

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

REGULAR MEETING

MINUTES – March 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: Bishop Joseph Cranston, Church of Jesus Christ Latter Day Saints

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

PRESENTATIONS: Renovate America – Dustin Reilich, Senior Director, Market Development

PUBLIC COMMENTS

Kari Leon, Agio Realty, commented on the negative aspects of PACE/HERO programs to homeowners and the impact to the impound accounts if the funding is repaid through property taxes. She also explained that if homeowners have an FHA loan, the program loan must be repaid before the property can be sold and may affect the purchase.

Cecil Volsch, Broker, believes the industry is working to resolve the concerns of realtors regarding non-informed clients who don't understand the financial impact of these programs. He explained that these liens step in front of the first loan and commented on his belief that the energy claims are dubious. He also believed that the automation valuation model does not accurately reflect the home value.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

Council Member Emick 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:

Council Member Nassif recommended, with the consensus of the Town Council, that a future item be placed on the agenda regarding the PACE and HERO programs to allow for consumer choice.

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

- A. Regular Meeting – Tuesday, March 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 1-9 respectfully.

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 – February 27, 2018**

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. **February 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. **February 2018 Payroll / Benefits Warrants Schedule**

Recommendation:

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

4. **Treasurer's Report – January 2018 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 January 2018 Treasurer's Report.

5. **Claimant – Joyce Marie Hawkins**

Recommendation:

Reject the claim of Joyce Marie Hawkins

6. **ADOPT Ordinance No. 497 – An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Chapter 10.01, Section 10.01.060 of the Apple Valley Municipal Code to Include the Local Area Management Program (LAMP)**

Recommendation:

Adopt Ordinance No. 497

7. **ADOPT Ordinance No. 499 – An Ordinance of the Town Council of the Town of Apple Valley, California, Amending the Jess Ranch Planned Unit Development relating to the future Development of Lot Nos. 196 through 204 within Tract Map 14484 (Jess Ranch Lakes RV Resort)**

Recommendation:

Adopt Ordinance No. 499

8. **Authorize Entering into Four Agreements for Lighting Projects in Town Facilities through Southern California Edison's OBF Customized Solution Program**

Recommendation:

That the Town Council approve the Town Manager or his designee to proceed with four On Bill Financing (OBF) projects through Southern California Edison's Customized Solution Program, authorize entering into OBF agreements and signing all necessary documents for each project for the not to exceed total amount of \$330,364.80.

Project # 1 – 349-16-0500886803 – Police Department & Facilities Building - \$45,984.00

Project # 2 – 349-16-0500886739 – Development Services Building - \$47,712.00

Project # 3 – 349-16-0500886776 – Aquatic Center & Civic Center Park - \$89,602.80

Project # 4 – 349-16-0500886805 – Town Hall - \$147,066.00

9. **Presentation of the Apple Valley Community Resource Foundation 2016-17 Annual Report**

(Community Resource Foundation)

Recommendation:

That the Board receive and file the Apple Valley Community Resource Foundation Annual Report for the fiscal year ended June 30, 2017.

PUBLIC HEARINGS

10. Appeal No. 2018-001, A Request to Remove Conditions of Approval Relating to Required Street Improvements for Apple Valley Road, and Undergrounding Utility Lines along Monte Verde Road for Tentative Parcel Map No. 19878, Approved by the Planning Commission on February 7, 2018

Mayor Bishop opened the Public Hearing at 7:25 p.m.

Pam Cupp, Associate Engineer, presented the staff report as filed with the Town Clerk. She explained that the applicant is appealing Condition No. EC5 and EC11. She stated that staff is in agreement with removing Condition No. EC11 which required that utility lines be placed underground due to the location of adjacent properties utilizing those lines.

Brad Miller, Town Engineer, explained for the benefit of the Town Council, that the required conditions are to be met at the time of subdivision of land. He stated that this requirement is part of the Town's Development Code.

Tom Steeno, on behalf of Applicant, noted that this is the only property that is not split and required to pay the frontage fee.

There being no requests to speak, Mayor Bishop closed the public hearing at 7:38 p.m.

Council Member Nassif stated that it may be a detriment to the development of the lot should EC5 be considered. He believed it would be consistent with the other properties in the area if the appeal was granted.

Council Member Emick concurred with the statements made by Council Member Nassif. He believed that it would assist with the development.

Doug Robertson, Town Manager, explained that it is staffs job to review the Development Code and ensure its compliance. However, the Town Council could utilize other avenues if making a determination to grant an appeal if that is the desire of the Council.

Discussion ensued regarding the impact to the area if the appeal is granted and if it is not granted. Also discussed were potential findings that would support granting the appeal.

MOTION

Motion by Council Member Nassif, seconded by Council Member Stanton, to:

- A. Find that, as a minor subdivision of land, and pursuant to the Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15315 the proposal is Exempt from further environmental review.
- B. Find that there appears to be little or no reasonable relation or nexus between the traffic impacts of the development of one (1) lot given the nature of the surrounding subdivision and residential lot to be constructed.
- C. Approve Tentative Parcel Map No. 19878, subject to the Conditions of Approval as amended by the Town Council, approving Appeal No. 2018-001.

Vote: Motion carried 5-0-0-0
Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.
Absent: None.

11. General Plan Amendment No. 2017-002 is a Request to Consider a Change in Land Use Designation from Medium Density Residential to Single-Family Residential. Zone Change No. 2017-002 is a Request to Consider a Change in Zoning from Multi-Family Residential to Single-Family Residential

Mayor Bishop opened the Public Hearing at 7:50 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Town Clerk. She noted that the proposed change would not affect the housing element.

J. David Haig, Apple Valley, expressed concern regarding the proposed amendment. He noted that he is an owner of both single family and multi-family property in the community. He expressed concern regarding whether or not property could be rebuilt should a disaster occur.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 8:02 p.m.

Ms. Cupp clarified that property owners would be allowed to rebuild septic systems.

MOTION

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

1. **Determine** that, in conformance with the requirements of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposed General Plan Amendment No. 2017-002 and Zone Change No. 2017-002 will not have a significant effect on the environment.
2. **Adopt** the Negative Declaration prepared for General Plan Amendment No. 2017-002 and Zone Change No. 2017-002.
3. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for February 7, 2018, support the required Findings for approval of the proposed General Plan Amendment and Zone Change and adopt the Findings.
4. **Adopt** Resolution No. 2018-07, approving General Plan Amendment No. 2017-002.
5. **Move** to waive the reading of Ordinance No. 500 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0
Yes: Council Members Emick; Nassif; Stanton; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: None.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 500.

MOTION

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

6. **Introduce** Ordinance No. 500, approving Zone Change No. 2017-002; and
7. **Direct** staff to file a Notice of Determination with the San Bernardino County Clerk of the Board.

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

None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Doug Robertson, Town Manager, commented on upcoming events in the Town of Apple Valley and noted that the next edition of the Our Town Newsletter was just sent to the printer and should be arriving in mailboxes soon.

CLOSED SESSION

12. 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 8:05 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.
- H. Negotiations with Real Property Negotiator – Parcel Number: 3112-251-13, Apple Valley; Negotiating Parties: Interested parties; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.
- I. Negotiations with Real Property Negotiator – Parcel Number: 3112-181-03 Apple Valley; Negotiating Parties: Don Brown; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.
- J. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1601999 – Town of Apple Valley vs. Jess Ranch Development, Et Al.

Upon returning from Closed Session at 8:54 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 8:55 p.m.

Art Bishop, Mayor

La Vonda M-Pearson, Town Clerk