

AGENDA

**APPLE VALLEY TOWN COUNCIL/
SUCCESSOR AGENCY/
PUBLIC FINANCING AUTHORITY**

REGULAR MEETING

MINUTES February 12, 2019

CALL TO ORDER:

Mayor Cusack called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:31pm

Roll call was taken with the following members present:

Roll Call

Present: Council Member Bishop, Council Member Emick, Council Member Leon, Mayor Pro Tem Nassif, Mayor Cusack

Absent: None

OPENING CEREMONIES

INVOCATION: Chaplain Susan Cruz, Victorville Life Church

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

PRESENTATIONS: None

PUBLIC COMMENTS

None.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

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

Mayor Pro Tem Nassif commented on committee meetings and events that he attended.

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

**A. Regular Meeting – Tuesday, February 26, 2019 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

La Vonda M-Pearson, Town Clerk, read the following disclosure statement:

Mayor Pro Tem Nassif has a remote interest in specific warrants on tonight's Commercial Warrants dealing with NAPA Auto Parts or High Desert Auto Supply for the Town of Apple Valley as the owner of these businesses. Therefore, he will be abstaining from voting on the warrants for NAPA Auto Parts and High Desert Auto Supply listed under Agenda Item Number 2. In addition, due to his interest in both businesses, Mayor Pro Tem Nassif will also be abstaining from voting on specific warrants listed under Agenda Item Number 2 because these entities are considered sources of income to his businesses. A list of business entities for Mayor Pro Tem Nassif is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Pro Tem Nassif confirmed that he would be abstaining from voting on these warrants.

Mayor Cusack also has a remote interest in specific warrants on tonight's Commercial Warrants dealing with Apple Valley Communications, AV Tech Services or AVCOM Services for the Town of Apple Valley as the owner of these businesses. Therefore, he too will be abstaining from voting on the warrants for Apple Valley Communications, AV Tech Services and AVCOM Services listed under Agenda Item Number 2. In addition, due to his interest in these businesses, Mayor Cusack will be abstaining from voting on specific warrants listed under Agenda Item Number 2 because these entities are considered sources of income to his businesses. A list of business entities for Mayor Cusack is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Cusack confirmed that he would be abstaining from voting on these warrants.

MOTION

Motion by Council Member Emick, seconded by Council Member Leon, to approve the Consent Calendar items numbered 1-4, and 7 respectfully, and that items numbered 5 and 6 be pulled for discussion.

Vote: Motion carried 5-0-0-0

Yes: Council Member Bishop, Council Member Emick, Council Member Leon, Mayor Pro Tem Nassif, Mayor Cusack.

Absent: None

Mayor Pro Tem Nassif and Mayor Cusack abstained from voting on specific warrants listed under Agenda Item Number 2.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – January 22, 2019**
 - B. **Special Meeting – January 30, 2019**

Recommendation:
Approve the subject minutes as part of the consent agenda

2. **January 2019 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. **December 2018 Payroll / Benefits Warrants Schedule**

Recommendation:
That the Town Council receive, ratify, and file the Payroll / Benefits Warrants Schedule.

4. **Treasurer’s Report – September 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 Town Council receive and file the September 2018 Treasurer’s Report.

7. **Consent to Advertise Resurfacing 2019-01 Project**

Recommendation:

 - A. That the Town Council review and approve the bid documents for Resurfacing 2019-01 – Project No. 2018-07

 - B. That the Town Council authorize staff to solicit bids for construction of said project.

PULLED FROM CONSENT

5. **Treasurer’s Report – October 2018 and Schedules of Revenues, Expenditures and Changes in Fund Balance for the Parks and Recreation Fund and the Apple Valley Golf Course Fund**

Bill Inger, Apple Valley, questioned the amount of funds used from the line of credit. He asked if the funding was moved to an interest bearing account. He also asked if the Town Council Members provided oversight on the allocation of these funds.

Doug Robertson, Town Manager, explained for the benefit of the public how the funds were spent from the line of credit.

MOTION

Motion by Council Member Bishop, seconded by Council Member Emick, to receive and file the October 2018 Treasurer’s Report.

Vote: Motion carried 5-0-0-0

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

Absent: None

6. Hitt Road Drainage Improvement Project No. 2018-08

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk. He clarified the area in which the repairs were needed.

MOTION

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

- A. That the Town Council review and approve the bid documents for the Hitt Road Drainage Improvement – Project No. 2018-08
- B. That the Town Council authorize staff to solicit bids for construction of said project.

Vote: Motion carried 5-0-0-0

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

Absent: None

PUBLIC HEARINGS

8. Resolution 2019-02, to Record Delinquent Utility Fees and Costs Against Real Property Located in the Town of Apple Valley and Directing that Said Assessments Constitute a Lien Upon Said Properties

Mayor Cusack opened the public hearing at 7:03 p.m.

Sydney Harris, Director of Finance, presented the staff report as filed with the Town Clerk.

Council Member Leon expressed concern regarding the amount of time that it takes to place a lien on property. She recommended that a process be implemented that would expedite the placement of a lien instead of delaying the process six months which can result in individuals that did not cause the lien, incurring the cost.

Cecil Volsch, Real Estate Broker, stated that he did not agree with liens being placed on the tax roll. He spoke on the issues that happen in the real estate industry when bills are placed on the tax roll and new property owners incur the debt.

There being no requests to speak, Mayor Cusack closed the public hearing at 7:11 p.m.

Discussion ensued regarding reviewing options to alleviate the concerns expressed by the Town Council.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Bishop, to adopt Resolution No. 2019-02, confirming delinquent utility fees and costs against real property located in the Town, and directing that said assessments constitute a lien upon said properties

Vote: Motion carried 5-0-0-0

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

Absent: None

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

9. **A Resolution Committing the Town to Initiate Annexation Proceedings of 1,470.6 Acres that Lie West of Dale Evans Parkway, North of Johnson Road, East of Interstate 15, and South of Morro Road to Comply with Condition No. 5 of Local Agency Formation Commission (LAFCO) Resolution No. 3280 Approving LAFCO Annexation No. 3229**

Lori Lamson, Assistant Town Manager, presented the staff report as filed with the Town Clerk.

Lawrence McCarthy, Apple Valley, spoke of his conversation with Town staff regarding the annexation of property.

Anthony Thomas, Apple Valley, stated that he did not receive a notice on the proposed annexation. He believed that he resided in the area that should have been notified.

Doug Robertson, Apple Valley, explained that Mr. Thomas' property was not included in the annexation and therefore would not be included in the mailing. He also noted that LAFCO mails the notices, but the Town of Apple Valley pays for the notices to be mailed.

MOTION

Motion by Council Member Bishop, seconded by Mayor Pro Tem Nassif to:

- A. Adopt Town Council Resolution No. 2019-03 (Attachment A) "A Resolution of Commitment to Initiate", committing the Town of Apple Valley to initiate submittal of an annexation application for the remaining portion of the "Golden Triangle", not a part of Annexation No. 3229, as referenced above;
- B. Direct staff to budget for costs associated with initiating said annexation application in the 2019-2020 fiscal year;

- C. Direct staff to agendize for Town Council consideration the Resolution for filing and plan for service and a Resolution for environmental clearance for said annexation within one year.

Vote: Motion carried 5-0-0-0

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

Absent: None

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, commented on the Mayor's Weight Loss Challenge and announced that Town offices would be closed on Monday, February 18, in observance of the Presidents Day Holiday.

CLOSED SESSION

10. Closed Session

Mayor Cusack announced that he would 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 Cusack recessed the meeting of the Apple Valley Town Council at 7:22 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.: CIVDS1600180 – Town of Apple Valley vs. Apple Valley Ranchos Water Company Et Al.
- E. 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.

- F. 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 8:23 p.m., Mayor Cusack announced that there was no reportable action taken.

ADJOURNMENT

Motion by Mayor Pro Tem Nassif, seconded by Council Member Emick and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:23 p.m.

Larry Cusack, Mayor

La Vonda M-Pearson, Town Clerk