

MINUTES

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

January 14, 2020

REGULAR SESSION BEGINS AT 6:30 P.M.

Call to Order:

Mayor Nassif called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:30 p.m.

Roll call was taken with the following members present:

Roll Call

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

Absent: None.

OPENING CEREMONIES

INVOCATION: Pastor Kit Johnson of Life Point Baptist Church

PLEDGE OF ALLEGIANCE:

PRESENTATIONS: Certificate of Appointment - Planning Commission, Mr. Tom Lanyon

PUBLIC COMMENTS

Robert Khoury, Apple Valley, commented on his belief that having the Animal Shelter open on Sundays would increase animal adoptions.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

Council Member Leon commented on committee meetings and events that she attended.

Council Member Bishop commented on committee meetings and events that he attended.

Council Member Cusack commented on committee meetings and events that he attended.

Mayor Pro Tem Emick commented on committee meetings and events that he attended.

Mayor Nassif commented on committee meetings and events that he attended.

TOWN COUNCIL ANNOUNCEMENTS

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

- A. Regular Meeting – January 28, 2020 – Council Chamber
Regular Session at 6:30 p.m.

TOWN COUNCIL CONSENT AGENDA

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

Council Member Cusack 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 will be recusing 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, Council Member Cusack will be recusing 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 Council Member Cusack is maintained on file in the Town Clerk's Office and available for review at the dais.

Council Member Cusack confirmed that he would be recusing from voting on these warrants.

Mayor 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 recusing 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 Nassif will also be recusing 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 Nassif is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Nassif confirmed that he would be recusing from voting on these warrants.

Lawrence McCarthy, Apple Valley, asked for clarification on Consent Item 6 regarding lot sizes and setbacks

Michael Dicken, Wrightwood, requested that Consent Item 10 be expanded to include his business on Bear Valley Road and Quinnault Road in Apple Valley.

Win Balbu, Victorville, requested assistance from the Council regarding a container issue on the property that he manages on Bear Valley Road and Quinnault Road in Apple Valley.

MOTION

Motion by Council Member Bishop, seconded by Mayor Pro Tem Emick, to approve the Consent Calendar items numbered 1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 13 and 14 respectfully, and that items numbered 8 and 10 be pulled for discussion.

Vote: Motion carried 5-0-0

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

Absent: None

Council Member Cusack was recused from voting on specific warrants listed under Agenda Item Number 2.

Mayor Nassif was recused from voting on specific warrants listed under Agenda Item Number 2.

1. **Approval of Minutes of the Town Council.**
A. Regular Meeting – December 10, 2019.
Recommendation:
Approve the subject minutes as part of the consent agenda.
2. **December 2019 Commercial Warrants and Wire Transfer Schedule.**
Recommendation:
That the Town Council receive, ratify, and file the Commercial Warrants and Wire Transfer Schedules as presented.
3. **December 2019 Payroll/Benefits Warrants Schedule.**
Recommendation:
That the Town Council receive, ratify and file the Payroll/Benefits Schedule.
4. **Release of Securities for Parcel Map 19937.**
Recommendation:
Find that the construction of various improvements required for Parcel Map 19937 are complete and approve the 50% reduction of the performance securities and release of the labor and materials security.
5. **Final Parcel Map 19989.**
Recommendation:
Move to accept final map for Parcel Map 19989.
6. **Accept the Final Map for Parcel Map No. 18083**
Applicant: Arete Enterprises, LLC
Recommendation:
Move to accept the final map, securities and agreements for Parcel Map No. 18083.
7. **Acceptance of Work for Resurfacing 2019-03 – Project No. 2019-05.**
Recommendation:
That the Town Council:
 - A. Accept the work completed as part of the Resurfacing 2019-03 Project No. 2019-05 for a total contract cost of \$237,084.00.
 - 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.
9. **SR-18/Apple Valley Road Intersection Realignment Project Contract Amendment No. 4.**
Recommendation:
Approve Amendment No. 4 to the November, 2008 agreement between the Town of Apple Valley and Dokken Engineering for engineering services on the State Route 18/Apple Valley Road Intersection Realignment Project for an amount not-to-exceed \$214,312.

11. **Second Reading of Ordinance 524, Amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code to Allow Legal, Nonconforming, Multi-Family Projects Consisting of Two (2) to Four (4) Units Located Within the Single-Family Residential (R-Sf) Zoning Designation to be Fully Repaired or Replaced in the Event of Fire of Other Damaging Event.**
Recommendation:
Adopt Ordinance No. 524.
12. **Updated Schedule of future Development Code Amendment Discussions.**
Recommendation:
Receive and file
13. **California Department of Parks and Recreation Grant Programs.**
Recommendation:
That the Town Council adopt Resolution No. 2020-01 and Resolution No. 2020-02 approving and authorizing (1) the submittal of applications for grant funds from the Recreational Trails Program and the Land and Water Conservation Fund for the Apple Valley Legacy Trail; (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 the California Department of Parks and Recreation (Department).
14. **Report of Action from Parks and Recreation Commission**
Recommendation:
Receive and file

PULLED FROM CONSENT CALENDAR

8. **Award contract for the Construction Management services for the Apple Valley Road Intersection Realignment – Project No. 2019-06.**

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

Discussion ensued regarding the length of time it will take to complete the realignment of SR-18.

MOTION

Motion By Mayor Pro Tem Emick, seconded by Council Member Leon to award a contract to Parsons Transportation Group, Inc. for Construction Management Services for the Apple Valley Road Intersection Realignment – Project No. 2019-06 in an amount not to exceed \$1,769,974.00, subject to “Approval as to Form” by the Town Attorney, and “Approval as to Content” by the Town Manager.

Vote: Motion carried 5-0-0-0

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

Absent: None

10. **Second Reading of Ordinance 523 of the Town of Apple Valley, California, Amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code to Allow Solid Metal and Vinyl as Optional Materials for Solid Fencing in Commercial Zones, Allow Cargo/Shipping Containers to be Used in Service Commercial (C-S) Zone in the Apple Valley Village, Modify the Definition and Footnote Related to Screening Material, and Provide Design Criteria for Cargo Containers to be Allowed in Residential Zones. In Addition, an Amendment to the North Apple Valley Industrial Specific Plan is Proposed to Allow Solid Metal and Vinyl as Optional Materials for Solid Fencing of Storage Areas.**

The Town Council discussed issues relating to the maximum number of containers allowed, screening of containers, and areas where containers are currently allowed.

Doug Robertson, Town Manager, clarified that the item under discussion is strictly about the village district, and that comments should be restricted to the area covered by this ordinance.

MOTION

Motion by Council Member Bishop and seconded by Mayor Pro Tem Emick to adopt Ordinance No. 523.

Vote: Motion carried 5-0-0-0

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

Absent: None

Mayor Pro Tem Emick, with the consensus of the Town Council, recommended staff bring back a staff report on acceptability of storage containers outside the Village District.

PUBLIC HEARINGS

15. **Development Code Amendment No. 2019-013 is a Request to Amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code, to Include Advisory Information Regarding Development Impact Fees to Chapter 9.71 "Subdivision Regulations".**

Mayor Nassif opened the public hearing at 7:22 p.m.

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

Discussion ensued regarding clarifying how builders can request to pay their development impact fees at the beginning, or end, of their projects.

Thomas Rice, Town Attorney, proposed amending Section 4 9.71.055 to include specific language regarding the payment of fees.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:29 p.m.

MOTION

Motion by Mayor Pro Tem Emick, 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. Find** the facts presented within the staff report, including the attached Planning Commission Resolution No. 2019-017 adopted November 6, 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. 525 in its entirety and read by title only.

Vote: Motion carried 5-0-0-0

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

Absent: None

Kiel Mangerino, Deputy Town Clerk, read the title to Ordinance No. 525.

MOTION

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

- D. Introduce** Ordinance No. 525 Approving Development Code Amendment No. 2019-013; and introduce language in section 4 subsection A to read, "Development Impact Fees shall be paid prior to the final inspection for occupancy and/or issuance of Certificate of Occupancy."
- 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 Members Bishop, Cusack, Leon, Mayor Pro Tem Emick, Mayor Nassif.

Absent: None

BUSINESS OF THE COUNCIL

ITEM TABLED

16. Interfund Loan – General Fund to Redevelopment Obligation Retirement Fund

It was the consensus of the Town Council to table this item.

17. Discussion of Quimby Act Fund Use.

David Coleman, Parks and Recreation Manager, presented the staff report as filed with the Town Clerk.

Council Member Cusack felt that by cooperating with the Police Activities League the Town could utilize the Ward Room at the James Woody Community Center as a Youth Outreach Center.

Council Member Leon thanked staff for bringing these projects to the Council for discussion.

Mayor Pro Tem Emick commented that the projects which would benefit the most residents should be considered first. He recommended projects at Brewster Sports Complex and James Woody Community Center.

Council Member Bishop thanked the Park and Recreation Commission for the job they have done as well as the Town Manager for bringing these projects forward.

Mayor Nassif felt several projects should receive priority including shade structures at the Civic Center, a snack bar at Brewster Park and improvements to Horseman's Center.

Doug Robertson, Town Manager, explained that some projects would need additional funding to complete while other projects could be completed with the funds currently available.

It was the consensus of the Town Council to move forward with projects per discussion.

18. Formation of an Ad-Hoc Committee to Review Multi-Family Residential Development Standards.

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

It was the consensus of the Town Council to appoint Council Member Leon and Council Member Cusack to the Ad Hoc Committee.

19. Discussion of Sign Code Regulation.

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

Discussion ensued regarding sign placement, size and type.

This was a discussion item only. There was no action taken.

REPORTS, REQUESTS AND COMMUNICATIONS

None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, updated the Town Council and the public on the Stop Sign project in the Jess Ranch neighborhood. He stated that the work will begin next week. He also announced the following upcoming events:

- Saturday, January 18, 2020 - E-Sport Tournament being played at the Recreation Center.
- Saturday, January 18, 2020 - Neighborhood Cleanup Day.
- Sunday, February 2, 2020 - Mayors Weight Loss Challenge commences.

CLOSED SESSION

20. Closed Session

Mayor Nassif recessed the meeting of the Apple Valley Town Council at 7:58 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.

Upon returning from Closed Session at 8:15 p.m., Mayor Nassif announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Bishop, seconded by Mayor Pro Tem Emick and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:20 p.m.

Scott Nassif, Mayor

Kiel Mangerino, Deputy Town Clerk