

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

REGULAR MEETING

MINUTES – February 13, 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 Royce Beserra

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

PRESENTATIONS: None.

ANNOUNCEMENT:

Mayor Bishop commented on the passing of Bernice Qualls and Janie Qualls, Mother and Wife of Doug Qualls. He stated that Doug Qualls was a long-standing member of the community serving as the former Fire Chief and current Planning Commission Member for the community. He respectfully requested, with the consensus of the Town Council, that the meeting be adjourned in their memory.

PUBLIC COMMENTS

Al Rice, Apple Valley, commented on recognition that he received for his services from the armed forces as well as local entities. He commented on the financial struggles of many communities in California and his involvement with reviewing Apple Valley government finances. He stated that he is very interested in the report that will be given by the auditors on tonight's agenda.

Carlos Monterrey, Apple Valley, commented on a trash bill that he received from Burrtec. He stated that he recently moved to Apple Valley and was unaware of his trash provider and did not understand that trash service is mandatory in the Town. He stated that although he did not use the service he is being billed for five months of trash service. He respectfully requested that the five months of service not used, be waived.

Richard Rorex, Apple Valley, spoke on a tool developed by United Way to help assist working individuals who are in need of service. The tool is referred to as ALICE and helps identify people in need that could possibly get lost in the system. He questioned whether or not a similar service that provides detailed information was available in the community.

Greg Raven, Apple Valley, commented on the financial issue in the City of Maywood and cautioned Apple Valley on its financial state. He recommended in lieu of the financial status identified in the audit report, that a forensic audit be conducted.

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:

None.

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

- A. Regular Meeting – Tuesday, February 27, 2018 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Mayor Bishop announced that Council Member 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. Mayor Pro Tem 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

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 1-13 respectfully.

The following public comments were taken on items listed on the Consent Calendar.

Al Rice, Apple Valley, commented on Agenda Item Number 2 regarding the Commercial Warrants and Wire Transfer Schedules. He expressed concern regarding the financial records of the Town and believed that the Council does not do its due diligence when reviewing the warrants.

Al Rice, Apple Valley, commented on Agenda Item Number 4, regarding the Treasurer's Report. He expressed concern regarding issues with the Treasurer's Report that he believed is often due to manual reporting. He believed that the treasurer's report should be broken down for easier reading.

Lawrence McCarthy, Apple Valley, asked questions on Agenda Item Number 7 regarding Chip Seal. He questioned if there were specifications in the bid package that detailed the amount of repair needed on the roads. He believed the roads in need of repair should be better prioritized.

Vote: Motion carried 5-0-0-0

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

Absent: None.

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

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – January 23, 2018**
Recommendation:
Approve the subject minutes as part of the consent agenda.

2. **January 2018 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. **January 2018 Payroll / Benefits Warrants Schedule**
Recommendation:
That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.

4. **Treasurer's Report – December 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 December 2017 Treasurer's Report.

5. **Claimant – Michael Stefanovich**
Recommendation:
Reject the claim of Michael Stefanovich.

6. **Microsurface 16-17 – Project No. 2017-01**
Recommendation:
 - A. Accept the work completed as part of the Microsurface 16-17 Project No. 2017-01 for a total contract costs of \$1,462,988.30.
 - B. Direct the Town Clerk to file the Notice of Completion for the contract work.
 - C. 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.

7. **Chip Seal 17-18 – Project No. 2018-01**
Recommendation:
 - A. That the Town Council review and approve the bid documents for Chip Seal 17-18 – Project No. 2018-01

- B. That the Town Council authorize staff to solicit bids for construction of said project.
8. **ADOPT Ordinance No. 495 – An Ordinance of the Town Council of the Town of Apple Valley, California, 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**
Recommendation:
Adopt Ordinance No. 495 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.
9. **ADOPT Ordinance No. 496 – An Ordinance of the Town Council of the Town of Apple Valley, California, to Amend Title 9 Development 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**
Recommendation:
Adopt Ordinance No. 496
10. **ADOPT Resolution No. 2018-03, a Resolution of the Town Council of the Town of Apple Valley, California, Amending the Nationwide Governmental Money Purchase Plan for the Town of Apple Valley**
Recommendation:
That the Town Council adopt the attached Resolution No. 2018-03, a Resolution of the Town Council of The Town of Apple Valley, California, amending the current Nationwide Governmental Money Purchase plan document.
11. **Claimant – Timothy Michael Krigbaum, Date of Incident: 01/06/2018**
Recommendation:
Reject the claim of Timothy Michael Krigbaum
12. **Claimant – Timothy Michael Krigbaum, Date of Incident: October 2017**
Recommendation:
Reject the claim of Timothy Michael Krigbaum.
13. **ADOPT Resolution No. 2018-04, a Resolution of the Town Council of the Town of Apple Valley, California, Adopting the Apple Valley South Safe Routes to School – Project No. 2018-02 Negative Declaration as Required by the California Transportation Commission**
Recommendation:
Adopt Resolution 2018-04, a Resolution of the Town Council of the Town of Apple Valley, California, accepting the Negative Declaration and Notice of Determination as required by the California Transportation Commission.

PUBLIC HEARINGS

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

Mayor Bishop opened the public hearing at 7:16 p.m.

John Brown, Town Attorney, presented the staff report as filed with the Town Clerk. He noted that there were two recommendations listed for review and/or approval by the Town Council. He stated that the Council could either dismiss the revocation action or continue the item until August 14, 2018.

Frank Bell, Police Captain, stated that the calls for service have been reduced significantly since the Town has been monitoring the Academy.

Noah Green, Bright Futures Academy, provided an update to the Town Council on the changes and improvements made to the campus and commented on the monthly reports that have been provided to the Town Council.

Betty Colucci, Bright Futures Academy, spoke of the new programs that are available for the students and spoke of their excitement to improve their social skills and academic advancement. She also commented on the certifications and training that the new school Administrators in Adelanto had received.

Council Member Emick asked questions about the new campus and questioned if an opportunity to evaluate the impact of the new campus as well as the new security officers had been made.

Council Member Stanton commented on the changes made to the school as well as the new school in Adelanto. She asked what they believed has led to the success of the school.

Ms. Colucci believed that the training for the staff, security officers as well as learning how to deal with the students and administrators has made a positive difference.

There being no requests to speak, Mayor Bishop closed the public hearing at 7:30 p.m.

Doug Robertson, Town Manager, confirmed that the Town had received the monthly reports as required. He stated that continuance of this item would allow staff to fully evaluate the academy with the operation of the new school if desired.

Discussion ensued regarding whether or not to continue monitoring Bright Futures Academy for an additional six (6) months.

MOTION

Motion by Council Member Stanton, seconded by Council Member Nassif, to dismiss the revocation action and recommend that Bright Futures continue to be voluntarily monitored, providing monthly reports for the next six (6) months.

Vote: Motion carried 4-1-0-0

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

Noes: Council Member Emick.

Absent: None.

15. ADOPT Resolution No. 2018-02, a Resolution of the Town Council of the Town of Apple Valley, California, to Record Delinquent Utility Fees and Costs against Real Property Located in the Town of Apple Valley and Directing that Said Assessments Constitute a Lien upon Said Properties

Mayor Bishop opened the public hearing at 7:39 p.m.

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

Mayor Bishop closed the public hearing at 7:41 p.m.

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick to adopt Resolution No. 2018-02, confirming delinquent utility fees and costs against real property located in the Town, and directing that said assessments constitute a lien upon said properties,

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

16. Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended June 30, 2017

Kofi Antobam, Director of Finance, commented on the audit process.

Brett Van Lent, Van Lent & Fankhanel, LLP, provided an overview of the audit report as filed with the Town Clerk.

Al Rice, Apple Valley, commented on the CAFR report and issues that he believed were identified by the audit that should be addressed.

John Brown, Town Attorney, believed that it would be appropriate for the Town Manager to respond to comments made by members of the public.

Doug Robertson, Town Manager, briefed the Town Council and the public on the financial status of the Town and the efforts to have a balanced budget. He also commented on the auditing process and the benefit of the independent auditors versus for forensic auditors who typically focus solely on inconsistencies rather than the overall condition of the finances.

This was a receive and file item only. There was no action taken.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Doug Robertson, Town Manager, highlighted upcoming events which included Kids Night Out, the Soccer Tournament at Brewster Park and the Civic Center Park Heart Games.

Mallory Swan, Administrative Analyst, announced the award received by Apple Valley Choice Energy from the High Desert Regional Partnership for its energy program

CLOSED SESSION

17. 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 8:17 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.
- G. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1725027 – Christina Lopez-Burton v. Town of Apple Valley.

Upon returning from Closed Session at 9:10 p.m., Mayor Bishop 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 9:11 p.m. in memory of Bernice Qualls and Janie Qualls, Mother and Wife of former Fire Chief and Planning Commission Member Doug Qualls.

Art Bishop, Mayor

La Vonda M-Pearson, Town Clerk