

**APPLE VALLEY TOWN COUNCIL/
SUCCESSOR AGENCY/
PUBLIC FINANCING AUTHORITY**

REGULAR MEETING

MINUTES – MARCH 26, 2019

CALL TO ORDER:

Mayor Cusack called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:31 P.M.

Roll call was taken with the following members present:

Roll Call

Present: Council Member Bishop, Council Member Emick, Council Member Leon, Mayor Pro Tem Nassif, Mayor Cusack

Absent: None

OPENING CEREMONIES

INVOCATION: The invocation was given by Mr. Richard Rorex, Apple Valley Resident

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

PUBLIC COMMENTS

Lawrence McCarthy expressed concern regarding the inability to watch the Council Meetings live on the internet. He also expressed concern regarding the lack of sound on the recording of the last meeting. In reference to Agenda Item Number 5, he made comments regarding residents not being allowed to build secondary dwelling units on their property if the property is less than an acre.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

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

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

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for the next agenda:

Council Member Bishop proposed that the Town of Apple Valley consider the sport of Frisbee Golf at the Apple Valley Golf Course.

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

- A. Regular Meeting – Tuesday, April 9, 2019 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Nassif, to approve the Consent Calendar items numbered 1–10, respectfully.

Vote: Motion carried 5-0-0-0

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

Absent: None

1. **Approval of Minutes of the Town Council**
A. Regular Meeting – March 12, 2019
Recommendation:
Approve the subject minutes as a part of the consent agenda.
2. **A Resolution of the Town Council of the Town of Apple Valley Pledging its Support for the 2020 U.S. Census**
Recommendation:
Adopt Resolution No. 2019-06, A Resolution of the Town Council of The Town of Apple Valley Pledging its Support for the 2020 U.S. Census.
3. **Treasurer’s Report – January 2019**
Recommendation:
That Town Council receive and file the January 2019 Treasurer’s Report.
4. **Approve Ratifications of Additional Appropriations to Cover Costs Switching Medical Plans to Cigna from Nexgen Operated by Riverstone Capital Insurance Services, LLC.**
Recommendation:
That the Town Council ratify actions of the Town Manager to enter into a new health care plan with Cigna and approve an additional appropriation in the amount of \$78,000 to cover the increase in cost for the current fiscal year.
5. **Second Reading of Ordinance 504 of the Town of Apple Valley, California, Amending Title 9 “Development Code” of the Town of Apple Valley Municipal Code, by Modifying Chapter 9.29 “Specific Use Regulations” as it Pertains to Accessory Structures and Accessory Dwelling Units.**
Recommendation:
Adopt Ordinance No. 504

6. Funding Agreement No. 18-1001926 Between San Bernardino County Transportation Authority and Town of Apple Valley and Cooperative Agreement No. 08-1684 Between the State of California and the Town of Apple Valley for State Route 18 and Apple Valley Road Reconstruction Project.

Recommendation:

That the Town Council approve:

A. Project Funding Agreement No. 18-1001926 with San Bernardino County Transportation Authority for reconstruction of the State Route 18 and Apple Valley Road intersection, subject to approval as to form by the Town Attorney and as to content by the Town Manager.

B. Cooperative Agreement No. 08-1684 between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and the Town of Apple Valley, subject to approval as to form by the Town Attorney and as to content by the Town Manager.

7. SB1 Road Maintenance and Rehabilitation Account (RMRA) Project List Resolution

Recommendation:

Adopt Resolution 2019-07 identifying the paving project list to be funded by SB1.

8. Award a Professional Services Agreement for the Tuscola - Kasota Connection Road - Project No. 2018-09

Recommendation:

Award a Professional Services Agreement to Merrell-Johnson for the Tuscola - Kasota Connection Road - Project No. 2018-09 subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

9. Award Resurfacing 2019-01 - Project No. 2018-07

Recommendation:

A. Award a contract to VSS International, Inc. for Resurfacing 2019-01 - Project No. 2018-07 subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager;

B. Approve Budget Amendment No. 19-20

10. Authorization to Proceed with Apple Valley South Safe Routes to School - Project No. 2018-02

Recommendation:

Review the plans, specifications, and engineer's estimate for the Apple Valley South Safe Routes to School Project, and authorize staff to proceed with the project.

PUBLIC HEARINGS

11. A Resolution of the Town Council of The Town of Apple Valley Amending Apple Valley Choice Energy Customer Power Generation Rate Schedule

Mayor Cusack opened the public hearing at 6:47 p.m.

Sydney Harris, Director of Finance, respectfully requested that this item be moved to later in the agenda. She explained that the consultant is in route to the meeting.

Mayor Cusack closed the public hearing at 6:47 p.m.

It was the consensus of the Town Council to move this item until later in the agenda.

12. Public Hearing #1 to Receive Public Comments on Transition to District-Based Elections Under the California Voting Rights Act

Mayor Cusack opened the public hearing at 6:48 p.m.

Thomas Rice, Town Attorney, presented the staff report as filed with the Town Clerk.

Richard Rorex, Apple Valley, expressed concern regarding moving to districts. He felt that forcing communities into districts to create “diversity” does not guarantee the results that they choose to correct. He stated that he supported candidates that supported the community and not themselves.

Tom Piper, Apple Valley, commented that he had made the suggestion for districts many years ago and believes we should move forward.

Roger LaPlante, Apple Valley, stated that there are already district boundaries for the school district. He believed it would save costs to utilize those boundaries with modifications for the Town of Apple Valley.

There being no additional requests to speak, Mayor Cusack closed the public hearing at 7:00 p.m.

Mayor Pro Tem Nassif questioned how the process for the workshops would take place and the options that would be provided to the public for their review.

Mr. Rice explained that many examples would be provided for members of the public and that samples of what other cities have implemented would be given for their information.

Council Member Bishop questioned, and Mr. Rice confirmed that Council appointees do not need to reside in the appointing Council Member districts.

Doug Robertson, Town Manager, commented on the release of the maps and the future meetings on this topic that will allow the public and Council sufficient time to review and ask questions on this matter.

This was a receive item only to accept input regarding the composition of the districts. There was no action taken.

CONSIDER AGENDA ITEM NO. 11

11. A Resolution of the Town Council of The Town of Apple Valley Amending Apple Valley Choice Energy Customer Power Generation Rate Schedule

Mayor Cusack re-opened the public hearing at 7:07 p.m.

Sydney Harris, Director of Finance, presented the staff report as filed with the Town Clerk.

Barbara Boswell, Consultant, stated that new time of use periods had been established and adopted by Southern California Edison and she explained that the change modifies the peak usage time. She respectfully requested that Apple Valley adopt the same rate schedule which will still offer the discount provided by Apple Valley Choice Energy.

Mayor Pro Tem Nassif questioned the proposed changes in peak times and generation rates.

Ms. Boswell explained the changes that will take place. She also noted that due to timing, there will be two additional modifications that will be brought back for Council consideration and approval.

There being no requests to speak, Mayor Cusack closed the public hearing at 7:15 p.m.

MOTION

Motion by Council Member Bishop, seconded by Mayor Pro Tem Nassif, to adopt Resolution No. 2019-05, amending Resolution No. 2018-01 setting customer power generation rates for Apple Valley Choice Energy.

Vote: Motion carried 5-0-0-0

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

Absent: None

13. Fiscal Year 2018-2019 Mid-Year Budget Review

Mayor Cusack opened the public hearing at 7:16 p.m.

Sydney Harris, Director of Finance, presented the staff report as filed with the Town Clerk. She provided a detailed PowerPoint presentation that illustrated revenues and expenditures for the first half of the fiscal year.

The Town Council Members asked clarification questions on the potential revenues anticipated before the end of the fiscal year and thanked Ms. Harris for her hard work on the budget process.

There being no requests to speak, Mayor Cusack closed the public hearing at 7:44 p.m.

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Nassif, to:

- A. That the Town Council receive and file the Fiscal Year 2018-2019 Mid-Year Budget Review Report.
- B. Approve Budget Amendment Number 19-27 incorporating revenue and expenditure changes and carry forwards as proposed herein.

Vote: Motion carried 5-0-0-0

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

Absent: None

BUSINESS OF THE COUNCIL

None.

REPORTS, REQUESTS AND COMMUNICATIONS

None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, announced that the Town would be installing a new sound system for the Chambers that should be complete by April 23, 2019. He also clarified the concerns expressed by the public regarding the inability to build secondary structures on residential property. He confirmed that secondary structures can be built on homes less than an acre if they are connected to sewer.

Mr. Robertson also informed the public that manhole repair work would be taking place in the Stonebrook area. He noted that the repair work may cause some temporary odor in the area.

CLOSED SESSION

14. Closed Session

Mayor Cusack announced that he 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 Cusack recessed the meeting of the Apple Valley Town Council at 7:36 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.

Upon returning from Closed Session at 8:21 p.m. Mayor Cusack 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 8:21 p.m.

Larry Cusack, Mayor

La Vonda M-Pearson, Town Clerk