

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

REGULAR MEETING

MINUTES – April 24, 2018

CALL TO ORDER:

Mayor Bishop called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:35 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: Elder Will Jefferson, Victorville Life Church

PLEDGE OF ALLEGIANCE: Council Member Curt Emick

PRESENTATIONS: Mayor Bishop to Perform Swearing in Ceremony for Community Emergency Response Team (CERT) Members

Employee of the Quarter presented to Jacob De La Cruz, Accountant
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PUBLIC COMMENTS

Raymond Herrera, Spring Valley Lake, asked the Town Council to fight against the tyranny and support the deportation of illegal aliens from the State of California. He requested that SB54 be placed on the agenda.

Bill Inger, Apple Valley, expressed concern regarding the need for the Town Council to address SB54 and protect the community.

John Wesley Nobles, Apple Valley, believed our government was harboring illegals and criminals and that it has become an acceptance in our State. He believed that we need to put an end to having a Sanctuary State.

Mary Ruth Hughes, Apple Valley, asked the Town Council to opt out of being a Sanctuary City.

Mad Mike Hughes, Apple Valley, believed he has placed Apple Valley on the map with his world known stunts. He also asked that renderings of Roy Rogers be removed from the walls of the Council Chambers since he was a 33-degree free mason.

Bryen Wright, Apple Valley, commented on the need for a federal audit to review the Towns finances; and thanked the Town for the grant policy on the agenda. He believed in total transparency.

Cecil Volsch, Apple Valley, stated that a lawsuit had been filed against the County of Los Angeles regarding the PACE program. He believed more work should be done to fix the problem with these funding programs.

George Butts, Apple Valley, stated that almost every home in his neighborhood near the golf course has been hit by a car. He believed something should be done to mitigate the damages that routinely occur on that roadway.

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

Council Member Stanton recognized the anniversary of the Armenian Genocide and asked that the meeting be adjourned in memory of those who lost their lives.

With sadness, the Council acknowledged the passing of Jack Collingsworth, Jr., the son of former Council Member and Mayor Jack Collingsworth. Also acknowledged was the passing of longtime resident Tom Erwin. Mayor Bishop, with the consensus of the Town Council, agreed to adjourn the meeting in their honor and memory.

Suggested items for future agenda:

None.

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

- A. Regular Meeting – Tuesday, May 8, 2018 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Council Member Stanton requested, with the consensus of the Town Council, to remove Agenda Item Number 6 from the Consent Calendar.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to approve the Consent Calendar items numbered 1 – 5, respectfully.

Vote: Motion carried 5-0-0-0

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

Absent: None.

1. Approval of Minutes of the Town Council

A. Regular Meeting – April 10, 2018

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. Award Paving 17-18, Project No. 2018-01

Recommendation:

A. Waive an inconsequential deviation in the bid of VSS International, Inc. and find VSS International, Inc. to be the lowest responsive and responsible bidder.

B. Award a contract to VSS International, Inc. for the Paving 17-18 - Project No. 2018-01 subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

3. Release of Securities for Tract Map Numbers 18917-1 and 18917-2

Recommendation:

Find that the construction of various improvements required for Tracts 18917-1 and 18917-2 are complete, and approve the 50% reduction of the performance securities.

4. Adopt Resolution No. 2018-13, a Resolution of the Town Council of the Town of Apple Valley, California, Adopting a Grant Management Policy

Recommendation:

That the Town Council adopt Resolution No. 2018-13 approving a Grant Management Policy.

5. Adopt Budget Amendment No. 18-12 Appropriating Homeland Security Grant Funds and Law Enforcement Facilities Funds for the Purchase of Automated License Plate Readers for Information Sharing and Public Safety as well as to Protect Critical Infrastructures and Key Resources

Recommendation:

It is recommended that the Town Council:

A. Approve receipt of the Homeland Security Grant funding in the amount of \$22,779 and adopt Budget Amendment Number 18-12 appropriating grant funding; and

B. Authorize the Town Manger and/or Assistant Town Manager to execute the agreement with the Homeland Security Grant Program through the Governor's Office of Emergency Services to distribute the funds to Vigilant Solutions for the purchase of automated license plate readers.

PULLED FOR DISCUSSION

6. Adopt Resolution No. 2018-14, A Resolution of the Town Council of the Town of Apple Valley, California, Identifying the Paving Project List to be funded by Senate Bill 1 (SB1).

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

MOTION

Motion by Council Member Stanton, seconded by Council Member Nassif, to adopt Resolution 2018-14 identifying the paving project list to be funded by Senate Bill 1 (SB1).

Vote: Motion carried 5-0-0-0

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

Absent: None

PUBLIC HEARINGS

7. Second Public Hearing for 2017-2021 Consolidated Plan/Second-Year Action Plan for the Community Development Block Grant (CDBG) and the HOME Investment Partnerships (HOME) Programs

Doug Robertson, Town Manager, stated that he would be recusing himself from discussion and participation of this item. He stated that his wife serves as Executive Director of a non-profit organization.

Council Member Stanton stated that she too would be recusing herself from discussion and participation of this item. She explained that she serves on the board of the Family Assistance Program.

COUNCIL MEMBER STANTON AND TOWN MANAGER ROBERTSON WERE EXCUSED FROM THE DAIS AT 7:41 P.M.

Mayor Bishop opened the public hearing at 7:42 p.m.

Orlando Acevedo, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk.

Beth Brussel-Horton, Apple Valley, spoke of her work with Awakens Community Cat, a group that rescues free roaming feral cats. She asked that the Council consider her organization for future funding opportunities. She concluded her comments thanking the Town Council for their efforts to acquire the water company.

Kelly Maxwell, Orenda Veterans Project, thanked the Town Council for helping their organization through the CDBG program funding.

Rosie Sandoval, Victor Valley Domestic Violence, thanked the Town Council for their continued support. She spoke of the recent upgrades to their facility.

Jamie Lamb, Cedar House Life Change Center, stated that the organization assists individuals with therapeutic care and outreach services for individuals suffering from alcoholic and substance abuse. She spoke of the various facilities they have available for service.

Jimmy Waldren, High Desert Homeless Services, thanked the Town Council for their continued support. He spoke of new services that the organization is offering the community.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 7:55 p.m.

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Cusack, to approve the Community Development Citizen Advisory Committee (CDCAC) funding recommendations of the 2018-2019 Second-Year Action Plan, an annual component of the five-year 2017-2021 Consolidated Plan; and authorize the Town Manager to execute all necessary HUD documents on behalf of the Town.

Vote: Motion carried 4-0-1-0

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

Abstain: Council Member Stanton

COUNCIL MEMBER STANTON AND TOWN MANAGER ROBERTSON RETURNED TO THE DAIS AT 8:01 P.M.

8. General Plan Amendment No. 2017-001, Zone Change No. 2017-001

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

Carol Miller, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk.

Council Member Emick asked questions regarding the ability to build multifamily residential on the land proposed for the zone change and the ability to do a Conditional Use Permit.

Council Member Stanton asked questions regarding the proposed zoning and how it would affect the surrounding area.

Lori Lamson, Assistant Town Manager, answered questions of the Town Council and provided clarification to the public regarding the project as well as the market rate for the property,

Ms. Lamson also commented on buffering development from low-density residential.

Tom Steeno, Applicant, thanked staff for their work on this item and for explaining this to the citizens. He noted that there is no project planned at this time. He spoke of the misinformation that has been circulated on this item causing residents to believe that a low-income project was being built.

George Butts, Apple Valley, believed that additional time should be given for further review of this item.

Nate Lynch, Apple Valley, spoke in opposition of the change of zoning at this location. He spoke of the traffic congestion that currently occurs in this area.

Justin Gatewood, Apple Valley, spoke of the negative change in atmosphere when high density residential is added to a neighborhood. He spoke on the positive investment of a home and asked the Town Council to consider tabling this item at this time.

Laura Reed, Apple Valley, indicated that she would prefer her neighborhood and schools to remain safe. She believes that high density residential could make her neighborhood change.

Sue Newton, Apple Valley, also recommended that this item be tabled and reconsidered at a later time until more information can be provided.

Scott Mazzola, Apple Valley, expressed concern regarding the potential traffic and crime that could occur should this area be rezoned to allow for more apartment complexes.

Aarin Christoffuer, Apple Valley, believed that there is no project planned at this time. He spoke on the negative comments and the speculation for something that may not occur.

Mike Bergstrom, Apple Valley, believed that there is a project associated with this zone change. He recommended that this item be brought back when an actual project can be reviewed with the proposed request.

Tim Reischl, Apple Valley, spoke in opposition of this project. He commented on the increased traffic that a project will cause and recommended that another CEQA study be conducted.

Angie (No Last Name Given), Apple Valley, indicated that Planning staff noted that vouchers can be given for Section 8 participants. She stated if this is true, high density residential in that area could allow for an increase in crime.

Mayor Bishop closed the public hearing at 8:58 p.m.

Mayor Bishop re-opened the public hearing at 8:58 p.m.

Mr. Steeno rebutted statements made by the public on the proposed zone change.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 9:02 p.m.

Council Member Nassif explained the standards that are required for proposed housing structures in the Town of Apple Valley. He noted that these standards were developed to raise the standards for the Apple Valley community.

Ms. Lamson and Ms. Miller provided further clarification explaining the language and terminology used when presenting this item.

Discussion ensued regarding the notification limit to inform residents of proposed zone changes. Mr. Robertson noted that because the proposed standards reduced the number of dwelling units, the number of concerned residents opposed to this project was not anticipated. He stated that notices were sent in accordance to the rules of the Development Code; however future notifications of this type will be sent above the requirement.

Council Member Emick clarified that approval of this will provide the Town Council to review potential projects on this property. However, if this item is denied, projects can be built without an additional review process.

Ms. Lamson stated that she had recommendations that could be brought back to a future meeting regarding noticing requirements near HOA 's.

MOTION

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

- A. **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. 2017-001 and Zone Change No. 2017-001 will not have a significant effect on the environment.
- B. **Adopt** the Negative Declaration prepared for General Plan Amendment No. 2017-001 and Zone Change No. 2017-001.
- C. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for March 7, 2018, support the required Findings for approval of the proposed General Plan Amendment and Zone Change and adopt the Findings.
- D. **Adopt** Resolution No. 2018-12 approving General Plan Amendment No. 2017-001.
- E. **Move** to waive the reading of Ordinance No. 501 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. 501.

MOTION

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

- F. **Introduce** Ordinance No. 501 approving Zone Change No. 2017-001; and
- G. **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

RECESSED MEETING

Mayor Bishop recessed the meeting of the Apple Valley Town Council at 9:55 p.m.

MEETING RECONVENED

Mayor Bishop reconvened the meeting of the Apple Valley Town Council at 10:07 p.m.

- 9. **A Request to Consider an Amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Modifying Chapter 9.08 “Definitions”, Chapter 9.28**

“Residential Districts” and Chapter 9.29 “Specific Use Regulations for Residential Districts” as it Pertains to Accessory Dwelling Units and Other Residential Habitable Accessory Structures

Mayor Bishop opened the public hearing at 10:08 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Bishop closed the public hearing at 10:18 p.m.

MOTION

Motion by Mayor Pro Tem Cusack, seconded by Council Member Emick, to:

- A. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from environmental review because the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
- B. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for March 21, 2018, support the required Findings for approval of the proposed Development Code Amendment and adopt the Findings.
- C. **Move** to waive the reading of Ordinance No. 502 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. 502.

MOTION

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

- D. **Introduce** Ordinance No. 502 approving Development Code Amendment No. 2017-002.
- E. **Direct** staff to file a Notice of Exemption 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

10. Agreement to Amend the Town Manager Contract to Include Voluntary Agreement to Participate in Across the Board Reductions due to Budget Constraints

Doug Robertson, Town Manager, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Cusack, to accept and approve the attached letter agreement amending the Town Manager Contract.

Vote: Motion carried 5-0-0-0

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

Absent: None

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Doug Robertson, Town Manager, announced upcoming events in the Town of Apple Valley, including the Family Fair and Swimfest on Saturday, May 5, 2018. He also commented on the Walk the Dog campaign by our Animal Services Division. He announced that Wednesday, April 25 is Denim Day – a day to raise awareness of domestic violence by wearing denim.

CLOSED SESSION

11. 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 10:27 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.

Upon returning from Closed Session at 10:58 p.m., Mayor Bishop announced that there was no reportable action taken.

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| ADJOURNMENT |
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Motion by Council Member Emick, seconded by Council Member Stanton, to adjourn the meeting of the Apple Valley Town Council at 10:59 p.m. in memory of Mr. Jack Collingsworth, Jr., longtime resident Mr. Tom Erwin and those who lost their lives during the Armenian Genocide.

Art Bishop, Mayor

La Vonda M-Pearson, Town Clerk