

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

REGULAR MEETING

MINUTES – July 26, 2016

CALL TO ORDER:

Mayor Stanton called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:30 p.m.

Roll call was taken with the following members present:

Roll Call

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

Absent: None

SPECIAL ANNOUNCEMENTS

The Town of Apple Valley Town Council expressed its sincere condolences in the passing of Mr. Charles (Chuck) Hanson. On behalf of the community, they thanked him for his commitment to making the community safe through the addition of bike lanes in Apple Valley.

OPENING CEREMONIES

INVOCATION: Pastor Kristopher Schaal, Life Point Baptist Church

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

PRESENTATIONS: Employee of the Quarter - Paula Pereira, Engineering Associate

PUBLIC COMMENTS

Rick Piercy, Apple Valley, commented on the process used to build the Lewis Center and the community coming together to make things happen as a team. He believed that this same camaraderie could be done in an effort to purchase the water company.

Bill McDaniel, Apple Valley, stated that he supported Agenda Item Number 10 regarding the Town's purchase of Liberty Utilities. He believed that the Town could do a much better job at operating the water facility than Liberty.

Michael Hughes, Apple Valley, commented on the gross revenue that has been generated by the sale of oxycodone. He also commented on the struggles occurring in our Country.

Katie Manning, Apple Valley, read a statement into the record regarding Liberty's ability to provide water service to the Town of Apple Valley.

Tom Piper, Apple Valley, commented on global warming. He also commented on the need for body cameras on officers.

Richard Rorex, Apple Valley, recommended that the community work together as a team.

Greg Raven, Apple Valley, commented on the Town's efforts to purchase Liberty Utilities and requested the Town remove its proposed measure for the November 8, 2016 General Election.

Diana Carloni, Apple Valley, raised several concerns that she had regarding the proposed measures on the ballot.

Susan Drake, Apple Valley, commented on upcoming events including the Crime Prevention and Neighborhood Watch Program. She stated that two (2) sessions would be held at the Apple Valley Parks and Recreation Center on July 27, 2016 at 3:00 p.m. and 6:00 p.m.

Cecil Volsch, Apple Valley, commented on the PACE and HERO Loan programs that are offered to homeowners. He stated that they are still working on solutions that would provide transparency to homeowners seeking to use the program.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

None.

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

- A. Regular Meeting – Tuesday, August 9, 2016 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Kari Leon, Agio Realty, expressed concern regarding the height limitation for the Digital Advertising Displays listed under Agenda Item Number 2.

Mayor Pro Tem Nassif and members of staff, provided clarification to the concerns expressed by Ms. Leon.

Council Member Bishop asked for clarification on Agenda Item Number 5 regarding the Mojave Riverwalk South Project.

Brad Miller, Town Engineer, answered questions and concerns of the Council and provided a timeline for the project.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1-5, as amended.

Vote: Motion carried 5-0-0-0

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

Absent: None.

1. Approval of Minutes of the Town Council

A. Regular Meeting – July 12, 2016

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. Adopt Ordinance No. 485, An Ordinance of the Town Council of the Town of Apple Valley, California, to Amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Modifying Section 9.74.110 (G) “Digital Advertising Displays”

Recommendation:

Adopt Ordinance No. 485

3. Treasurer’s Report – May 2016 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 May 2016 Treasurer’s Report.

4. A Resolution of the Town Council of the Town of Apple Valley, California, Amending the Classification Plan for the Town of Apple Valley

Recommendation:

That the Town Council adopt the attached Resolution No. 2016-22, a Resolution of the Town Council of The Town of Apple Valley, California, amending the current Classification Plan.

5. Mojave Riverwalk South Project - Project No. 2015-08

Recommendation:

1. That the Town Council review and approve the project plans, specifications, and bid documents for the Mojave Riverwalk– Project No. 2015-08.
2. That the Town Council approve the Common Use Agreement, Contract No. 16-23, with the San Bernardino County Flood Control District, subject to approval as to form by the Town Attorney and as to content by the Town Manager.
3. That the Town Council authorize staff to solicit bids for construction of said project.

PUBLIC HEARINGS

6. A Resolution of the Town Council of the Town of Apple Valley, California, to Record Delinquent Animal Control Fees, Utility Fees and Costs and Code Enforcement Fees

Against Real Property Located in the Town of apple Valley and Directing That Said Assessments Constitute a Lien Upon Said Properties

Mayor Stanton opened the public hearing at 7:38 p.m.

Kofi Antobam, Assistant Finance Director, presented the staff report as filed with the Town Clerk.

Lydia Ceniceros, Apple Valley, disputed the charges she occurred from code enforcement. She explained the situation that occurred in which the fees were assessed; however she believed that communication would have prevented this issue from turning into a lien. She asked for assistance with this matter.

Falatoon Zadeh, Apple Valley, disputed charges that he was assessed for code enforcement liens.

Sam Goswami, Apple Valley, expressed concern regarding charges that he was assessed due to code enforcement issues. He explained the vandalism that keeps occurring resulting in charges and fees attached to the property.

Anne Saenz, Apple Valley, expressed concern regarding an Animal Control lien assessed to her property due to a tenant.

Gina Schwin-Whiteside, Director of Animal Services, stated that the property had an enforcement action back in 2011. She explained that numerous notices were sent to the property owner and that staff had worked with the owner to reduce the fines.

Salvator Ortiz-Lopez, Apple Valley, expressed concern regarding the lien process used by the Town.

Kari Leon, Apple Valley, recommended that liens be recorded on property immediately so that it does not become the responsibility of new owners

Marc Puckett, Assistant Town Manager, clarified that notices are sent to the owner of record as listed by the County Assessor's Office.

There being no further requests to speak, Mayor Stanton closed the public hearing at 8:07 p.m.

MOTION

Motion by Council Member Bishop, seconded by Mayor Pro Tem Nassif, to adopt Resolution No. 2016-23, confirming delinquent animal control, utility and code enforcement 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; Cusack; Emick; Mayor Pro Tem Nassif; Mayor Stanton.

Absent: None

7. Lighting and Landscape Assessment District #1 – Engineer’s Annual Report and Levy of Assessment for FY 2016-2017

Mayor Stanton opened the public hearing at 8:11 p.m.

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

There being no requests to speak, Mayor Stanton closed the public hearing at 8:15 p.m.

MOTION

Motion by Council Member Bishop, seconded by Council Member Cusack, to adopt Resolution No. 2016-21, "A Resolution of the Town Council of the Town of Apple Valley confirming diagram and assessment and levying assessment for Fiscal Year 2016-2017".

Vote: Motion carried 5-0-0-0

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

Absent: None

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

8. Report on Initiative Measure Proposing that the Issuance of Public Debt in Excess of \$10 Million be Subjected to Voter Approval

Frank Robinson, Town Manager, introduced the item that was requested by the Town Council.

John Brown, Town Attorney, commented on the initiative measures that have been proposed.

James Harrison, Remcho, Johansen and Purcell, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Bishop, to receive and file the report on the Initiative Measure proposing that the issuance of public debt in excess of \$10 million be subjected to voter approval.

Vote: Motion carried 5-0-0-0

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

Absent: None

9. Consider Adoption of Resolution to Place a Voter-Initiated Ballot Measure on the November 8, 2016 Municipal Election to Amend the Apple Valley Municipal Code to Require Voter Approval Before the Town can Issue Public Debt of More than \$10,000,000 in Connection with the Acquisition, Construction, Improvement, or Financing of an Enterprise when the Debt is to be Repaid by Fees Collected by the Town and not from the Town's General Property Tax Revenues

John Brown, Town Attorney, introduced the discussion of this item regarding the voter-initiated ballot measure.

James Harrison, Remcho, Johansen and Purcell, provided clarification to the Town Council as to the options available for this item.

MOTION

Motion by Council Member Nassif, seconded by Council Member Bishop, to adopt Resolution No. 2016-24 - A Resolution of the Town Council of the Town of Apple Valley Calling And Giving Notice of A General Municipal Election to Be Held On November 8, 2016 for the Purpose of Submitting to the Qualified Voters of Said Town A Proposed Measure Requiring Voter Approval Before the Town Can Issue Public Debt of More Than \$10,000,000 In Connection With the Acquisition, Construction, Improvement, Or Financing of An Enterprise When the Debt Is to Be Repaid by Fees Collected by the Town And Not From the Town's Taxpayer Revenues, Requesting That the San Bernardino County Board of Supervisors Consolidate This Election With the Statewide General Election to Be Held On November 8, 2016, And Setting Rules for Direct Arguments And Rebuttals Concerning the Proposed Measure.

Diani Carloni, Apple Valley, recommended that the question for the measure be shortened to allow for more clarity for members of the public.

Additional clarification regarding the question and the measure were provided by Mr. Harrison and Town Attorney John Brown.

Vote: Motion carried 5-0-0-0

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

Absent: None

10. **Consider Adoption of Resolution to Place A Ballot Measure on the November 8, 2016 Municipal Election to Authorize the Financing of the Acquisition of the Liberty Utilities Water System And the Acquisition, Improvement, or Financing of Other Projects by Issuing Public Debt in Excess of \$5 Million if the Town Obtains Voter Approval or if the Town Council Holds a Public Hearing, Certifies the Project's Revenues Will Cover the Debt Payments, Prohibits the Use of Taxpayer Revenues to Repay the Debt, and Conducts an Annual Independent Audit**

John Brown, Town Attorney, introduced this item that was requested by the Town Council.

James Harrison, Remcho, Johansen and Purcell, provided clarification to the Town Council as to the options available for this item.

Jiles Smith, Apple Valley, expressed concern regarding the need to have competing ballot measures. He believed that for clarity, members of the Town Council be willing to be interviewed publically to explain this action.

Mayor Pro Tem Nassif commented on the proposed question. He believed that the question may be clearer if the dollar figure was eliminated from the question.

Discussion ensued regarding the question as written and the ramification, if any, if the question be changed.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Art Bishop, to adopt Resolution No. 2016-25, A Resolution of the Town Council of the Town of Apple Valley Calling And Giving Notice of A General Municipal Election to be Held On November 8, 2016 For the Purpose of Submitting to the Qualified Voters of Said Town A Proposed ordinance Authorizing the Financing of the Acquisition of the Liberty Utilities Water System And the Acquisition, Improvement, or Financing of Other Projects, by Issuing Public Debt In Excess of \$5,000,000 If the Town Obtains Voter Approval or the Town Council Holds A Public Hearing, Certifies That the Revenues From the Project Will Cover Debt Payments, Prohibits the Use of Taxpayer Revenues to Repay the Debt, And Conducts An Annual Independent Audit, Requesting That the San Bernardino County Board of Supervisors Consolidate This Election With the Statewide General Election to be Held On November 8, 2016, And Setting Rules for Direct Arguments And Rebuttals Concerning the Proposed Ordinance.

11. Appointment of Ad Hoc Subcommittee to Write Ballot Arguments and Rebuttals

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

MOTION

Motion by Council Member Cusack, seconded by Council Member Emick, to appoint two Council Members, Mayor Stanton and Mayor Pro Tem Nassif, to serve as an ad hoc subcommittee for the purpose of writing and filing arguments and rebuttal arguments in favor or against the measures set to appear on the November ballot.

Vote: Motion carried 5-0-0-0

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

Absent: None

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, announced the completion of the Yucca Loma Bridge. He stated that the project was completed on time and under budget.

Brad Miller, Town Engineer, thanked the Town Council for their support and also thanked his staff for their hard work and dedication in ensuring completion of this project.

CLOSED SESSION

12. Closed Session

Mayor Stanton announced that Council Member Cusack would be abstaining from one (1) or more of the closed session items as it pertained to Liberty Utilities if needed, due to a potential conflict of interest. He stated that his company does business with the above referenced company.

Mayor Stanton adjourned to Closed Session at 9:22 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 Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case Name: Application No. 14-11-013 Joint Application of Liberty Utilities Co., Liberty WWH, Inc., Western Water Holdings, LLC, Park Water Company (U314W), and Apple Valley Ranchos Water Company (U346W) for Authority for Liberty Utilities Co. to Acquire and Control Park Water Company and Apple Valley Ranchos Water Company.
- D. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8. Property: Apple Valley Ranchos Water Company; 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.
- E. Negotiations with Real Property Negotiator – Parcel Number: 3112-181-01 located at Highway 18, between Dale Evans Parkway & Rancherias Road, Apple Valley; Negotiating Parties: 360 Apple West, LLC; Town Negotiator(s) - Town Manager. Negotiations involve both price and terms.
- F. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1517935 - Apple Valley Ranchos Water Company vs. Town of Apple Valley Et Al.
- G. 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.
- H. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS160498 – Christina Lopez – Burton vs. Town of Apple Valley.

Upon returning from Closed Session at 9:37 p.m., Mayor Stanton announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Council Member Bishop, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:38 p.m.

Barb Stanton, Mayor

La Vonda M-Pearson, Town Clerk