

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

REGULAR MEETING

MINUTES – January 24, 2017

CALL TO ORDER:

Mayor Nassif 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 Cusack; Stanton; Mayor Pro Tem Bishop; Mayor Nassif

Absent: Council Member Emick

OPENING CEREMONIES

INVOCATION: Pastor Paul Earl, Victorville Life Church

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

PRESENTATIONS: Recognition – Ms. Casey Armstrong

Certificates of Commendation - Teen Zone – Lena Quinonez,
Parks and Recreation Supervisor

PUBLIC COMMENTS

Jan Schommer, Apple Valley, expressed concern regarding the amount of smoke emitting from her neighbor's chimney. She believed that the smoke was toxic and a health concern to her family and animals. She respectfully requested assistance from the Town Council on this issue.

Al Rice, Apple Valley, expressed concern regarding the actions of staff to members of the public and believes the Town should discipline one particular staff member.

Patricia Perry, Apple Valley, expressed concern regarding the on-going harassment that she has sustained by her neighbors. She stated that she has consistently sought the assistance of the police department and the Town for help.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

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

Mayor Nassif commented on committee meetings and events that he attended. He also welcomed Captain Frank Bell to the Town of Apple Valley.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

A. Special Meeting – Tuesday, February 7, 2017 – Council Chamber – 6:30 p.m.

**B. Regular Meeting – Tuesday, February 14, 2017 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Motion by Council Member Cusack, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 1-6, as amended.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Emick.

1. Approval of Minutes of the Town Council

A. Special Meeting – January 5, 2017

B. Regular Meeting – January 10, 2017

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. Claimant – Scott Allen Bell

Recommendation:

Reject the claim of Scott Allen Bell.

3. Claimant – Anthony Beaver, Eva Beaver and Miguel Sanchez

Recommendation:

Reject the claim of Anthony Beaver, Eva Beaver and Miguel Sanchez.

4. One-Year Extension of Service Agreement for Electronic Waste Recycling with Gold’N West Surplus, Inc.

Recommendation:

It is recommended that the Town Council authorize the Town Manager to execute a one-year extension of the current Service Agreement as modified by the attached letter for electronic waste recycling with Gold’N West Surplus, Inc. with two (2) automatic one-year extensions if the same or similar terms are agreed upon by both parties.

5. Town Council Establish and Adopt the Privacy and Customer Confidentiality Policy for Apple Valley Choice Energy (AVCE)

Recommendation:

That the Town Council establish and adopt the policies for privacy and customer confidentiality, protection of confidential information and Advanced Metering Infrastructure (AMI) data security and privacy, for Apple Valley Choice Energy.

6. **Amendment to the Franchise Agreement between the Town of Apple Valley and Burrtec Waste Industries, Inc.**

Recommendation:

That the Town Council approve the Amendment to the Exclusive Franchise Agreement between the Town of Apple Valley and Burrtec Waste Industries, Inc. amending the term of the agreement.

PUBLIC HEARINGS

7. **A Request to Consider an Amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Amending Chapter 9.25 “Deviation Permits”, Chapter 9.28 “Residential Districts” and Chapter 9.35 “Commercial Districts” as it Pertains to Setback Reduction Procedures within the Ranchos Residential Overlay District**

Mayor Nassif opened the public hearing at 7:02 p.m.

Pam Cupp, Assistant Planner, presented the staff report as filed with the Town Clerk. She clarified that deviation permits are only allowed for existing dwellings and not new dwellings. She also explained the difference between a variance and a deviation.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:11 p.m.

MOTION

Motion by Council Member Cusack, 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. 491 in its entirety and ready by title only.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Emick.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 491.

MOTION

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

5. **Introduce** Ordinance No. 491, an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code modifying Chapter 9.25 "Deviation Permits" Chapter 9.28 "Residential Districts" and Chapter 9.35 "Commercial Districts" as it pertains to setback reduction procedures within the Ranchos Residential Overlay District.
6. Direct staff to file a Notice of Exemption.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Emick.

8. Approval for EEI Master Power Purchase Agreements, Confirmations, Associated Lockbox Agreements and Authorization Resolution for the Apple Valley Choice Energy (AVCE) CCA

Mayor Nassif opened the public hearing at 7:13 p.m.

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

Kirby Dusel, Pacific Energy Advisors, provided additional information to the Town Council regarding the agreements necessary to proceed with this project.

The Town Council asked questions regarding the financial institution used for this program and the public outreach notifying the residents of this service.

John Laraway, Apple Valley, asked questions about the lockboxes and green energy. He also questioned whether or not Edison would still have the ability to shut off utility service if there is a need to reduce energy consumption.

There being no additional requests to speak, Mayor Nassif closed the public hearing at 7:32 p.m.

MOTION

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

1. That the Town Council approve the EEI Master Power Purchase Agreements, Confirmations and Associated Lockbox Agreements for the Apple Valley Choice Energy (AVCE) CCA.
2. That the Town Council adopt a resolution authorizing the Town Manager to execute Master Agreements with each of the three (3) short listed power suppliers with terms consistent with those contained in the attached agreements.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Emick.

9. Adopt Resolution No. 2017-04, A Resolution Establishing the Rate Structure and Rates for Apple Valley Choice Energy (AVCE)

Mayor Nassif opened the public hearing at 7:35 p.m.

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

Kirby Dusel, Pacific Energy Advisors, explained how the rate schedules were identified and recommended for customers.

Council Member Stanton asked for clarification on the rate tiers and if weather conditions for the desert are considered when tiers are established.

Mr. Dusel noted that the CCA has the ability to offer many of the same plans and programs as SCE with the exception of a level pay plan. He stated that this is something that they are working on and may be available in the near future.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:53 p.m.

MOTION

Motion by Mayor Pro Tem Bishop, seconded by Council Member Stanton, to adopt Resolution No. 2017-04 establishing the rate structure and rates for Apple Valley Choice Energy (AVCE).

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Emick.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

10. Vacancy on the Parks and Recreation Committee

MOTION

Motion by Council Member Stanton, seconded by Council Member Cusack, to nominate Melissa Moon to the Town of Apple Valley Parks and Recreation Committee.

Vote: Motion carried 4-0-0-1

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

Absent: Council Member Emick.

11. **Pavement Management System Report**

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk. He showed a PowerPoint presentation that detailed the Town's Pavement Management System.

This was a receive and file item only. There was no action taken.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commented on a bill that is targeting the transportation needs in California, and stated that staff is monitoring the bill, but do not know at this time the impact it will have for local governments.

Ralph Wright, Parks and Recreation Manager, commented on activities in the department and capacity issues that the department is facing with its After School Program. He stated that in order for all students to have the ability to participate, the department will fill the positions through a lottery system.

Mr. Robinson announced that Lori Lamson will be working on the CEQA transformation committee and Joseph Moon on the CCA Committee.

DEPARTMENTAL REPORTS AND BUSINESS

None.

CLOSED SESSION

12. **Closed Session**

Mayor Nassif stated that if needed, Council Member Cusack will be abstaining from one (1) 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 Nassif adjourned to Closed Session at 8:34 p.m. to discuss items 12A-12K.

- 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.
- K. Negotiations with Real Property Negotiator – Parcel Number: 3087-351-23. Negotiating Party: Town Negotiator - Town Manager. Negotiations involve both price and terms.

Upon returning from Closed Session at 9:32 p.m., Mayor Nassif announced that there was no reportable action taken.

ADJOURNMENT

Motion by Mayor Pro Tem Bishop, seconded by Council Member Cusack, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:33 p.m. in memory and honor of former Mayor and Council Member Rob Turner.

Scott Nassif, Mayor

LaVonda M-Pearson, Town Clerk