

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

REGULAR MEETING

MINUTES - December 8, 2020

CALL TO ORDER:

Mayor Nassif called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:30 p.m.

Roll call was taken with the following members present:

Present: Council Members Cusack; Leon; Mayor Pro Tem Emick; Mayor Nassif
Absent: Council Member Bishop.

OPENING CEREMONIES

INVOCATION: Richard Rorex, Apple Valley.

PLEDGE OF ALLEGIANCE: The Pledge Of Allegiance was led by Mayor Pro Tem Emick.

PRESENTATIONS: None.

CANVASS OF ELECTION RESULTS

- 1. Results of Canvass of Election Returns of the Town of Apple Valley General Municipal Election Held on November 3, 2020 and adopt Resolution No. 2018-53 Reciting the Fact of the Election and Such Other Matters Provided by Law.**

Kiel Mangerino, Deputy Town Clerk, presented the staff report as filed with the Town Clerk

MOTION

Motion by Mayor Pro-Tem Emick and Seconded by Council Member Leon, to adopt Resolution No. 2020-58 reciting the fact of the election and such other matters provided by law.

Vote: Motion carried 4-0-0-1
Yes: Council Members Cusack; Leon; Mayor Pro-Tem Emick; Mayor Nassif
Absent: Council Member Bishop

2. Installation of Newly Elected Council Members Pursuant to the Results of the Special Municipal Election Held November 3, 2020.

Kiel Mangerino, Deputy Town Clerk, conducted the Installation of Officer for the following elected official:

Oath of Office Administered to Council Member Larry Cusack.

3. Selection of Mayor and Mayor Pro Tempore

MOTION

Motion by Council Member Cusack, seconded by Council Member Leon, to nominate Curt Emick as Mayor of the Town of Apple Valley.

Vote: Motion Carried 4-0-0-1
Yes: Council Members Cusack; Leon; Mayor Pro Tem Emick; Mayor Nassif
Absent: Council Member Bishop

MOTION

Motion by Mayor Nassif and seconded by Council Member Cusack, to nominate Kari Leon as Mayor Pro-Tem of the Town of Apple Valley.

Vote: Motion Carried 4-0-0-1
Yes: Council Member Cusack; Leon; Mayor Pro-Tem Emick; Mayor Nassif
Absent: Council Member Bishop

RECESS FOR REORGANIZATION

PRESENTATION:

Mayor's Plaque – Mayor Nassif for his term as Mayor on the Town Council for the period December 2019 to December 2020.

PUBLIC COMMENTS

Al Rice, Apple Valley, expressed his concerns regarding the Town's debt and his gratitude towards the police department for dealing with a nuisance motorist in his neighborhood.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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

Council Member Nassif thanked the Town Council and the community for their support.

Mayor Pro Tem Leon commented on committee meetings and events that he attended.

Mayor Emick commented on committee meetings and events that he attended.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

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

- A. Regular Meeting – January 12, 2021 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Mayor Emick announced that we will be continuing Agenda Item Number 11 of the Consent Agenda to the January 12, 2020 meeting.

Kiel Mangerino, Deputy Town Clerk, read the disclosure statement for specific warrants listed on the agenda.

Mayor Pro-Tem Leon has a remote interest in specific warrants on tonight's Commercial Warrants dealing with Solution Strategies and Christian Brothers as a landlord to this entity. Therefore, she will be recusing herself from voting on the warrants for this business.

Mayor Pro-Tem Leon confirmed that she would be recusing from voting on these warrants.

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.

Council Member 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 Council Member Nassif is maintained on file in the Town Clerk's Office and available for review at the dais.

Council Member Nassif confirmed that he would be recusing from voting on these warrants.

Al Rice, Apple Valley, expressed his concerns regarding Agenda Item Number 20A which he believed contained errors.

Doug Robertson, Town Manager, presented information regarding the grant financing for Agenda Items 13, 14, 15, 16, 17, and 18.

Motion by Council Member Nassif, seconded by Council Member Cusack, to approve the Consent Calendar items numbers 4 – 10 and 12 -20A, as presented, and that item number 11 be continued to the next meeting.

Vote: Motion Carried 4-0-0-1
Yes: Council Members Cusack, Nassif, Mayor Pro-Tem Leon, Mayor Emick.
Absent: Council Member Bishop

4. Approval of Minutes of the Town Council.

A. Regular Meeting – November 10, 2020

Recommendation:

Approve the subject minutes as part of the consent agenda.

5. November 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.

6. November 2020 Payroll/Benefits Warrants Schedule.

Recommendation:

That the Town Council receive, ratify and file the Payroll/Benefits Schedule.

7. Second Reading Ord. 539

Recommendation:

Adopt Ordinance. 539.

8. Second Reading Ord. 540

Recommendation:

Adopt Ordinance. 540.

9. A Resolution of the Town of Apple Valley, California, Determining the Amount of Property Tax Revenues to be Transferred as a Result of the Pending Reorganization to Include the Annexation to the Town of Apple Valley from County Service Area 70 as Described in LAFCO No. 3244.

Recommendation:

Approve Resolution No. 2020-59 of the Town of Apple Valley determining the amount of property tax revenues to be transferred as a result of the pending reorganization to include the annexation to the Town of Apple Valley from County Service Area 70 as described in LAFCO No. 3244.

10. Updated Schedule of future Development Code Amendment Discussions

Recommendation:

Receive and file.

11. Annual Agreed-Upon Procedures Report of the Apple Valley Village Property and Business Improvement District (“PBID”) Association.

Continued to the January 12, 2021 Town Council Meeting.

- 12. Approve Entering into a Long-Term Renewable Energy Agreement with Manzana Wind LLC.**
Recommendation:
Approve entering into a long-term renewable energy agreement with Manzana Wind LLC for Apple Valley Choice Energy, and authorize the Town Manager to execute a Power Purchase Agreement in a form substantially as attached.
- 13. Adopt Resolutions 2020-54, 2020-55, 2020-56 and 2020-57 Approval to Submit Application for Proposition 68 Grant.**
Recommendation:
That the Town Council adopt Resolutions 2020-54, 2020-55, 2020-56, and 2020-57.
- 14. That Town Council Ratify the Purchase of a Shade Structure and Installation Costs for Civic Center Park.**
Recommendation:
That Town Council ratify the purchase of an octagonal shade shelter and installation at Civic Center Park and authorize the Town Manager or designee to execute appropriate agreements and documentation.
- 15. That Town Council Ratify the Purchase of Exo Cage Outdoor Gym Structure and Installation Services at Three Park Locations.**
Recommendation:
That Town Council ratify the purchase of three Exo Cage Outdoor Gym Structures and installation at Brewster Sports Center, Thunderbird Park and James Woody Park and authorize the Town Manager or designee to execute appropriate agreements and documentation.
- 16. That Council Ratify the Purchase of Professional Audio/Visual and Installation Services for the Town Council Chambers, Conference Center, and Civic Center Conference Rooms.**
Recommendation:
That Council ratify the purchase for Phase 2 of the Council Chambers and Conference Center Audio/Visual Upgrade Project and implementation services to Matrix Audio Visual Designs, Inc., not-to-exceed the amount of \$550,000.00, and authorize the Town Manager or designee to execute appropriate agreements and documentation.
- 17. That Council Ratify the Purchase of Core Networking Switch Upgrade and Implementation Services.**
Recommendation:
That Council Ratify the purchase for the Cisco Networking Switches upgrade, licensing, and implementation services to Logicalis, Inc., not-to-exceed the amount of \$150,000.00, and authorize the Town Manager or designee to execute appropriate agreements and documentation.

18. That Council Ratify the Purchase of Phone System Upgrade and Implementation Services.

Recommendation:

That Council ratify the purchase for the Cisco Voice Over Internet Protocol (VOIP) phone system upgrade, licensing, and implementation services to Logicalis, Inc., not-to-exceed the amount of \$125,000.00, and authorize the Town Manager or designee to execute appropriate agreements and documentation.

19. A Resolution of the Town Council of the Town of Apple Valley, California, Amending the Classification and Salary Plan for the Town of Apple Valley.

Recommendation:

That the Town Council adopt the attached Resolution No. 2020-60, a Resolution of the Town Council of the Town of Apple Valley, California, amending the current Classification and Salary plan.

20. Navajo Road Drainage Improvements Project.

Recommendation:

A. That Town Council review and approve the bid documents for Navajo Road Drainage Improvements – Project 2020-07.

B. That Town Council authorize staff to solicit bids for construction of said project.

20A. Approving and Authorizing Transmittal of a Recognized Obligation Payment Schedule and Administrative Budget for Fiscal Year 2021-22

Recommendation:

Adopt a resolution approving and authorizing transmittal of a Recognized Obligation Payment Schedule and Administrative Budget for Fiscal Year 2021-22.

PUBLIC HEARINGS

21. Draft Program Year (PY) 2019-2020 Community Development Block Grant (CDBG), Consolidated Annual Performance Evaluation Report (CAPER)

Mayor Emick opened the public hearing at 7:10 p.m.

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

There being no requests to speak, Mayor Emick closed the Public Hearing at 7:17 p.m.

MOTION

Motion by Council Member Nassif, seconded by Council Member Cusack, to approve the PY 2019-2020 CAPER and to authorize the Town Manager or his designee to submit the PY 2019-2020 CAPER to the U.S. Department of Housing and Urban Development (“HUD”), along with any public testimony and changes thereto as directed by the Town Council.

Vote: Motion Carried 4-0-0-1

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

Absent: Council Member Bishop

22. Development Code Amendment No. 2020-008 is a Request to Modify Title 9 "Development Code" of the Town of Apple Valley Municipal Code as it Relates to Permitted Locations and Operating Standards of Large and Small Recycling Collection Facilities

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

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

Council Member Nassif enquired whether this ordinance would affect recycling businesses already established in Apple Valley.

Mayor Pro-Tem Leon thanked staff for accommodating both large and small facilities.

There being no requests to speak, Mayor Emick closed the public hearing at 7:24 p.m.

MOTION

Motion by Council Member Nassif, seconded by Council Member Cusack, 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. 2020-006 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.541 in its entirety and read by title only.

Vote: Motion Carried 4-0-0-1
Yes: Council Members Cusack, Nassif, Mayor Pro-Tem Leon, Mayor Emick
Absent: Council Member Bishop

Kiel Mangerino, Deputy Town Clerk, read the title to Ordinance No. 541.

MOTION:

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

- D. Introduce Ordinance No.541 approving Development Code Amendment No. 2020-008; 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 Cusack, Nassif, Mayor Pro-Tem Leon, Mayor Emick
Absent: Council Member Bishop

23. Development Code Amendment No. 2020-010 is a Request to Modify Title 9 "Development Code" of the Town of Apple Valley Municipal Code with the Addition of Regulations Relating to Nuisance Lighting and Glare Between Residential Properties and Removal of all References Relating to the "Dark Sky Policy".

Mayor Emick opened the public hearing at 7:25 p.m.

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

Mayor Emick enquired about the enforcement for the new lighting ordinance.

There being no requests to speak, Mayor Emick closed the public hearing at 7:28 p.m.

MOTION

Motion by Council Member Nassif, seconded by Mayor Emick, 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. 2020-008 adopted October 21, 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. 542 in its entirety and read by title only.

Vote: Motion Carried 4-0-0-1
Yes: Council Members Cusack, Nassif, Mayor Pro-Tem Leon, Mayor Emick
Absent: Council Member Bishop

Kiel Mangerino, Deputy Town Clerk, read the title to Ordinance No. 542.

MOTION

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

- D. Introduce Ordinance No. 542 approving Development Code Amendment No. 2020-010; 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 Cusack, Nassif, Mayor Pro-Tem Leon, Mayor Emick
Absent: Council Member Bishop

BUSINESS OF THE COUNCIL

24. Council Member Representation on Various Boards, Committees and Commissions

Continued to the January 12, 2021 Town Council Meeting.

ADDENDUM TO THE AGENDA

24A. Consideration of the Formation of a Citizen's Advisory Committee

Council Member Nassif presented the staff report as filed with the Town Clerk.

Discussion ensued surrounding the structure of the committee as well as the timeframe for committee meetings.

It was the consensus of the Town Council to direct staff to prepare a staff report establishing the Citizen's Committee and the structure of the committee for council approval.

REPORTS, REQUESTS AND COMMUNICATIONS

None.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Doug Robertson, Town Manager, reminded the public that just because the Town shares information about Covid-19 does not mean that the Council or staff necessarily agree with the information or policies that is shared. Mr. Robertson also wished everyone a very merry Christmas.

CLOSED SESSION

25. Closed Session

Mayor Emick recessed the meeting of the Apple Valley Town Council at 7:45 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 8:23 p.m., Mayor Emick announced that there was no reportable action taken.

ADJOURNMENT

MOTION

Motion by Mayor Emick, seconded by Council Member Nassif and unanimously carried, to adjourn the meeting of the Town Council of the Town of Apple Valley in memory of Mr. Tom Carpino and Mr. Gus Alfaro at 8:24 p.m.

Curt Emick, Mayor

Kiel Mangerino, Deputy Town Clerk