

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

REGULAR MEETING

MINUTES – June 26, 2018

CALL TO ORDER:

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

Absent: None.

OPENING CEREMONIES

INVOCATION: The invocation was given by Joseph Moon, Assistant Director of Energy and Environmental Services

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

PRESENTATIONS: Recognition of Service - Jonathan Wood, Code Enforcement Supervisor.
Recognition of Retirement - Joseph Moon, Assistant Director of Energy and Environmental Services

PUBLIC COMMENTS

Al Rice, Apple Valley, expressed concern regarding the lack of signature approval by a manager noted on documents presented to the Town Council for approval. He believed that this was warranted.

Dan Harley, Apple Valley, commented on the proposed closure of Virginia Park.

Bill Inger, Apple Valley, recommended that an easier method be developed to allow the public to place items on the agenda.

Matthew Rutledge, Apple Valley, expressed concern about an incident that occurred with the Sheriff's Department. He believed that more sheriffs were needed to patrol the community in the evening hours so that a quicker response time is received.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

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

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

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

**A. Regular Meeting – Tuesday, July 10, 2018 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Al Rice, Apple Valley, asked questions regarding Agenda Item Number 4. He questioned if the Treasurer's Report required a signature per state law. He also questioned the general fund balance and believed that all the fund balances should be listed in the report.

MOTION

Motion by Council Member Emick, seconded by Council Member Stanton, to approve the Consent Calendar items numbered 1 – 6, respectfully.

Vote: Motion carried 5-0-0-0

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

Absent: None.

1. Approval of Minutes of the Town Council

A. Regular Meeting – June 12, 2018

Recommendation:

Approve the subject minutes as part of the consent agenda.

2. Legislation Requiring Local Agencies to Review Its Conflict of Interest Code to Comply with the Political Reform Act

Recommendation:

Direct the Town Manager to review its code and submit a notice to the Town Council by October 1, 2018, that either amendments are required or that no amendments are necessary.

3. May 2018 Payroll/Benefits Warrants Schedule

Recommendation:

That the Town Council receive, ratify and file the payroll/benefits warrants as presented.

4. Treasurer's Report – April 2018 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 the Town Council receive and file the April 2018 Treasurer's Report.

5. Lighting and Landscape Assessment District #1 – Engineer's Annual Report and Levy of Assessment for Fiscal Year 2018-2019

Recommendation:

- A. Adopt Resolution No. 2018-25, a Resolution of the Town Council of the Town of Apple Valley Directing the Filing of the Annual Report for the Town of Apple Valley Landscaping and Lighting Assessment District.
 - B. Receive and approve the engineer's report as filed, or as amended.
 - C. Adopt Resolution No. 2018-26, a Resolution of the Town Council of the Town of Apple Valley Declaring its Intention to Order Improvements and to Levy and Collect Assessments for Fiscal Year 2018-2019.
 - D. Direct the Town Clerk to publish the Resolution of Intention at least 10 days prior to the date of the public hearing.
6. **An Agreement between the Town of Apple Valley and the City of Victorville to Continue the HOME Investment Partnerships Program (HOME) Consortium for the Three-Year Period July 1, 2019 – June 30, 2020**

Recommendation:

That the Town Council Adopt Resolution No. 2018-27 to approve and authorize execution of the agreement by the Town Manager; and further authorize the Town Manager to make non-substantive modifications or corrections as deemed necessary.

PUBLIC HEARINGS

7. **Appeal No. 2018-003 – An Appeal of the Planning Commission’s Approvals of Conditional Use Permit No. 2017-006 and Deviation No. 2018-003 for a Proposed Sixty (60)-Foot Tall Wireless Telecommunication Facility within Mendel Park**

Mayor Bishop opened the public hearing at 7:14 p.m.

Carol Miller, Assistant Director of Community Development, presented the staff report as filed by the Town Clerk.

Council Member Nassif asked questions regarding the process for an applicant constructing a tower.

Council Member Stanton asked for clarification on the request for the deviation.

Mayor Pro Tem Cusack questioned the need for cell towers in the community. He explained that the proposed towers are low frequency and deemed safe.

Mayor Bishop commented that this is a 30-year agreement. He questioned if the applicant would be responsible for removal of the site if it is no longer in use.

Linda Repp, Appellant, commented on the radiation that she believes will be emitted from the towers along with other materials that can cause harm to children.

Cameron Dancho, representing Verizon Wireless, stated that Verizon is in compliance with FCC on this project and he also discussed the durability of the structure and routine maintenance that would be conducted. He said that the proposed location is the preferred location for this tower.

Al Rice, Apple Valley, believed that there would be problems with this location. He commented on the process to place frequency underground making towers obsolete.

Lawrence McCarthy, Apple Valley, stated that he has researched the danger of electromagnetic beams and the danger that they pose on individuals.

J. Valenzuela, Apple Valley, spoke in support of the appeal. She believed that the school children were required by law to attend school and would be forced to endure magnetic beams that could cause harm to students.

Linda Repp, Appellant, believed that additional notices should be provided to residents outside the mandated requirement for noticing. She noted that schools in the Los Angeles area have banned towers near school sites.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 7:50 p.m.

Discussion ensued regarding the comments made by the appellant and the applicant in reference to placement of the cell tower.

Thomas Rice, Town Attorney, noted for the record that the Town Council could not consider radio frequency when making its determination. He also noted that case law states that towers in parks do not take away from the aesthetics of the park.

MOTION

Motion by Council Member Stanton, seconded by Council Member Nassif, to adopt Town Council Resolution No. 2018-28, which denies the appeal of the Planning Commission approval of Conditional Use Permit No. 2017-006 and Deviation No. 2018-003 subject to the conditions of approval.

Vote: Motion carried 5-0-0-0

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

Absent: None.

RECESSED MEETING

Mayor Bishop recessed the meeting of the Apple Valley Town Council 7:55 p.m.

RECONVENED MEETING

Mayor Bishop reconvened the meeting of the Apple Valley Town Council 8:07 p.m.

8. A Resolution of the Town Council of the Town of Apple Valley, California, Approving Budget Appropriations and Adopting the Operating and Capital Improvement Budget for All Funds for Fiscal Year 2018-2019

Mayor Bishop opened the public hearing at 8:10 p.m.

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

Doug Robertson, Town Manager, commented on the proposed closure of Virginia Park and the desire to continue honoring her legacy through other methods.

Council Member Nassif commented on the use of Virginia Park for ball practice and indicated that his Park Commissioner was concerned that the recommendation to close the park was not presented to the Park and Recreation Commission for their review and analysis on the impact of its closure.

Al Rice, Apple Valley, asked questions regarding the amount of funds allocated for the Property Business Improvement District, the Sheriff's Contract and the water acquisition.

Vicki Brown, Apple Valley, briefed the Town Council on the history of Virginia Park.

David Lisberg, Sun City, asked questions about the proposed budget. He also stated that he did not believe there was any allocation of funds listed for the water litigation.

Mr. Robertson answered questions that were presented by the public regarding the budget.

There being no additional requests to speak, Mayor Bishop closed the public hearing at 9:05 p.m.

Discussion ensued regarding the water costs at Virginia Park, potential revenues, expenditures and the potential need to reduce services as a cost saving measure.

Mayor Bishop encouraged staff, the family of Virginia and the water district to work together to honor the individual in which the Park was named.

MOTION

Motion by Council Member Nassif, seconded by Council Member Stanton, to adopt Resolution No. 2018-32 of the Town Council of the Town of Apple Valley, California, approving a budget appropriation and adopting the budget, including the operating and capital improvement budget for all funds for Fiscal Year 2018-2019.

Vote: Motion carried 5-0-0-0

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

Absent: None.

9. Adoption of Fiscal Year 2018-2019 Appropriations Limits

Mayor Bishop opened the public hearing at 9:24 p.m.

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

There being no requests to speak, Mayor Bishop closed the public hearing at 9:28 p.m.

MOTION

Motion by Council Member Nassif, seconded by Mayor Pro Tem Cusack, to adopt Resolution No. 2018-29, of the Town Council of the Town of Apple Valley, California, establishing the Fiscal Year 2018-2019 Appropriations Limit for the Town at \$38,966,012 by using the Town's population growth for the population adjustment and the California per capita income growth for the inflationary adjustment.

Vote: Motion carried 5-0-0-0

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

Absent: None.

10. Review of the Fiscal Year 2018-2019 Statement of Investment Policy

Mayor Bishop opened the public hearing at 9:29 p.m.

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

There being no requests to speak, Mayor Bishop closed the public hearing at 9:30 p.m.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to adopt Resolution No. 2018-30 approving the Statement of Investment Policy for Fiscal Year 2018-2019 and delegating the investment activities to the Town Treasurer.

Vote: Motion carried 5-0-0-0

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

Absent: None.

11. A Resolution of the Town Council of the Town of Apple Valley, California, Amending and Establishing Specified Fees for Town Services

Mayor Bishop opened the public hearing at 9:31 p.m.

Kofi Antobam, Director of Finance, presented the staff report as filed with the Town Clerk. He noted for the record a correction to Page 11-83, line 22. He stated that the amount should read 1.94 instead of 1.90.

There being no requests to speak, Mayor Bishop closed the public hearing at 9:35

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to adopt Resolution No. 2018-31, a Resolution of the Town Council of the Town of Apple Valley, California, amending and establishing specified fees for Town services for Fiscal Year 2018-2019.

Vote: Motion carried 5-0-0-0

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

Absent: None.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

None.

TOWN MANAGER'S COMMENTS

Doug Robertson, Town Manager, made comments in reference to legislation authorizing the taxation of internet sales. He clarified that the "internet" is not being taxed, only the sale of products that are taxed outside an individual's home state.

Mr. Robertson also announced upcoming events including Concerts in the Park featuring Phoenix Rising and the Freedom festival on Wednesday, July 4, 2018.

CLOSED SESSION

12. Closed Session

Mayor Bishop stated that if needed, Mayor Pro Tem 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 Bishop recessed the meeting of the Apple Valley Town Council at 9:44 p.m. to Closed Session 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 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.: CIVDS1600180 – Town of Apple Valley vs. Apple Valley Ranchos Water Company Et Al.

- E. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1725027 – Christina Lopez-Burton v. Town of Apple Valley.
- F. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1601999 – Town of Apple Valley vs. Jess Ranch Development, Et Al.

MAYOR PRO TEM CUSACK WAS EXCUSED FROM CLOSED SESSION AT 11:15 P.M.

Upon returning from Closed Session at 11:28 p.m., Mayor Bishop 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 11:29 p.m. in memory of Mary Pat Jenkins.

Art Bishop, Mayor

La Vonda M-Pearson, Town Clerk