

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

**REGULAR MEETING
MINUTES – August 27, 2013**

CALL TO ORDER:

Mayor Emick called to order the meeting of the Apple Valley Town Council/Successor Agency at 5:05 p.m.

Roll call was taken with the following members present:

Roll Call

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

Absent: None.

PUBLIC COMMENTS

None.

CLOSED SESSION

Mayor Emick announced that it has come to the attention of the Town that there is an immediate need to take action on two items that arose after the agenda was posted. The items to be added are Conference with Legal Counsel - Existing Litigation, Subdivision (a) of Section 54956.9; Town of Apple Valley and People of the State of California v. House of Zen Medical Community Patients Association, et al. San Bernardino County Superior Court CIVDS 1310022; and, Town of Apple Valley v. David Holtz, CIVVS 1101079.

MOTION

Motion by Council Member Stanton, seconded by Council Member Nassif, and unanimously carried, that there was a need to add an item to the agenda as an item that arose after the agenda was posted – Agenda Item Number 1C - Conference with Legal Counsel - Existing Litigation, Subdivision (a) of Section 54956.9; - Town of Apple Valley and People of the State of California v. House of Zen Medical Community Patients Association, et al. San Bernardino County Superior Court CIVDS 1310022; and, Agenda Item Number 1D Town of Apple Valley v. David Holtz, CIVVS1101079:

Mayor Emick stated that there was no need for discussion on Closed Session Item 1B.

MOTION

Motion by Council Member Nassif, seconded by Council Member Cusack, and unanimously carried, to adjourn to Closed Session at 5:08 p.m. to discuss the following:

1. Closed Session

- A. Negotiations with Real Property Negotiator – Parcel Number(s) 3087-382-19, 3087-382-20 and 3087-382-21; Negotiating Parties: Mr. Ron Barbieri and Mr. Nick Di Cosola or Designee. Town Negotiator(s): Town Manager, Finance Director, Community Development Director or Designee. Negotiations involve both price and terms of payment.
- ~~B. Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one or more potential cases).~~
- C. Conference with Legal Counsel - Existing Litigation, Subdivision (a) of Section 54956.9; Town of Apple Valley and People of the State of California v. House of Zen Medical Community Patients Association, et al. San Bernardino County Superior Court CIVDS 1310022.
- D. Conference with Legal Counsel - Existing Litigation, Subdivision (a) of Section 54956.9; Town of Apple Valley and People of the State of California v. David Holtz, San Bernardino County Superior Court Case Number

Upon returning from Closed Session at 6:15 p.m., Mayor Emick announced that there was no reportable action taken.

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

TOWN COUNCIL REGULAR SESSION

CALL TO ORDER:

Mayor Emick called to order the regular session of the Apple Valley Town Council at 6:35 p.m.

Roll call was taken with the following members present:

Roll Call

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

Absent: None.

OPENING CEREMONIES

INVOCATION:

The invocation was given by Jim Andersen, Code Enforcement Manager.

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

PRESENTATIONS:

Teen Volunteer Recognition Awards – Alicia Dannelley, Recreation Assistant

Public Health Update – Kevin Mahany, St. Mary's Hospital

Council Member Stanton requested that Mr. Mahany provide copies of the presentation to each member of the Town Council for additional review and information..

Mayor Emick expressed appreciation for the presentation by Mr. Mahany.

PUBLIC COMMENTS

Mayor Emick announced that there were several speakers who wished to speak on one specific item dealing with Marijuana Dispensaries. He read portions of the Government Code which stated that the legislative body had the ability to limit the speaking time to a reasonable amount of time for the benefit of all individuals present who wished to speak. He requested consensus from the Town Council on whether or not the speaking time should be limited.

It was the consensus of the Town Council to allow each speaker three minutes. Due to the number of speakers that wished to donate their time toward the viewing of videos, there was 28 minutes of video shown regarding medical cannabis.

Marcella L. Taylor, Apple Valley, spoke regarding the Herb Jefferies' Centennial birthday celebration to be held at the end of September. She commented on the numerous movies that he made in the Town of Apple Valley that included minority cast members.

Haviva Shane, Town Attorney, recommended to the Council, due to the fact that this is not an agendized item, that the Council should not engage in any lengthy discussion with the public. She also recommended that should the Council feel discussion is warranted, to direct staff to agendize an item for a future meeting.

Peter Stehlik, Lucerne Valley, commented on individuals who previously spoke regarding their use of medical marijuana and their pleas for the Council to do the right thing in their minds and allow the dispensaries to be opened. He felt that the Town Council is misinformed on the medical cannabis topic. He believed the information provided in the video was crucial.

The videos regarding medical cannabis was shown at this time.

Leon Ruddock, Apple Valley, spoke regarding the definition of nuisance. He felt that the Town of Apple Valley holds against its members of the community the ability to rely on medical marijuana. He also spoke of the number of citations recently issued by Code Enforcement to dispensaries. Mr. Ruddock read into record the regulations from other cities who have formed regulations for marijuana dispensaries.

Mark Markanson, Apple Valley, commented on how medical marijuana has helped him deal better with his ailments which include diabetes, nerve damage in his feet and insomnia. He recommended to anyone that deals with cronic pain to consider the use of medical marijuana.

Chris Markanson, Apple Valley, commented on how he has personally benefited from the use of medical marijuana after suffering with ADHD and insomnia. He also commented on how it has also helped him with the ability to gain weight. He spoke regarding an incident where he witnessed an individual take medical marijuana during a epilepsy attack and how it helped calm him.

Vincent Viego, Apple Valley, thanked the Town Council for their patience and allowing the showing of the video. He commented on the various medical conditions that he believes cannabis heals.

APPLE VALLEY CHAMBER OF COMMERCE - BUSINESS RETENTION UPDATE

La Vonda M-Pearson, Town Clerk, presented the Chamber Business Retention Update as provided by Janice Moore, CEO, Apple Valley Chamber of Commerce. The report included comments regarding the Top Sales Tax Producers reception, the State of the Town Address and the Chamber Luncheon which featured Aaron Rios on the Wal-Mart Super Center. The Chamber of Commerce was pleased to report that it supported the ballot initiative and encouraged all voters to express themselves on November 19, 2013 at the Special Election. The Chamber also proudly announced that it was awarded a \$5,000 grant for its Attract and Retain Talent Initiative supporting its educational and hands on training program. Upcoming events included the Tour de Fork on October 12, 2013, Take Shape for Life, Healthy Happy Hour in September and the next Chamber Luncheon featuring Jason Lamoreaux from Coldwell Commercial Banking on September 18, 2013.

It is also nomination time and the Chamber is also seeking men and women to join its Board of Directors. If anyone is interested, please contact Janice Moore at the Chamber Offices.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

Council Member Stanton commented on committee meetings and events that she attended. She also commented on SB-1, a bill introduced to rename Redevelopment Agencies.

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

Mayor Emick commented on committee meetings and events that he attended. He shared an award that he was presented at the Indian Independence Day Celebration.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

- A. Regular Meeting – Tuesday, September 10, 2013**
 - Closed Session at 5:00 p.m.**
 - Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Laurie Childress, Apple Valley, commented on Agenda Item Number 3. She recommended that Royal Internet Café be allowed to remain in business.

Mayor Emick informed the speaker that the item she was referring to was listed under Agenda Item Number 10. He asked if she would like to speak under that item and she declined.

Council Member Stanton asked questions regarding Agenda Item Number 7 and questioned the use of the funding.

Marc Puckett, Assistant Town Manager, Finance and Administration, explained that the funding is for local streets and roads as the Town of Apple Valley feels appropriate.

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Bishop, to approve the Consent Calendar items numbered 2-8.

Vote: Motion carried 5-0-0-0

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

Absent: None.

2. Approval of Minutes of the Town Council

A. Regular Meeting – August 13, 2013

B. Special Meeting – August 15, 2013

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Adopt Ordinance No. 450 - An Ordinance of The Town Council of the Town Of Apple Valley Amending Title 9 Of The "Development Code" of The Town of Apple Valley Municipal Code, By Modifying The Development Code As It Pertains To Internet-Cafes, And Hookah Bars/Lounges As Regulated Uses, Subject To Approval of A Special Use Permit

Recommendation:

That the Town Council adopt Ordinance No. 450.

4. Telephone System Update

Recommendation:

Authorize the Town Manager to proceed with the purchase of the budgeted new telephone systems as approved in Fiscal Year 2013-14 budget.

5. Amendment No. 1 to Agreement 07-1076 with San Bernardino County Public Works Department to include additional tasks relating to Environmental Studies and Preliminary Engineering for the Yucca Loma Bridge and Yates Road

Recommendation:

That the Town Council approve Amendment No. 1 to existing Agreement 07-1076, with San Bernardino County.

6. Amendment No. 2 to Agreement 11-238 with San Bernardino County Public Works Department to Include Additional Tasks Relating to Final Design and Right-of-Way Acquisition for the Yucca Loma Bridge and Yates Road

Recommendation:

That the Town Council approve Amendment No. 2 to existing Agreement 11-238 with San Bernardino County.

7. Application to San Bernardino Associated Governments (SANBAG) for Local Transportation Funds – Article 8 – Other Purpose Claim

Recommendation:

Authorize the Assistant Town Manager - Finance & Administration to apply for remaining Local Transportation Funds – Article 8 – Other Purpose Claim in the amount of \$969,496 for Fiscal Year 2012-13.

8. Acceptance of Sewer Master Plan Update

Recommendation:

That the Town Council accept the Sewer System Master Plan Update as complete and receive and file.

PUBLIC HEARINGS

9. Ordinance No. 451 – An Ordinance of the Town Council Amending Development Code Section 9.29.160 for Compliance with Federal and State Fair Housing Laws

Mayor Emick opened the public hearing at 8:32 p.m.

Parrish Knox, Best Best and Krieger, presented the staff report as filed with the Town Clerk. He recommended that the motion be amended to indicate introduction of the ordinance.

There being no requests to speak, Mayor Emick closed the public hearing at 8:40 p.m.

MOTION

Motion by Council Member Nassif, seconded by Council Member Stanton, and unanimously carried, to waive the reading of Ordinance No. 451 and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 451.

MOTION

Motion by Council Member Stanton, seconded by Mayor Pro Tem Bishop, to introduce Ordinance Number 451, amending Development Code Section 9.29.160 for compliance with Federal and State Fair Housing laws (Development Code Amendment No. 2013-004).

Vote: Motion carried 5-0-0-0

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

Absent: None.

10. Appeal of the Intent to Revoke Business License #00011876 Issued to Royal Internet Café

Mayor Emick opened the public hearing at 8:43 p.m.

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

Sergeant Sean Henry, Apple Valley Sheriff's Department, provided a report to the Town Council regarding what he believed was illegal activity at the Royal Internet Café. He commented on his interaction with the State of California on this business and the report submitted from the Department of Justice stating that it was their belief that this business was operating illegally.

There being no requests to speak, Mayor Emick closed the public hearing at 8:47 p.m.

Haviva Shane, Town Attorney, clarified that although Ordinance 450 regarding Internet Cafes on tonight's agenda is not in effect at this time, the Town Council can, based on the information provided make a finding on the facts as presented.

MOTION

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

1. **Find** the Facts presented within the staff report for the Council hearing of August 27, 2013 and the record as a whole as discussed by the Council, support the recommendation to revoke Business License #00011876; and
2. **Deny** the appeal of Mr. John Hawara, Royal Internet Café, and uphold the recommendation of the Town of Apple Valley.

Vote: Motion carried 5-0-0-0

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

Absent: None.

LEGISLATIVE MATTERS

None.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

11. Discussion on Private Alleys

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

Council Member Cusack asked for clarification regarding the dirt roads that are included in the alleys. He felt it is important that the property owners know what improvements can be done if they desire to do improvements.

Mayor Pro Tem Bishop recommended that this issue be considered when reviewing the Town budget during the next fiscal year.

Mr. Miller explained that alleys are built to channel water. He also explained that some of the alleys are the only right of entry for some properties.

Discussion ensued regarding the use of the alleys for safety access as well as drainage. Also discussed were improvements that have been made to the alleys.

It was the consensus of the Town Council for staff to move forward with the acceptance of the alleys.

12. Discussion Regarding Collaboration with the High Desert Communities Regarding Solar Farms

Council Member Stanton presented the staff report as filed with the Town Clerk. She stated that she would like a regional policy discussion on this issue that could be held at the Apple Valley Conference Center.

Council Member Nassif asked for clarification. He commented on an alternative energy symposium where experts as well as the community could be in attendance and a complete regional look could be done.

Tom Piper, Apple Valley, stated that he was in favor of solar panels. He recommended solar panels be installed wherever possible.

Discussion ensued regarding the best way to move forward and the need to develop a policy.

Mayor Pro Tem Bishop recommended that the Town Manager contact the other jurisdictions and the county regarding a symposium and moving this item forward.

Council Member Nassif recommended a workshop first be held on this issue. He stated that staff should come back to Council with more information for Council's consideration, to better understand and also discuss all options available.

Council Member Stanton recommended the Town Manager move forward as recommended by Council.

Frank Robinson, Town Manager, stated that he believed an Alternative Energy Symposium would be appropriate. He stated that he would contact the surrounding communities to confirm their interest and input on this issue. He stated that the Town would also need to seek sponsorships to cover the cost of such an event within the community.

Mayor Emick stated that he would be willing to work with Council Member Stanton and Town Manager Robinson on this issue if needed.

It was the consensus of the Town Council to request the Town Manager move forward on this issue.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, reported that the Town has had 81 companies inquire about the Yucca Loma Bridge project bid package. He presented a breakdown of the timeline for the bid package. He also provided the Town Council with a list of upcoming conferences.

Brad Miller, Town Engineer, updated the Town Council on the Yucca Loma Bridge project and possible funding opportunities.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

ADJOURNMENT

Motion by Council Member Nassif, seconded by Mayor Pro Tem Bishop, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 9:42 p.m.

Curt Emick, Mayor

La Vonda M-Pearson, Town Clerk