

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

REGULAR MEETING

MINUTES – October 24, 2017

CALL TO ORDER:

Mayor Nassif called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:32 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: Pastor Joseph Valery, Victory in Jesus Bible Faith Center

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

ANNOUNCEMENTS:

Mayor Nassif spoke of the passing of Marisa Cusack, daughter of Council Member Larry Cusack. He stated that the thoughts and prayers of the Town Council are with Council Member Cusack and requested, with the consensus of the Town Council, that the meeting be adjourned in memory of Marisa.

PRESENTATIONS: Recognition Awards from Apple Valley PBID Association to “2017 Happy Trails Parade” Award Recipients

Safe Routes to School Master Plan, Rich Berger, Engineering Associate

PUBLIC COMMENTS

Jim Blackburn, Apple Valley, commented on the cannabis market and the legalization movement that is becoming global.

Tom Piper, Apple Valley, commented on the lack of cameras on officers in the area. He believed that the Sheriff’s Department has not reached out to the local communities for their input. He asked that the Sheriff’s Department move forward with cameras on officers.

Lawrence McCarthy, Apple Valley, questioned the necessity to chip seal Apple Valley Road. He believed that there were other roads in the Town that needed repair.

Cecil Volsch, Association of Realtors, Apple Valley, commented on the new regulations for HERO and similar programs. He indicated that the program has been expanded to include many types of home improvements; however, the Association of Realtors continues to be opposed to these programs due to the liens placed on the property.

Patricia Perry, Apple Valley, spoke of her involvement in the community at a very young age. She expressed concern regarding the number of homeowners, including herself, whose homes were being vandalized. She stated that she is now having issues with neighbors stealing her electricity; however, after seeking assistance from the Town of Apple Valley, she is now being harassed by Code Enforcement.

David Brickwood, Apple Valley, expressed extreme concern regarding being evicted from his home by his stepson and wife without due process. He stated that his life had been threatened and he has been unable to obtain any assistance from our law enforcement department.

William Adrian, Apple Valley, expressed concern regarding back bills for sewer and trash that he is being requested to pay. He stated that the home is vacant and the tenant hospitalized. He stated that he would like to speak to someone regarding this issue.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

Council Member Emick 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:

Mayor Pro Tem Bishop, with the consensus of the Town Council, requested an Update on the San Bernardino County Library.

**Time, Date & Place for Next Town Council Regular or Special Meeting:
A. Regular Meeting – Tuesday, November 14, 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.

Motion by Council Member Emick, seconded by Mayor Pro Tem Bishop, to approve the Consent Calendar items numbered 1, 2, 3, 5, 6 and 7 respectfully, and that Agenda items numbered 4 and 8 be pulled for discussion.

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 – September 26, 2017**
 - B. **Special Meeting – October 17, 2017**

Recommendation:
Approve the subject minutes as part of the consent agenda.
2. **September 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. **September 2017 Payroll / Benefits Warrants Schedule**

Recommendation:
That the Town Council receive, ratify and file the Payroll / Benefits Warrants as presented.
5. **Treasurer’s Report – September 2017 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 September 2017 Treasurer’s Report.
6. **Award a Professional Services Agreement for the Apple Valley Village State Route 18 Corridor Enhancement Plan – Project No. 2017-03**

Recommendation:
Award a Professional Services Agreement to KOA Corporation for the Apple Valley Village State Route 18 Corridor Enhancement Plan - Project No. 2017-03 subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.
7. **Fee Waiver Request for the Salvation Army Thanksgiving Day Dinner on November 23, 2017 at the James Woody Community Center**

Recommendation:
For good cause shown, and finding a waiver will serve a public purpose, approve a waiver of the Facility Rental Fee of \$96.50.

PULLED FOR DISCUSSION

4. **Treasurer’s Report – August 2017 and Schedules of Revenues, Expenditures and Changes in Fund Balance for the Parks and Recreation Fund and the Apple Valley Golf Course Fund**

Council Member Stanton asked questions regarding the line items and fund balances listed within the report.

Marc Puckett, Assistant Town Manager, presented the staff report as filed with the Town Clerk. He explained the line items in the Treasurer's Report as well as addressed concerns expressed by Council Member Stanton regarding the usage at the Golf Course.

Mayor Nassif, with the consensus of the Town Council, recommended that a workshop be held at the beginning of the year to review the history and financial state of the Golf Course to develop a strategic plan for the future use of the facility.

MOTION

Motion by Council Member Emick, seconded by Council Member Cusack, to receive and file the August 2017 Treasurer's Report.

Vote: Motion carried 5-0-0-0

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

Absent: None.

8. **Adopt Resolution No. 2017-32, A Resolution of the Town Council of the Town of Apple Valley, California, Confirming the Implementation of the Recycled Water Program by the Town of Apple Valley in Accordance with the Statewide General Waste Discharge Requirements for Recycled Water (Order WQ 2016-0068-DDW) and Consistent with the Victor Valley Wastewater Reclamation Authority Recycled Water Program (Ordinance No. 006)**

Council Member Stanton commented on the benefit and achievement of this program and requested a brief presentation for the benefit of the public.

Greg Snyder, Director of Public Works, presented the staff report as filed with the Town Clerk.

Logan Olds, General Manager, Victor Valley Wastewater Reclamation Authority (VWRA), commented on the new plant and indicated that the facility should become online and operational in January. He also addressed the odor issues that have been brought to the attention of the Town. He explained that due to regulatory issues, they were required to clean the existing plant in Victorville which resulted in other issues that led to the odor. He stated that VWRA is working as expeditiously as possible to eliminate the issues that are causing the odor and apologized for the inconvenience to the surrounding neighborhoods.

MOTION

Motion by Council Member Stanton, seconded by Council Member Cusack, to adopt Resolution No. 2017-32, a Resolution of the Town Council of the Town of Apple Valley, California, confirming the implementation of the recycled water program by the Town of Apple Valley in accordance with the statewide general waste discharge requirements for recycled water (Order WQ 2016-0068-DDW) and consistent with the Victor Valley Wastewater Reclamation Authority recycled water program (Ordinance No. 006).

Vote: Motion carried 5-0-0-0

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

Absent: None.

PUBLIC HEARINGS

9. Introduce Ordinance No. 494, An Ordinance of the Town Council of the Town of Apple Valley, California, Reauthorizing Ordinance No. 475 and Amending Title 5, Chapter 5.06 Regarding the Fee Paid to the Town by State Video Franchise Holders to Support Public, Educational, and Government Access (“PEG”) Purposes

Mayor Nassif opened the public hearing at 8:23 p.m.

Marc Puckett, Assistant Town Manager, presented the staff report as filed with the Town Clerk.

Discussion ensued regarding the amount of funding received from the PEG Channel and how the funding has been used.

Mr. Puckett explained that use of the funds is restricted to upgrades and enhancements for the PEG Channel such as the cable signal, service, council chamber enhancements and equipment.

There being no requests to speak, Mayor Nassif closed the public hearing at 8:34 p.m.

MOTION

Motion by Mayor Pro Tem Bishop, seconded by Council Member Stanton, to waive the reading of Ordinance No. 494 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

Absent: None.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 494.

MOTION

Motion by Council Member Stanton, seconded by Council Member Emick, to introduce Ordinance No.494 amending Town of Apple Valley Ordinance No. 475 and corresponding Municipal Code Title 5, Chapter 5.06, and reauthorizing that Ordinance, so that as each state video franchise expires and is renewed by the California Public Utilities Commission (“CPUC”) now and in future years, state video franchise holders continue to pay fees to the Town to support public, educational, and government access (“PEG”) purposes.

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

10. Town of Apple Valley Regulatory Options Regarding Medical and Recreational Marijuana

John Brown, Town Attorney, introduced Mr. Victor Ponto, Attorney, an expert in the field of cannabis regulations to present a presentation to Council on this matter.

Victor Ponto, Best, Best & Krieger, presented the PowerPoint presentation as submitted to the Town Clerk. The presentation given was interactive with the members of the Town Council and questions and comments on the slides presented were made.

During the discussion, Council Member Stanton eluded to the positive financial impact that allowing some form of cannabis business would have on the community. She questioned Mr. Ponto as to whether or not he could provide information on the pros of this subject.

Council Member Emick asked questions regarding regulations and impact of cannabis in the State of California.

Francis Shaw Wicker, Apple Valley, thanked the Town Council and staff for listening to the information presented on medical and recreational cannabis. She stated that as a cannabis business owner, she is asking for cannabis regulations in the community. She commented on businesses desire to work with the community and address their concerns. She commented on using cannabis for issues that she had.

Kasha Herrington, Business Owner, commented on the potential risks with cannabis regulations for the community; however, she believed that the rewards would be beneficial and something that could benefit the citizens.

Tom Piper, Apple Valley, believed that 20% of the citizens smoke medical marijuana that is currently being expended in the black market. He felt the Town would be able to receive a financial benefit if they move forward with allowing the use or grow of cannabis in the community.

The Town Council Members each thanked Mr. Ponto for the detailed and thorough presentation. During their closing comments on this matter, they independently expressed their views, beliefs and concerns on this matter including financials, taxes, regulations and testing of the product.

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

RECESSED MEETING

Mayor Nassif declared a recess of the Apple Valley Town Council at 11:40 p.m.

RECONVENED MEETING

Mayor Nassif reconvened the meeting of the Apple Valley Town Council at 11:54 p.m.

11. Consideration of and Action on Initiative Petition to Amend the Town’s General Plan, Repeal Chapter 9.40 of the Town’s Development Code, and Add Chapter 9.41 to the Town’s Development Code to Establish the “Dale Evans Parkway Commercial Specific Plan”

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

Council Member Stanton questioned Wal-Mart’s intent should the Town Council move forward with this item as recommended by staff and whether additional challenges may be made.

Mr. Brown noted that the possibility of challenges will always exist when dealing with public matters.

MOTION

Motion by Mayor Pro Tem Bishop, seconded by Council Member Emick, to adopt the initiative outright and without alteration through the adoption of Resolution No. 2017-33 – A Resolution of The Town Council of The Town of Apple Valley Adopting an Initiative Measure Amending The Town of Apple Valley General Plan, Repealing Chapter 9.40 of The Town Development Code, and Adding Chapter 9.41 to The Town Development Code to Establish The “Dale Evans Parkway Commercial Specific Plan,” In Lieu of Calling an Election for Said Purpose, Pursuant to Elections Code Sections 9214 and 9215.

Vote: Motion carried 5-0-0-0

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

Absent: None.

12. Hotel Transient Occupancy Tax Reimbursement Agreement

Lori Lamson, Interim Town Manager, explained that there are issues with the proposed contract that staff would like to have resolved prior to presenting to Council for review and approval. She respectfully requested that this item be tabled.

It was the consensus of the Town Council to table this item.

13. Subdivision Improvement Security, Lien In-Lieu of Bonds

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

Discussion ensued regarding whether the Council should move forward with this item at this time.

It was the consensus of the Town Council to move forward with obtaining a study on this matter.

TOWN MANAGER’S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Town Manager Report

- Town Manager may call upon employees during this time to give updates on Town programs, projects and/or legislative update.

Brad Miller, Town Engineer, briefed the Town Council and staff on ongoing road repair projects using various forms of pavement material.

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 11:33 p.m. to discuss items 14A-14H

- 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. Personnel Matters - Government Code Section 54957 Consider Public Employee Appointment/Employment: Title: Town Manager.
- G. 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.
- H. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1714692 - Town of Apple Valley Et Al vs. Barron Wilson Et Al.

Upon returning from Closed Session at 12:33 a.m., Mayor Nassif announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Council Member Stanton, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 12:33 a.m. in loving memory of Marisa Cusack.

Scott Nassif, Mayor

La Vonda M-Pearson, Town Clerk