

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

**REGULAR MEETING  
MINUTES – September 25, 2012**

**CALL TO ORDER:**

Mayor Stanton called to order the meeting of the Apple Valley Town Council/Successor Agency at 5:00 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Council Member Nassif; Council Member Roelle; Mayor Pro Tem Emick; Mayor Stanton.

Absent: None.

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**PUBLIC COMMENTS**

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None.

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**CLOSED SESSION**

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Mayor Stanton announced that it has been brought to the attention of the Town Council/Successor Agency that there is a need to take action on an item that arose after the posting of the agenda. That item is for a Closed Session discussion - Conference with Legal Counsel – existing litigation (subdivision (a) of Section 54956.9) Gina Schwin-Whiteside vs. Town of Apple Valley – Case No. CIVVS 1102774.

**MOTION**

Motion by Council Member Nassif, seconded by Council Member Roelle, that there is a need to take action on an item that arose after the posting of the agenda. Motion to add Item 1C - Conference with Legal Counsel – existing litigation (subdivision (a) of Section 54956.9) Gina Schwin-Whiteside vs. Town of Apple Valley – Case No. CIVVS 1102774.

Vote: Motion carried 4-0-0-0

Yes: Councilmember's Nassif; Roelle; Mayor Pro Tem Emick; Mayor Stanton.

Absent: None.

**1. Closed Session**

Motion by Council Member Nassif, seconded by Mayor Pro Tem Emick, and unanimously carried, to adjourn to Closed Session at 5:04 p.m. to discuss the following:

- A. Conference with Legal Counsel Regarding Existing Litigation Pursuant to Government Code Section 54956.9; 54956.95 and 54956.96: Victor Valley Economic Development Authority v. State of California, et. al., Sacramento Superior Case Number 34-2012-8000113. The existing facts and circumstances relate to compliance with AB (1X) 26 in

light of the recent California Supreme Court ruling in *CRA v. Matosantos* (Case No. S194861). (one or more potential cases).

- B. Personnel Matters – Government Code Section 564957/Public Employee Performance Evaluation: Title: Town Clerk
- C. Conference with Legal Counsel – Existing Litigation (Subdivision (A) of Section 54956.9) Gina Schwin-Whiteside vs. Town of Apple Valley – Case No. CIVVS 1102774

Upon returning from Closed Session Mayor Stanton announced that there is no reportable action taken.

Mayor Stanton recessed the meeting of the Apple Valley Town Council until 6:30 p.m.

### **TOWN COUNCIL REGULAR SESSION**

Mayor Stanton called to order the Apple Valley Town Council at 6:30 p.m.

### **OPENING CEREMONIES**

#### **INVOCATION:**

Pastor Danotra Johnson, Victory in Jesus Bible Faith Center

#### **PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Mayor Pro Tem Emick

#### **PRESENTATIONS:**

Sponsor Recognition Presentation

Certificates of Appreciation – Various Committees

Presentation to Council from John Tucker in Appreciation of Assistance with Shake, Rattle & Roll Out Emergency Preparation Fair

Dale Evans Day Proclamation – Ms. Marcie Taylor

Verbal Report Update - Sale of Synthetic Drugs – Lieutenant Frank Bell

Presentation by Code Enforcement - Waste Receptacles – Mr. Jim Andersen, Code Enforcement Manager.

### **PUBLIC COMMENTS**

Richard Green, Apple Valley, commented on election signs being erected in the Town of Apple Valley earlier than 45 days prior to the election as required by the Town Code. He believed that this code should be amended due to the early voting provisions in San Bernardino County. He respectfully requested that the sign ordinance be revisited.

Joseph Green, Apple Valley, read an article regarding medical marijuana dispensaries. He believed that medical marijuana is beneficial to patients suffering from various ailments. He also believed that state law protected marijuana dispensaries.

Bernadette McNulty, Apple Valley, expressed concern over being a victim of fraud through her bank account. She commended Deputy Lam for his hard work and assistance in resolving this issue in a timely manner.

Christie Williams, Apple Valley, expressed concern regarding the notice she received from the Animal Shelter regarding the number of cats that she has in her home, which is approximately 24 cats. She respectfully asked that she be allowed to keep her cats.

Annette Worley, Apple Valley, respectfully requested that the political sign ordinance be amended.

Richard Rorex, Apple Valley, commented on the "Shop Apple Valley" program. He recommended that reusable bags be provided and/or sold to residents with the Shop Apple Valley logo.

Maxwell Britton, Apple Valley, commented on Agenda 21. He provided each Council Member with a copy of a CD regarding Agenda 21 and its effect on individuals as well a book for the public record. He stated that Agenda 21 violates individual ownership and given to political entities. He recommends Agenda 21 be banned.

Tom Piper, Apple Valley, commented on proposed changes that he believes should be enforced on Code Enforcement. He also commented on other changes that he believes could be made in the Town of Apple Valley.

Art Bishop, President, Mojave Water Agency, commented on the Cash for Grass program that is now being offered to residents. He also commented on the groundbreaking for the new hospital in the Victor Valley that will include a trauma center.

Christina Burton, Apple Valley, questioned the amount of taxpayer funds used in an attempt to ban medical marijuana dispensaries. She stated that cities do not have the right to ban dispensaries.

David Phillips, Apple Valley, commented on his candidacy for Town Council.

Bob Tinsley, Apple Valley, thanked the Town Council and the community for the Dale Evans celebration. He suggested that an annual event for both Roy Rogers and Dale Evans be held.

Jackie Moore, Apple Valley, stated that she was not invited to the Chamber of Commerce luncheon. She also commented on the political sign ordinance. She stated that she did not believe it was appropriate that candidates disregarded the rules and put their signs up prior to the 45 day requirement.

David Mueller, [highdesertpolitics.org](http://highdesertpolitics.org), commented on the management company that operates the golf course. He believed the costs being paid to them were exuberant.

**APPLE VALLEY CHAMBER OF COMMERCE – BUSINESS RETENTION UPDATE**

Janice Moore, CEO and President, Apple Valley Chamber of Commerce, commented on statements made by the public regarding the Chamber meet and greet. She explained that at the last Business Retention Update provided at the August 28, 2012 Town Council Meeting, all candidates were given an opportunity to attend the luncheon and provide literature at the meeting. She informed all candidates and the public that they are always invited to attend a Chamber luncheon, even if they are not a member. She stated that the luncheons are open to everyone.

Ms. Moore provided an update to the Town of Apple Valley on its classes for the community, as well as its business retention efforts in the community. She announced that the next Chamber luncheon will be held Wednesday, October 17, 2012 at the Apple Valley Golf Course.

**COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION**

Council Member Nassif commented on committees and events that he attended including the League of California Cities Conference. He congratulated Mr. Frank Robinson for his achievement in receiving an award from the ICMA. He also commented on the next phase of local preference that will include new and innovative ways to encourage more people to shop in Apple Valley.

Council Member Roelle commented on campaign signs in the community. He believed that although there have been some problems with signage, there have been no negative comments made about any candidates which should be commended. He also commented on the opening of the Town of Apple Valley Dog Park.

Mayor Pro Tem Emick commented on committees and events that he attended including the grand opening of the Town of Apple Valley Dog Park. He also commented on issues surrounding the use of Bath Salts.

Mayor Stanton commented on committees and events that she attended. She commented on the upcoming Tour de Apple Ride on October 20, 2012. She also spoke of crime statistics in San Bernardino County and commented on the possibility of establishing a Crime Commission.

**TOWN COUNCIL ANNOUNCEMENTS**

**Suggested items for future agenda:**

Council Member Roelle requested an update be provided at a future meeting regarding the Yucca Loma Bridge.

La Vonda M-Pearson, Town Clerk, read the date and time for the next Town Council Meeting.

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

**A. Regular Meeting –Tuesday, October 9, 2012 – Council Chambers**

**Closed Session at 5:00 p.m.**

**Regular Session at 6:30 p.m.**

**TOWN COUNCIL CONSENT AGENDA**

Mayor Stanton announced that Council Member Nassif had a remote interest in certain warrants on tonight's commercial warrants for the Town of Apple Valley as the owner of NAPA Auto Parts. Therefore he will be abstaining from voting on Agenda Item Number 9.

Mayor Stanton recognized the following individuals who wished to speak on items listed on the Consent Agenda.

Chuck and Pat Hanson, Apple Valley, spoke in support of Agenda Item No. 6 regarding the fee waiver for the Hanson Cycling Foundation. Mrs. Hanson also informed the public that the bike registration for the event will begin at 8:00 a.m. with the ride beginning at 10:00 a.m.

Christina Burton, Apple Valley, commented on not receiving a formal invitation to the Chamber luncheon.

Jackie Moore, Apple Valley, stated that she did not receive a formal invitation to the Chamber luncheon.

David Mueller, highdesertpolitics.org, commented on a prior Town Council meeting in which the Chamber of Commerce stated it would not support candidates. He stated that they are now supporting candidates and does not believe it is appropriate. He also commented on the funding being given to the Chamber.

Janice Moore, CEO and President, Chamber of Commerce, responded to questions by the Town Council regarding the materials available to the public that advertises fundraisers. She explained, for the benefit of the Town Council and public, why and how the Chamber of Commerce offers classes and provides information for all candidates without supporting any one particular candidate for office.

Orlando Acevedo, Economic Development Manager, explained how the contract is monitored.

Discussion ensued regarding the services that the Chamber of Commerce provides to the community.

Mayor Stanton asked questions regarding Agenda Item Number 4 regarding the Consolidated Plan.

Emily Wong, Consultant, commented on actions taken by staff to invite the public to public hearings and workshops in an effort to learn the process of obtaining CDBG and HOME funds.

Frank Robinson, Town Manager, informed the Town Council that this would be Ms. Wong's last Council Meeting as a consultant for the Town. He recognized Ms. Wong for the excellent work she has done as Consultant for the former Redevelopment Agency on behalf of the Town of Apple Valley. The Town Council also expressed their appreciation to Ms. Wong.

## **MOTION**

Motion by Mayor Pro Tem Emick, seconded by Council Member Roelle, to approve and adopt the Consent Calendar items numbered 2 – 12, as recommended.

Vote: Motion carried 4-0-0-0

Yes: Councilmember's Nassif; Roelle; Mayor Pro Tem Emick; Mayor Stanton.

Absent: None.

**Council Member Nassif abstained from voting on Agenda Item Number 9.**

2. **Approval of Minutes of the Town Council**
  - A. **Regular Meeting – August 28, 2012**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**3. Claimant– Michael S. Lent**

**Recommendation:**

Reject the Claim of Michael S. Lent

**4. Public Hearing No. 1 (Consolidated Plan – 2013-2014 Second Year Action Plan) – Establishing Date and Time Certain**

**Recommendation:**

That the Town Council establish October 9, 2012 at 6:30 p.m., as the date and time certain for the purpose of conducting the first of two (2) Community Development Block Grant (CDBG) and HOME Investment Partnerships Programs (HOME) public hearings necessary to develop the Town's Consolidated Plan/Second Year Action Plan for FY 2013-2014.

**5. Award Contract for the Civic Center Park Restroom Installation PR 2012-05**

**Recommendation:**

Award a contract to M.C. Alyea Construction in the not to exceed amount of \$57,328.00 for the installation of a prefabricated restroom building in Civic Center Park, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

**6. Fee Waiver Request for the Hanson Cycling Foundation October 8, 2012 at the Town Hall Recreation Center and October 20, 2012 at Civic Center Park**

**Recommendation:**

For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$1,041.20.

**7. Bid Documents for the Kasota Road Improvements (Project 2012-09)**

**Recommendation:**

1. Approve the bid documents for the Kasota Rd. Improvements (Project 2012-09);
2. Authorize staff to solicit bids for construction.

**8. Dale Evans Parkway and Joshua Road Town/County Agreement**

**Recommendation:**

Approve and sign the attached Cooperative Agreement with the County of San Bernardino for the Dale Evans Parkway and Joshua Road Paving Projects.

**9. July 2012 Commercial Warrants Schedule**

**Recommendation:**

That the Town Council receive, ratify, and file the Commercial Warrants Schedule as presented.

**10. Payroll/Benefits Warrants Schedule – Month of July 2012**

**Recommendation:**

That the Town Council receive, ratify and file the payroll/benefits warrants as presented.

**11. Apple Valley Chamber of Commerce Agreement for Business Retention Services**

**Recommendation:**

Approve an Agreement for Business Retention Services between the Town and the Apple Valley Chamber of Commerce in an amount not to exceed \$29,400.

**12. Bid Documents For The Dale Evans Parkway Overlay (Project 2012-10) And Joshua Road Overlay (Project 2012-11).**

**Recommendation:**

1. Approve the bid documents for the Dale Evans Parkway (I-15 to Johnson Road) Overlay – Project 2012-10 and Joshua Road (SR18 to Standing Rock Road) Overlay- Project 2012-11.
2. Authorize staff to solicit bids for construction.

**PUBLIC HEARINGS**

**13. Amendment #2 to the Five Year Consolidated Plan – 2010-2011 Fourth Year Action Plan to Incorporate Proposed Changes to the Neighborhood Stabilization Program 3 (NSP 3) Funds**

Mayor Stanton opened the public hearing at 8:42 p.m.

Emily Wong, Consultant, presented the staff report as filed with the Town Clerk. She explained the parameters of the program.

David Mueller, highdesertpolitics.org, commented on the Town of Apple Valley assuming the responsibility of real estate agents when we should allow the professionals to handle property management.

Dan Olson, Apple Valley, expressed concern regarding acronyms that are being used by staff. He questioned the meaning of these acronyms and also where the funding was coming from that is being used for these projects.

Ms. Wong provided clarification to the public as requested by Mr. Olson.

There being no additional requests to speak, Mayor Stanton closed the public hearing at 8:53 p.m.

**MOTION**

Motion by Council Member Roelle, seconded by Council Member Nassif, to approve the proposed amendment to its 2010-2011 Action Plan to incorporate the proposed changes to the Neighborhood Stabilization Program 3; and authorize and direct the Town Manager to execute any necessary contract related documents on behalf of the Town.

Vote: Motion carried 4-0-0-0

Yes: Councilmember's Nassif; Roelle; Mayor Pro Tem Emick; Mayor Stanton.

Absent: None.

**14. A Resolution of the Town Council of the Town of Apple Valley, California, Establishing Specified User and Program Fees for Certain Park and Recreation Services**

Mayor Stanton opened the public hearing at 8:54 p.m.

Ralph Wright, Parks and Recreation Manager, presented the staff report as filed with the Town Clerk.

Susan Wells, Apple Valley, believed that the proposal submitted regarding fees are fair and equitable. She respectfully requested that this item be approved.

Marilyn Reed, Apple Valley, commented on the use of the community pool at Civic Center Park. She asked that this item be approved.

There being no additional requests to speak, Mayor Stanton closed the public hearing at 9:03 p.m.

### **MOTION**

Motion by Council Member Roelle, seconded by Council Member Nassif, to adopt Resolution No. 2012-49, a Resolution of the Town Council of the Town of Apple Valley, California, establishing specified Park and Recreation User and Program Fees for certain Park and Recreation services.

Vote: Motion carried 4-0-0-0

Yes: Councilmember's Nassif; Roelle; Mayor Pro Tem Emick; Mayor Stanton.

Absent: None.

## **LEGISLATIVE MATTERS**

None.

## **REPORTS, REQUESTS AND COMMUNICATIONS**

### **BUSINESS OF THE COUNCIL**

#### **15. Allowing the Sale and Use of Fireworks in Apple Valley**

Jim Andersen, Code Enforcement Manager, presented the staff report as filed with the Town Clerk.

Mayor Stanton commented on speaking to communities who offer fireworks to determine whether or not they have had significant problems with the sale of fireworks.

Fire Chief Hultquist stated that officially, he opposes the use of fireworks in the community. He commented on personal injuries and fires that have occurred as a result of fireworks in our neighboring communities.

Discussion ensued regarding whether or not allowing the sale of fireworks would be hazardous to the community. The Town Council Members commented on the issue and the majority believed that it would not be beneficial for the community.

There was no action taken on this item.

#### **16. Vision 2020 Priorities**

Kathie Martin, Marketing and Public Affairs Officer, presented the staff report as filed with the Town Clerk.

Kendall Flint, Flint Strategies, presented a PowerPoint presentation to the Town Council highlighting the review process conducted by the Town Council and staff regarding the original Vision 2020 and the revised Vision 2020 Priorities.

Evelyn Bianco, Apple Valley, briefed the Town Council on Agenda 21 and its comparison to the Town of Apple Valley Vision 2020.

The Town Council Memberseach commented on all the opportunities that they believe Vision 2020 provides the Town of Apple Valley residents. They thanked staff for this report.

### **MOTION**

Motion by Council Member Roelle, seconded by Council Member Nassif, and unanimously carried, to adopt the revised Vision 2020 priorities.

#### **17. Flood Control/ Master Plan of Drainage Update**

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

Council Member Roelle thanked Mr. Miller for the thorough report at his request.

This was a receive and file report. There was no action taken.

#### **18. Discussion of Unfunded Actuarial Accrued Liabilities**

Marc Puckett, Assistant Town Manager, Finance and Administration, presented the staff report as filed with the Town Clerk.

This was a receive and file report. There was no action taken.

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

Frank Robinson, Town Manager, commented on the vacancy at the Southern California Association of Governments (SCAG) due to former Mayor Pro Tem Coleman's resignation. He noted that they did not receive any interest in filling the position. Therefore, SCAG will hold off in attempting to fill this position until the first of the year.

Mr. Robinson also thanked the Town Council for their attendance at the Employee Picnic.

### **DEPARTMENTAL REPORTS AND BUSINESS:**

#### **STAFF REPORTS**

#### **CORRESPONDENCE**

### **ADJOURNMENT**

Motion by Mayor Stanton, seconded by Council Member Nassif, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 10:24p.m.

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Mayor

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Town Clerk