

MINUTES

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

August 27, 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

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

INVOCATION: Pastor Kristopher Schaal, Life Point Baptist Church

PRESENTATIONS: Update on Enforcement at the Tomahawk Property – Guy Eisenbrey, Code Enforcement Manager.

PUBLIC COMMENTS

Thurston “Smitty” Smith, Victor Valley Bicycle Tour, presented a challenge to all Town and Cities in the high desert. He announced that the community that has the most participants will receive a perpetual trophy and will have bragging rights for the year. He reminded the public that the ride will be held Saturday, October 26, 2019. He spoke of the benefit of the ride to the community.

Bill Seymborski, Apple Valley, thanked the Town for their quick work and response to the party house. He also thanked them for their stance on marijuana dispensaries.

Lawrence McCarthy, Apple Valley, commented on relatives that he has in Fairbanks, Alaska and his cousins work with the University of Alaska. He stated that he would be happy to arrange a tour for anyone who is visiting the area.

Al Rice, Apple Valley, commented on what he believes has been an abnormal turnover of employees at the Town. He also commented on errors in the agenda and budget and the lack of a current posted budget for the Town of Apple Valley.

Bill Inger, Apple Valley, commented on the lack of a line of credit report on the agenda. He spoke of payments and loans made on the Town’s line of credit.

Patricia Perry, Apple Valley, commented on ongoing problems that she is having with her electricity and neighbors at her property.

Raul Lopez, Apple Valley, thanked the Town for their quick resolution on the Tomahawk Property.

Brett Jurgensen, Apple Valley, thanked the Town for their quick response to the concerns expressed on the Tomahawk Property.

Adolph Collaso, Apple Valley, commented on the Tomahawk property. He thanked all involved for working to keep the community safe. He spoke on the use of the property as a business which he believed violates the zoning laws. He also stated that the home was purchased as a primary residence and not rental property which is mortgage fraud.

No Name Given, Apple Valley, thanked the Council for their support of the residents.

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 future agenda:

Council Member Bishop commented on the number of recycling sites closing due to a lack of efficiency by Cal Recycle on recycling programs. He would like to discuss new methods that could be implemented to assist residents in retrieving their California Refund Value (CRV) dollars.

Doug Robertson, Town Manager, stated that staff would prepare a presentation on this issue for a future meeting.

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

- A. Regular Meeting – August 27, 2019 – Council Chamber
Regular Session at 6:30 p.m.**

CONSENT AGENDA

La Vonda M-Pearson, 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.

Council Member Leon has a remote interest in specific warrants on tonight's Commercial Warrants dealing with Solution Strategies for the Town of Apple Valley as the owner of their rental property. Therefore, she will be abstaining from voting on the warrants for Solution Strategies listed under Agenda Item Number 2.

Council Member Leon has a remote interest in specific warrants on tonight's commercial warrants for solutions strategies as the landlord for one of their properties.

Council Member Leon also has a remote interest on Item Number 3 for the same reasons. Council Member Leon confirmed that she would be abstaining from voting on these items.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Leon, to approve the Consent Calendar item number 5, and that Agenda Items Numbered 1, 2, 3 and 4 be pulled.

Vote: Motion carried 5-0-0-0

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

Absent: None.

5. **Development Code Amendment No. 2019-005, an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code that will Modify Various Relating to the Following:**
 - A. **Allow administrative review of all new development that is less than 100,000 square feet in size.**
 - B. **Remove Use Permit requirements as it pertains to physical development and replace it with a Development Permit.**
 - C. **Expand the lapse of time for a Variance to two (2) years and allow for**

extensions of time for Variance and Deviation Permits.

- D. Modify language to better clarify the extension of time process for Use, Development, Variance and Deviation Permits.**
- E. Add language to the Development Code relating to the Development Advisory Board.**
- F. Remove Chapter 9.66 “Entertainment Overlay” and associated references.**
- G. Reduce the number of Findings required to approve a Use or Development Permit.**

Recommendation:

Adopt Ordinance 513

PULLED FROM CONSENT

- 1. Approval of Minutes of the Town Council**
 - A. Regular Meeting – August 13, 2019**

MOTION:

Motion by Mayor Pro Tem Nassif, seconded by Council Member Leon, to approve the minutes for the meeting of August 13, 2019.

Vote: Motion carried 3-0-0-2

Yes: Council Member Leon, Mayor Pro Tem Nassif, Mayor Cusack.

Abstain: Council Members Bishop, Emick.

- 2. July 2019 Commercial Warrants and Wire Transfers Schedule**

MOTION

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

Vote: Motion carried 5-0-0-0

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

Absent: None.

Council Member Leon, Mayor Pro Tem Nassif and Mayor Cusack abstained from voting on specific warrants as listed in the disclosure.

- 3. Professional Services Agreement for the Completion of the Multi-Species Habitat Conservation Plan/Natural Communities Conservation Plan**

Council Member Leon noted that she had a potential conflict of interest on this item as property owner of the business.

COUNCIL MEMBER LEON WAS EXCUSED FROM THE DAIS AT 7:43 P.M.

Bill Inger, Apple Valley, commented on the amount of time and money spent on this project.

Al Rice, Apple Valley, spoke on the proposed budget for this project. He expressed concern regarding the cost of the project and the lack of information given in relation to the money spent for the plan. He also noted that there was no approval from the Town Attorney on the contract.

Thomas Rice, Town Attorney, noted that the contract would be amended to include a signature by the Town Attorney.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Bishop, to award the attached Professional Services Agreement for Solution Strategies, Inc. for \$120,000 to fund the completion of the Multi-Species Habitat Conservation Plan/Natural Communities Conservation Plan.

Vote: Motion carried 4-0-1-0

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

Abstain: Council Member Leon.

COUNCIL MEMBER LEON RETURNED TO THE DAIS AT 7:47 P.M.

4. **General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004; An Amendment to the Text of the Land Use Element of the General Plan Removing the Requirement for a Minimum Project Size of 10 Acres Within the Regional Commercial (C-R) Land Use Definition and an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code that will Amend Table 9.35.040-A "Site Development Standards" to Reduce the Minimum Lot Size Within Regional Commercial (C-R) Zoning Designation From Eight (8) Acres to 10,000 Square Feet.**

Lawrence McCarthy, Apple Valley, believed that the change in the zoning for this item would be reducing the quality of life for the Town of Apple Valley.

Mayor Cusack explained that this item is for commercial property only; not residential.

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Nassif, to Adopt Ordinance 512.

Vote: Motion carried 5-0-0-0

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

Absent: None.

PUBLIC HEARINGS

6. **Introduce Ordinance No. 514 an Ordinance of the Town Council of the Town of Apple Valley, Ca Removing Chapter 2.28 of the Municipal Code in its Entirety as it Pertains to the Equestrian Advisory Committee.**

Mayor Cusack opened the public hearing at 7:54 p.m.

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

Bill Inger, Apple Valley, believed the Town Council should address the lack of appointees on the committee. He felt that the committee would have been more active if it was fully staffed.

There being no additional requests to speak, Mayor Cusack closed the public hearing at 7:59 p.m.

Mayor Pro Tem Nassif commented on his discussions with members of the public regarding this item and the benefit to moving to an equestrian working group. He believed the working group would allow more members to serve in an expanded capacity that would enhance our equestrian facilities.

Council Member Leon agreed that this change would allow a grander participation.

Council Member Emick spoke on the support that the Town can continue to provide the equestrian community through this process.

Council Member Bishop believed this change would allow for flexibility for the community.

Doug Robertson, Town Manager, provided a history of the process working with the Equestrian Advisory Committee on efforts to enhance their role and equestrian facilities in the community.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Leon, to

- A. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from environmental review because the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
- B. **Move** to waive the reading of Ordinance No. 514 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

Absent: None.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 514.

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to:

- C. **Introduce** Ordinance No. 514 approving removing Chapter 2.28 of the Municipal Code as it relates to the Equestrian Advisory Committee; and
- D. **Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

Vote: Motion carried 5-0-0-0

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

Absent: None.

BUSINESS OF THE COUNCIL

7. Discussion of Multi-Family Residential Development Standards

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

Council Member Leon commented on proposed modifications to the code in reference to multi-family residential. She recommended that a working group be established that consisted of both Planning Commissioners and Council Members who could discuss and make recommendations on this issue before bringing it forward for approval.

Doug Robertson, Town Manager, commented on the benefit of having a joint discussion on this matter prior to requesting approval of a Development Code Amendment.

Discussion ensued regarding the benefits of establishing a working group or holding a joint workshop with the Planning Commission, Town Council and staff.

It was the consensus of the Town Council to direct staff to set a meeting date for a joint workshop with the Planning Commission and the Town Council to discuss development standards for multi-family residential.

REPORTS, REQUESTS AND COMMUNICATIONS

NONE.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, thanked staff for their hard work with the State of the Town address. He also thanked Code Enforcement and the Police Department for their commitment in quickly addressing the issue with the Tomahawk property for the safety of our residents.

Mr. Robertson announced this weekend's Dodgeball Tournament and the Homelessness and Drug Task Force meeting that will be held Monday, September 9, 2019

CLOSED SESSION

10. Closed Session

Mayor Cusack adjourned the meeting of the Apple Valley Town Council to Closed Session at 8:34 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.

ADDENDUM

- E. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1925188 – Town of Apple Valley vs. Hai Do et al

Upon returning from Closed Session at 9:14 p.m., Mayor Cusack announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Council Member Leon and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:14 p.m.

Larry Cusack, Mayor

La Vonda M-Pearson, Town Clerk