

MINUTES

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

August 25, 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 Nassif

Absent: Mayor Pro Tem Emick.

OPENING CEREMONIES

INVOCATION: Pastor Ferguson, Calvary Chapel

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

PRESENTATIONS: None.

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. She believed meetings should be open to the public and stated that she will be speaking at school board meetings regarding distance learning.

Corina Rivera, Apple Valley, expressed concern regarding increased traffic and trash near her home. She respectfully requested the Town to do something to control this matter.

Phillip Rivera, Apple Valley, stated that he has lived in Apple Valley for over 20 years, just east of Sitting Bull Academy. He too spoke of the parking, trash and debris that is occurring in the empty field near the area. He thanked the Town for what they do for tax paying citizens and asked if this issue could be addressed.

Erin Salgado, Apple Valley, thanked the Town Code Enforcement Department for coming out and assisting with clean-up in the neighborhood. She too spoke of the increased trash and debris dumped in the vacant lot. She stated that neighbors are also experiencing graffiti and expressed concern regarding the trash near Starbucks not being cleaned up.

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 Nassif commented on committee meetings and events that he attended.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Council Member Bishop commented on the upcoming election and asked for information on polling places and ballots.

La Vonda M-Pearson, Town Clerk, stated that she would be meeting with election personnel this week and would provide information to the Council as soon as it was available.

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

- A. Regular Meeting – September 8, 2020 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

MOTION

Motion by Council Member Bishop, seconded by Council Member Cusack, to approve the Consent Calendar items numbered 1-4, respectfully

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop, Cusack, Leon, Mayor Nassif.

Absent: Mayor Pro Tem Emick

1. **Approval of Minutes of the Town Council.**
A. Regular Meeting – August 11, 2020
Recommendation:
Approve the subject minutes as part of the consent agenda.
2. **Quarterly Treasurer's Report – April – June 2020**
Recommendation:
That Town Council receive and file the April-June 2020 Quarterly Treasurer's Report.
3. **Updated Measure I 5 Year Plan**
Recommendation:
 - A. That the Town Council Approve FY 2020/2021 through 2024/2025 Measure I, 5-year plan
 - B. Adopt Resolution No 2020-46, "A Resolution of the Town Council of the Town of Apple Valley, State of California, Adopting the Measure I Five Year Capital Improvement Program"

4. Measure I 5 Year Plan.

Recommendation:

- A. That the Town Council Approve FY 2020/2021 through 2024/2025 Measure I, 5-year plan
- B. Adopt Resolution No 2020-47, "A Resolution of the Town Council of the Town of Apple Valley, State of California, Adopting the Measure I Five Year Capital Improvement Program"

PUBLIC HEARINGS

5. Development Code Amendment No. 2020-002 is a Request to Modify Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Removing Chapter 9.15 "Commercial/Industrial Revitalization Permits" as Obsolete. All Applicable Reductions to Development Standards Afforded Through Chapter 9.15 Would Remain as Available Options Through the Deviation Permit Process.

Mayor Nassif opened the public hearing at 7:07 p.m.

Lori Lamson, Assistant Town Manager, first recognized Boy Scout Troop 50 from Victorville, California. She announced they were viewing the meeting as part of their merit badge program.

Ms. Lamson presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:08 p.m.

MOTION

Motion by Council Member Bishop, 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. 2020-002 adopted July 15, 2020, 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. 533 in its entirety and read by title only.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop, Cusack, Leon, Mayor Nassif.

Absent: Mayor Pro Tem Emick

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 533.

MOTION

Motion by Council Member Bishop, seconded by Council Member Cusack, to

- D. Introduce Ordinance No. 533 approving Development Code Amendment No. 2020-002; and
- E. Direct staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop, Cusack, Leon, Mayor Nassif.

Absent: Mayor Pro Tem Emick

6. Development Code Amendment No. 2020-005 is an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Modifying Provisions Relating to Landscape Setbacks Regulations for Commercial Development.

Mayor Nassif opened the public hearing at 7:13 p.m.

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

Discussion ensued regarding decorative block wall fencing.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:17 p.m.

MOTION

Motion by Council Member Bishop , seconded by Council Member Leon, to

- A. Determine that, Pursuant to Section 21080.17 of the State Guidelines to Implement the California Environmental Quality Act (CEQA), this proposal Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that 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. 2020-03 adopted July 15, 2020, 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. 534 in its entirety and read by title only.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop, Cusack, Leon, Mayor Nassif.

Absent: Mayor Pro Tem Emick

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 534.

MOTION

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

- D. Introduce Ordinance No. 534 approving Development Code Amendment No. 2020-005; and
- E. Direct staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop, Cusack, Leon, Mayor Nassif.

Absent: Mayor Pro Tem Emick

7. Development Code Amendment No. 2020-006 is an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Modifying Provisions Relating to the Location Regulations for Gasoline/Service Stations and Above Ground Petroleum Tanks.

Mayor Nassif opened the public hearing at 7:19 p.m.

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

Discussion ensued regarding vertical tanks and screening.

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

- A. Determine that, Pursuant to Section 21080.17 of the State Guidelines to Implement the California Environmental Quality Act (CEQA), this proposal Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that 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. 2020-004 adopted July 15, 2020, together with subsequent attorney comments, 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. 535 in its entirety and read by title only.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop, Cusack, Leon, Mayor Nassif.

Absent: Mayor Pro Tem Emick

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 535.

MOTION

Motion by Council Member Bishop, seconded by Council Member Leon, to

- D. Introduce Ordinance No. 535 approving Development Code Amendment No. 2020-006; and
- E. Direct staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

Vote: Motion carried 4-0-0-1

Yes: Council Members Bishop, Cusack, Leon, Mayor Nassif.

Absent: Mayor Pro Tem Emick

BUSINESS OF THE COUNCIL

8. Discussion of Lighting Regulations

Lori Lamson, Assistant Town Manager, presented the staff report as filed with the Town Clerk. She commented on possible regulations that could be easily enforced and assist with lighting intrusion in neighborhoods.

Mayor Nassif confirmed that there are lighting regulations on new commercial development.

It was the consensus of the Town Council to direct staff to initiate a Development Code Amendment to add regulations to the Development Code that would address the issue of light nuisances and light regulations with the single-family land use.

9 Options Relating to Holding Brown Act Compliant Public Meetings During the Covid-19 Emergency

Thomas Rice, Town Attorney, presented the staff report as filed with the Town Clerk.

Council Member Cusack spoke of the disadvantage to developers when presenting their items to the Planning Commission via teleconference. He suggested that a method be designed that would allow them to be able to present their items in person during the pandemic.

Melissa Whetsell, Apple Valley, expressed annoyance regarding the County of San Bernardino still being on the watch list and the mask requirement.

Discussion ensued regarding a process moving forward that would remain in compliance with State and County mandates.

It was the consensus of the Town Council to continue to operate its meetings under Option 2 – Closed Meeting, Streamed for Public with Opportunity to Participate.

REPORTS, REQUESTS AND COMMUNICATIONS

None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Doug Robertson, Town Manager, announced the new and improved two-member strike team in as budgeted for the Code Enforcement Division. He explained that this would assist in clean-up. He commented on the audio upgrades to the Council Chambers and thanked staff for their work in this endeavor.

Mr. Robertson also commented on Horseman Center Park and the temporarily closure due to the well. He discussed the process for reopening as a dry park on Monday, August 31 until water could be restored. He explained that staff is looking at best options available for installation of a new well; however, funding is not available at this time.

CLOSED SESSION

10. Closed Session

Mayor Nassif recessed the meeting of the Apple Valley Town Council at 8:09 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 8:31 p.m., Mayor Nassif announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Bishop, seconded by Council Member Cusack and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:31 p.m.

Scott Nassif, Mayor

La Vonda M-Pearson, Town Clerk