs. Barron Wilson Et Al.
- I. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, CPUC Application No. 16-09-001 - In the Matter of the Application of Southern California Edison Company (U338E) for Authority to Increase its Authorized Revenues for Electric Service in 2018, among other things, and to Reflect that increase in Rates.

Upon returning from Closed Session at 10:43 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 10:44 p.m. in loving memory of Apple Valley Mayor Emeritus Richard “Dick” Pearson and community advocate and friend Kymberley Suchomel.

Scott Nassif, Mayor

La Vonda M-Pearson, Town Clerk