

**MINUTES**

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

**July 28, 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 pm

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**

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

**PRESENTATIONS:** Recognition of Retirement - Carol Miller, Assistant Director of Community Development

**ANNOUNCEMENT:**

Mayor Pro Tem Emick announced the passing of his Planning Commissioner, Mr. Tom Lanyon. Our thoughts and prayers are with the Lanyon family. He asked that the meeting be adjourned in his memory.

**PUBLIC COMMENTS**

La Vonda M-Pearson, Town Clerk, made calls to the following individuals for public comment:

Melissa Whetsell, Apple Valley, commented on the coronavirus pandemic and her belief that many of the concerns were unfounded.

LaToya Brooks, Apple Valley, commented on businesses closing in the community due to the coronavirus.

**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 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:**

Mayor Nassif commented on outdoor lighting in Apple Valley. He respectfully requested, with the consensus of the Town Council to bring back an item for discussion on this issue.

Council Member Bishop commented on areas in the community where Outer Highway 18 is being eliminated. He respectfully requested, with the consensus of the Town Council, an item be brought forth on landscaping setbacks in those areas with renderings.

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

- A. Regular Meeting – August 11, 2020 – Council Chamber  
Regular Session at 6:30 p.m.**

## TOWN COUNCIL CONSENT AGENDA

### **MOTION**

Motion by Mayor Pro Tem Emick, seconded by Council Member Cusack, to approve the Consent Calendar items numbered 1-6, respectfully

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 – July 14, 2020.  
Recommendation:  
Approve the subject minutes as part of the consent agenda.**
  
- 2. SR18 and Apple Valley Road Intersection Realignment - Project No. 2020-05 – Award Contract for Construction.  
Recommendation:  
That the Town Council award a contract to Powell Constructors, Inc. for the SR18 and Apple Valley Road Intersection Realignment – Project No. 2020-05 in an amount not to exceed \$7,945,529.60 (seven million, nine hundred forty-five thousand, five hundred twenty-nine dollars and sixty cents).**
  
- 3. Award of Professional Services Agreement for the Stoddard Wells Road Widening Project  
Recommendation:  
Award a Professional Services Agreement to Onward Engineering for the Stoddard Wells Road Widening project subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.**

4. **Award of Professional Services Agreement for the Town Wide School Zone Analysis.**  
Recommendation:  
Award a Professional Services Agreement to Michael Baker International for the Town Wide School Zone Analysis subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.
  
5. **Construction Management and Inspection Services for the Apple Valley Desert Water Reuse Project - Contract Amendment No. 2.**  
Recommendation:  
Approve Amendment No. 2 to the June 2019, agreement between the Town of Apple Valley and Parsons Transportation Group for Construction Management and Inspection Services on the Apple Valley Desert Water Reuse Project for an amount not-to-exceed \$57,940.00.
  
6. **Fee Adjustments to Professional Services Agreement with Charles Abbott Associates, Inc., for Town Engineering and Building and Safety Services.**  
Recommendation:  
That the Town Council approve the Fee Adjustment to the Professional Services Agreement with Charles Abbott Associates, Inc., for Engineering and Building and Safety Services.

<b>PUBLIC HEARINGS</b>
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7. **Lighting and Landscape Assessment District #1- Public Hearing, Confirming Assessment and Levying Assessment for FY 2020-2021**

Mayor Nassif opened the public hearing at 7:17 p.m.

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

There being no requests to speak, Mayor Nassif closed the public hearing at 7:21 p.m.

**MOTION**

Motion by Mayor Pro Tem Emick, seconded by Council Member Leon, to adopt Resolution No. 2020-42, "A Resolution of the Town Council of the Town of Apple Valley confirming diagram and assessment and levying assessment for fiscal year 2020-2021"

Vote: Motion carried 5-0-0-0

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

Absent: None

8. **An Ordinance of the Town Council of the Town of Apple Valley by Amending Sections 9.08 and 9.36.030 and Adding Chapter 5.03 to Title 5 of the Town of Apple Valley Municipal Code Relating to the Regulation of Massage Establishments and Massage Technicians.**

Mayor Nassif opened the public hearing at 7:24 p.m.

Carol Miller, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk. She recommended amendments to the ordinance that would be corrected prior to the ordinance be brought back for adoption.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:27 p.m.

**MOTION**

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

- A. Find that the proposed adoption of Ordinance No. 531 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. 531 as a whole 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. 531.

**MOTION**

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

- C. Move to introduce Ordinance No. 531 amending Title 5 and Title 9 as it relates to Massage Establishment and Massage Technicians.
- 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

**9. An Amendment to the Town of Apple Valley Municipal Code, Title 5 Referencing Sidewalk Vending.**

**MOTION**

Motion by Mayor Pro Tem Emick, seconded by Council Member Leon, to continue this item to the October 13, 2020 Town Council meeting.

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

### 10. Verizon Contract for Cell Tower at Apple Valley Golf Course

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

La Vonda M-Pearson, Town Clerk, made calls to the following individuals for public comment:

Paul Nussbaum, PLN Telecom, spoke of his disappointment at the Town's actions to move forward with this project. He feels the Town is not honoring its word to not allow others to place towers on the property.

Nick Goldberg, High Tide Legal Group, reiterated the concerns expressed by Mr. Nussbaum and believed that the Town was not being fair in its proposed action to allow another tower at the Golf Course. He referred to documents he submitted to the Town regarding this item and in support of his opposition.

Discussion ensued regarding the current providers located on the towers at the golf course.

#### **MOTION**

Motion by Mayor Pro Tem Emick, seconded by Council Member Cusack, to approve the attached Cell Site Lease Agreement between Los Angeles SMSA LP (dba Verizon Wireless) ("Licensee") and the Town of Apple Valley ("Licensor") establishing the terms and conditions applicable to the installation and construction of a Los Angeles SMSA LP facility with a two (2)-carrier pine tree designed telecommunication facility at the maintenance yard of the Apple Valley Golf Course.

Vote: Motion carried 5-0-0-0

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

Absent: None

### 11. Consideration of Placing a One Percent Transactions and Use Tax (Sales Tax) Measure on the November 3, 2020 Ballot.

Doug Robertson, Town Manager, presented the staff report as filed with the Town Clerk. Mr. Robertson answered questions of the Council regarding the Town's allotment of sales tax explaining that the Town receives a small percentage and the bulk is received by the State. He also commented on the potential impact of finances due to the COVID-19 pandemic.

La Vonda M-Pearson, Town Clerk, made calls to the following individuals for public comment:

David Lisberg, Apple Valley, spoke in support of the proposed sales tax measure.

Jackie Brown, Apple Valley, spoke in support of the proposed sales tax measure.

Rusty Green, Apple Valley, spoke in support of the proposed sales tax measure.

Latoya Brooks, Apple Valley, spoke in opposition of the proposed sales tax measure.

Written comments on this item were received from:

Regina Cervantes  
Richard Line  
Anthony Mejia  
Lance Christiansen  
David Smith

All written public comments received are available for public review on the Town of Apple Valley webpage.

Council Member Cusack commented on the need

The Apple Valley Town Council Members each commented on the need to move forward with a sales tax measure in an effort to maintain the same level of service currently provided to the community and enhance other areas such as public safety as needed.

### **MOTION**

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

- A. Adopt Resolution No. 2020-43 calling for the placement of a General Tax Measure on the ballot for the November 3, 2020 General Municipal Election for the submission to the qualified voters of an Ordinance to enact a General Transactions and Use Tax (Sales Tax) at the rate of one percent (1%).
- B. Adopt Resolution No. 2020-44 requesting the Board of Supervisors of the County of San Bernardino to consolidate a General Municipal Election to be held on November 3, 2020 with the Statewide General Election to be held on that date pursuant to Elections Code Section 10403.
- C. Adopt Resolution No. 2020-45 providing for the filing of the primary and rebuttal arguments and setting rules for the filing of written arguments regarding a Town Measure to be submitted at the November 3, 2020 General Municipal Election.

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**

### **DEPARTMENTAL REPORTS AND BUSINESS**

Doug Robertson, Town Manager, discussed the Cares Act Fund and the ability/restrictions on the use of those funds. He stated that staff is looking at ways to use those funds that meeting the requirements. He also spoke of the lack of revenue replacement dollars provided for cities in the

stimulus package. He also commented on available funding to the Town to assist with COVID related enforcement to ensure compliance through education.

## CLOSED SESSION

### 12. Closed Session

Mayor Nassif recessed the meeting of the Apple Valley Town Council at 8:55 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.
- E. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluation. Title: Town Manager

Upon returning from Closed Session at 10:38 p.m., Mayor Nassif announced that there was no reportable action taken.

## ADJOURNMENT

Motion by Mayor Pro Tem Emick, seconded by Council Member Cusack and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 10.39 p.m. in memory of Town of Apple Valley Planning Commissioner Tom Lanyon

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Scott Nassif, Mayor

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La Vonda M-Pearson, Town Clerk