

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

SPECIAL MEETING

MINUTES – February 7, 2017

CALL TO ORDER:

Mayor Pro Tem Bishop called to order the Special Meeting 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 Cusack; Emick; Stanton; Mayor Pro Tem Bishop;

Absent: Mayor Nassif

OPENING CEREMONIES

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

PUBLIC COMMENTS

Al Rice, Apple Valley, believed that Town Hall and its performance is in decline. He wanted to inform the Town Council that citizens have commented on the financial stability of the Town and expressed concern regarding the need to protect their families.

PUBLIC HEARING

- 1. Appeal No. 2017-02 – An Appeal of the Planning Commission's Denial of the Appeal of the Planning Director's Approvals of Site Plan Review No. 2015-01 (Project Jupiter), Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program under the California Environmental Quality Act for a Proposed Distribution Facility**

Carol Miller, Principal Planner, addressed concerns expressed by Lozeau Drury regarding their inability to prepare for the public hearing due to not receiving notification of this meeting in a timely manner and their Request for Continuance of Appeal No. 2017-02. Ms. Miller confirmed that the Town's Notice of Public Hearing was timely and in compliance with the California Government Code.

Doug Felbinger, Apple Valley requested that the Town Council not grant a continuance of this meeting.

Meredith Wilensky, Lozeau Drury LLP, requested a continuance of Appeal No. 2017-02 and explained that her offices did not believe adequate time was provided to appellant's offices to prepare for the February 7, 2017 public hearing.

Deborah Quick, Morgan Lewis, on behalf of the Applicant, stated that her client does not support a continuance and indicated ample time and opportunity has been given for them to prepare for the hearing.

MOTION

Motion by Council Member Emick, seconded by Council Member Cusack to deny the Request of Appellant to continue Appeal No. 2017-02.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Nassif

Mayor Pro Tem Bishop opened the public hearing at 6:48 p.m.

Carol Miller, Principal Planner, presented the staff report as filed with the Town Clerk.

Meredith Wilensky, Lozeau Drury LLP, believed there would be significant air quality concerns and impacts that could bring possible health problems with the construction of the proposed project. In addition, Ms. Wilensky indicated that new information was brought to light regarding a series of amendments to the Specific Plan area and that the Environmental Impact Report ("EIR"), due to its age, does not address the new impacts. She respectfully requested that a new EIR be prepared.

Deborah Quick, Morgan Lewis on behalf of Applicant, commented on the Town's efforts with respect to the Site Specific Review and EIR conducted in 2006, which led to the approved range of uses. Ms. Quick stated that some significant impacts could not be mitigated but that the Project is entirely compliant with the Specific Plan. She stated that site specific, biological and other studies were conducted appropriately and that all of the mitigations required by the EIR were imposed.

Josh Bourgeois, Golden State Environmental Justice Alliance, provided the Town Council with technical data and fact sheets which provided information on physical and chemical properties, along with presumed environmental and health impacts if the project is constructed in the proposed location.

Doug Felbinger, Apple Valley, stated that he was in attendance when the Town's Specific Plan was adopted and believed that the area where this project is being placed is appropriate.

Bryan Baker, Mojave Group of the Sierra Club and Apple Valley resident, stated that he wanted to ensure that what is constructed is for the benefit of Apple Valley and its citizens. He asked that the Council review information that he believes outlines weaknesses with the project.

Al Rice, Apple Valley, expressed concern regarding previous minutes listed within the staff report for the Planning Commission that he believed were inaccurate. He also believed that there were chemicals contained in the soil that could pose a danger to the construction workers and employees of the project.

Council Member Stanton asked staff to clarify, for the benefit of the Town's citizens, that all obligations have been met for the project and its location.

Nicole Criste, Terra Nova, commented on the amount of work she has done on this project. She explained that the analyses conducted included soil sampling, extensive research in association with clearing the site and those materials associated with the target area. She noted that the studies have been available on the Town's website. Ms. Criste also confirmed that there has been no contamination on the site and that the air quality impacts have been analyzed by multiple parties and fall within the limits of the EIR.

Ms. Criste also stated that burrowing owls were not identified at the location and additional checks will be conducted to ensure there are no burrowing owls before the project begins construction.

Council Member Cusack commented on the State of California's strict regulations when trying to complete a project within the state, as well as locally in our community.

Council Member Emick commented on the amount of soil samples taken and the extent of work that was performed to ensure compliance.

Council Member Stanton believes this project is ready to move forward for completion.

Mayor Pro Tem Bishop stated that he believed the Town staff had gone above and beyond to ensure the safety of individuals working on the project as well as protecting the environment for all of the Town's citizens.

There being no additional requests to speak, Mayor Pro Tem Bishop closed the public hearing at 7:40 p.m.

MOTION

Motion by Council Member Stanton, seconded by Council Member Emick, to adopt Town Council Resolution No. 2017-07, which: (1) denies the appeal of the approvals previously issued for SPR No. 2015-01 (Project Jupiter); (2) adopts a Mitigated Negative Declaration; (3) approves a Mitigation Monitoring and Reporting Program; and (4) approves the Project Jupiter Distribution Warehouse Project subject to the conditions of approval.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Nassif

CLOSED SESSION

2. Closed Session


Mayor Pro Tem Bishop adjourned the meeting of the Apple Valley Town Council at 7:53 p.m. to discuss the following:

- A. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No. CIVDS160498 – Christina Lopez – Burton vs. Town of Apple Valley.

Upon returning from closed session at 8:30 p.m. Mayor Pro Tem Bishop announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Council Member Cusack, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:31 p.m.



Art Bishop, Mayor Pro Tem



Debra Thomas, Deputy Town Clerk