

MINUTES

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

September 24, 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**

INVOCATION: **The invocation was given by Pastor Johnny Lewis,
Grace Christian Community Church**

PRESENTATIONS: **Presentation by Juan M. Lopez, Southern California
Edison, Government Relations Manager, on Wildfire
Mitigation Plan and Public Safety Power Shutoff**

PUBLIC COMMENTS

Karen Haskell, Apple Valley Lions Club, thanked the Town for the use of the park for its car show. She stated that there were 60 vehicles participating. She respectfully requested the use of the park for future car shows. She noted that this event was one of the main events for fundraising for the club.

Bill Inger, Apple Valley, expressed concern regarding the use of corporate credit cards under names of employees who are no longer employed by the Town of Apple Valley.

Bob Monte, Apple Valley, commented on being double billed for charges on his Edison bill. He spoke of the number of individuals who were faced with this discrepancy and have yet to receive a refund.

Al Rice, Apple Valley, expressed concern regarding the lack of a finalized budget. He also expressed concern regarding what he believed was a lack of signage in areas that are needed. He stated that there needs to be a traffic committee.

Rusty Lisberg, Apple Valley, asked for clarification regarding bingo play. She briefed the Council on the history of playing bingo within the Town's limit. She respectfully requested clarification and something in writing from the Town on bingo play in the Town limits.

Patricia Perry, Apple Valley, expressed concern regarding issues that she is having in her neighborhood regarding electricity and cable.

Nanci Edwards, Apple Valley, commented on the Town's CERT program. She stated that the community does not know what is going on with the field command and with the fire district.

Geri Inger, Apple Valley, stated that in 2013 the Town received money to repair roads and sidewalks in Apple Valley. She commented on future reports prepared by the Town Council to do road widening with an increased cost to the Town.

Larry Cooper, Apple Valley, commented on the legality of playing bingo. He respectfully requested something from the Town of Apple Valley that would authorize them to continue playing in the community.

Bud Giboney, Apple Valley, respectfully requested a four-way stop sign in the Del Webb community near Jess Ranch and Apple Valley Parkway. He stated that they have received over 300 signatures from residents in the community. He also spoke of the impact to the church in the area.

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:

None.

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

**A. Regular Meeting – October 8, 2019 – Council Chamber
Regular Session at 6:30 p.m.**

CONSENT AGENDA

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Leon, to approve the Consent Calendar item numbered 1, 2 and 3 respectfully, and that Item Number 4 be pulled for discussion.

Vote: Motion carried 5-0-0-0

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

Absent: None.

1. Approval of Minutes

Recommendation:

A. Approve the subject minutes of the September 10, 2019 Town Council Meeting

2. Second Reading of Ordinance 515 of the Town of Apple Valley, California, Relating to Zone Change No. 2019-001. A Request to Consider a Change of Zone from Residential Equestrian (R-EQ) to Single Family Residential (R-SF)

Recommendation:

Adopt Ordinance 515.

3. Approve Joint Use Agreement with Victorville for Mojave River Walk Trail

Recommendation:

A. That the Town Council review and approve the proposed Joint Use Agreement with the City of Victorville to allow the Mojave River Walk to encroach within Town owned property.

B. That the Town Council authorize the Town Manager to sign said Joint Use Agreement.

PULLED FOR DISCUSSION

4. Measure I 5 Year Plan, FY 2019/2020 Capital Project Needs Analysis

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

MOTION

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

A. Council Approve FY 2019/2020 through 2023/2024 Measure I, 5-year plan

B. Adopt Resolution No 2019-26, "A Resolution of the Town Council of the Town of Apple Valley, State of California, Adopting the Measure I Five Year Capital Improvement Program"

Vote: Motion carried 5-0-0-0

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

Absent: None.

PUBLIC HEARINGS

5. **Development Code Amendment No. 2019-007 is an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code That Will Modify Chapter 9.08 "Definitions" and Chapter 9.35 "Commercial and Office Districts" as it Relates to Artisan Beverage Makers and Alcohol Sales, and Chapter 9.57 "Public Facility Districts" to Allow Restaurants as a Permitted Use.**

Mayor Cusack opened the public hearing at 8:07 p.m.

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

There being no requests to speak, Mayor Cusack closed the public hearing at 8:12 p.m.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Bishop, 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. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for August 21, 2019, support the required Findings for approval of the proposed Development Code Amendment and adopt the Findings.
- C. **Move** to waive the reading of Ordinance No. 517 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. 517.

MOTION

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

- D. **Introduce** Ordinance No. 517 approving Development Code Amendment No. 2019-007; and
- E. **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.

6. **Development Code Amendment No. 2019-008, an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code that will Modify Provisions Relating to Accessory Dwelling Units Located on Corner Lots and Modify the Definition of Front Lot Line.**

Mayor Cusack opened the public hearing at 8:14 p.m.

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

There being no requests to speak, Mayor Cusack closed the public hearing at 8:17 p.m.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Emick, 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. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for August 7, 2019, support the required Findings for approval of the proposed Development Code Amendment and adopt the Findings.
- C. **Move** to waive the reading of Ordinance No. 518 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. 518.

MOTION

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

- D. **Introduce** Ordinance No. 518 approving Development Code Amendment No. 2019-008; and
- E. **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.

7. Program Year (PY) 2018-2019 Community Development Block Grant (CDBG), Consolidated Annual Performance Evaluation Report (CAPER)

Mayor Cusack opened the public hearing at 8:20 p.m.

Silvia Urenda, Housing and Community Specialist, presented the staff report as filed with the Town Clerk.

Bill Inger, Apple Valley, questioned the lack of financial information listed in the document. He questioned how the document could be approved without the final numbers.

Al Rice, Apple Valley, commented on the high cost of administrative fees for this project and other costs for projects that may not be completed.

Lori Lamson, Assistant Town Manager, answered questions and concerns as expressed by the speakers regarding the completion of projects and the various regulations in place to ensure compliance with the program.

There being no additional requests to speak, Mayor Cusack closed the public hearing at 8:29 p.m.

MOTION

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

- A. Conduct a public hearing and accept public testimony on the Program Year 2018-2019 Consolidated Annual Performance Evaluation Report ("CAPER").
- B. Approve the Program Year 2018-2019 CAPER.
- C. Authorize the Town Manager or his designee to submit the Program Year 2018-2019 CAPER to the U.S. Department of Housing and Urban Development ("HUD"), along with any public testimony and changes thereto as directed by the Town Council.

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

8. Discussion and Possible Action Regarding an Amendment to the Town of Apple Valley Municipal Code Regarding Street/Food Vendors and Massage Establishments.

Carol Miller, Assistant Director of Community Development, presented the staff

report as filed with the Town Clerk.

Thomas Rice, Town Attorney, stated that the Town Attorney's Office, is available to work with Town staff to draft model ordinances for the Town's consideration.

Discussion ensued regarding possible amendments to the code and concerns over locations in the community being used for street vending.

It was the consensus of the Town Council to direct the Town Attorney and staff to review code as it refers to street/food vendors and massage establishments and develop amendment for review by the appropriate governing board.

REPORTS, REQUESTS AND COMMUNICATIONS

None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, announced upcoming events in the Town including the final Concert in the Courtyard on Thursday, September 26, the Reverse Triathlon on Saturday, September 28, the Happy Trails Parade on Saturday, October 5 and the Airshow on Saturday October 12.

CLOSED SESSION

10. Closed Session

Mayor Cusack adjourned the meeting of the Apple Valley Town Council 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 Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case Nos.: CIVDS1619242, CIVDS 1620483 – De La Cruz vs. Town of Apple Valley.

Upon returning from Closed Session at 10:24 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 10:24 p.m.

Larry Cusack, Mayor

La Vonda M-Pearson, Town Clerk