

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

**REGULAR MEETING
MINUTES – December 10, 2013**

TOWN COUNCIL REGULAR SESSION

CALL TO ORDER:

Mayor Emick called to order the regular session of the Apple Valley Town Council at 6:32 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: Pastor Cheryl Denny, Apple Valley Faith Center.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Emick.

1. Selection of Mayor and Mayor Pro Tem

MOTION

Motion by Mayor Emick, seconded by Council Member Nassif, and unanimously carried to nominate Art Bishop as Mayor of the Town of Apple Valley.

Motion by Council Member Nassif, seconded by Council Member Stanton, and unanimously carried to nominate Larry Cusack as Mayor Pro Tem of the Town of Apple Valley.

RECESS FOR REORGANIZATION AT 6:40 P.M.

Mayor Bishop reconvened the meeting of the Apple Valley Town Council at 6:55 p.m.

PRESENTATIONS:

Wally Linn, on behalf of Congressman Paul Cook, recognized Council Member Emick for his service as Mayor of the Town of Apple Valley.

Mayor's Plaque presented to Council Member Emick for his term as Mayor on the Town Council for the period December 2012 to December 2013.

Medical Marijuana Dispensaries Presentation, Lieutenant Frank Bell, Apple Valley Police Department.

PUBLIC COMMENTS

Pat Orr, representing Apple Valley Consumers for Choice, announced that this committee was dissolved. He stated that they have requested that the remaining funds in the committee account be donated and that the funds be split between Rotary and the Animal Shelter. He noted that the amount of the donation to the shelter was \$1,250.00.

Richard Rorex, Apple Valley, wished the Town Council a Merry Christmas and a Happy New Year.

Tom Piper, Apple Valley, stated that there was a family in the community that needed financial assistance and support. He stated that Wal-Mart and the Sheriff's Department were able to assist the family. He thanked them for their help.

Barbara Clemens, Apple Valley, commented on ailments that she suffers from. She explained that she is a medical marijuana user and requested assistance from the Apple Valley Town Council. She respectfully requested that the ordinance on the agenda not be passed.

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 announced that the Music Man would be performing in the Town of Apple Valley at the amphitheater in June 2014. He 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. He also on behalf of the Apple Valley Town Council and staff wished the community a Merry Christmas and a Happy New Year.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Council Member Nassif commented on the Town's Development Code which addresses churches in commercial areas. He stated that the Apple Valley Christian Center has an opportunity to move back to the Town of Apple Valley; however the issue with the Development Code must be addressed before they would be able to relocate. He requested, with the consensus of the Town Council, that this item be discussed at the Council level as a policy discussion.

Council Member Emick, with the consensus of the Town Council, recommended that an amendment be made to the Town Council Rules of Procedure that would allow Closed Session to be moved back to the end of the meetings.

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

- A. Regular Meeting – Tuesday, January 14, 2014**
Closed Session at 5:00 p.m.
Regular Session at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Mayor Bishop announced that Council Member Nassif has a remote interest in specific warrants on tonight's commercial warrants dealing with NAPA Auto Parts for the Town of Apple Valley as the owner of NAPA Auto Parts. Therefore, he will be abstaining from voting on the Warrants for NAPA Auto Parts listed under Agenda Item Number 5. Also, Mayor Pro Tem Cusack has a remote interest in specific warrants on tonight's commercial warrants dealing with Apple Valley Communication for the Town of Apple Valley as owner of Apple Valley Communications; therefore, he too will be abstaining from voting on warrants for Apple Valley Communications listed under Agenda Item Number 5.

MOTION

Motion by Council Member Stanton, seconded by Council Member Emick, to approve the Consent Calendar items numbered 2-12, respectfully.

Vote: Motion carried 5-0-0-0

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

Absent: None.

Council Member Nassif and Mayor Pro Tem Cusack abstained from voting on specific warrants listed under Agenda Item Number 5.

2. Approval of Minutes of the Town Council

A. Regular Meeting – November 12, 2013

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. Adopt Ordinance No. 454 – An Ordinance of the Town Council of the Town of Apple Valley, Revising Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Amending Subsection “B” of Table 9.28.030-A “Permitted Uses” within Section 9.28, “Residential Districts” as it relates to Permitted Uses within Residential Districts that Require Animal Keeping Permits in the Town of Apple Valley

Recommendation:

That the Town Council adopt Ordinance No. 454.

4. October 2013 - Payroll / Benefits Warrants Schedule

Recommendation:

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

5. October 2013 - Commercial Warrants Schedule

Recommendation:

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

- 6. Treasurer's Report – October 2013 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 October 2013 Treasurer's Report.
- 7. Reimbursement of Neighborhood Housing Services of the Inland Empire (NHSIE) for Expenses Incurred as part of the Development Agreement for Acquisition and Rehabilitation of Foreclosed Single-Family Residences for Resale**
Recommendation:
That the Town Council approves reimbursement to Neighborhood Housing Services of the Inland Empire (NHSIE) for the Acquisition/Rehabilitation and sale of a Single-Family house located at 15514 Washoan Road under the Neighborhood Stabilization Program 3 funding as identified in the Town's Five Year Consolidated Plan 2010-2011. The reimbursement amount is not to exceed \$197,000 for this project.
- 8. PLN Telecom, Inc. Site Agreement**
Recommendation:
Approve the attached Cell Site Lease Agreement between PLN Telecom, Inc. ("Licensee") and the Town of Apple Valley ("Licensor") establishing the terms and conditions applicable to the installation and construction of a PLN Telecom-owned, four carrier mono-pine telecommunication facility at the Apple Valley Golf Course.
- 9. Claimant – Destiny Lovato**
Recommendation:
Reject the claim of Destiny Lovato.
- 10. Approve the Local Appointment List (Maddy Act) for the Town of Apple Valley Regular and Ongoing Boards, Commissions and Committees**
Recommendation:
That the Town Council Approve the Local Appointment List (Maddy Act) as presented.
- 11. Authorize Rental Payment Refund for 13643 Tonikan Road**
Recommendation:
Approve and authorize the refund of rental payments made after November 15, 2013 for the property located at 13643 Tonikan road in the amount of \$1,052.00.
- 12. Adopt Resolution No. 2013-43 - A Resolution of the Town Council of the Town of Apple Valley, California, Ratifying and Authorizing the Town Manager to Enter Agreements with Corona Coatings for Repair of the Apple Valley Golf Course Roof**
Recommendation:
Adopt Resolution 2013-43, a Resolution of the Town Council of the Town of Apple Valley, California, ratifying and authorizing the Town Manager to enter agreements with Corona Coatings Corp. for repair of the Apple Valley Golf Course roof in an amount not to exceed \$65,000.00 and authorize the attached budget amendment.

PUBLIC HEARINGS

13. Adoption of Regulation of Medical Marijuana Dispensaries Formalizing the Adopted Urgency Ordinance to Clarify Compliance with Federal and State Law and California Case Law

Mayor Bishop opened the public hearing at 7:54 p.m.

John Brown, Town Attorney, presented the staff report as filed with the Town Clerk.

Kerry Cannon, Apple Valley, commented on previous discussions regarding this matter held at the Apple Valley Town Council meeting in which she believed numerous individuals spoke in support of medical marijuana. She respectfully requested that the Council not approve this ordinance and allow the mobile medical marijuana deliveries.

Marie Youpelle, Apple Valley, also requested that the Town Council not approve this ordinance.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 8:10 p.m.

Council Member Emick commented on statements made by the public regarding medical marijuana and whether or not it should be allowed within the community.

Council Member Nassif commented on the need for the state to address this issue and resolve the conflict between the state and the federal government.

Council Member Stanton commented on a desire to be able to assist those members of the community who rely on medical marijuana for their disabilities. She believed that it was unfortunate that there was no clear regulation to assist the Town in making that decision.

Mayor Pro Tem Cusack also commented on the lack of a regulation that clearly allows a dispensary in the community.

Mayor Bishop explained that the current legislation at the federal government level prohibits the legalization of medical marijuana in California.

MOTION

Motion by Mayor Pro Tem Cusack, seconded by Council Member Nassif, and unanimously carried, to:

1. **Determine** that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the Ordinance is exempt from CEQA, pursuant to CEQA Guidelines Section 15061(b)(3), which states that 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 Ordinance, may have a significant effect on the environment, the activity is not subject to CEQA; and
2. **Find** the facts presented within the staff report support the required Findings for approval of the proposed Ordinance and adopt the Findings for the amendment to Chapter 9.08 of the Development Code further clarifying the definition of "Medical Marijuana Dispensaries" to include mobile dispensaries; and

3. **Adopt** Town Council Ordinance No. 455, Amendment to; amend the definition of "Medical Marijuana Dispensaries" to include mobile dispensaries under Chapter 9.08 of the Development Code.
4. **Move** to waive the reading of Ordinance No. 455, in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 455.

MOTION

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

5. **Introduce** Ordinance No. 455, approving Development Code Amendment No. 2013-03.
6. **Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board of Supervisors.

Vote: Motion carried 5-0-0-0

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

Absent: None.

14. A Request to Revise Title 9 "Development Code" of the Town Of Apple Valley Municipal Code by Amending Various Sections within Chapter 9.74, "Signs and Advertising Displays"

Mayor Bishop opened the public hearing at 8:30 p.m.

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

Council Member Stanton asked for clarification on various issues of the proposed revisions by the Town Attorney.

The Town Council Members asked questions and requested clarification regarding allowable signs and displays and the Council's authority to regulate and/or restrict various signages within the Town limits and at bus shelters.

There being no requests to speak, Mayor Bishop closed the public hearing at 9:00 p.m.

Council Member Emick stated that he would support allowing a business having naming rights versus an individual.

John Brown, Town Attorney, commented on issues that could be considered a first amendment right. He stated that as a governmental entity, the Town could regulate commercial signage. He believed something could be crafted that could provide guidance to the Town. He recommended that changes be incorporated into the motion, or that this item be continued to the next meeting to allow time to craft something that is appropriate.

Ms. Lamson recommended that if the Council would like to see development standards for signage along the freeways, including billboards, that the item go back to Planning as it was not originally discussed. She also stated that Planning can modify the prohibition regarding the billboards.

Ms. Lamson also commented on exempt signage for the bus shelter. She stated that certain shelters can be exempt and come back to the Council for review. She also commented on murals and design merit. She believed staff has the ability to review them on a case by case basis and attach conditions of approval as needed.

MOTION

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

1. **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.
2. **Find** the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code, and adopt the Findings.
3. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
4. **Move** to waive the reading of Ordinance No. 456 in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 456.

MOTION

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

5. **Introduce** Ordinance No. 456, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending various Sections within Chapter 9.74, "Signs and Advertising Displays" as amended, to incorporate as appropriate the changes discussed and agreed upon by the Town Council.
6. **Direct** staff to file a Notice of Exemption.
7. **Direct** staff to proceed with a Development Code Amendment specific to real estate signage.

Vote: Motion carried 5-0-0-0

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

Absent: None.

15. **A Request to Amend the LCER Specific Plan to Permit A Cluster of Eighteen (18) Classroom Portals Sited as a Plaza Learning Center Development of the Existing K-12 Lewis Center for Educational Research School Site ("The Academy for Academic Excellence"). The LCER Specific Plan Encompasses 150 Acres in Size; APN(S) 0474-183-21 and 22**

Mayor Pro Tem Cusack stated that he had a potential conflict of interest on this item and therefore he recused himself from the dais. The potential conflict dealt with source of income.

MAYOR PRO TEM CUSACK WAS EXCUSED FROM THE DAIS AT 9:15 P.M.

Mayor Bishop opened the public hearing at 9:16 p.m.

Doug Fenn, Assistant Planner, presented the staff report as filed with the Town Clerk.

Rick Piercy, The Lewis Center, commented on the proposed request. He apologized for the inconveniences that have been imposed on the neighbors by parents picking up or dropping off their students. He hoped that many of their issues and concerns have been addressed.

Rob Kilpatrick, Architect, explained that they are currently looking into several options to improve the flow of traffic into the school. He stated that as part of their traffic study, they would come back to staff with recommendations to use different routes that will help alleviate the issues surrounding traffic. He recommended handing out flyers in an effort to inform commuters of alternate routes. He also recommended the posting of signs with time restrictions as well as left turn restrictions. Mr. Kilpatrick also commented on the issues with parking spaces that are available during drop off and pick up periods.

Jamie Dan, Apple Valley, expressed concern regarding the traffic and safety in the area.

Keith Dan, Apple Valley, also commented on the number of vehicles parked on Mana Road that blocks his driveway. He commended Mr. Piercy for reaching out to the neighbors to try and resolve these issues.

Shawn Brown, Apple Valley, commented on previous discussions on this issue that were never addressed. He questioned how the school could expand and not have an increased negative impact on the community. He also thanked Mr. Piercy for speaking with the neighbors on this issue and trying to mitigate the traffic concerns.

Gary Pfeffer, Apple Valley, spoke on behalf of his father. He stated that his father is a retired teacher and supports the Lewis Center. However, he has experienced vandalism to his property.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 9:43 p.m.

Mr. Piercy commented that they are moving forward with the traffic signal.

The Town Council thanked Mr. Piercy for his outreach to the neighboring community.

MOTION

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

1. **Determine** that, based upon the State Guidelines to Implement the California Environmental Quality Act the project is within the scope of the previously approved Mitigated Negative Declaration that was adopted by the Planning Commission for Specific Plan No. 2009-001 Amendment No. 1 on October 6, 2010. No additional evaluation is necessary, and the amendment is in compliance with the California Environmental Quality Act (CEQA).
2. **Find** the facts presented within the staff report, including the attached Planning Commission staff report from November 06, 2013, support the required Findings for approval of the proposed, Specific Plan No. 2009-001, Amendment No. 1.
3. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan, and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
4. **Move** to waive the reading of Ordinance No. 457, in its entirety and read by title only.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 457.

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick, to Introduce Ordinance No. 457, approving various amendments to LCER Specific Plan, Specific Plan No. 2009-001 Amendment No. 1.

Vote: Motion carried 5-0-0-0

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

Absent: None.

MAYOR PRO TEM CUSACK RETURNED TO THE DAIS AT 9:58 P.M.

LEGISLATIVE MATTERS

16. Council Member Representation on Various Boards, Committees and Commissions

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Cusack, confirming that no changes are necessary.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

17. Results of Canvass of Election Returns of the Town of Apple Valley Special Municipal Election Held November 19, 2013 for Measure D, and Adopt Resolution No. 2013-42 Reciting the Fact of the Election and Such Other Matters Provided By Law

La Vonda M-Pearson, Town Clerk, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, and unanimously carried, to adopt Resolution No. 2013-42 reciting the fact of the election and such other matters provided by law for Measure D.

Vote: Motion carried 5-0-0-0

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

Absent: None.

ADDED ITEM

18. Adopt Resolution No. 2013-44, A Resolution of the Town Council of the Town of Apple Valley Amending the Modified Holiday Schedule for the Town of Apple Valley, to Include Closing Town Hall on December 23, 2013 and January 2, 2014.

Frank Robinson, Town Manager, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, and unanimously carried, to adopt Resolution No. 2013-44, A Resolution of the Town Council of the Town of Apple Valley Amending the Modified Holiday Schedule for the Town of Apple Valley, to include closing Town Hall on December 23, 2013 and January 2, 2014.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, stated that this is our only scheduled meeting for the month. He congratulated the Mayor and Mayor Pro Tem. He also announced that tomorrow night is the tree lighting ceremony.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

ADJOURNMENT

Motion by Council Member Emick, seconded by Mayor Bishop, and unanimously carried to adjourn the meeting of the Apple Valley Town Council at 10:11 p.m.

Art Bishop, Mayor

La Vonda M-Pearson, Town Clerk