

## MINUTES

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

May 26, 2020

**REGULAR SESSION BEGINS AT 6:30 P.M.**

#### **Call to Order:**

Mayor Nassif called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:30 pm

Roll call was taken with the following members present:

Roll Call

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

Absent: None.

#### **OPENING CEREMONIES**

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

#### **ANNOUNCEMENTS:**

Thomas Rice, Town Attorney, commented on Requests to Speak on Agenda Item Number 10 that threatens legal action. He stated that there is an immediate need to consider a Closed Session item in response to these comments that occurred after the posting of the Agenda. The need is to add Item 14E - Conference with Legal Counsel – Anticipated Litigation pursuant to Paragraph 2 of subdivision (b) of Section 54956.9: one potential case. He also recommended that this item be discussed under Business of the Council.

#### **MOTION**

Motion by Council Member Bishop, seconded by Mayor Pro Tem Emick, that there was an immediate need to consider an item that came to the attention of the Town after the Agency was posted. Motion to add Item 14E - Conference with Legal Counsel – Anticipated Litigation pursuant to Paragraph 2 of subdivision (b) of Section 54956.9: one potential case.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop, Cusack, Leon, Mayor Pro Tem Emick, Mayor Nassif.  
Absent: None

#### **PRESENTATIONS:**

Mayor Nassif acknowledged the following individuals who were awarded Employee of the Quarter

for their agencies. He stated that an official recognition would be done at the Council Meeting as soon as meetings become open to the public.

**Employee of the Quarter – Carlos Monterrey, Maintenance Supervisor – Facilities Department.**

**Employee of the Quarter – Deputy Stuart Cullum – Sheriff’s Department.**

**PUBLIC COMMENTS**

Public Comment was received by Mr. George Dawly, Apple Valley, who expressed concern regarding a growing homeless encampment in the area of Fairview mountain. He stated that he has contacted the Sheriff’s Office, Animal Control and the BLM who have not addressed this issue. He asked if the Town Council could address this ongoing problem.

**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 he attended.

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

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

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

**TOWN COUNCIL ANNOUNCEMENTS**

**Suggested items for next agenda:**

Council Member Bishop stated that the VMT goes into effect July 1, 2020. He recommended that a letter of opposition be sent to the Governor on this matter.

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

- A. Regular Meeting – June 9, 2020 – Council Chamber  
Regular Session at 6:30 p.m.**

**TOWN COUNCIL CONSENT AGENDA**

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

Council Member Leon has a remote interest in specific warrants on tonight’s Commercial Warrants dealing with Solution Strategies and Christian Brothers as a landlord to this entity. Therefore, she will be recusing herself from voting on the warrants for this business.

Council Member Leon confirmed that she would be recusing from voting on these warrants.

Council Member Cusack 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 recusing 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, Council Member Cusack will be recusing 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 Council Member Cusack is maintained on file in the Town Clerk's Office and available for review at the dais.

Council Member Cusack confirmed that he would be recusing from voting on these warrants.

Mayor 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 recusing 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 Nassif will also be recusing 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 Nassif is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Nassif confirmed that he would be recusing from voting on these warrants.

### **MOTION**

Motion by Mayor Pro Tem Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11-12, and that agenda item number 10 be pulled from Consent and moved to Business of the Council.

Vote: Motion carried 5-0-0-0

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

Absent: None

Council Members Cusack, Leon and Mayor Nassif abstained from voting on Agenda Item Number 2.

**1. Approval of Minutes of the Town Council.**

**A. Regular Meeting – April 28, 2020.**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**2. April 2020 Commercial Warrants and Wire Transfer Schedule.**

**Recommendation:**

That the Town Council receive, ratify, and file the Commercial Warrants and Wire Transfer Schedules as presented.

**3. April 2020 Payroll/Benefits Warrants Schedule.**

**Recommendation:**

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

**4. Resolution of the Town Council of the Town of Apple Valley Authorizing the Execution and Delivery of Tax and Revenue Anticipation Notes.**

**Recommendation:**

Staff recommends that the Town Council adopt Resolution 2020-16 authorizing the execution and delivery of a Tax-Exempt Tax and Revenue Anticipation Note and a Taxable Tax and Revenue Anticipation Note.

5. **Quarterly Treasurer's Report – January – March 2020.**  
**Recommendation:**  
That Town Council receive and file the January-March 2020 Quarterly Treasurer's Report.
  
6. **Adopt Resolution 2020-17, A Resolution Amending the Records Retention Schedule for the Town of Apple Valley, Authorizing Appropriate Document Destruction and Rescinding Resolution Number 2013-30.**  
**Recommendation:**  
That the Town Council approve and adopt resolution Number 2020-17, amending the Records Retention Schedule for the Town of Apple Valley, authorizing appropriate destruction of records if consistent with the Records Retention Schedule and Rescinding Resolution Number 2013-30.
  
7. **Acceptance of Work for Kasota-Tuscola Connector Road.**  
**Recommendation:**  
That the Town Council:
  - A. Accept the work completed as part of the Kasota-Tuscola Connector Road for a total contract cost of \$120,733.20.
  - B. Direct the Town Clerk to file the Notice of Completion for the contract work.
  - C. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.
  - D. Accept Potomac Road from Kasota Road to Tuscola Road as a Town maintained road.
  
8. **Acceptance of Work for Vineyards Drainage Improvement Project No. 2019-04.**  
**Recommendation:**
  - A. Accept the work completed as part of the Vineyards Drainage Improvement Project for a total contract cost of \$277,100.00.
  - B. Direct the Town Clerk to file the Notice of Completion for the contract work.
  - C. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.
  
9. **SR18/Apple Valley Road Intersection Realignment Project - review bid documents and authorize to advertise for construction.**  
**Recommendation:**
  - A. That the Town Council review and approve the bid documents for the SR18/Apple Valley Road Intersection Realignment – Project no. 2020-05;
  - B. That the Town Council authorize staff to advertise and solicit bids for construction of said project.
  
11. **Third Amendment to the Agreement for Town Attorney Legal Services with Best Best & Krieger, LLP**  
**Recommendation:**  
Approve and authorize the Town Manager to execute Third Amendment to the Agreement to Provide Town Attorney Legal Services to the Town of Apple Valley.

**12. Grant of a Limited Easement to Liberty Utilities for Waterline over the Town owned Golf Course property.**

**Recommendation:**

That the Town Council authorize the Town Manager to execute a Grant of Limited Easement to Liberty Utilities for a Waterline over the Town owned Golf Course property.

**PUBLIC HEARINGS**

**13. 2020-2021 Annual Action Plan.**

Mayor Nassif opened the public hearing at 7:00 p.m.

Silvia Urenda, Housing and Community Development Specialist II, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:07 p.m.

**MOTION**

Motion by Mayor Pro Tem Emick, seconded by Council Member Bishop, to approve the Community Development Citizen Advisory Committee (CDCAC) funding recommendations for the 2020-2021 Fourth-Year Annual Action Plan ("Action Plan"), an annual component of the Five-Year 2017-2021 Consolidated Plan ("Consolidated Plan"); and authorize the Town Manager to execute all necessary HUD documents on behalf of the Town.

Vote: Motion carried 5-0-0-0

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

Absent: None

**REPORTS, REQUESTS AND COMMUNICATIONS**

**TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE**

**DEPARTMENTAL REPORTS AND BUSINESS**

Doug Robertson, Town Manager, commented on the reopening of Town Hall and the Development Services Building for members of the public. He thanked the public for their patience as we begin the reopening process. He also spoke on the process to reopen Animal Services and the Household Hazardous Waste Center in the near future.

**CLOSED SESSION**

**14. Closed Session**

Motion by Council Member Cusack, seconded by Council Member Bishop, to adjourn to Closed Session at 7:10 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 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.

ADDED TO AGENDA

- E. Conference with Legal Counsel – Anticipated Litigation pursuant to Paragraph 2 of subdivision (b) of Section 54956.9: one potential case.

Upon returning from Closed Session at 7:33 Mayor Nassif announced that there was no reportable action taken.

<b>BUSINESS OF THE COUNCIL</b>
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**10. Verizon Contract for Cell Tower at Apple Valley Golf Course.**

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

The following calls were made for public comment:

Nick Goldberg, High Tide Legal Group, provided correspondence to the Town regarding what his client PLN Telecom believed was a Breach of Communications with the Town of Apple Valley. He felt a new tower would directly interfere with the operation of his client reducing his profits as a result of direct competition.

Paul Nussbaum stated that he constructed the PLN tower in 2013. He provided history to the Council and listening audience regarding previous incidents between Verizon and the Town and believed that the Town was not adhering to agreements made with PLN. He also noted that the information in the report was not correct when it referred to the size of the proposed tower.

Ernie Palmerin, also commented on previous issues between the Town and Verizon. He spoke on what he felt were violations of the agreement made with the Town in reference

to the tower at the golf course which would have allowed them to have first right of refusal in relation to more towers at that location.

Ricardo Palmerin commented on his involvement with the project.

The following individuals submitted public comments:

LaToya Brooks, Apple Valley, expressed concern regarding 5G Towers being installed in parks and public schools.

Stephon Brooks, Jr., Apple Valley, expressed concern regarding 5G Towers being installed in parks and public schools.

### **MOTION**

Motion by Mayor Pro Tem Emick, seconded by Council Member Leon, to table this item until a future meeting.

Vote: Motion carried 5-0-0-0

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

Absent: None

## **ADJOURNMENT**

Motion by Mayor Pro Tem Emick, seconded by Council Member Cusack and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 7:51 p.m.

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Scott Nassif, Mayor

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La Vonda M-Pearson, Town Clerk