

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

REGULAR MEETING

MINUTES – October 25, 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

OPENING CEREMONIES

INVOCATION: Pastor Mark Mikels, Sonlife Community Church

PLEDGE OF ALLEGIANCE: Presentation of Colors, Boy Scouts Troop 956 and 356 from Apple Valley

The Town Council expressed great sadness and condolence in the sudden passing of former Deputy Town Clerk, Patty Hevle, a 20 year employee. In remembrance, it was the consensus of the Town Council to adjourn the meeting of the Town Council in her honor.

PRESENTATIONS: Presentation to Town Council - Eythan Reimer, Troop 356 - Completion of Eagle Scout Project for the Apple Valley Animal Shelter (Chicken Coop).

Employee of the Quarter presented to Joseph Ramos, Emergency Services Officer

Presentation to Town Council - Cindy Toms, Apple Valley Kiwanis Club

Recognition Awards from Apple Valley PBID Association to "2016 Happy Trails Parade" Award Recipients

PUBLIC COMMENTS

Lawrence McCarthy, Apple Valley, commented on concerns that he had with the proposed Measure A for the Fire District.

Leane Lee, Apple Valley, expressed concern on information contained in the Apple Valley newsletter regarding Measure V and Measure W.

Bryen Wright, Apple Valley Council Candidate, expressed concern regarding the ballot measures on the next election and his belief that the information presented was an illegal use of taxpayer funds.

Tom Piper, Apple Valley Council Candidate, distributed questions to the Town Council that he would like included in the next Town newsletter.

Salvador Ortiz-Lopez, Apple Valley Council Candidate, believed that there was retaliation in the Town of Apple Valley which he believed was tyranny. He also commented on other issues that he felt were taking place in the community.

Al Rice, Apple Valley, expressed concern regarding the Town's financial condition as listed in the Town of Apple Valley's warrants. He also commented on the financial impact of Measure A to the citizens of Apple Valley.

Matthew Fairchild, Apple Valley, recommended that the Boy Scouts conduct a car wash fundraiser for funding sidewalks in Apple Valley.

John Laraway, Apple Valley, commented on mailers that have been distributed by Liberty Utilities that he believed was inaccurate. He also commented on flyers distributed by H2Own that he feels use tactics that are inappropriate.

Cecil Volsch, Real Estate Broker, spoke on the PACE/HERO Loan programs. He informed the Council about the negative implications of these loan programs to sellers and the need for residents to be more informed before financing home projects under these programs.

Diana Carloni, Apple Valley, expressed concern regarding the Town Council violating FPPC rules and regulations by taking an official position of its measure as well as Measure V. She commented on the newsletter and the mailers that have been distributed throughout the community and urged the Town Council to allow the committee to conduct its campaigning.

Val Christensen, Apple Valley, announced that a Red Cross Blood Drive would be held on December 7, 2016 at the corner of Apple Valley Road and Bear Valley Road. He requested the Town's support.

Patricia Perry, Apple Valley, expressed concern regarding the on-going problems that she is experiencing at her home. She stated that she has consistently sought assistance from the community, the police and her leaders. She once again pleaded for assistance.

Terri Penna, Apple Valley, felt that the Town of Apple Valley has not been operating in an ethical manner when working in the community.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

Mayor Pro Tem Nassif thanked the Town Council and the community for their prayers, well wishes, flowers and cards during his recovery. He also publicly expressed his thanks and appreciation to St. Mary's Medical Center for the excellent care he received while in the facility.

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

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

Council Member Cusack 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:

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

- A. Regular Meeting – Tuesday, November 15, 2016 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Mayor Stanton announced that Mayor Pro Tem 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 2. Council Member Cusack also has a remote interest in specific warrants on tonight's Commercial Warrants dealing with Apple Valley Communications 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 2.

Lawrence McCarthy, Apple Valley, asked questions regarding certain warrants listed under Agenda Item Number 2.

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1-11.

Vote: Motion carried 5-0-0-0

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

Absent: None.

Council Member Cusack abstained from voting on specific warrants listed under Agenda Item Number 2. Mayor Pro Tem Nassif abstained from voting on specific warrants listed under Agenda Item Number 2.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – September 27, 2016**
Recommendation:
Approve the subject minutes as part of the consent agenda.

2. **August 2016 - Commercial Warrants Schedule**
Recommendation:
That the Town Council receive, ratify and file the Commercial Warrants Schedule as presented.

3. **August 2016 Payroll / Benefits Warrants Schedule**
Recommendation:
That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.

4. **Treasurer's Report – August 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 August 2016 Treasurer's Report.

5. Claimant – Summer Johnson

Recommendation:

Reject the claim of Summer Johnson.

6. Approve and Authorize a Construction Funding Agreement with San Bernardino County Public Works Department and with the City of Victorville, for the Green Tree Boulevard Extension, in conjunction with the Yucca Loma Transportation Corridor

Recommendation:

That the Town Council approve the Construction Funding Agreement with San Bernardino County Public Works Department and with the City of Victorville for the Green Tree Boulevard Extension in conjunction with the Yucca Loma Transportation Corridor.

7. Measure I, 5-Year Plan

Recommendation:

1. That the Town Council Approve FY 2016/2017 through 2020/2021 Measure I, 5-year plan.
2. Adopt Resolution No. 2016-33, "A Resolution of the Town Council of the Town of Apple Valley, State of California, Adopting the Measure I Five Year Capital Improvement Program".

8. Agreement for Processing of Materials at Burrtec Expanded Facility (MRF)

Recommendation:

That the Town Council approve the attached Processing Agreement and authorize the Mayor to execute the agreement and authorize the Town Manager to negotiate and accept rates for processing services.

9. Fee Waiver Request for the Salvation Army Thanksgiving Day Dinner November 24, 2016 at the James Woody Community Center

Recommendation:

For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$91.53.

10. Acceptance of Work, Notice of Completion and Release of Retention for the Ramona Road Widening and Rancho Verde Elementary School Safe Routes to School, et al - Project No. 2014-04

Recommendation:

That the Town Council:

1. Accept the work completed as part of the Ramona Road Widening and Rancho Verde Elementary School Safe Routes to School, et al – Project No. 2014-04, for a total cost of \$1,477,069.61.
2. Direct the Town Clerk to file the Notice of Completion for the contract work.
3. Direct the Finance Director to release the retained funds thirty (30) days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

11. Acceptance of Work, Notice of Completion and Release of Retention for Microsurface 15-16 - Project No. 2016-02

Recommendation:

That the Town Council:

1. Accept the Microsurface 15-16 Project No. 2016-02 work as completed for a total cost of \$533,493.80.
2. Direct the Town Clerk to file the Notice of Completion for the contract work.
3. Direct the Finance Director to release retained funds thirty (30) days after the filing of the Notice of Completion, provided no claims are filed against the contractor.

Public Hearings

12. **Ground Lease for Land at the Victor Valley Materials Recovery Facility (MRF)**

Mayor Stanton opened the public hearing at 8:05 p.m.

Joseph Moon, Public Services Manager, presented the staff report as filed with the Town Clerk.

Steve Kanow, Burrtec Waste Industries, Inc., commented on the expansion plan and explained the phases of the project which would allow for additional forms of recycling at the facility.

The Town Council members asked questions of the representative regarding the expansion project and the benefits that it would provide to the community.

John Davis, JPA Administrator, answered questions from the Town Council on the proposed project.

There being no requests to speak, Mayor Stanton closed the public hearing at 8:20 p.m.

MOTION

Motion by Council Member Bishop, seconded by Mayor Pro Tem Nassif, to approve the attached Ground Lease and authorize the Mayor to execute the lease.

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

13. **Consider Adoption of Resolutions in Support of Measure W and in Opposition to Measure V**

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

Ray Nelligan, Apple Valley, spoke in support of Measure W. He believed that Liberty Utilities is strictly concerned with its investment and not the concerns of its ratepayers.

John Laraway, Apple Valley, indicated that he did not support Liberty; however he had concerns with Measure W. He read statements from his ballot book that he disputed.

Salvador Ortiz-Lopez, Apple Valley Council Candidate, believed that the Town was wasteful in its spending. He recommended that the community support Measure V.

William Bickum, Apple Valley, expressed concern regarding how the Town of Apple Valley spends the money of its residents.

Cecil Volsch, Real Estate Professional, indicated that approval of Measure V would delay and possibly prevent the Town from completing new projects and obtaining grant funding.

Mayor Pro Tem Nassif commented on the two (2) measures proposed and the cost to the community if an election is required each time a major project is proposed. He also clarified that Measure W would not increase taxes on the public. He believed that the Town of Apple Valley is transparent as evident by the amount of information the public has shared with the Council.

Council Member Emick believed that the Town is working hard to inform the public of the issues in the community and the various measures so that citizens can make informed decisions when they vote.

Council Member Cusack indicated that Measure V does not have a sunset clause and could result in extreme negative consequences in the event of an emergency.

Council Member Bishop believed that Measure V virtually ties the hands of the community and will prevent the progression of Apple Valley.

Mayor Stanton expressed concern regarding the personal attacks during this election. She also commented on the impact to residents if Measure V is successful.

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Nassif that the Town Council move to adopt Resolution No. 2016-34, A Resolution of the Town Council of the Town of Apple Valley Endorsing Measure W.

Vote: Motion carried 5-0-0-0

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

Absent: None.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Emick that the Town Council move to adopt Resolution No. 2016-35, A Resolution of the Town Council of the Town of Apple Valley Opposing Measure V.

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, commented on the numerous measures on the November 8, 2016 ballot.

CLOSED SESSION

14. Closed Session

Mayor Stanton announced that Council Member Cusack will be abstaining from one or more of the closed session items as it pertains to Liberty Utilities Company, due to a potential conflict of interest, as his company does business with the above company.

Mayor Stanton adjourned the meeting of the Apple Valley Town Council at 9:05 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.
- I. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1507221 – Leane Lee vs. Town of Apple Valley.
- J. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1517800 – Krause, Kalfayan, Benink & Slavens, LLP vs. Town of Apple Valley.

Upon returning from Closed Session at 9:57 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 9:58 p.m. in loving memory of former Deputy Town Clerk, Patty Hevle.

Barb Stanton, Mayor

LaVonda M-Pearson, Town Clerk