

MINUTES

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

November 10, 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 Leon

PRESENTATIONS: Employee of the Quarter – Silvia Caraballo-Urenda, Housing and Community Development Specialist.

PUBLIC COMMENTS

Matt Drake, Apple Valley, stated that he was a member of the Apple Valley Men’s Club. He informed the Council that he would like to participate in assisting the Town with identifying funding opportunities for the Apple Valley Golf Course.

Rachel Avendano, Apple Valley stated that she has lived in the community since 1988. She expressed concern regarding problems that she is having with the police department and code enforcement. She explained that she has reached out to various Town departments and has not received a response. She respectfully requested assistance from the Town Council.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

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

Council Member Bishop commented on committee meetings and events that he 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:

Mayor Nassif spoke about Measure O and it being unsuccessful at passing. He recommended that the Town consider a Citizens Committee to allow engagement from the public on matters involving the Town as we move forward. He asked staff to prepare a report for review and approval on the creation of this type of a committee.

Council Member Leon asked that the report provided addressed concerns/remarks expressed on social media.

Council Member Bishop recommended that letters of congratulations be mailed to our local election winners.

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

- A. Regular Meeting – December 8, 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 Council Member Bishop, seconded by Council Member Leon, to approve the Consent Calendar items numbered 1 - 7 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 – October 27, 2020.
Recommendation:
Approve the subject minutes as part of the consent agenda.
2. **October 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. **October 2020 Payroll/Benefits Warrants Schedule.**
Recommendation:
That the Town Council receive, ratify and file the Payroll/Benefits Schedule.
4. **Approve Entering into an Escrow and Deposit Account Control Agreement with River City Bank and Southern California Edison on Behalf of Apple Valley Choice Energy to Comply with California Public Utilities Commission Financial Security Requirements.**
Recommendation:
That the Town Council approve entering into an Escrow and Deposit Account Control Agreement (Escrow Agreement) with River City Bank (RCB) and Southern California Edison (SCE) on behalf of Apple Valley Choice Energy (AVCE), and authorize the Town Manager, or designee, to execute an Escrow Agreement in a form substantially as attached.
5. **Second Reading of Ordinance 538 of the Town of Apple Valley, California, Amending Title 9 “Development Code” of the Town of Apple Valley Municipal Code by Modifying Section 9.29.060 “Manufactured Housing Standards” as it Relates to Age and Design Standards of Manufactured Housing Located Outside of any Manufactured or Mobile Home Park (DCA 2020-007)**
Recommendation:
Adopt Ordinance No. 538
6. **Updated Schedule of future Development Code Amendment Discussions**
Recommendation:
Receive and file
7. **Landscaping Installation Agreement Between the Town of Apple Valley and Daniel and Angela Young.**
Recommendation:

It is recommended that the Town Council enter into a landscaping installation agreement between the Town of Apple Valley and Daniel and Angela Young.

PUBLIC HEARINGS

8. **An Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code Modifying Chapter 9.72 "Off-Street Parking and Loading Regulations" by Updating Minimum Parking Space Requirements, Permitting Administrative Review of Shared Parking Agreements, Revisions Necessary to Provide Implementation Clarification and Consistency with Associated Development Code Sections, and General Clean-Up Which May Include Corrections to, or Removal of, Certain Tables, Diagrams or Figures.**

Mayor Nassif opened the public hearing at 7:12 p.m.

Daniel Alcayaga, Planning Manager, presented the staff report as filed with the Town Clerk.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:20 p.m.

MOTION

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

- A. Determine that, Pursuant to Section 21080.17 of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it has been 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. 2020-001 adopted October 7, 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. 539 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. 539.

MOTION

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

- D. Introduce Ordinance No. 539 approving Development Code Amendment No. 2020-001; 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

9. An Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code Modifying Chapter 9.77 "Wireless Telecommunication Facilities" as it Relates to General Requirements, Setback and Separation Distance Reductions, and Expanding on Locations Where Towers can be Placed with Approval of a Conditional Use Permit

Mayor Nassif opened the public hearing at 7:21 p.m.

Daniel Alcayaga, Planning Manager, presented the staff report as filed with the Town Clerk.

Discussion ensued regarding the proposed amendments to Section 9.77.180 - Preferred Locations.

There being no requests to speak, Mayor Nassif closed the public hearing at 7:40 p.m.

MOTION

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

- A. Determine that, Pursuant to Section 21080.17 of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it has been 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 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. 540 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. 540.

MOTION

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

- D. Introduce Ordinance No. 540 approving Development Code Amendment No. 2020-009 as amended; 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

10. Recommendations from the Ad Hoc Committee for Multi-Family Development Code Regulations

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

Commented on the ad hoc meeting. If council recommends DCA will be initiated and sent to planning commission and then back to council for final approval.

Barbara Monroy, Business Owner, submitted a public comment in which she provided suggestions for additional modifications to the code. Ms. Monroy's written comment was provided to the Council and listed on the Town of Apple Valley webpage.

It was the consensus of the Town Council to recommend the initiation of a Development Code Amendment on this item.

REPORTS, REQUESTS AND COMMUNICATIONS

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, commented on the success of the Trunk or Treat. He announced the upcoming holiday closure and noted that staff is working on a virtual tree lighting event for the public.

CLOSED SESSION

11. Closed Session

Mayor Nassif recessed the meeting of the Apple Valley Town Council at 8:10 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. Conference with Legal Counsel - Existing Litigation (Pursuant to Government Code Section 54956.9(a) and (d)(1)): Town of Apple Valley v. Hai Do et al., San Bernardino Superior Court Case No. CIVDS 1925188.
- F. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8: Property Address: A 10-acre parcel located five hundred feet west of the intersection of Navajo Rd and Sioux Rd with APN 3087-481-05; Agency Negotiator: Town Manager – Negotiating Parties: Coachella Valley Housing Coalition; Under Negotiation: Price and Terms

Upon returning from Closed Session at 9:15 p.m., Mayor Nassif announced that there was no reportable action taken.

ADJOURNMENT

MOTION

Motion by Mayor Pro Emick, seconded by Council Member Bishop, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 9:16 p.m.

Scott Nassif, Mayor

La Vonda M-Pearson, Town Clerk