



Town Council Agenda Report

Date: April 28, 2020 Item No. 8

To: Honorable Mayor and Town Council

Subject: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DECLARING OPPOSITION TO THE CALIFORNIA JUDICIAL COUNCIL ZERO BAIL ORDER

From: Douglas B. Robertson, Town Manager

Submitted by: Julie Ryan, Special Projects Manager
Town Manager's Office

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

That the Town Council adopt Resolution No. 2020-15, a Resolution of the Town Council of the Town of Apple Valley declaring its Opposition to the California Judicial Council Zero Bail Order.

BACKGROUND

On April 6, 2020, the Judicial Council of California voted on an emergency order to temporarily end cash bail in some cases in an effort to reduce the inmate population and limit the spread of the coronavirus.

The ruling will remain in effect until 90 days after Governor Gavin Newsom lifts the COVID-19 state of emergency or if the Judicial Council repeals the rule. In all, the Council approved a variety of temporary emergency rules, such as:

- Suspend the entry of defaults in eviction cases;
- Suspend judicial foreclosures;
- Allow courts to require judicial proceedings and court operations be conducted remotely, with the defendant's consent in criminal proceedings;
- Adopt a statewide emergency bail schedule that sets bail at zero dollars for most misdemeanor and lower-level felony offenses;
- Allow defendants to appear via counsel or remote technologies for pretrial criminal hearings;

- Prioritize hearings and orders in juvenile justice proceedings and set a structure for remote hearings and continuances;
- Extend the timeframes for specified temporary restraining orders;
- Extend the statutes of limitations governing civil actions; and
- Allow electronic depositions in civil cases.

ANALYSIS

The emergency order will set bail at zero dollars for misdemeanors and certain felonies, with exceptions for serious felonies under Penal Code section 1192.7(c) and violent felonies under Penal Code sections 667.5(c), and other offenses such as those involving domestic violence or stalking, driving under the influence offenses, and offenses requiring sex offender registration. The application of the statewide order applies to any accused currently held in county jail custody charged with an offense covered by the schedule. Those suspected of DUI, domestic violence and sex crimes are also not included in the emergency order.

According to San Bernardino County Sheriff, the recent California Judicial Council decision to lower the cost of bail for some offenses to zero could cause a devastating impact to the county. Currently, the County jail population is lower than average which allows more bed space to isolate and quarantine inmates suspected of contracting the virus. However, based on this bail set at zero process, the County is unable to hold an inmate in custody to ensure there is no recontact, live with or cause any additional harm to a victim. The effects of the Zero Bail Order on the county could be overwhelming.

Adoption of Resolution No 2020-15 recognizes the importance of protecting the public health, safety and quality of life for the citizens of the Town of Apple Valley.

FISCAL IMPACT

There is no fiscal impact to approving this Resolution.

ATTACHMENTS

- A. Resolution No. 2020-15

RESOLUTION NO. 2020-15

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DECLARING OPPOSITION TO THE CALIFORNIA JUDICIAL COUNCIL ZERO BAIL ORDER

WHEREAS, Apple Valley Town Council is the elected governing body authorized to adopt appropriate ordinances, resolutions and police powers to protect the public health, safety and welfare of the citizens of the Town of Apple Valley; and,

WHEREAS, the Town of Apple Valley has placed a high priority of ensuring the safety and quality of life for its citizens; and

WHEREAS, the Town of Apple Valley is committed to developing programs, policies and opportunities that support public safety; and

WHEREAS, local government agencies are uniquely positioned to provide for the safety of citizens in their communities; and

WHEREAS, the Town of Apple Valley believes it is appropriate to oppose actions or initiatives at local, state and federal levels that could jeopardize the safety of citizens; and

WHEREAS, the recent emergency orders issued by the California Chief Justice of the Judicial Council in the wake of the global COVID-19 pandemic puts criminals back on our streets and endangers the safety of our communities; and

WHEREAS, the Emergency Bail Schedule (will) set bail at zero dollars for misdemeanors and certain felonies, with exceptions for serious felonies under Penal Code section 1192.7(c) and violent felonies under Penal Code sections 667.5(c), and other offenses such as those involving domestic violence or stalking, driving under the influence offenses, and offenses requiring sex offender registration; and

WHEREAS, the rule would provide that each superior court's current bail schedule would remain in effect for all offenses other than those addressed in the Emergency Bail Schedule and provide courts with authority to revise those remaining portions of their schedules, including setting bail for court-specific conduct enhancements and any status enhancements; and

WHEREAS, bail to be set at zero dollars for violations of misdemeanor probation, whether the arrest is made with or without a bench warrant. For violations of felony probation, parole, post release community supervision, or mandatory supervision, bail must be set in the same amount as bail for the underlying substantive charge of conviction under the Emergency Bail Schedule; and

WHEREAS, the Judicial Council's decision to enact zero bail for most misdemeanors and numerous felonies allows dangerous criminals, including human traffickers, drivers who kill someone in a hit and run, and abusers of children and the elderly, to be released back into our neighborhoods; and

WHEREAS, this order, which extends 90 days beyond the date California reopens for business, protects the criminals who have repeatedly victimized the law-abiding public while failing to safeguard the innocent; and

WHEREAS, the Town Council hereby opposes the California Judicial Council Zero Bail Order.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AS FOLLOWS:

- Section 1.** That the Town Council does hereby recognize the priority to ensure the safety of its citizens through adopted programs and policies.
- Section 2.** That the California Judicial Council Zero Bail Order would prove detrimental to the safety of citizens and is contrary to longstanding existing initiatives and statures related to public safety.
- Section 3.** That the Town Council is opposed to the California Judicial Council Zero Bail Order.
- Section 4.** That the Town Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

ADOPTED AND APPROVED by the Town Council of the Town of Apple Valley this 28th day of April 2020.

Scott Nassif
Mayor

ATTEST:

LaVonda M-Pearson
Town Clerk