

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

REGULAR MEETING

MINUTES – January 12, 2021

CALL TO ORDER:

Mayor Emick 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 Bishop; Cusack; Nassif; Mayor Emick
Absent: Mayor Pro Tem Leon.

OPENING CEREMONIES

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

COUNCIL MEMBER INSTALLATION

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

Recommendation:
Installation of Officer.

Oath of Office to be Administered to Council Member Art Bishop

PRESENTATIONS

PRESENTATIONS: Community Calendar Photography Contest Winners – Kenneth Sousa, Public Relations Specialist.

PUBLIC COMMENTS

Joseph Silva, Apple Valley, stated that he would like to place a steel building structure in his back yard. He indicated that he was given conflicting information in regard to his request and would like assistance from the Town Council. He noted that others in his area have these types of buildings on their property.

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 Nassif 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:

Council Member Bishop requested a future report be brought back to the Town Council regarding illegal fireworks and potential enforcement measures.

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

- A. Regular Meeting – January 26, 2021 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

La Vonda M-Pearson, Town Clerk, read the disclosure statement for specific warrants listed on the agenda.

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 will be recusing from voting on the warrants for Apple Valley Communications, AV Tech Services and AVCOM Services listed under Agenda Item Number 3. 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 3 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 3. In addition, due to his interest in both businesses, Council Member Nassif will also be recusing from voting on specific warrants listed under Agenda Item Number 3 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.

Motion by Council Member Nassif, seconded by Council Member Cusack, to approve the Consent Calendar items numbers 2 - 6 and 8 – 12, as presented, and that item number 7 be tabled.

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

Council Member Cusack and Council Member Nassif abstained from voting on specific warrants listed under Agenda Item number 3.

2. Approval of Minutes of the Town Council.

A. Regular Meeting – December 8, 2020

Recommendation:

Approve the subject minutes as part of the consent agenda.

3. December 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.

4. December 2020 Payroll/Benefits Warrants Schedule.

Recommendation:

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

5. Second Reading of Ordinance 541 of the Town of Apple Valley, California, Amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code as it Relates to Entitlements, Locations, Design and Operating Standards of Recycling Facilities

Recommendation:

Adopt Ordinance No. 541

6. Second Reading of Ordinance 542 of the Town of Apple Valley, California, Amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Modifying Section 9.70.020(H) "Light and Glare" by Adding Regulations to Control Nuisance Lighting and Glare Between Residential Properties and to Remove all References Relating to the "Dark Sky Policy" Within the Development Code.

Recommendation:

Adopt Ordinance No. 542

8. Acceptance of Work for Resurfacing 2020 Gap Repair.

Recommendation:

- A. Accept the work completed as part of the Resurfacing 2020 Gap Repair Project No. 2020-09 for a total contract cost of \$43,903.50.
- B. Direct the Town Clerk to file the Notice of Completion for the contract work.
- C. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

9. Acceptance of Work for Resurfacing 2020-02 – Project No. 2020-06.

Recommendation:

- A. Accept the work completed as part of the Resurfacing 2020-02 Project No. 2020-06 for a total contract cost of \$302,209.64
- B. Direct the Town Clerk to file the Notice of Completion for the contract work.

C. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

10. Updated Schedule of future Development Code Amendment Discussions.

Recommendation:

Receive and file

11. Authorize the Town Manager to apply for the Local Early Action Planning (LEAP) Grant available through the State Department of Housing and Community Development to assist in the completion and implementation of the Town's Multi-Species Habitat Conservation Plan and Natural Communities Conservation Plan

Recommendation:

Adopt Resolution No. 2021-01

12. Approve the Ratification of the Execution of a Letter of Credit With River City Bank on Behalf of Apple Valley Choice Energy to Comply with California Public Utilities Commission Financial Security Requirements.

Recommendation:

That the Town Council approve the ratification of the execution of a Letter of Credit with River City Bank (RCB) on behalf of Apple Valley Choice Energy (AVCE).

TABLED

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

Recommendation:

That the Town Council receive and file an independent accountant's Agreed-Upon Procedures Report (AUP) for Fiscal Year 2020-21 of the Apple Valley Village Property and Business Improvement District Association.

PUBLIC HEARINGS

13. Development Code Amendment No. 2020-003 is a Request to Modify TITLE 9 "Development Code" of the Town of Apple Valley Municipal Code as it Relates to Design and Operating Standards of Drive-Thru Restaurants

Mayor Emick opened the public hearing at 7:07 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:

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. 2020-009 adopted November 4, 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. 543 in its entirety and read by title only.

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

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 543.

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

- D. Introduce Ordinance No. 543 approving Development Code Amendment No. 2020-003; 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, Nassif, Mayor Emick.
Absent: Mayor Pro Tem Leon.

BUSINESS OF THE COUNCIL

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

It was the consensus of the Town Council to continue this item to the next regularly scheduled meeting.

15. A Resolution of the Town Council of the Town of Apple Valley, California, Creating a Citizens Budget Advisory Committee (CBAC) for the Purpose of Providing a Forum for Citizen Participation in the Review and Recommendation Process for the Fiscal Year Budget

Doug Robertson, Town Manager, presented the staff report as filed with the Town Clerk.

Discussion ensued amongst the Town Council regarding the formation of a committee and its purpose.

Thomas Rice, Town Attorney, noted that this would be a Brown Act committee and therefore the public would be invited to participate with ultimate ruling by the Town Council.

Mr. Robertson stated that the committee would possibly have two meetings per month in the evening and that staff would work on logistics to ensure that we follow social distancing rules during the pandemic.

Mayor Emick confirmed, with the consensus of the Town Council that the application deadline would be February 5, 2021 and that appointments would be made at the Town Council Meeting of February 9, 2021.

MOTION

Motion by Council Member Cusack, seconded by Council Member Nassif, to approve Resolution Number 2021-02, A Resolution Creating A Citizens Budget Advisory Committee for the Purpose of Providing a Forum for Citizen Participation in the Review and Recommendation Process for the Fiscal Year Budget

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

REPORTS, REQUESTS AND COMMUNICATIONS

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

None.

CLOSED SESSION

16. Closed Session

Mayor Emick adjourned the Regular Session to Closed Session at 7:39 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 8:18 p.m., Mayor Emick announced that there was no reportable action taken.

ADJOURNMENT

MOTION

Motion by Council Member Bishop, seconded by Council Member Nassif and unanimously carried, to adjourn the meeting of the Town Council of the Town of Apple Valley at 8:24 p.m.

Curt Emick, Mayor

La Vonda M-Pearson, Town Clerk