

MINUTES

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

February 11, 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: Sr. Pastor Valery from Victory in Jesus Bible Faith Center

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

PRESENTATIONS: Donation from the Knights of Columbus to the Town Council for the Parks and Recreation Department.

Presentation from Wells Fargo of a miniature mural portrait presented to the Town of Apple Valley.

Employee of the Quarter – Kristine Shoup, Human Resource Analyst – Public Works Department.

Employee of the Quarter – Detective Roosevelt Dutra – Sheriff’s Department.

PUBLIC COMMENTS

Bill Inger, Apple Valley, asked for more in-depth information on the trip that Council Member Bishop and Town Manager Doug Robertson took in reference to the rail project. He suggested that full reports be provided on hearings dealing with the Town of Apple Valley.

Cecil Volsch, California Association of Realtors, updated the Town Council on proposed legislation dealing with PACE Program providers.

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

Suggested items for next agenda:

Council Member Bishop commented on questions and concerns he had received from the public regarding street signs and the need for replacement of signs. Comments were also made by the Town Council regarding the colors used for the signs.

Doug Robertson, Town Manager, stated that there is a replacement schedule in process to update the signs and noted that the current four-inch signs would be replaced with six-inch signs.

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

- A. Regular Meeting – February 25, 2020 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

La Vonda M-Pearson, Town Clerk, read the following disclosure statement:

Council Member Leon has a remote interest in specific warrants on tonight's Commercial Warrants dealing with Solution Strategies as a landlord to this entity. Therefore, she will be recusing herself from voting on the warrants for this business.

Council Member Leon confirmed that she would be recusing from voting on these warrants.

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 too 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, commented on Agenda Item Number 9. He stated that he was pleased to see reductions in speed limits on certain roads; however, he still believed the speed limit on Apple Valley Road should be reduced. He commented on the accidents that have occurred between Yucca Loma and Highway 18.

MOTION

Motion by Mayor Pro Tem Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1-12

Vote: Motion carried 5-0-0-0

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

Absent: None

1. **Approval of Minutes of the Town Council.**
A. Regular Meeting – January 28, 2019.
Recommendation:
Approve the subject minutes as part of the consent agenda.
2. **January 2020 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. **January 2020 Payroll/Benefits Warrants Schedule.**
Recommendation:
That the Town Council receive, ratify and file the Payroll/Benefits Schedule.
4. **Application to San Bernardino County Transportation Authority (SBCTA) for Local Transportation Funds – Article 8 Other Purpose Claim.**
Recommendation:
Authorize the Town Manager to apply for Local Transportation Funds – Article 8 – Other Purpose Claim in the amount of \$79,095 for Fiscal Year 2019-20.
5. **Approve the Revised Exhibit “A” for the Agreement of Sharing Cost of Electrical Facilities on State Highways.**
Recommendation:
Approve revised Exhibit A for the Agreement of Sharing Cost of Electrical Facilities on State Highways.
6. **Award of Contract, Kasota-Tuscola Connector Road.**
Recommendation:
A. Award a contract to Roadway Engineering and Contracting, Inc. for Kasota-Tuscola Connector Road subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.

- B. Approve Budget Amendment.
7. **Authorization to Advertise Highway 18 Shoulder Median Improvement Project.**
Recommendation:
 A. That the Town Council review and approve the bid documents for Highway 18 Shoulder Median Improvement Project.
 B. That the Town Council authorize staff to solicit bids for construction of said project.
8. **Authorization to Advertise Jess Ranch Parkway at Marketplace Drive Signal Modification – Project No. 2020-01.**
Recommendation:
 A. That the Town Council review and approve the bid documents for the Jess Ranch Parkway at Marketplace Drive Signal Modification - Project No. 2020-01.
 B. That the Town Council authorize staff to solicit bids for construction of said project.
9. **Adopt Ordinance No. 526 – An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Chapter 12.20., Entitled “Special Speed Limits” of Title 12 of the Town of Apple Valley Municipal Code”**
Recommendation:
 Adopt Ordinance No. 526
10. **Request to Vacate a Portion of a Sewer Easement at the Lewis Center for Educational Research, APN 473-183-21.**
Recommendation:
 A. Find that a portion of the 30-foot-wide sewer easement (instrument number 89-216802) located at the Lewis Center for Educational Research, APN 473-183-21, has been superseded by relocation and there are no other public facilities located within the easement.
 B. Adopt Resolution No. 2020- 04 “A Resolution of the Town Council of the Town of Apple Valley, California, vacating a portion of the sewer easement (instrument number 89-216802) located at the High Desert “Partnership In Academic Excellence” Foundation, APN 473-183-21, pursuant to the Streets and Highway Code Section 8333(c)”;
 C. Instruct the Town Clerk to cause the Resolution vacating a portion of the sewer easement to be recorded in the office of the County Recorder of the County of San Bernardino, pursuant to Section 8333(c) of the Streets and Highways Code.
11. **Updated Schedule of future Development Code Amendment Discussions.**
Recommendation:
 Receive and file
12. **Approve Purchase of Real Properties Located on Symeron Road (APN 0473-041-14) And Kasota Road (APN 0473-112-13)**
Recommendation:
 Approve the purchase of parcel 0473-041-14 located on Symeron Road for the purpose of constructing the Tao Road southerly extension and parcel 0473-112-13 for the purpose of constructing the Kasota-Tuscola Connector Road.

PUBLIC HEARINGS

13. **Resolution 2020-05, To Record Delinquent Utility Fees and Costs Against Real Property Located in the Town of Apple Valley and Directing that Said Assessments Constitute a Lien Upon Said Properties.**

Mayor Nassif opened the public hearing at 7:20 p.m.

Sydney Harris, Director of Finance, presented the staff report as filed with the Town Clerk.

Council Member Leon questioned the ability to notify and collect liens prior to them being placed on a tax lien.

Ms. Harris discussed various options that staff could explore in an effort to collect delinquent utility liens.

La Vonda M-Pearson, Town Clerk, noted for the record an email in opposition to the liens for property address 19123 US Outer Highway 18.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:25 p.m.

MOTION

Motion by Council Member Cusack, seconded by Council Member Leon, to adopt Resolution No. 2020-05, confirming delinquent utility fees and costs against real property located in the Town, and directing that said assessments constitute a lien upon said properties.

Vote: Motion carried 5-0-0-0

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

Absent: None

14. Development Code Amendment No. 2019-012 is a Request to Amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code, to Allow Administrative Review of Amendments to Previously Approved Projects.

Mayor Nassif opened the public hearing at 7:26 p.m.

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

Mike Dicken, Victorville, spoke on property he owns in the Town. He expressed concern in regard to being cited for storage containers. He thanked the Mayor and Town Council for reviewing his matter and encouraged the Council to consider amending the code to allow storage containers within the Town limits.

Win Ballou, Victorville, submitted a card, but chose not to speak.

There being no additional requests to speak, Mayor Nassif closed the public hearing at 7:32 p.m.

MOTION

Motion by Council Member Bishop, seconded by Mayor Pro Tem 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 Resolution No. 2019-016 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. 527 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

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 527.

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

- D. **Introduce** Ordinance No. 527 approving Development Code Amendment No. 2019-012; 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 Members Bishop, Cusack, Leon, Mayor Pro Tem Emick, Mayor Nassif.

Absent: None

15. Introduce Ordinance No. 528 – An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Section 9.36.230 and Adding Section 9.29.210 of the Apple Valley Development Code as it Relates to Personal Recreational Cannabis Cultivation and Penalties for Cannabis Cultivation Violations.

Mayor Nassif opened the public hearing at 7:34 p.m.

Carol Miller, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:39 p.m.

MOTION

Motion by Council Member Cusack, 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. 2019-019 adopted December 18, 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. 528 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

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 528.

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

D. **Introduce** Ordinance No. 528 approving Development Code Amendment No. 2019-016; 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 Members Bishop, Cusack, Leon, Mayor Pro Tem Emick, Mayor Nassif.

Absent: None

16. Introduce Ordinance No. 529 – An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Chapter 1.01 of the Apple Valley Municipal Code as it Relates to the Fines Associated with Illegal Cannabis Cultivation.

Mayor Nassif opened the public hearing at 7:42 p.m.

Guy Eisenbrey, Code Enforcement Manager, presented the staff report as filed with the Town Clerk. He explained the process of collecting fines based on this ordinance. He confirmed that liens would also be placed on properties if needed.

Thomas Rice, Town Attorney, clarified that the penalties are not intended to be cost recovery. He explained that could be recovered through the lien process.

Mr. Eisenbrey explained how illegal cultivation is recorded on title reports.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:49 p.m.

MOTION

Motion by Council Member Cusack, seconded by Council Member Leon, to:

A. **Find** that the proposed adoption of Ordinance No. 529 is not subject to and is exempt from CEQA based upon a finding that, under section 15061(b)(3) of the CEQA Guidelines, it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.

B. **Move** to waive the reading of Ordinance No. 529 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

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 529.

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

C. **Move** to introduce Ordinance No. 529 amending Chapter 1.01 as it relates to the fines associated with illegal cannabis cultivation.

D. **Direct** staff to file a Notice of Exemption.

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

NONE.

REPORTS, REQUESTS AND COMMUNICATIONS

NONE.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, commented on the financial impact to individuals who violate the code on illegal cannabis cultivation. He also detailed the discussions held in Sacramento dealing with the proposed rail project in the Town of Apple Valley.

Mr. Robertson noted upcoming events including the Sweetheart Walk, Mayor's Weight Loss Challenge and the Hoppy Run which is scheduled on Saturday, February 29, 2020.

CLOSED SESSION

17. Closed Session

Mayor Nassif recessed the meeting of the Apple of the Apple Valley Town Council at 7:50 p.m. to Closed Session 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 8:55 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 8:55 p.m.

Scott Nassif, Mayor

La Vonda M-Pearson, Town Clerk