

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

**REGULAR MEETING**

**MINUTES – February 10, 2015**

**CALL TO ORDER:**

Mayor Cusack called to order the regular session of the Apple Valley Town Council, Successor Agency and the addendum at 6:30 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Council Members Bishop; Emick; Nassif; Mayor Cusack

Absent: Mayor Pro Tem Stanton

<b>OPENING CEREMONIES</b>
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**INVOCATION:** The invocation was led by Mr. Jim Andersen, Code Enforcement Manager

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Councilman Bishop.

**PRESENTATION:** Emergency Room Bed Count, Ambulance Services, Sid Hultquist, Apple Valley Fire Protection District Chief

2014 Wrap Up - Economic Development Update, Orlando Acevedo, Economic Development Manager

<b>PUBLIC COMMENTS</b>
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Tom Piper, Victorville, commented on the benefits that come from aqua duct systems. He provided the Council with the information on the system for their consideration.

John Laraway, Apple Valley, expressed concern regarding a recent proposal by ex-Vice President/Globalist Al Gore, to spend Ninety-Trillion Dollars to eliminate all cars in every city. He highly recommended that the Town Council resist the proposal.

Tony Penna, Apple Valley Ranchos Water, provided the Town Council with brief update on the issues surrounding the drought, as well as, conservation efforts. He also commented on a new software tool being introduced to the community, to better understand their water use habits. He also expressed concern regarding an article written in the newspaper in Missoula, Montana regarding Mountain Water Company.

Al Rice, Apple Valley, commented on the Sitting Bull Rezoning Application Process. He also questioned why there was a traffic study performed for a rezoning request. He believed there is a need to perform a new traffic study that deals with pedestrian traffic.

Eric Larson, Financial Officer, Apple Valley Ranchos Water Company, commented on the information provided in the Blue Ribbon Water Committee Report, including Apple Valley Ranchos Water rates and discussions held regarding the Town of Apple Valley purchasing the water company. He expressed appreciation for work performed by the Blue Ribbon Water Committee.

Michele Baird, Apple Valley, expressed concern regarding vacant lots in Apple Valley. She commented on the various issues surrounding vacant lots, including trespassing and the lack of dust barriers. She also expressed concern regarding the Town's Ordinance on fencing.

Frank Robinson, Town Manager, reminded the Town Council and public, that there will be a future agenda item to discuss matters related to this topic. He anticipates the item will be on the agenda for the month of March, when Mayor Pro Tem Stanton returns.

Council Member Nassif responded to comments by tonight's speaker regarding Missoula, Montana. He stated that Missoula has a different process than California. He also commented on the information provided in the Blue Ribbon Water Report. He stated that the rate payers have been subject to surcharges, which offsets the charges as reported in 2011. He also stated that Town abides by California rules, and not Missoula, Montana.

#### **COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION**

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

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

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

Mayor Cusack 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 24, 2015 – Council Chambers at 6:30 p.m.**

#### **TOWN COUNCIL CONSENT AGENDA**

Mayor Cusack announced that Council Member Nassif 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 Item Number 2. Mayor Cusack stated that he too has a remote interest in specific warrants on tonight's commercial warrants dealing with Apple Valley Communication for the Town of Apple Valley as the owner of Apple Valley Communication; therefore, he too will be abstaining from voting on the Warrants for Apple Valley Communications listed under Agenda Item Number 2.

Al Rice, Apple Valley, commented on the cost for publications in a general circulation paper. He expressed concern regarding the costs for publications posted in the Apple Valley News.

Frank Robinson, Town Manager, explained for the benefit of the Town Council and public, the legal noticing requirements by the State of California. He stated that the Apple Valley News is the adjudicated newspaper for the Town of Apple Valley.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1, 3, 4, 5 and 6, respectfully..

Vote: Motion carried 4-1-0-0

Yes: Council Members Bishop; Emick; Nassif; Mayor Cusack.

Absent: Mayor Pro Tem Stanton

**1. Approval of Minutes of the Town Council**

**A. Regular Meeting – January 27, 2015**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**3. December 2014 - Payroll/Benefits Warrants Schedule**

**Recommendation:**

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

**4. Adopt Ordinance No. 466 – An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Title 9 “Development Code” of the Town of Apple Valley Municipal Code, by Modifying Section 9.74.160 “Temporary Real Estate Signs” of Chapter 9.74 “Signs and Advertising Displays”.**

**Recommendation:**

Adopt Ordinance No. 466.

**5. Request to Vacate a Road Easement on Parcel Map 5649**

**Recommendation:**

That the Town Council

1. Find that road easement as shown on Parcel Map 5649, has not been used for the purpose for which it was dedicated for five (5) consecutive years immediately preceding the proposed vacation;

2. Adopt Resolution No. 2015-05, “A Resolution of the Town Council of the Town of Apple Valley, California, vacating the road easement on Parcel Map 5649, pursuant to the Streets and Highways Code Section 8333 (a)”;

3. Instruct the Town Clerk to cause the Resolution vacating the road easement to be recorded in the office of the County Recorder of the County of San Bernardino, pursuant to Section 8336 of the Streets and Highways Code.

**6. Acceptance of Work, Notice of Completion and Release of Retention for the Town Hall Driveway Improvements– Project No. 2014-02**

**Recommendation:**

That the Town Council:

1. Accept the work completed as part of the Town Hall Driveway Improvements – Project No. 2014-02, for a total cost of \$97,584.00.

2. Approve Budget Amendment 15-13 to allocate \$20,500.00 from the Measure I Fund to this project.
3. Direct the Town Clerk to file the Notice of Completion for the contract work.
4. Direct the Finance Director to release the retained funds thirty (30) days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

**2. December 2014 - Commercial Warrants Schedule**

Motion by Council Member Emick, seconded by Council Member Bishop, to receive, ratify, and file the Commercial Warrants Schedule as presented, to include NAPA Auto Parts and removing Apple Valley Communications.

Vote: Motion carried 3-1-1-0

Yes: Council Members Bishop; Emick; Mayor Cusack.

Abstain: Council Member Nassif

Absent: Mayor Pro Tem Stanton

Motion by Council Member Emick, seconded by Council Member Bishop, to receive, ratify, and file the Commercial Warrants Schedule as presented, to include Apple Valley Communications and removing NAPA Auto Parts.

Vote: Motion carried 4-1-0-0

Yes: Council Members Bishop; Emick; Nassif.

Abstain: Mayor Cusack

Absent: Mayor Pro Tem Stanton

<b>PUBLIC HEARINGS</b>
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**7. Resolution 2015-04, To Record Delinquent Utility Fees and Costs and Code Enforcement Fees against Real Property Located in the Town of Apple Valley and Directing that said Assessments Constitute a Lien Upon Said Properties.**

Mayor Cusack opened the public hearing at 7:53 p.m.

Kofi Antobam, Assistant Finance Director, presented the staff report as filed with the Town Clerk's office.

John Laraway, Apple Valley, questioned the information provided regarding utilities. He also expressed concern regarding the liens put against properties.

Cecil Volsch, Apple Valley, expressed concern regarding how the Town processes liens against properties in Apple Valley. He also commented on rental properties that are being assessed, as well as, property owners that are not being notified correctly.

Marc Puckett, Assistant Town Manager, responded to the concerns by Mr. Volsch. He explained, for the benefit of the Council and public, the notification process by the Town. He stated that the property owner is responsible for all liens. He also commented on Landlord/tenant situations.

Council Member Bishop clarified that the notices sent to property owners involve different services including trash and water service.

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

### **MOTION**

Motion by Council Member Nassif, seconded by Council Member Emick, to adopt Resolution No. 2015-04, 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 4-1-0-0

Yes: Council Members Bishop; Emick; Nassif; Mayor Cusack.

Absent: Mayor Pro Tem Stanton

## **REPORTS, REQUESTS AND COMMUNICATIONS**

### **BUSINESS OF THE COUNCIL**

8. **Consideration of Approval of Ratification and Amendment of Loans, Evidenced by Promissory Notes, between the Town of Apple Valley and the Apple Valley Redevelopment Agency.**

Marc Puckett, Assistant Town Manager, provided the staff report as filed with the Town Clerk's office. He clarified for the benefit of the Council, who would be responsible for repayment of the loans.

Mr. Puckett explained the need to take a separate vote for each Resolution as it pertains to this agenda item.

### **MOTION**

Motion by Council Member Bishop, seconded by Council Member Nassif, to adopt Town Council Resolution No. 2015-06, approving the Ratification and Amendment of Loans, Evidenced by Promissory Notes, between the Town and former Apple Valley Redevelopment Agency.

Vote: Motion carried 4-1-0-0

Yes: Council Members Bishop; Emick; Nassif; Mayor Cusack.

Absent: Mayor Pro Tem Stanton

Marc Puckett, Assistant Town Manager, provided the staff report as filed with the Town Clerk's office.

### **MOTION**

Motion by Council Member Nassif as Successor Agency, seconded by Council Member Emick as Successor Agency, to adopt Successor Agency Resolution No. 2015-01, approving the Ratification and Amendment of Loans, Evidenced by Promissory Notes, between the Town and former Apple Valley Redevelopment Agency.

Vote: Motion carried 4-1-0-0  
Yes: Council Members Bishop; Emick; Nassif; Mayor Cusack.  
Absent: Mayor Pro Tem Stanton

### **TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE**

Frank Robinson, Town Manager, commented on various bills including: Assembly Bill 2 (AB2), a bill regarding Community revitalization authority to revitalize areas with blight, Senate Bill 8 (SB 8), a bill regarding taxation to impose new taxes for specified services, and Senate Bill 45 (SB 45), a bill regarding Economic Development to enact local government to use tax incremental financing formulas.

Mr. Robinson recognized Mr. Brad Miller, Town Engineer, for the Deep Creek Road Project. He announced that the contractor, Sully Miller, was able to complete the job in one day. Mr. Robinson also recognized Mr. Joseph Moon, Environmental and Transit Services Manager, for the recent recognition that he received from the Dreamers, Visionaries and Leaders.

### **DEPARTMENTAL REPORTS AND BUSINESS:**

#### **STAFF REPORTS**

#### **CORRESPONDENCE**

### **CLOSED SESSION**

#### **9. Closed Session.**

Mayor Cusack announced that he will be abstaining from one or more of the Closed Session items as it pertains to Apple Valley Ranchos Water Company, due to a potential conflict of interest. He stated that his company does business with the above company.

Piero Dallarda, Town Attorney, announced there is a need to make a correction to the Plaintiff's name, as listed under Closed Session Agenda Item No. 9D. He stated that the Plaintiff's name is Hernandez.

Mayor Cusack, with the consensus of the Town Council, adjourned to Closed Session at 8:15 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 potential case.
- C. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case Name: Application No. 14-01-002, In the Matter of the Application of Park Water Company-Apple Valley Ranchos Water Company Water System (U346W) for Authority to Increase Rate Charges for Water Service by \$3,127,463.00 or 14.88% in 2015, \$2,056,455.00 or 8.48% in 2016, and \$2,160,731.00 or 8.19% in 2017.

- D. Conference with Legal Counsel – Existing Litigation – (Subdivision (A) of Section 54956.9) Briggs v. The Town of Apple Valley; San Bernardino Superior Court Case No. CIVVS 1103746.
- E. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8. Property: Apple Valley Ranchos Water Company; Authority Negotiator: Town Manager; Negotiating Parties: Park Water Company, The Carlyle Group, Carlyle Infrastructure Partners, Western Water Holdings LLC; Under Negotiation: Price and terms of payment

Upon returning from closed session at 9:59 p.m. on items 9A and 9B, Mayor Cusack announced that there was no reportable action.


**MAYOR CUSACK RECUSED HIMSELF FROM CLOSED SESSION AT 10:00 P.M.**

Upon returning from closed session at 10:40 p.m. on items 9C – 9E, Piero Dallarda, Town Attorney, announced there was no reportable action taken.

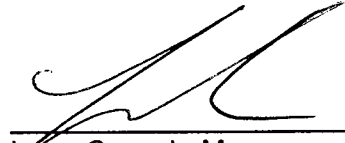
<b>ADJOURNMENT</b>
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Mayor Cusack reminded the Town Council and Public, that Town Hall will be closed on Monday, February 16, 2015, in observance of the President Day Holiday.

Motion by Council Member Emick, seconded by Council Member Nassif, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 10:41 p.m.



~~Yvonne Rivera, Deputy Town Clerk~~  
LaVonda M-Pearson, Town Clerk



Larry Cusack, Mayor