Town Council Agenda Report

Date: July 23, 2019   Item No. 5

To: Honorable Mayor and Town Council

Subject: ADOPT ORDINANCE NO. 511, AN ORDINANCE OF THE TOWN
                COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA
                SECTION 2.04.140 TO CHAPTER 2.04 OF TITLE 2 OF THE TOWN
                OF APPLE VALLEY MUNICIPAL CODE ESTABLISHING BY-
                DISTRICT ELECTIONS, DEFINING DISTRICT BOUNDARIES, AND
                SCHEDULING ELECTIONS WITHIN THE DISTRICTS

From: Thomas Rice, Town Attorney

Submitted by: Douglas Robertson, Town Manager

Budgeted Item: ☐ Yes ☐ No ☒ N/A

RECOMMENDED ACTION:

Adopt Ordinance No. 511

SUMMARY:

At the Town Council Meeting on July 9, 2019, the Town Council introduced Ordinance
No. 511, that established By-District Elections, defined District Boundaries, and
scheduled elections within the Districts.

As a part of the requirements to adopt any new ordinance, Ordinance No. 511 has been
scheduled for adoption at the July 23, 2019 Town Council Meeting.

ANALYSIS:

The members of the Town Council are currently elected through an at-large election
system, which means that the electors from the entire Town vote for the council members.
Under Government Code Section 34886, the Town Council may adopt an ordinance that
requires the Town Council to be elected by district. The proposed Ordinance, if adopted,
will accomplish this final step.

FISCAL IMPACT:

None associated with the public hearing and adoption of the Ordinance.

ORDINANCE NO. 511

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ADDING SECTION 2.04.140 TO CHAPTER 2.04 OF TITLE 2 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE ESTABLISHING BY-DISTRICT ELECTIONS, DEFINING DISTRICT BOUNDARIES, AND SCHEDULING ELECTIONS WITHIN THE DISTRICTS

WHEREAS, the Town of Apple Valley currently elects five Councilmembers using an at-large election system; and

WHEREAS, in response to threatened litigation regarding alleged non-compliance with the California Voting Rights Act ("CVRA"), the Town Council has determined that it is in the best interest of the Town to shift from its current at large election system to a by-district election system; and

WHEREAS, on February 15, 2019, the Town Council at a special meeting adopted Resolution No. 2019-04, a resolution declaring the Town's intention to transition from at-large to district-based elections pursuant to Elections Code Section 10010; and

WHEREAS, California Government Code section 34886 permits the Town Council to change the Town's method of election by ordinance, with certain formalities, to a "by-district" system in which each Councilmember is elected only by the voters in the district in which the candidate resides; and

WHEREAS, pursuant to California Government Code section 34886, it is declared that the purpose of the change in the method of electing members of the Town Council of the Town of Apple Valley made by this Ordinance is to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution, as set forth in Sections 14025 through 14032 of the California Elections Code; and

WHEREAS, the Town engaged an expert demographic consultant to assist the Town with the process of analyzing the Town's population, developing draft maps, and gathering input from residents on the possible maps; and

WHEREAS, in accordance with Elections Code section 10010, and in the interest of engaging the public in the shift to by-district elections, the Town Council held two public hearings on March 26 and April 9 and one public workshop on April 3 to obtain input on any proposed district boundaries; and

WHEREAS, on May 6, 2019, the Town made three maps prepared by its demographer available on its website for public review; and

WHEREAS, on the Town Council held a public hearing on May 14 and a public workshop on May 23 at which the public was invited to provide input regarding the content of the draft maps and the sequence of elections; and

WHEREAS, at its June 11, 2019 regular meeting, and the fourth public hearing, the Town Council provided direction to staff to bring back this Ordinance for the consideration of the Town Council; and

WHEREAS, on July 9, 2019, the Town Council introduced, read by title, and waived further reading of this Ordinance; and

WHEREAS, the purpose of this Ordinance is to enact, pursuant to California Government Code section 34886, an ordinance providing for the election of the Members of the Town Council of the Town of Apple Valley by-district in five single-member districts as reflected in Exhibit A to this Ordinance.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. By-District Elections. Section 2.04.140 is hereby added to Chapter 2.04 of Title 2 of the Town of Apple Valley Municipal Code to read as follows:

"**2.04.140 – By-District Elections.**

A.   By-District Elections.   Pursuant to California Government Code section 34886, Members of the Town Council of the Town of Apple Valley shall be elected by-district in five (5) single-member districts.

    1.   Members of the Town Council shall be elected in the electoral districts established by subdivision B of this Section and subsequently reapportioned as provided by State law. Elections shall take place "by district" as that term is defined in California Government Code section 34871, meaning one Councilmember shall be elected from each district, by the voters of that district alone.

    2.   A Councilmember elected or appointed to represent a district must reside in that district and be a registered voter in that district, and any candidate for Town Council must reside in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued.

    3.   Termination of residency in a district by a Councilmember shall create a vacancy for that Town Council district unless a substitute residence within the district is immediately declared

and established within thirty (30) days after the termination of residency.

4. Notwithstanding any other provision of this Section, the Councilmembers in office at the time this Section takes effect shall continue in office until the expiration of the term to which he or she was elected. In the event a vacancy occurs before the expiration of the term of a Councilmember in office at the time this Section takes effect, a person who is appointed or elected by special election to fill such vacancy may reside anywhere within the corporate boundaries of the Town. A person appointed or elected to fill such a vacancy shall hold the office in accordance with the General Law and applicable provisions of the Town of Apple Valley Municipal Code.

B. Town Council Districts and District Elections. All five Councilmembers shall be elected on a "by-district" basis from the Council districts shown and numbered on the map titled '**Town of Apple Valley District Map**' attached as Exhibit A, a copy of which shall be on file in the Town Clerk's office. In 2020, and every four years thereafter, the following two Town Council districts shall be elected by-district: District 1 and District 2. In 2022, and every four years thereafter, the following three Town Council districts shall be elected by-district: District 3; District 4; and District 5.

C. Amendment of District Boundaries. Pursuant to Elections Code section 21601, as it may be amended from time to time, the Town Council shall adjust the boundaries of any or all of the districts following each decennial federal census to ensure that the districts are in compliance with all applicable provisions of law."

SECTION 3. CEQA. Based upon the whole of the administrative record before it, the Town Council hereby finds that a transition from at-large to by-district elections is exempt from environmental review under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.) pursuant to State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) sections 15061(b)(3), 15320, and 15378(b)(3). Adoption of this Ordinance is an organizational and administrative activity of the Town, does not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment, and is therefore not a project for purposes of CEQA. (State CEQA Guidelines, §§ 15061(b)(3); 15378(b)(5).) In the event adoption of this Ordinance does constitute a project, it is categorically exempt under the Class 20 (Changes in the Organization of Local Governments) categorical exemption. (State CEQA Guidelines, § 15320.) Further, none of the exceptions to the exemptions found in State CEQA Guidelines section 15300.2 apply. Staff is hereby directed to prepare, execute and file with the San Bernardino County Clerk a CEQA Notice of Exemption within five (5) working days of the adoption of this Ordinance.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

SECTION 6. Publication. The Town Clerk shall certify to the adoption of this Ordinance and shall cause a summary of the same to be published in a newspaper of general circulation and then be published and circulated in the Town of Apple Valley within fifteen (15) days following its adoption, pursuant to Government Code § 36933.

APPROVED and **ADOPTED** by the Town Council and signed by the Mayor and attested by the Town Clerk this 23rd day of July 2019.

_____
Larry Cusack
Mayor

ATTEST:

_____
La Vonda M-Pearson
Town Clerk

APPROVED AS TO FORM: APPROVAL AS TO CONTENT

_____   _____
Thomas A. Rice   Douglas Robertson
Town Attorney   Town Manager

Town of Apple Valley
2019 Districting

Olive

I-15

Colusa Rd

Johnson Rd

Lafayette St

Apple Valley Arprt

Papago Rd

Falchion Rd

Dale Evans Pkwy

1

I-15

5

Otoe Rd

Thunderbird Rd

18

3

Ramona Ave

Navajo Rd

Central Rd

Apple Valley Rd

2

18
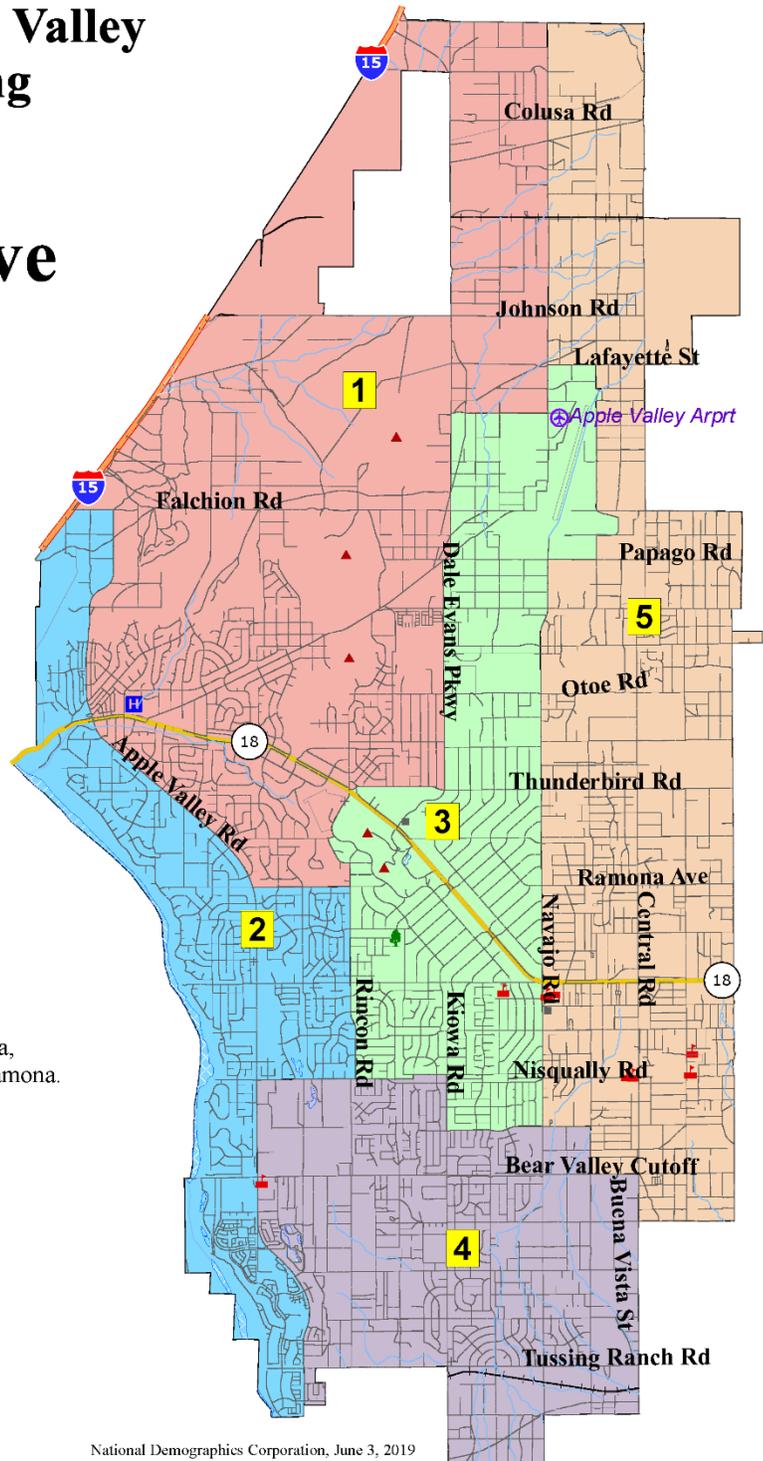
A combination of the
Green map north of Ramona,
and Purple map south of Ramona.

Nisqually Rd

Rincon Rd

Kiowa Rd

Bear Valley Cutoff

Buena Vista St

4

Map layers
☐ Olive Rebuild
▨ Water Area
— Streets
+ Landmark Point
Pipeline/Power Line
— Railroad
— River

Tussing Ranch Rd

National Demographics Corporation, June 3, 2019

Town of Apple Valley - Olive Draft							
District		1	2	3	4	5	Total
Ideal	Total Pop	13,969	13,616	14,428	13,608	13,514	69,135
13,827	Deviation from ideal	142	-211	601	-219	-313	914
	% Deviation	1.03%	-1.53%	4.35%	-1.58%	-2.26%	6.61%
Total Pop	% Hisp	28%	19%	31%	34%	34%	29%
	% NH White	53%	67%	52%	51%	54%	56%
	% NH Black	12%	7%	12%	9%	7%	9%
	% Asian-American	3%	5%	3%	3%	2%	3%
Citizen Voting Age Pop	Total	10,459	11,780	10,174	8,790	9,179	50,382
	% Hisp	21%	18%	24%	23%	26%	22%
	% NH White	60%	71%	64%	65%	58%	64%
	% NH Black	15%	6%	8%	7%	11%	9%
	% Asian/Pac.Isl.	2%	5%	3%	5%	3%	4%
Voter Registration (Nov 2014)	Total	7,284	9,393	6,952	6,308	6,115	36,052
	% Latino est.	18%	14%	21%	23%	22%	19%
	% Spanish-Surnamed	16%	13%	19%	21%	20%	17%
	% Asian-Surnamed	1%	2%	1%	1%	0%	1%
	% Filipino-Surnamed	1%	1%	1%	1%	0%	1%
	% NH White est.	69%	78%	69%	66%	67%	71%
	% NH Black	11%	6%	8%	8%	10%	8%
Voter Turnout (Nov 2014)	Total	3,059	4,989	2,666	2,287	2,150	15,152
	% Latino est.	13%	9%	13%	16%	13%	12%
	% Spanish-Surnamed	11%	8%	12%	15%	12%	11%
	% Asian-Surnamed	1%	1%	1%	1%	0%	1%
	% Filipino-Surnamed	1%	1%	1%	1%	0%	1%
	% NH White est.	76%	83%	76%	72%	74%	78%
	% NH Black	10%	6%	9%	9%	11%	8%
Voter Turnout (Nov 2012)	Total	3,059	4,989	2,666	2,287	2,150	15,152
	% Latino est.	15%	11%	16%	19%	18%	15%
	% Spanish-Surnamed	13%	10%	14%	17%	16%	14%
	% Asian-Surnamed	1%	1%	1%	1%	0%	1%
	% Filipino-Surnamed	1%	1%	1%	1%	0%	1%
	% NH White est.	74%	81%	74%	69%	70%	75%
	% NH Black est.	10%	6%	8%	9%	11%	8%
ACS Pop. Est.	Total	13,829	14,544	14,591	13,587	13,731	70,282
Age	age0-19	27%	25%	30%	26%	30%	28%
	age20-60	52%	46%	53%	47%	54%	50%
	age60plus	20%	29%	17%	27%	17%	22%
Immigration	immigrants	6%	10%	8%	8%	9%	8%
	naturalized	51%	69%	69%	63%	40%	59%
Language spoken at home	english	86%	86%	86%	86%	82%	85%
	spanish	11%	9%	11%	11%	17%	12%
	asian-lang	1%	4%	1%	2%	1%	2%
	other lang	2%	2%	2%	1%	1%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	3%	5%	3%	4%	6%	4%
Education (among those age 25+)	hs-grad	70%	67%	71%	70%	74%	70%
	bachelor	9%	13%	9%	9%	5%	9%
	graduatedegree	8%	11%	7%	6%	3%	7%
Child in Household	child-under18	31%	26%	37%	29%	34%	31%
Pct of Pop. Age 16+	employed	46%	44%	45%	41%	47%	44%
Household Income	income 0-25k	32%	19%	28%	29%	29%	27%
	income 25-50k	20%	22%	20%	27%	33%	24%
	income 50-75k	17%	19%	20%	19%	14%	18%
	income 75-200k	26%	33%	28%	23%	23%	27%
	income 200k-plus	4%	6%	3%	2%	2%	3%
Housing Stats	single family	68%	92%	83%	91%	92%	0%
	multi-family	32%	8%	17%	9%	8%	0%
	rented	41%	24%	36%	31%	35%	33%
	owned	59%	76%	64%	69%	65%	67%
Total population data from the 2010 Decennial Census.							
Surname-based Voter Registration and Turnout data from the California Statewide Database. Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.							