

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

REGULAR MEETING

MINUTES – February 23, 2016

CALL TO ORDER:

Mayor Stanton 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; Cusack; Emick; Mayor Stanton

Absent: Mayor Pro Tem Nassif

OPENING CEREMONIES

INVOCATION: Pastor Kristopher Schaal, Life Point Baptist Church

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

PRESENTATIONS: Volunteen Certificates of Commendation, Alicia Dannelley,
Recreation Coordinator

Update - Special Events and SAVE Campaign, Kathie Martin,
Marketing & Public Affairs Officer

Mayor Stanton announced that the Economic Development Update would be given at the next Town Council Meeting.

PUBLIC COMMENTS

Juan Figueroa, Seasons Hospice, commented on a program designed for children called Camp Kangaroo that works with children who have experienced death at a young age. He explained that the services are free of charge.

John Laraway, Apple Valley, expressed concern regarding the synchronization of signal lights in the Town of Apple Valley.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

- A. Regular Meeting – Tuesday, March 8, 2016 – Town of Apple Valley Council Chambers - Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Mayor Stanton, with the consensus of the Town Council, requested that Agenda Item #2 be pulled from the consent calendar.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1, 3 and 4 respectfully, and that Item #2 be pulled for discussion.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Pro Tem Nassif.

1. **Approval of Minutes of the Town Council**
A. **Regular Meeting – February 9, 2016**

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. **A Resolution of the Town Council of the Town of Apple Valley, California, Authorizing Submittal of Applications to the Department of Resources Recycling and Recovery (CalRecycle) Effective for Five (5) Years**

Recommendation:

That the Town Council adopt Resolution No. 2016-06, a Resolution of the Town Council of the Town of Apple Valley authorizing the Town Manager to execute Department of Resources Recycling and Recovery (CalRecycle) grants on behalf of the Town of Apple Valley.

4. **Fee Waiver Request for St. Mary's High Desert Fit for Life Challenge 5K/10K Event for the Use of the Civic Center Park/Amphitheater**

Recommendation:

For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$936.00.

PULLED FOR DISCUSSION

2. **Award Construction Contract for Yucca Loma Road Widening Project**

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk. He announced that the bids for the project were approximately four million dollars underestimate. He provided a time estimate for completion of the project.

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to award a contract to Riverside Construction Company, Inc. for the Yucca Loma Road Widening construction services in an amount not to exceed \$8,242,430.00.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Pro Tem Nassif.

PUBLIC HEARINGS

5. **Extend Interim Urgency Ordinance of the Town Council of the Town of Apple Valley, California, Enacted Pursuant to California Government Code Section 65858, Making Findings and Extending a Temporary Moratorium on Cannabis Dispensaries, Cannabis Manufacturers and the Cultivation and Delivery of Cannabis Pending the Completion of Studies and the Preparation of an Update to the Town's Municipal and Zoning Codes**

Mayor Stanton opened the public hearing at 7:43 p.m.

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

Public Speaker (no name given), stated that he originally supported a ban on marijuana; however he has most recently experienced a situation in which his terminally ill father received relief from the substance assisting him with a comfortable living until his passing.

Mayor Stanton closed the public hearing at 7:55 p.m.

Mayor Stanton commented on the urgency ordinance indicating that there were no marijuana related deaths in comparison to other drugs documented

MOTION

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

- A. Receive a report on efforts to study the issue of medical marijuana in the Town currently and expected usage in the Town in the future; and
- B. An Interim Urgency Ordinance of the Town Council of the Town of Apple Valley, California, enacted pursuant to California Government Code section 65858 extending for a period of ten (10) months and fifteen (15) days the temporary moratorium on cannabis dispensaries, cannabis manufacturers and the cultivation and delivery of cannabis pending the completion of studies and the preparation of an update to the Town's Municipal and Zoning Codes.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Pro Tem Nassif

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

6. Fiscal Year 2015-2016 Mid-Year Budget Review

Marc Puckett, Assistant Town Manager, presented the staff report and a PowerPoint presentation as filed with the Town Clerk. He highlighted various expenditures and revenues listed within the report.

Mr. Puckett addressed questions of the Council regarding projected revenues for the Town.

The Town Council members commented on the Park and Recreation fund and the need to continue to provide services to the public through this department while addressing the concern of fees.

Frank Robinson, Town Manager, announced that the State Board of Equalization has approved a 2.2 cent per gallon decrease in the state variable tax on gasoline for Fiscal Year 2016-17. He also stated that effective July 1, 2016, there will be an additional decrease in the variable gas tax revenues received by cities, equivalent to the Department of Finance' projected 2.2 cent decrease. He briefly commented on how this would impact the Town.

Tom Piper, Apple Valley asked for clarification regarding information listed within the slides presented to the Town Council.

Mr. Puckett answered questions and concerns expressed by the public regarding other revenues and reserve funding.

MOTION

Motion by Council Member Bishop, seconded by Council Member Emick, to receive and file the Fiscal Year 2015-2016 Mid-Year Budget Review Report. and approve Budget Amendment Number 16-14

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Pro Tem Nassif

7. Introduce Ordinance No. 484, An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Chapter 12.20, Entitled "Special Speed Limits" of Title 12 of the Town of Apple Valley Municipal Code

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

Council Member Cusack expressed concern regarding inconsistencies on the speed limit for the same road going in the opposite direction.

Mr. Miller explained how the traffic speed is determined through speed surveys.

Council Member Cusack requested, with the consensus of the Town Council, that an additional study be conducted in order to see if the study would support matching the speed limit for both sides of Flathead Road to 45 mph.

John Laraway, Apple Valley, recommended that the speed limits remain the same in the Town of Apple Valley.

MOTION

Motion by Council Member Cusack, seconded by Council Member Emick, to waive the reading of Ordinance No. 484 in its entirety and read by title only

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Pro Tem Nassif

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 484.

MOTION

Motion by Council Member Cusack, seconded by Council Member Bishop, to authorize a study "An Ordinance of the Town Council of the Town of Apple Valley, California, amending Chapter 12.20, entitled "Special Speed Limits" of Title 12 of the Town of Apple Valley Municipal Code."

Vote: Motion carried 3-1-0-1

Yes: Council Members Bishop; Cusack; Emick.

Noes: Mayor Stanton

Absent: Mayor Pro Tem Nassif

MOTION

Motion by Council Member Cusack, seconded by Council Member Emick, to authorize an additional speed limit study to determine if matching speed limits for the same road travelling in opposite directions be supported.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Pro Tem Nassif

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on Senate Bill 876 regarding homelessness. He stated that the bill was amended recommending that cities be prohibited from enacting policies or practices that are discriminatory in either their purpose or effect. He also announced that Senator Feinstein is re-introducing her Desert Conservation Off-Road Recreation and Renewable Energy Act Bill.

Mr. Robinson announced that Mayor Pro Tem Jim Cox is seeking support for a position on the LAFCO Board. He concluded his comments with a list of projects taking place in the community which

included the Krishna Valley Temple expansion, Oggi's Restaurant tenant improvements, Six Beans Coffee, Tonyan Coffee, upgrades to the Wal-Mart Distribution Center and the new medical offices on Highway 18.

DEPARTMENTAL REPORTS AND BUSINESS

None

CLOSED SESSION

8. Closed Session.

Mayor Stanton announced that Council Member Cusack would be abstaining from one (1) or more of the closed session items as it pertained to Liberty Utilities if needed, due to a potential conflict of interest. She stated that his company does business with the above referenced company.

Mayor Stanton adjourned to Closed Session at 9:04 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 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.
- D. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8. Property: Apple Valley Ranchos Water Company; 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.
- E. Negotiations with Real Property Negotiator – Parcel Number: 3112-181-01 located at Highway 18, between Dale Evans Parkway & Rancherias Road, Apple Valley; Negotiating Parties: 360 Apple West, LLC; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.
- F. 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.

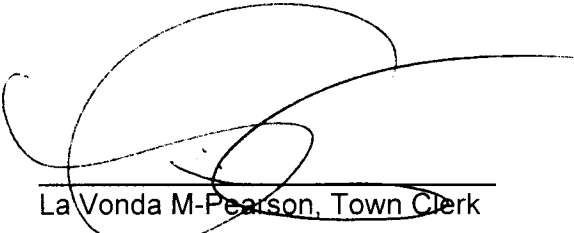
- G. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1600180 – Town of Apple Valley vs. Apple Valley Ranchos Water Company Et Al.
- H. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Application 15-07-009 - (Filed July 2, 2015). In the matter of Joint Application of Charter Communications, Inc.; Charter Fiberlink CA-CCO, LLC (U6878C); Time Warner Cable Inc.; Time Warner Cable Information Services (California), LLC (U6874C); Advance/Newhouse Partnership; Bright House Networks, LLC; and Bright House Networks Information Services (California), LLC (U6955C) Pursuant to California Public Utilities Code Section 854 for Expedited Approval of the Transfer of Control of both Time Warner Cable Information Services (California), LLC (U6874C) and Bright House Networks Information Services (California), LLC (U6955C) to Charter Communications, Inc., and for Expedited Approval of a pro forma transfer of control of Charter Fiberlink CA-CCO, LLC (U6878C).
- I. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluation. Title: Town Manager

Upon returning from Closed Session at 10:37, Mayor Stanton announced the following reportable action:

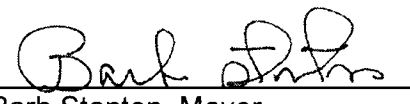
After deliberation in Closed Session a motion was made by Council Member Cusack, seconded by Council Member Bishop, and unanimously carried, to authorize staff to initiate settlement regarding the CPUC and Charter Communications and to enter into agreement with Charter Communications regarding PEG fees and all related matters.

ADJOURNMENT

Motion by Council Member Emick, seconded by Council Member Bishop, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 10:38 p.m.



La Vonda M-Pearson, Town Clerk



Barb Stanton, Mayor