

**MINUTES**

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

**June 11, 2019**

**CALL TO ORDER:**

Mayor Cusack called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:30pm

Roll call was taken with the following members present:

Roll Call

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

Absent: None

**OPENING CEREMONIES**

**INVOCATION:** The invocation was given by Shawn Bell of the Church of Jesus Christ Latter Day Saints

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Mayor Pro Tem Nassif

**PRESENTATIONS:** Employee of the Quarter: Carol Jenkins, Office Assistant, Animal Services

Sheriff Department Employee of the Quarter: Pam Hoffman, Sheriff Service Specialist.

**PUBLIC COMMENTS**

Marcy Taylor, Apple Valley, commented on the loss of historic buildings, and the dissolution of the Historical Committee.

Mayor Cusack clarified that there are no plans to dissolve the Historical Committee.

William Inger, Apple Valley, commented on the need for more oversight of revenue and spending.

Patricia Perry, Apple Valley, expressed concern with issues taking place in her neighborhood.

**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 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 future agenda:**

Council Member Bishop asked questions regarding the new California Public Utility Commission policy allowing utility companies to shut off power if there is a danger of fire.

Doug Robertson, Town Manager suggested inviting California Edison to give a presentation on the new policy at a future Council Meeting.

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

- A. Regular Meeting – June 25, 2019 – Council Chamber  
Regular Session at 6:30 p.m.**

### TOWN COUNCIL CONSENT AGENDA

Kiel E Mangerino, Deputy Town Clerk, read the following disclosure statement:

Mayor Pro Tem Nassif has a remote interest in specific warrants on tonight's Commercial Warrants dealing with NAPA Auto Parts or High Desert Auto Supply for the Town of Apple Valley as the owner of these businesses. Therefore, he will be abstaining from voting on the warrants for NAPA Auto Parts and High Desert Auto Supply listed under Agenda Item Number 2. In addition, due to his interest in both businesses, Mayor Pro Tem Nassif will also be abstaining from voting on specific warrants listed under Agenda Item Number 2 because these entities are considered sources of income to his businesses. A list of business entities for Mayor Pro Tem Nassif is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Pro Tem Nassif confirmed that he would be abstaining from voting on these warrants.

Mayor Cusack also has a remote interest in specific warrants on tonight's Commercial Warrants dealing with Apple Valley Communications, AV Tech Services or AVCOM Services for the Town of Apple Valley as the owner of these businesses. Therefore, he too will be abstaining from voting on the warrants for Apple Valley Communications, AV Tech Services and AVCOM Services listed under Agenda Item Number 2. In addition, due to his interest in these businesses, Mayor Cusack will be abstaining from voting on specific warrants listed under Agenda Item Number 2 because these entities are considered sources of income to his businesses. A list of business entities for Mayor Cusack is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Cusack confirmed that he would be abstaining from voting on these warrants.

#### **MOTION**

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

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**

**Recommendation:**

A. Approve the subject minutes of the May 28, 2019 Regular Meeting

**3. May 2019 Payroll/Benefits Warrants Schedule.**

**Recommendation:**

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

**4. Lighting and Landscape Assessment District #1 - Engineer's Annual Report and Levy of Assessment for FY 2019-2020**

**Recommendation**

A. Adopt Resolution No. 2019-12, 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. 2019-13, 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 2019-2020.

D. Direct the Town Clerk to publish the Resolution of Intention at least 10 days prior to the date of the public hearing.

**5. Jess Ranch Community Manholes Project No. PW2019-01**

**Recommendation**

A. Accept the work completed as part of the Jess Ranch Community Manholes Project No. PW2019-01 for a total contract cost of \$142,860.00.

B. Direct the Town Clerk to file the Notice of Completion for the contract work.

C. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

**6. Second Reading of Ordinance 507 of the Town Council of the Town of Apple Valley, California, Amending Chapter 1.01 of the Apple Valley Municipal Code as it Relates to the Enforcement, Notice, and Appeal Processes**

**Recommendation**

Adopt Ordinance No. 507

**7. Second Reading of Ordinance 508 of the Town Council of the Town of Apple Valley, California, Amending Chapter 6.30 of the Apple Valley Municipal Code as it Relates to the Enforcement and Notice Processes**

**Recommendation**

Adopt Ordinance No. 508

**8. Second Reading of Ordinance 510 of the Town Council of the Town of Apple Valley, California, Amending Title 11 of the Apple Valley Municipal Code to add Chapter 11.110 Regarding Unlawful Loud or Unruly Gatherings**

**Recommendation**

Adopt Ordinance No. 510

**PULLED FROM CONSENT**

**2. May 2019 Commercial Warrants and Wire Transfer Schedule.**

William Inger, Apple Valley, expressed concern about certain Commercial Warrants and Wire Transfers made during the month of May.

**MOTION**

Motion by Council Member Emick and seconded by Council Member Leon, to receive, ratify, and file the Commercial Warrants and Wire Transfer Schedules as presented.

Vote: Motion carried 3-0-2-0

Yes: Council Members Bishop, Emick, Leon.

Abstain: Mayor Pro Tem Nassif, Mayor Cusack.

Absent: None

**PUBLIC HEARINGS**

**9. Public Hearing #4 to Receive Input Regarding the Content of the Draft Maps and the Proposed Sequence of Elections and Provide Direction**

Mayor Cusack opened the public hearing at 7:21 p.m.

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

Robert McEntire, National Demographics Corporation (NDC), presented a powerpoint presentation on the district maps proposed for consideration.

Richard Rorex, Apple Valley, expressed his opinion that the Grape map was the best choice, giving the people of the Town a unified voice and negating the potential for infighting between districts.

Roger La Plante, Apple Valley expressed his appreciation for the Town of Apple Valley moving to the district system of elections. He felt the Green map would be best for the people of Apple Valley.

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

Council Member Bishop felt the Purple map was his first choice with his second choice being the Grape map.

Council Member Leon, liked the Purple map because it balanced the commercial areas and transport links.

Council Member Emick felt the blend in the Olive maps was his choice, followed by the Grape map.

Mayor Pro Tem Nassif, liked the Olive map, and felt that there were issues with the Purple map because of the way it split Highway 18.

Discussion ensued on how often districts could be reviewed and changed as well as the selection of Mayor. Also discussed was the ability to elect a Mayor every two years if that was the decision of the Council.

Mayor Cusack, expressed his opinion that the Olive map was his choice followed by the Purple map.

It was the consensus of the Town Council to select the Olive map as their first choice and to proceed with a Town ordinance to be brought back at the July 9, 2019 Town Council Meeting.

## BUSINESS OF THE COUNCIL

### 10. Cal Portland's Request to Allow Overhead Power Lines

Lori Lamson, Assistant Town Manager, presented the staff report as filed with the Town Clerk.

Discussion ensued regarding the overhead powerlines, and when they would be required to remove or underground the line.

#### **MOTION**

Motion by Council Member Bishop, seconded by Council Member Emick, to approve Cal Portlands request to use overhead powerlines, and that staff bring back a resolution memorializing the special circumstances for approval.

Vote: Motion carried 5-0-0-0

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

Absent: None

### 11. Request to Allow Overhead Power Lines, Nico Plaza

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

Ash Pathy, Applicant, Nico Plaza, requested special permission to keep Poles B and C as the process to underground is costly and complicated.

Discussion ensued regarding when the utilities should be placed underground, and if it would be better to wait to underground the utilities when that portion of Highway 18 is reconstructed. Also discussed was the possibility of creating an assessment district

Robert Martinez, Project architect, answered questions in response to comments made by the Council.

Discussion ensued about creating an assessment district and the cost of undergrounding versus relocating of the power lines.

**MOTION**

Motion by Council Member Bishop, seconded by Council Member Nassif, to approve a proposal to proceed with relocation of the power Poles B and C, and prepare a resolution to memorialize the action of the Council.

Vote: Motion carried 5-0-0-0

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

Absent: None

**12. Discussion on Future Direction of the Equestrian Advisory Committee**

Doug Roberson, Town Manager, presented the staff report as filed with the Town Clerk.

William Inger, Town Manager, expressed his concern that the Town of Apple Valley had decided to dissolve the equestrian committee instead of providing them more work.

Ray Simms, Chairman, Equestrian Advisory Committee, commented on the need for the Town Council to carefully consider the future of this committee.

Discussion ensued about the history of the Equestrian committee, and what form the Equestrian user group would take to enhance the committee.

It was the consensus of the Town Council to direct staff to bring at a future Town Council Meeting a code amendment dissolving the Equestrian committee and creating an Equestrian user group.

**REPORTS, REQUESTS AND COMMUNICATIONS**

**NONE.**

**TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE**

Doug Robertson, Town Manager announced that Wednesday, June 12 at 6:00 p.m. the Park and Recreation Department would be holding its visioning workshop to discuss the use of Quimby fees. Also, on June 20 the Concerts in the Park would begin the season with Fat Cat Swingers performing.

**CLOSED SESSION**

**13. Closed Session**

Mayor Cusack adjourned to Closed Session at 8:55 p.m. 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 Real Property Negotiators – Pursuant to Government Code. Section 54956.8. Property: A 99.47 acre parcel along Highway 18 at the base of Miner’s Hill, also known as Assessor’s Parcel Number 3112-181-03; Authority Negotiator: Town Manager; Negotiating Parties: Donald Brown, Lee & Associates, Et Al; Under Negotiation: Price and Terms of Payment.

Upon returning from Closed Session at 9:40 p.m., Mayor Cusack announced that there was no reportable action taken.

<b>ADJOURNMENT</b>
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Motion by Council Member Emick, seconded by Council Member Leon and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:45 p.m.

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Larry Cusack, Mayor

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Kiel Mangerino, Deputy Clerk