

**MINUTES**

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

**October 22, 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 Emick, Leon, Mayor Pro Tem Nassif, Mayor Cusack

Absent: Council Member Bishop

**OPENING CEREMONIES**

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

**INVOCATION:** The invocation was given by Father Gibson, Our Lady of the Desert Catholic Church

**PRESENTATIONS:** Happy Trails Parade Winners – Lovella Sullivan, Event Coordinator – Village Property and Business Improvement District.

**PUBLIC COMMENTS**

Bill Inger, Apple Valley, commented on the Town's line of credit. He recommended that the Town Council decline further use of the line of credit. He also commented on the removal of the Equestrian Committee and other issues that he believed are of concern for members of the public.

Geri Inger, Apple Valley, distributed photos of the Horseman Center Property that she felt were in need of repair. She believed that repairs should be made since many individuals rent the facility.

Al Rice, Apple Valley, commented on the positions at the Town of Apple Valley and the various titles used. He also expressed concern regarding the Town's finances and what he believed was a lack of transparency in the Town.

Mike Hughes, Apple Valley, announced the movie premier of Rocketman on Amazon. He stated that the movie is about his life and that he stars in the movie that is being filmed here in the Town of Apple Valley. He expressed concern regarding the Town's disinterest in writing about this project.

Bud Giboney, Apple Valley, respectfully requested that a four-way stop sign be placed near Jess Ranch Parkway. He thanked the Town for initiating a process by counting cars in the area.

Marcie Taylor, Apple Valley, thanked the Town for their support of the Apple Valley Museum. She also spoke of the tribute at the Airshow for John McConnell.

**COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION**

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 – November 12, 2019 – Council Chamber  
Regular Session at 6:30 p.m.**

**CONSENT AGENDA**

**MOTION**

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

Vote: Motion carried 4-1-0-0

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

Absent: Council Member Bishop.

**1. Approval of Minutes.**

**Recommendation:**

- A. Approve the subject minutes of the October 8, 2019 Town Council Meeting.

**2. Second Reading Ordinance 519 of the Town of Apple Valley, California, Amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Adding a Definition for "Assembly of Products" and Modifying Provisions Relating to Allowing the Assembly of Products as an Ancillary use to a Commercial Use Town-Wide.**

**Recommendation:**

- Adopt Ordinance 519

**3. Fee Waiver Request for Rotary Club of Apple Valley to Host a Fundraiser at the James Woody Auditorium on February 29, 2020.**

**Recommendation:**

For good cause shown, and finding a fee waiver will serve a public purpose, approve the waiver of the Facility Rental Fee of \$351.50.

**5. Award of Contract, Resurfacing 2019-03.**

**Recommendation:**

Award a contract to Sully Miller Contracting Company for Resurfacing 2019-03 - Project No. 2019-05 subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

**6. FY 2019-20 Grant Management Services.**

**Recommendation:**

That the Town Council approve an extension to the Professional Services Agreement with Blais & Associates, Inc., for Grant Management Services for Fiscal Year 2019-2020.

**7. California State Park Grant Program.**

**Recommendation:**

Adopt Resolution No. 2019-30 approving and authorizing (1) the submittal of grant application(s) for California State Parks Per Capita Grant Funds; (2) authorize the Town Manager to submit grant application; and (3) authorize the Town Manager to execute all matters pertaining to assurances and agreements as required by California State Parks.

**8. State Advocacy Services.**

**Recommendation:**

That the Town Council approve an extension to the Professional Services Agreement with Niemela Pappas & Associates for State Legislative Advocacy Services for Fiscal Year 2019-20.

**PULLED FROM CONSENT CALENDAR**

**4. Reject all Bids – Mendel Park Restroom Project.**

Bill Inger, Apple Valley, thanked the Town for rejecting the bids and revising the project using fiscal responsibility.

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

- A. Reject all bids for the CDBG Mendel Restroom Project -- Project No. 2019-01.
- B. Direct staff to reduce the scope of the project.
- C. Authorize staff to solicit bids for the revised scope of work.

Vote: Motion carried 4-1-0-0

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

Absent: Council Member Bishop.

## PUBLIC HEARINGS

9. **Development Code Amendment No. 2019-009, an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code Modifying Table 9.35.030-A "Permitted Uses" of Chapter 9.35 "Commercial and Office Districts" and Table 9.45.030-A "Permitted Uses" of Chapter 9.45 "Industrial Districts" as Needed to Address Current Trends and Remove Outdated Language. Also Under Consideration is Replacing the Conditional Use Permit Process With a Special Use Permit Process for Uses that Have Limited Impacts Upon the Surrounding Property Owners.**

Mayor Cusack opened the public hearing at 7:33 p.m.

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

Doug Robertson, Town Manager, noted that under the Special Use Permit Process, applicants would still be able to appeal to the Planning Commission if desired.

There being no requests to speak, Mayor Cusack closed the public hearing at 7:37 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 September 4, 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. 520 in its entirety and read by title only.

Vote: Motion carried 4-1-0-0

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

Absent: Council Member Bishop.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 520.

**MOTION:**

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

- D. **Introduce** Ordinance No. 520 approving Development Code Amendment No. 2019-009; and
- E. **Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

Vote: Motion carried 4-1-0-0

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

Absent: Council Member Bishop.

- 10. **Development Code Amendment No. 2019-010, an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code to Allow, Through the Deviation Permit Process, a Minor Reduction to Setbacks and Landscaping and an Increase in Building Height and Number of Compact Parking Spaces and a Reduction of Parking Spaces Required for Accessory Uses from the Standards Found in Chapter 9.35 "Commercial and Office Districts".**

Mayor Cusack opened the public hearing at 7:40 p.m.

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

Mayor Pro Tem Nassif asked for additional clarification as it refers to multi-family.

Ms. Lamson explained that there is a scheduled joint meeting with the Planning Commission and Town Council on Wednesday, November 20 which will focus on multi-family housing.

There being no requests to speak, Mayor Cusack closed the public hearing at 7:43 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 September 4, 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. 521 in its entirety and read by title only.

Vote: Motion carried 4-1-0-0  
Yes: Council Member, Emick, Leon, Mayor Pro Tem Nassif, Mayor Cusack.  
Absent: Council Member Bishop.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 521.

**MOTION:**

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

- D. **Introduce** Ordinance No. 521 approving Development Code Amendment No. 2019-010; and
- E. **Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

Vote: Motion carried 4-1-0-0  
Yes: Council Member, Emick, Leon, Mayor Pro Tem Nassif, Mayor Cusack.  
Absent: Council Member Bishop.

**BUSINESS OF THE COUNCIL**

**None.**

**REPORTS, REQUESTS AND COMMUNICATIONS**

**None.**

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

Doug Robertson, Town Manager, noted that the opening statements for the water acquisition hearings will begin tomorrow at 10:00 a.m. at the San Bernardino County Court House. He also noted the following upcoming events: Victor Valley Bicycle Tour, Saturday, October 26, Trunk of Treat, Saturday October 26, and the Holiday Craft Fair on November 2 and 3.

**CLOSED SESSION**

**11. Closed Session.**

Bill Inger, Apple Valley, expressed concern regarding discussing items listed in Closed Session. He believed that these items should be addressed publicly. He also felt that someone more qualified should be present during negotiations.

Bill McLeod, Apple Valley, he also believed that item 11d should not be discussed in Closed Session, but instead heard in the regular session.

Mayor Cusack adjourned the meeting of the Apple Valley Town Council to Closed Session at 7:48 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.
- F. 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
- G. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8:
  - i. Property: Parcel Numbers: 0473-041-02  
Agency Negotiator: Town Manager; Town Engineer  
Negotiating Parties: Interested Parties; Lee, Derek Ming & Lee, Jane Ming  
Under Negotiation: Price and Terms of Payments
  - ii. Property: Parcel Numbers: 0473-041-14  
Agency Negotiator: Town Manager; Town Engineer  
Negotiating Parties: Interested Parties; Brayan Martines & Amanda Martinez  
Under Negotiation: Price and Terms of Payments
  - iii. Property: Parcel Numbers: 0473-112-06  
Agency Negotiator: Town Manager; Town Engineer  
Negotiating Parties: Interested Parties; Bryan J Tr Fancy & Ivy L Tr Fancy  
Under Negotiation: Price and Terms of Payments

- iv. Property: Parcel Numbers: 0473-112-13  
 Agency Negotiator: Town Manager; Town Engineer  
 Negotiating Parties: Interested Parties; Estrella F Ramos, Wilhelmino F Ramos, Rosita Maylad, Enriques Maylad, Juanita Bautista, Gloria Asuncion, Jimmy Aquino, Estrella Ramos, Willie Ramos.  
 Under Negotiation: Price and Terms of Payments
  
- v. Property: Parcel Numbers: 0441-172-01  
 Agency Negotiator: Town Manager; Town Engineer  
 Negotiating Parties: Interested Parties; Tien Tan Nguyen & Hanh To  
 Under Negotiation: Price and Terms of Payments
  
- vi. Property: Parcel Numbers: 0472-342-14 and 15  
 Agency Negotiator: Town Manager; Town Engineer  
 Negotiating Parties: Interested Parties; Lane A Biggs & Sung Hee Hong  
 Under Negotiation: Price and Terms of Payments

Upon returning from Closed Session at 8:55 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 8:55 p.m.

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 Larry Cusack, Mayor

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 La Vonda M-Pearson, Town Clerk