

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

REGULAR MEETING

MINUTES – December 10, 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

INVOCATION: Pastor Josh Gerbracht, First Assembly of God

PLEDGE OF ALLEGIANCE: Girl Scout Flag Salute – Troop 251

PRESENTATIONS: Employee of the Quarter – Jabez Vargas, Public Works Supervisor (Grounds) – Public Works Department.
Employee of the Quarter – Lori Keyser, Secretary – Sheriff's Department.
Recognition of Jason Lamoreaux - Planning Commission.

MAYOR'S YOUTH LEADERSHIP SUMMIT – MOCK COUNCIL PRESENTATION

1. Youth Engagement on Social Media

Get the youth names presented the staff report as filed with the Town Clerk.

The Town Council asked questions of the presenters regarding the social media accounts that would be used to engage the youth of Apple Valley.

MOTION

Motion by Council Member Bishop, seconded by Council Member Emick, to approve an expenditure of up to \$1,000.00 to fund youth engagement on social media.

Vote: Motion carried 5-0-0-0

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

Absent: None

The Town Council recognized the sponsors of the Mayor's Youth Leadership Program.

REORGANIZATION

2. Selection of Mayor and Mayor Pro Tempore

MOTION

Motion by Council Member Bishop, seconded by Council Member Leon, to appoint Scott Nassif as Mayor.

Vote: Motion carried 5-0-0-0

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

Absent: None

Motion by Mayor Pro Tem Nassif, seconded by Mayor Cusack to appoint Curt Emick as Mayor Pro Tem.

Vote: Motion carried 5-0-0-0

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

Absent: None

RECESS FOR REORGANIZATION

Mayor Nassif reconvened the meeting of the Apple Valley Town Council at 7:15 p.m.

PRESENTATION:

Mayor's Plaque – Mayor Cusack for his term as Mayor on the Town Council for the period December 2018 to December 2019.

PUBLIC COMMENTS

Larry Bruner, Jess Ranch Management Association President, thanked the past President and the Town Council for their efforts in working toward providing safety to the residents in the community.

Thurston "Smitty" Smith, Apple Valley Bicycle Tour, thanked the Town Council for their support with this event. He spoke of the participants including pro riders who live in the community.

Bill Inger, Apple Valley, briefed the Town Council and the staff on his perception of the water acquisition hearings currently taking place.

Bud Giboney, Apple Valley, thanked the Town Council for their consideration on tonight's agenda for the four way stop sign.

Darrell Batton, Apple Valley, thanked the Town Council for the four way stop sign and wished everyone a Merry Christmas.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

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

Mayor Pro Tem Emick commented on events that he attended.

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Council Member Leon requested a future agenda item be presented to the Town Council to discuss the building of Residential tract homes.

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

- A. Regular Meeting – January 14, 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 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 4. 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 4 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 4. 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 4 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.

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 he would be recusing from voting on these warrants.

Council Member Cusack also has a remote interest in Agenda Item No. 12 and therefore will also be recusing from voting on Agenda Item 12.

Bill Inger, Apple Valley, commented on specific warrants listed under Agenda Item Number 4. He questioned whether the Town was current in its payments.

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 3, 4, 5, 6, 7, 9, 10, 11 and 12, and that Agenda Item Number 8 be pulled for discussion.

Vote: Motion carried 5-0-0-0

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

Absent: None

Council Member Cusack, Council Member Leon and Mayor Nassif recused from voting on specific warrants listed on Agenda Item Number 4.

Council Member Cusack recused from voting on Agenda Item 12 due to a potential conflict of interest.

3. Approval of Minutes of the Town Council.

A. Regular Meeting – November 12, 2019

B. Special Meeting – November 20, 2019

Recommendation:

Approve the subject minutes as part of the consent agenda.

4. November 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.

5. November 2019 Payroll/Benefits Warrants Schedule.

Recommendation:

That the Town Council receive, ratify and file the Payroll/Benefits Schedule.

6. Award Contract for Golf Course Pump and Pump House.

Recommendation:

Award a contract to Layne for the Golf Course water pump and pump house, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

7. Authorization to Advertise Kasota-Tuscola Connector Road.

Recommendation:

A. That the Town Council review and approve the bid documents for Kasota-Tuscola Connector Road.

B. That the Town Council authorize staff to solicit bids for construction of said project.

9. Second Reading of Ordinance 522 of the Town of Apple Valley, California, Amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code Allow any Request for an Intensity Bonus or Concession for Sustainable, Environmentally Supportive Commercial or Industrial Development to be Approved by the Applicable Review Authority and to Incorporate Specific Sustainable

Measures as Qualifying Factors when Considering any Intensity Bonus or Concession.

Recommendation:

Adopt Ordinance No. 522

10. Approve Entering into a Long-Term Renewable Energy Contract with Tehachapi Plains Wind, LLC

Recommendation:

Approve entering into a long-term renewable energy contract with Tehachapi Plains Wind, LLC for Apple Valley Choice Energy.

11. A Resolution of the Town Council of the Town of Apple Valley, California, Amending the Classification and Salary Plan for the Town of Apple Valley.

Recommendation:

That the Town Council adopt the attached Resolution No. 2019-34, a Resolution of the Town Council of the Town of Apple Valley, California, amending the current Classification and Salary plan.

12. Formal Approval of Request to Permit Overhead Power Lines at Ottawa Road and Manhasset Road.

Recommendation:

Formally approve request from High Desert Underground for special permission to leave overhead utility poles and lines in the vicinity of Ottawa Road and Manhasset Road subject to the requirement that the property owner execute an agreement to be recorded against the property indicating the owner's consent to enter into a Town assessment district to fund the undergrounding of utilities at a future date.

PULLED FROM CONSENT CALENDAR

8. All-Way Stop at the Intersection of Apple Valley Road and Jess Ranch Parkway.

Brad Miller, Town Engineer, presented the staff report as filed with the Town Clerk. He announced the process and potential timeline for the project.

MOTION

Motion by Council Member Bishop, seconded by Mayor Pro Tem Emick, to adopt Resolution 2019-33, "A Resolution of the Town Council of the Town of Apple Valley establishing the intersection of Apple Valley Road and Jess Ranch Parkway as an all-way STOP intersection."

Vote: Motion carried 5-0-0-0

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

Absent: None

PUBLIC HEARINGS

13. An Amendment to 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.

Mayor Nassif opened the public hearing at 8:21 p.m.

Lori Lamson, 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 8:29 p.m.

MOTION

Motion by Council Member Cusack, 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. 2019-15 adopted on November 6, 2019, support the required Findings for approval of the proposed Development Code Amendment and North Apple Valley Industrial Specific Plan Amendment No. 8 and adopt the Findings.
- C. Move to waive the reading of Ordinance No. 523 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. 523.

MOTION

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

- D. Introduce Ordinance No. 523 approving Development Code Amendment No. 2019-014 and North Apple Valley Industrial Specific Plan Amendment No. 8; 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

- 14. **Development Code Amendment No. 2019-015, an Amendment to 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 or Other Damaging Event.**

Mayor Nassif opened the public hearing at 8:31 p.m.

Lori Lamson, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk. She clarified the zoning discrepancy in the area that needed to be corrected.

John Nobles, Apple Valley, commented on the inability to obtain a reverse mortgage due to the current zoning. he thanked the Town Council for consideration of this item.

There being no further requests to speak, Mayor Nassif closed the public hearing at 8:39 p.m.

MOTION

Motion by Mayor Pro Tem Emick, seconded by Council Member Cusack, 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. 2019-018 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. 524 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. 524.

MOTION

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

- D. Introduce Ordinance No. 524 approving Development Code Amendment No. 2019-015; 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

BUSINESS OF THE COUNCIL

15. Approval of New Lockbox Agreement with River City Bank for the Apple Valley Choice Energy (AVCE) CCA

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

Bill Inger, Apple Valley, asked if this item was connected to Agenda Item No. 10. He also commented on the redaction of the item

Ms. Harris explained that the redaction is due to a competition clause.

Doug Robertson, Town Manager, noted that this item is not connected to Agenda Item Number 10.

MOTION

Motion by Council Member Bishop, seconded by Council Member Cusack, to approve the opening of a new Associated Lockbox Agreement for the Apple Valley Choice Energy (AVCE) CCA with River City Bank.

Vote: Motion carried 5-0-0-0

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

Absent: None

16. Approving and Authorizing Transmittal of a Recognized Obligation Payment Schedule and Administrative Budget for Fiscal Year 2020-21

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

MOTION

Motion by Council Member Bishop, seconded by Council Member Cusack, to adopt a resolution approving and authorizing transmittal of a Recognized Obligation Payment Schedule and Administrative Budget for Fiscal Year 2020-21.

Vote: Motion carried 5-0-0-0

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

Absent: None

17. Vacancy on the Town of Apple Valley Planning Commission

MOTION

Motion by Council Member Emick, seconded by Council Member Bishop, to nominate Mr. Tom Landry to the Town of Apple Valley Planning Commission.

Vote: Motion carried 5-0-0-0

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

Absent: None

18. CalPERS Medical Benefits

Doug Robertson, Town Manager, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Council Member Cusack, seconded by Mayor Pro Tem Emick, to The Human Resources department recommends that the Town Council approve the attached resolution to be submitted to the CalPERS Board for the purpose of obtaining medical benefits for Town of Apple Valley employees and retirees.

Vote: Motion carried 5-0-0-0

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

Absent: None

REPORTS, REQUESTS AND COMMUNICATIONS

NONE

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, commented on the success of the Mayor's Youth Leadership Summit and the youth engagement that has occurred. He spoke of the events in 2019 including health care changes, development code amendments and the high-speed rail project. He spoke of upcoming events for the remainder of the year.

CLOSED SESSION

19. Closed Session

Mayor Nassif recessed the meeting of the Apple Valley Town Council at 9:16 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. Negotiations with Real Property Negotiator – Parcel Numbers: 0440-096-17 and 18, Apple Valley; Negotiating Parties: Interested parties, Michael Esquivel Family Trust & Irene Esquivel; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.

Upon returning from Closed Session at 9:47 p.m., Mayor Nassif announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Mayor Pro Tem Emick and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:48 p.m.

Scott Nassif, Mayor

La Vonda M-Pearson, Town Clerk