

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

REGULAR MEETING

MINUTES – June 9, 2015

CALL TO ORDER:

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

Roll call was taken with the following members present:

Roll Call

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

Absent: None

OPENING CEREMONIES

INVOCATION: The invocation was given by Pastor Mark Mikels, Sonlife Community Church

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Pro Tem Stanton

PRESENTATIONS:

PUBLIC COMMENTS

Al Rice, Apple Valley, commented on deficiencies that he believes exist within Town of Apple Valley documents that he has requested and/or read online. He also commented on water conservation for the golf course.

Tamara Alaniz, Apple Valley, expressed concern regarding the Town of Apple Valley recommending eminent domain for the water company. She also commented on the Town's debt as listed in the Apple Valley budget.

Eric Larsen, Apple Valley Ranchos Water Company, stated that he previously questioned why the budget documentation did not list all the costs associated with the acquisition of Ranchos Water at the budget hearing. He stated that he was pleased to see the Town Council recommend this information be made transparent for the public.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

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

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

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

Mayor Pro Tem Stanton commented on committee meetings and events that she attended.

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Mayor Pro Tem Stanton reminded staff of her request to discuss the water conservation issues and landscaping policies for a future meeting.

Dennis Cron, Assistant Town Manager, explained that staff has been following the requirements of the State which have changed repeatedly. He stated that the Town now believes they are in a position to discuss the implementation plan for matters that are outside of the development code, which will be brought forward at the next Town Council Meeting.

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

A. Regular Meeting – Tuesday, June 23, 2015 – Council Chambers at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Mayor Cusack announced that there is an immediate need to take action on an item that came to the attention of the Town after the agenda was posted. He stated that the item to be discussed is "Discussion of the Formation of an Ad Hoc Committee for Infill Residential Issues". He explained that the immediate need for this item to be discussed tonight is that a meeting will be held on this matter prior to the next Council meeting.

MOTION

Motion by Council Member Bishop, seconded by Council Member Nassif, that there is an immediate need to take action on an item that came to the attention of the Town after the agenda was posted. Motion to add Agenda Item Number 15A - "Discussion of the Formation of an Ad Hoc Committee for Infill Residential Issues".

Vote: Motion carried 5-0-0-0

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

Absent: None

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.

Mayor Cusack announced that he and Council Member Nassif also have an interest in Agenda Item Number 4 regarding the "Budget of the Apple Valley Village Property and Business Improvement

District (PBID) Association” as Board Members of the Association. Therefore, they will both be abstaining from Agenda Item Number 4.

Motion by Council Member Bishop, seconded by Mayor Pro Tem Stanton, to approve the Consent Calendar items numbered 1, 3, 4, 5 and-7 respectfully.

Mayor Cusack, with the consensus of the Town Council, requested that agenda items numbered 2 and 6, be pulled from the Consent Calendar for public comment.

Vote: Motion carried 5-0-0-0

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

Absent: None.

Council Member Nassif and Mayor Cusack abstained from voting on specific warrants listed under Agenda Item Number 2 and abstained from voting on Agenda Item Number 4.

1. Approval of Minutes of the Town Council

A. Regular Meeting – May 26, 2015

B. Special Meeting – May 28, 2015

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. April 2015 Payroll/Benefits Warrants Schedule

Recommendation:

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

4. FY 2015-16 Budget of the Apple Valley Village Property and Business Improvement District (PBID) Association

Recommendation:

That the Town Council Approve the Fiscal Year 2015-16 Budget of the Apple Valley Village Property and Business Improvement District Association (Association).

5. Adopt Resolution No. 2015-17, A Resolution of the Town Council of the Town of Apple Valley, to Establish a Public Entity under the Joint Exercise Powers Act to Replace the Existing Victor Valley Transit Authority (VVTA)

Recommendation:

Adopt Resolution No. 2015-17, approving the Joint Powers Agreement (JPA) between the County of San Bernardino, the Town of Apple Valley and the cities of Adelanto, Barstow, Hesperia and Victorville, establishing the Victor Valley Transit Authority (VVTA).

7. Powhatan Road Street Improvement - Project No. 2015-03

Recommendation:

Award a contract to TSR Construction & Inspection in the amount of \$284,400.00 for the Powhatan Road Street Improvement—Project No. 2015-03 subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.

PULLED FOR DISCUSSION

2. April 2015 Commercial Warrants Schedule

Al Rice, Apple Valley, commented on various costs that are listed in the warrants which he believed could be reduced to a lower amount.

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to receive, ratify, and file the Commercial Warrants Schedule as presented.

Vote: Motion carried 5-0-0-0

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

Absent: None

6. Lighting and Landscape Assessment District #1 – Engineer’s Annual Report and Levy of Assessment for FY 2015-2016

Al Rice, Apple Valley, stated that he believed a water conservation plan should be in place due to the State’s mandate for the assessment district. He also believed that the landscaping should be designed and maintained in a manner that uses as least water as possible due to the drought.

Leane Lee, Apple Valley, commented on the assessments to property owners. She questioned whether or not the figures will reflect reductions that are going to be made due to the drought.

MOTION

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

1. Adopt Resolution No. 2015-18, a Resolution of the Town Council of the Town of Apple Valley Directing the Filing of the Annual Report for the Town of Apple Valley Landscaping and Lighting Assessment District.
2. Receive and approve the engineer's report as filed, or as amended.
3. Adopt Resolution No. 2015-19, a Resolution of the Town Council of the Town of Apple Valley Declaring its Intention to Order Improvements and to Levy and Collect Assessments for Fiscal Year 2015-2016.
4. Direct the Town Clerk to publish the Resolution of Intention at least 10 days prior to the date of the public hearing.

Vote: Motion carried 5-0-0-0

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

Absent: None

PUBLIC HEARINGS

8. A Resolution of the Town Council of the Town of Apple Valley, California, Amending and Establishing Specified Fees for Town Services

Mayor Cusack opened the public hearing at 7:15 p.m.

Marc Puckett, Assistant Town Manager, answered questions and concerns that were raised during public comments as it related to information from Apple Valley Ranchos Water Company. He also commented on the concerns expressed by the public regarding the lack of transparency by the Town.

Mr. Puckett presented the staff report as filed with the Town Clerk. He briefly reviewed, with the Council, the schedule of changes as outlined in the report. He also summarized the fees for all departments and services performed. He noted that the proposed budget does not include any changes to the Development Impact Fees. Mr. Puckett brought to the attention of the Council, the need to make a correction to the Lateral Re-Inspection. He noted that the corrected amount should be \$84.43 instead of \$82.13.

Mayor Pro Tem Stanton asked a series of questions regarding various fees listed within the document that were later addressed by staff.

Ralph Wright, Parks and Recreation Manager, explained that there are no new fees for Park and Recreation services. He stated that this year, they are being included in the Master Fee Schedule document so that all fees of the Town are listed in one document.

Joseph Moon, Environmental and Transit Manager, announced that since the beginning of the year, the revenue for the bus shelter advertising is \$14,000.00.

Gina Schwin-Whiteside, Animal Services Manager, addressed concerns of the Town Council regarding the fees for animal services. She explained the increases listed within the report and the need for the adjustment.

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

MOTION

Motion by Mayor Pro Tem Stanton, seconded by Council Member Emick, to adopt Resolution No. 2015-15, a Resolution of the Town Council of the Town of Apple Valley, California, amending and establishing specified fees for Town services for Fiscal Year 2015-2016.

Vote: Motion carried 5-0-0-0

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

Absent: None.

9. **Resolution of the Town Council of the Town of Apple Valley, California, Approving Budget Appropriations and Adopting the Operating and Capital Improvement Budget for all Funds for Fiscal Year 2015-2016**

Mayor Cusack opened the public hearing at 7:41 p.m.

Marc Puckett, Assistant Town Manager, presented the staff report as filed with the Town Clerk. He commented on the contract services line item in the budget document which is comprised of clerical staff for Sierra Golf Management at the Golf Course. He stated that all the clerical corrections to the document have been made.

Council Member Nassif verified that the budget contained revenues over expenditures allowing for a budget surplus.

Leane Lee, Apple Valley, again expressed concern regarding the lack of information for the public regarding the cost to acquire the Apple Valley Ranchos Water Company. She believed that the Town is attempting to hide the figures by eliminating information from the warrant schedules.

Mr. Puckett responded to the comments addressed by Ms. Lee stating that all fees are accounted for within each department's individual budgets. He stated that per Council direction the Town staff will be preparing an additional document specifically addressing the funding for Apple Valley Ranchos Water Company.

John Brown, Town Attorney, clarified for the benefit of the public that no final decision has been made as it relates to the Town of Apple Valley purchasing Apple Valley Ranchos Water Company.

Mayor Pro Tem Stanton responded to the concerns expressed by the public regarding the lack of transparency by the Town. She informed the public that the Town intends to provide a section in the budget that will show all financial activity, including how much the Town has spent. Mayor Pro Tem Stanton thanked Marc Puckett for his outstanding work creating the fee schedule.

Al Rice, Apple Valley, commented on the information in the report regarding the Town's General Fund which he believed included a 36% increase. He also expressed concern regarding various sections of the budget that he believed is not balanced. Mr. Rice questioned whether or not the Council has carefully analyzed the information provided in the report as it relates to the financial policies for General Fund emergencies. He also questioned why the report did not include information regarding the issues surrounding water.

There being no additional requests to speak, Mayor Cusack closed the public hearing at 7:58 p.m.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to adopt Resolution No. 2015-12 of the Town Council of the Town of Apple Valley, California, approving a budget appropriation and adopting the budget, including the Operating and Capital Improvement Budget for all funds for Fiscal Year 2015-2016.

Vote: Motion carried 5-0-0-0

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

Absent: None

10. Adoption of Fiscal Year 2015-2016 Appropriations Limit

Mayor Cusack opened the public hearing at 8:02 p.m.

Marc Puckett, Assistant Town Manager, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Cusack closed the public hearing at 8:05 p.m.

MOTION

Motion by Mayor Pro Tem Stanton, seconded by Council Member Emick, to adopt Resolution No. 2015-13 of the Town Council of the Town of Apple Valley, California, establishing the Fiscal Year 2015-2016 Appropriations Limit for the Town at \$33,370,752 by using the Town's population growth for the population adjustment and the California per capita income growth for the inflationary adjustment.

Vote: Motion carried 5-0-0-0

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

Absent: None

11. Review of the Fiscal Year 2015-2016 Statement of Investment Policy

Mayor Cusack opened the public hearing at 8:05 p.m.

Marc Puckett, Assistant Town Manager, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Cusack closed the public hearing at 8:07 p.m.

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to adopt Resolution No. 2015-16 approving the Statement of Investment Policy for Fiscal Year 2015-2016 and delegating the investment activities to the Town Treasurer.

Vote: Motion carried 5-0-0-0

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

Absent: None

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

12. Owner Participation Agreement for a 1.3 Million Square Foot Distribution Center Project in the North Apple Valley Industrial Specific Plan Area

Orlando Acevedo, Economic Development Manager, presented the staff report as filed with the Town Clerk. Mr. Acevedo spoke of the benefits and improvements associated with this project.

Mayor Cusack commented on the magnitude of this project and the hard work that was done to reach this point in acquiring the project.

Mr. Acevedo commented on the collaborative effort of all agencies when working on this project. He stated that their assistance made the transition of this project move more quickly.

Mayor Pro Tem Stanton asked a series of questions regarding roads and traffic. She also commented on truck routes for the project.

Brad Miller, Town Engineer, answered questions as it related to designated truck routes as well as future truck routes if needed. He also commented on the consideration of additional lighting and street widening for Dale Evans Parkway.

Mr. Acevedo stated that the approximate size of this project would be 1.35 million square feet.

The Town Council thanked Mr. Acevedo for his work on this project and commended him for the success in this project being awarded to Apple Valley.

MOTION

Motion by Council Member Bishop, seconded by Council Member Emick, to 1) Approve an Owner Participation Agreement (OPA) between the Town of Apple Valley and AVDC, LLC, for the development of a 1.3 Million Square Foot Distribution Center Project, and authorize the Mayor, Town Manager and Town Attorney to execute said Agreement; and, 2) Adopt Budget Amendment Request No. 2015-34 to appropriate funding from the NAVISP Infrastructure Fund to said Project.

Vote: Motion carried 5-0-0-0

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

Absent: None

13. Development Constraints on Sub-Standard Commercial Lots

Lori Lamson, Assistant Town Manager, presented the staff report as filed with the Town Clerk. She recommended that the Town Council initiate a Development Code Amendment so that a specific provision could be created that would allow for a reduction in landscape or setback requirements, through a deviation process that could be handled administratively.

Discussion ensued regarding the proposal to have the deviation process handled administratively, the issues surrounding the variance process, as well as, the sub-standard lots within the Town of Apple Valley.

Council Member Nassif thanked staff for their hard work on this project.

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Stanton, to direct staff to initiate a Development Code Amendment.

Vote: Motion carried 5-0-0-0

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

Absent: None

14. Discussion Regarding the Equestrian Advisory Committee Regarding any Modifications to the Role and Type of Committee

Lori Lamson, Assistant Town Manager, presented the staff report as filed with the Town Clerk. Ms. Lamson commented on the current condition of the committee with only three (3) members. She stated that the committee could be changed from a standing committee to an Ad Hoc Committee. She spoke of the benefit and flexibility of becoming an Ad Hoc Committee. She also discussed that the Ad Hoc could be placed under the Parks and Recreation Commission and that two members of the Parks and Recreation Commission could participate on the committee.

Discussion ensued regarding the ability of certain committees/commissions within the Town to have members who reside outside of the Town boundaries, but are within the former Park District.

Council Member Emick shared with the Council, concerns expressed by his appointee to the Equestrian Committee regarding the change to an Ad Hoc Committee. He explained the reasons why the committee member believed it would be more beneficial to remain a standing committee.

Thurston Smith, Chairman, Equestrian Committee spoke in favor of an Ad Hoc Committee. He believed that it would allow them more flexibility in meeting to discuss issues and events when a quorum is not present.

Ray Sims, Vice-Chairman, Equestrian Committee, stated that the committee is willing to serve in any capacity possible. However, he believed that the committee could be more functional if all vacancies were filled and they remained a standing committee.

Ms. Lamson spoke on the history of the committee and its original task of developing multi-trails.

Discussion ensued regarding the interest of the community members to serve on the Equestrian Committee. Mr. Sims stated that he would be happy to provide recommendations to Council of individuals wishing to serve on this committee.

It was the consensus of the Town Council to allow the Equestrian Committee to remain as formed, but authorized a change to the ordinance to require one main meeting per year and amending portions of the code regarding duties and responsibilities.

15. Approval of a Moratorium on Enforcement of Municipal Code Section 6.30.030(F)(5)(a) and of Conditions and Standards on Commercial Properties in the Town of Apple Valley Requiring Property Owners to Maintain Adequate Irrigation

John Brown, Town Attorney, presented the staff report as filed with the Town Clerk.

Discussion ensued regarding the concern of allowing trees to die which could cause further damage on property.

Mr. Brown discussed certain considerations that could require mature trees to be kept alive by ordinance. He explained that although the ordinances would be legal, they could also become controversial, especially due to the severity of the drought.

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick, to approve a moratorium on enforcement of Municipal Code 6.30.030(F)(5)(a) and of Conditions and Standards on Commercial Properties requiring property owners to maintain adequate landscaping, due to the significant drought in the State of California; and request staff to bring back a future item with amendments for the municipal code as appropriate.

Vote: Motion carried 5-0-0-0

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

Absent: None

15A. Discussion of the Formation of an Ad Hoc Committee for Infill Residential Issues

Lori Lamson, Assistant Town Manager, presented a staff report on this item.

Council Member Nassif commented on the need for the formation of this committee in an effort to provide clarification to the code as it relates to this matter.

It was the consensus of the Town Council to appoint Council Member Bishop and Mayor Pro Tem Stanton, to the Ad Hoc Committee.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on the numerous bills that were discussed during the legislative session. He stated that he would be providing that information to the Town Council in the near future. He stated that the top issue of discussion is water and the drought.

Mr. Robinson also spoke of Project Jupiter and the collaborative effort of all agencies. He most importantly acknowledged Orlando Acevedo for his contribution to this success.

Mr. Robinson also recognized Assistant Town Manager Marc Puckett and the Finance Department for their completion of the budget process. He reiterated that the Town would prepare a financial document for the benefit of the Town Council and the public regarding water acquisition costs.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

CLOSED SESSION

16. Closed Session.

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

Mayor Cusack adjourned the meeting of the Apple Valley Town Council to Closed Session at 9:45 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 – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case Name: Application No. 14-11-013 Joint Application of Liberty Utilities Co., Liberty WWH, Inc., Western Water Holdings, LLC, Park Water Company (U314W), and Apple Valley Ranchos Water Company (U346W) for Authority for Liberty Utilities Co. to Acquire and Control Park Water Company and Apple Valley Ranchos Water Company.
- 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.
- F. Negotiations with Real Property Negotiator – Parcel Number: 3112-181-01 located at Highway 18, between Dale Evans Parkway & Standing Rock, Apple Valley; Negotiating

Parties: Property Owner; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.

- G. Negotiations with Real Property Negotiator – Parcel Number: 3112-251-13, Apple Valley; Negotiating Parties: Jian Torkan or other interested parties; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.

MAYOR CUSACK WAS EXCUSED FROM THE MEETING OF THE APPLE VALLEY TOWN COUNCIL AT 10:09 P.M.

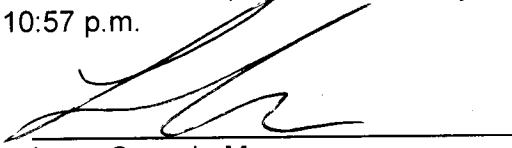
Upon returning from Closed Session at 10:56 p.m. Mayor Pro Tem Stanton reported that the Town Council had no reportable action.

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 10:57 p.m.



La Vonda M-Pearson, Town Clerk



Larry Cusack, Mayor