

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

REGULAR MEETING

MINUTES – August 8, 2017

CALL TO ORDER:

Mayor Nassif called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:32 p.m.

Roll call was taken with the following members present:

Roll Call

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

Absent: None.

OPENING CEREMONIES

INVOCATION: The invocation was led by Pastor Steve Colangelo, Lucerne Bible Fellowship

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Cadet Master Sergeant Joel Whiteside, ROTC Member and High School Senior at Academy for Academic Excellence

PRESENTATIONS: Special Recognition to Gina Schwin-Whiteside, Director of Animal Services – Chris Nunez, Field Representative, Office of Assemblyman Jay Obernolte

Special Recognition to Mayor Scott Nassif from City of Adelanto Mayor Rich Kerr.

Presentation of Check to CDBG Subrecipients, Orlando Acevedo, Assistant Director, Economic Development & Housing

Victor Valley Transit Authority – Introduction of Bus Route 42 in the Town of Apple Valley, Council Member Barb Stanton.

PUBLIC COMMENTS

Richard Rorex, Apple Valley, commented issues in the Town of Apple Valley.

Jimmy Weldron, High Desert Homeless Services, thanked the Town Council for their support.

Jim Blackburn, Apple Valley, spoke in support of medical cannabis.

Thurston “Smitty” Smith, Victor Valley Bicycle Tour, commented on the bicycle challenge issued to cities to locate tour signs within the community. He thanked Public Works Director, Greg Snyder, and Parks and Recreation Manager, Ralph Wright, for their efforts.

Marcy Taylor, Apple Valley Legacy Museum, invited the Town Council and the community to the annual Steak Fry. She commented on the groups that will be participating including our very own Council Member Barb Stanton.

Midge Nicosia, Victor Valley Community Services Council, commented on the services her organization provides and announced that she was selling tickets for the 7th Annual Great Duck Race during Hesperia Days

Inger Robertson, Domestic Violence Shelter, thanked the Town Council for their support.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

Mayor Nassif commented on committee meetings and events that he attended.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Councilwoman Stanton reminded the Town Council of the need to bring an informational item forward regarding Medical Cannabis in the community.

Time, Date & Place for Next Town Council Regular or Special Meeting:
A. Regular Meeting – Tuesday, August 22, 2017 – Council Chamber
Regular Session at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

Mayor Nassif announced that he 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 Items 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 Items Number 2.

John Laraway, Apple Valley, commented on Agenda Items numbered 4 and 5. He questioned the use of the money as indicated in Application to San Bernardino County Transportation Authority (SBCTA) for Local Transportation Funds – Article 8 – Other Purpose Claim. He stated that the Town should have

a clear understanding of the requirements for use of these funds. He also requested that citizens be provided an opportunity to see the State of the Town Address without a fee.

Councilwoman Stanton asked for a brief presentation on Agenda Item Number 8 regarding Professional Services Agreement for Housing Consultant.

Orlando Acevedo, Assistant Director of Community Development, spoke of the ability to provide a flexible staffing component to the organization. He believed that the hiring of a consultant allows the Town the ability to use the services as needed in the event that HUD dollars diminish.

Discussion ensued regarding whether or not the Council should award a contract at this time or wait until the permanent Town Manager position is filled. Also discussed was the need to backfill the position due to a shortage in staff.

Lori Lamson, Interim Town Manager, explained the need for the Town to utilize consultants due to the limited number of staff in various departments within the organization.

Brad Miller, Town Engineer, presented a staff report on Agenda item number 9 regarding "Phase III for the Rehabilitation and Widening of the Bear Valley Road Bridge over the Mojave River" project for the benefit of the Council and the public. He stated that this would be a \$33 million project.

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 1, 2, 3, 4, 5, 6, 7, 9 and 10 respectfully, and that Agenda item number 8 be pulled for a separate vote.

Vote: Motion carried 5-0-0-0

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

Absent: None.

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

1. Approval of Minutes of the Town Council

A. Regular Meeting – July 25, 2017

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. July 2017 Commercial Warrants and Wire Transfer Schedules

Recommendation:

That the Town Council receive, ratify, and file the Commercial Warrants and Wire Transfer Schedules as presented.

3. July 2017 Payroll / Benefits Warrants Schedule

Recommendation:

That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.

4. **Application to San Bernardino County Transportation Authority (SBCTA) for Local Transportation Funds – Article 8 – Other Purpose Claim**
Recommendation:
Authorize the Assistant Town Manager - Finance & Administration to apply for Local Transportation Funds – Article 8 – Other Purpose Claim in the amount of \$1,162,391 for Fiscal Year 2016-17.
5. **Application to San Bernardino County Transportation Authority (SBCTA) for Local Transportation Funds – Article 8 – Other Purpose Claim**
Recommendation:
Authorize the Assistant Town Manager - Finance & Administration to apply for Local Transportation Funds – Article 8 – Other Purpose Claim in the amount of \$1,119,311 for Fiscal Year 2017-18.
6. **Claimant – Jennifer Mannino**
Recommendation:
Reject the claim of Jennifer Mannino.
7. **Claimant – David Simpson**
Recommendation:
Reject the claim of David Simpson.
9. **Award Phase III for the Rehabilitation and Widening of the Bear Valley Road Bridge over the Mojave River**
Recommendation:
That the Town Council continue the contract with Dokken Engineering for engineering services for the Bear Valley Road Bridge over Mojave River Rehabilitation and Widening Services, Phase III in an amount not to exceed \$1,097,986.84, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.
10. **Change of Ownership; Approve New Agreements and Securities for Tract Map 16134, North of Mana Road, West of Aniwa Road**
Recommendation:
Approve new securities and agreements for the one-year maintenance period for the completed street improvements for Tract Map 16134, subject to approval as to form by the Town Attorney and as to content by the Town Manager.

PULLED FROM CONSENT

8. **Professional Services Agreement for Housing Consultant**

MOTION

Motion by Council Member Emick, seconded by Council Member Cusack, to approve a Professional Services Agreement for a consultant to provide administrative support in the Housing Division.

SUBSTITUTE MOTION

Councilwoman Stanton made a substitute to continue this item until a permanent Town Manager is hired.

This motion died due to a lack of a second.

MOTION

Motion by Council Member Emick, seconded by Council Member Cusack, to approve a Professional Services Agreement for a consultant to provide administrative support in the Housing Division.

Vote: Motion carried 4-1-0-0

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

No: Councilwoman Stanton

Absent: None.

PUBLIC HEARINGS

11. Public Hearing on Proposed Renewal and Boundary Modification of Apple Valley Village Property and Business Improvement District and Levy of Assessments

Mayor Nassif announced that he and Council Member Cusack have a potential conflict of interest in this item as property owners in the PBID district. Therefore, they both will be excused from discussion of this item.

COUNCIL MEMBER CUSACK AND MAYOR NASSIF WERE EXCUSED FROM THE DAIS AT 8:33 P.M.

Mayor Pro Tem Bishop resumed control of the meeting and opened the public hearing at 8:33 p.m.

Orlando Acevedo, Assistant Director of Economic Development, presented the staff report as filed with the Town Clerk.

Councilwoman Stanton questioned the number of parcels in the PBID area.

There being no additional requests to speak, Mayor Pro Tem Bishop closed the public hearing at 8:38 p.m.

Mayor Pro Tem Bishop announced that this item would be continued until later in the agenda to allow the Town Clerk's Office to tabulate the ballots. It was the consensus of the Town Council to proceed with the next item on the agenda and to reconvene discussion of Item 11 after the tabulation was complete.

COUNCIL MEMBER CUSACK AND MAYOR NASSIF RETURNED TO THE DAIS AT 8:39 P.M.

CONTINUED PUBLIC HEARING FROM JUNE 13, 2017

12. Appeal of the Intent to Revoke Business License #00013688 Issued to Bright Futures Academy, LLC.

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

Sergeant Laura Marks, Apple Valley Police Department, spoke of the calls for service for Bright Futures Academy during the last two months. She stated that there have only been three (3) calls for false alarms during a weekend.

Betty Colucci, President, Bright Futures Academy, commented on the training that has occurred this week which included over 200 staff members. She thanked the Town Council for their support.

Discussion ensued regarding the number of days the school has been in operation since the last Council hearing.

MOTION

Motion by Councilwoman Stanton, seconded by Mayor Pro Tem Bishop, to continue the item until the February 13, 2018 meeting of the Town Council on the condition that Bright Futures Academy provides a monthly status report on its remediation efforts to the Town Manager, with a copy to the Town Attorney, beginning September 1, 2017 and continuing on the first of each month until February 1, 2018. In addition, all correspondence and reports from the State investigation shall also be forwarded to the Town Manager within a reasonable timeframe.

Vote: Motion carried 5-0-0-0

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

Absent: None.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

13. Adopt Resolution No. 2017-27, A Resolution Approving the Town of Apple Valley's Local Agency Management Program

Patrick Carroll, Building Official, presented the staff report as filed in the Town Clerk's Office.

MOTION

Motion by Mayor Pro Tem Bishop, seconded by Council Member Emick, to adopt Resolution No. 2017-27 approving the Town of Apple Valley's Local Agency Management Program.

Vote: Motion carried 5-0-0-0

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

Absent: None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Joseph Moon, Assistant Director of Energy and Environmental Services, presented an explanation with a short PowerPoint of the billing system for Apple Valley Choice Energy.

Mayor Nassif announced that the Village Parade would be held Saturday, September 20, 2017.

CONTINUED PUBLIC HEARING

11. Public Hearing on Proposed Renewal and Boundary Modification of Apple Valley Village Property and Business Improvement District and Levy of Assessments

Mayor Nassif announced that the Town Council would reconvene the discussion on Item Number 11. He stated that once again, he and Council Member Cusack have a potential conflict of interest in this item as property owners in the PBID district. Therefore, they both will be abstaining from voting on this item.

Mayor Pro Tem Bishop resumed control of the meeting.

Orlando Acevedo, Assistant Director of Community Development, announced that a weighted majority of the ballots are in support of the renewal of the district. He stated that the vote was 62% in favor and 38% opposed.

MOTION

Motion by Councilwoman Stanton, seconded by Council Member Emick, to adopt Resolution 2017-28 renewing and modifying the boundaries of the PBID and levying assessments in the PBID for property tax years 2017-18 through 2021-22.

Vote: Motion carried 3-0-0-2

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

Absent: Council Member Cusack; Mayor Nassif.

CLOSED SESSION

14. 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 9:28 p.m. to discuss items 14A-14K

- 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 Real Property Negotiators – Pursuant to Government Code Section 54956.8. Property: Apple Valley Ranchos Water Company (now Liberty Utilities (Apple Valley Ranchos Water) Corp.); 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.

- D. 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.
- E. 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.
- F. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1704285 – Carrillo Et Al. 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.: CIVDS1704206 – Golden State Environmental Justice Alliance vs. Town of Apple Valley Et Al.
- H. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1704262 – Sierra Club vs. Town of Apple Valley Et Al.
- I. Personnel Matters - Government Code Section 54957 Consider Public Employee Appointment/Employment: Title: Town Manager.
- J. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1708307 – Sky Haven Ranch vs. Town of Apple Valley.
- K. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, CPUC Application No. 17-04-024 - In the Matter of the Application of Mesa-Crest Water Company (U333W) and Liberty Utilities (Park Water) Corp. (U314W) for an Order Authorizing Mesa-Crest Water Company to Sell and Liberty Utilities (Park Water) Corp. to Purchase the Utility Assets of Mesa-Crest Water Company.

Upon returning from Closed Session at 10:43 p.m., Mayor Nassif announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Councilwoman Stanton, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 10:44 p.m.

Scott Nassif, Mayor

La Vonda M-Pearson, Town Clerk