

MINUTES

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

October 13, 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

INVOCATION: Pastor Riley, Christ the Solid Rock Church of Apple Valley

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

PRESENTATIONS: None

PUBLIC COMMENTS

Melissa Whetsell, Apple Valley, encouraged the Council to speak and voice their opinion at the County Board Meeting recommending they speak in opposition of mask requirements. She also read portions of a proposed county ordinance that referenced making violations of the Governors Executive Order a crime. She encouraged citizens to voice their concerns of opposition. She welcomed the attendance of everyone at a protest that will be held at the County Department of Health on Thursday, October 16, 2020.

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 future agenda:

Council Member Cusack recommended the establishment of a committee or oversight board to oversee the golf course in an effort to help raise funds for the golf course.

Council Member Leon recommended an item be brought forth to the Council to discuss street sign improvements and/or new color designs for the signs.

Council Member Bishop recommended the Council discuss current litigation in reference to COVID 19. He also would like an update on Proposition 68.

Mayor Pro Tem Emick recommended a discussion be held on rental assistance for the community.

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

A. Regular Meeting – October 27, 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 and Christian Brothers as a landlord to these entities. Therefore, she will be recusing herself from voting on the warrants for these businesses.

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

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 items.

MOTION

Motion by Mayor Pro Tem Emick, seconded by Council Member Bishop, to approve the Consent Calendar items numbered 1 - 8 as recommended.

Vote: Motion carried 5-0-0-0

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

Absent: None

Council Members Cusack, Leon, and Mayor Nassif recused from voting on specific items as noted.

- 1. Approval of Minutes of the Town Council.
A. Regular Meeting – September 22, 2020.
Recommendation:
Approve the subject minutes as part of the consent agenda.**
- 2. September 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. September 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 \$69,312 for Fiscal Year 2020-21.**
- 5. Approve California Choice Energy Authority Entering Into A Long-Term Resource Adequacy Agreement With Calpine Energy Services, L.P. On Behalf Of Apple Valley Choice Energy.
Recommendation:
Approve California Choice Energy Authority Entering Into A Long-Term Resource Adequacy Agreement With Calpine Energy Services, L.P. On Behalf Of Apple Valley Choice Energy.**
- 6. Updated Schedule of Future Development Code Amendment Discussions.
Recommendation:
Receive and file**
- 7. Award of Professional Services Agreement for the Jess Ranch Lift Station Upgrade Project
Recommendation:
Award a Professional Services Agreement to Lee + Ro for the Jess Ranch Lift Station Upgrade project subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.**

8. **Adopt Resolution 2020-52, A Resolution Amending the Records Retention Schedule for the Town of Apple Valley, Authorizing Appropriate Document Destruction and Rescinding Resolution Number 2020-17.**

Recommendation:

That the Town Council approve and adopt Resolution Number 2020-52, amending the Records Retention Schedule for the Town of Apple Valley, authorizing appropriate destruction of records if consistent with the Records Retention Schedule and Rescinding Resolution Number 2020-17.

PUBLIC HEARINGS

9. **Introduce Ordinance No. 537 – An Ordinance of the Town Council of the Town of Apple Valley, California, Adding Chapter 5.08 to the Town of Apple Valley Municipal Code, Imposing Regulations on Sidewalk Vending in Compliance with Senate Bill 946.**

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

Guy Eisenbrey, Code Enforcement Manager, presented the staff report as filed with the Town Clerk.

Mr. Eisenbrey explained the prohibitions of the code in reference to the state law. He also explained the definition of roaming vendors and noted that there would be a charge to vendors for a permit.

During discussion, the Town Council expressed their concern to Senate Bill 946 as written, recognizing that the Town ordinance was needed to comply with the law.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:43 p.m.

MOTION

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

- A. Find that the proposed adoption of Ordinance No. 537 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. 537 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. 537.

MOTION

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

- C. Move to introduce Ordinance No. 537 adding Chapter 5.08 to the Town of Apple Valley Municipal Code, imposing regulations on sidewalk vending in compliance with Senate Bill 946.
- 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

10. **Town of Apple Valley Fiscal Review**

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

The Town Council recommended that the PowerPoint slides be placed on the Town's website to allow viewing by the public.

This was a receive and file item only. No action taken.

11. **A Resolution of the Town Council of the Town of Apple Valley Requesting a Tiered Designation Under the State of California's "Blueprint for a Safer Economy" by Recognizing the County of San Bernardino by Sub-Region Rather than as One County for the Purposes of Reopening**

Doug Robertson, Town Manager, presented the staff report as filed with the Town Clerk. He stated that recommending a different method of reopening for the County of San Bernardino was not an attempt to open earlier than safe for our region.

MOTION

Motion by Mayor Pro Tem Emick, seconded by Council Member Cusack, to adopt Resolution No. 2020-53, a Resolution of the Town Council of the Town of Apple Valley requesting a tiered designation under the State of California's "Blueprint for a Safer Economy" by recognizing the County of San Bernardino by sub-region rather than as one County for the purposes of reopening and authorize the Mayor to sign a letter of support.

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

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, announced that the Town of Apple Valley was accepting entries for its Annual Community Calendar. He stated that more information was available online at applevalley.org. He also announced that a Trunk or Treat drive-thru event would be held at Horseman's Center on Friday, October 30.

Mr. Robertson reminded the public that early voting in the Town of Apple Valley would begin on Monday, October 26 in the Town's Recreation Center and polling place voting would begin on October 31.

CLOSED SESSION

12. Closed Session

Mayor Nassif adjourned the regular meeting to Closed Session at 8:31 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.

Upon returning from Closed Session at 9:01 p.m., Mayor Nassif announced that there was no reportable action taken.

ADJOURNMENT

MOTION

Motion by Mayor Pro Emick, seconded by Council Member Leon and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:02 p.m.

Scott Nassif, Mayor

La Vonda M-Pearson, Town Clerk