

**AGENDA**

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

**REGULAR MEETING**

**MINUTES March 12, 2019**

**CALL TO ORDER:**

Mayor Pro Tem Nassif called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:31pm

Roll call was taken with the following members present:

Roll Call

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

Absent: Mayor Cusack

**OPENING CEREMONIES**

**INVOCATION:** The invocation was given by Minister Billy Simpson, Spirit Life Apple Valley Church

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

**PRESENTATIONS:** Employee of the Quarter – Gene Whiteside, Information Systems Technician, Information Systems

Recognition of Chris Bishop, Cole Vocational Services for service to the Town.

**PUBLIC COMMENTS**

Cecil Volsch, High Desert Association of Realtors, invited the Town Council and the public to its Charity Golf Tournament on June 10, 2019 at 7:30 a.m.

**COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION**

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

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

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

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

## TOWN COUNCIL ANNOUNCEMENTS

### Suggested items for future agenda:

Council Member Bishop requested a staff report to discuss the Governor's threat of the elimination of SB1 funds to cities that don't provide enough affordable housing.

Doug Robertson, Town Manager, explained the statements made by the Governor on this issue indicating that they are ambiguous. He also commented on lawsuits that have been placed against a few cities by the State of California.

Mayor Pro Tem Nassif commented on the lack of information provided to members of the Town Council on issues surrounding the community. He spoke of prior methods that were used to ensure that the Town Council was knowledgeable of Town issues/activities. He believed, with the consensus of the Town Council, that it was imperative that communication between the Town Council and the Sheriff's Department be consistent so that members can provide the public with accurate information when asked. He respectfully asked that a method be established to ensure that information is shared appropriately.

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

- A. Regular Meeting – Tuesday, March 26, 2019 – Council Chamber  
Regular Session at 6:30 p.m.**

## TOWN COUNCIL CONSENT AGENDA

La Vonda M-Pearson, Town Clerk, read the following disclosure statement:

Mayor Pro Tem 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 abstaining 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 Pro Tem Nassif will also be abstaining 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 Pro Tem Nassif is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Pro Tem Nassif confirmed that he would be abstaining from voting on these warrants.

### **MOTION**

Motion by Council Member Emick, seconded by Council Member Leon, to approve the Consent Calendar items numbered 1-9, 11 and 12, respectfully, and that agenda item number 10 be removed from the Consent Calendar.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Cusack.

**Mayor Pro Tem Nassif abstained from voting on specific warrants listed under Agenda Item Number 2.**

1. **Approval of Minutes of the Town Council**
  - A. **Regular Meeting – February 12, 2019**
  - B. **Special Meeting – February 15, 2019**

**Recommendation:**  
Approve the subject minutes as a part of the consent agenda.
  
2. **February 2019 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. **February 2019 Payroll/Benefits Warrants Schedule.**

**Recommendation:**  
That the Town Council receive, ratify, and file the Payroll/Benefits Warrants Schedule.
  
4. **Treasurer’s Report – November 2018**

**Recommendation:**  
That the Town Council receive and file the November 2018 Treasurer’s Report
  
5. **Treasurer’s Report – December 2018**

**Recommendation:**  
That the Town Council receive and file the December 2018 Treasurer’s Report
  
6. **Row Capital Funding Agreement for the Yucca Loma Corridor Project**

**Recommendation:**  
That the Town Council approve right-of-way capital funding agreement, between the County of San Bernardino and the Town of Apple Valley, for the Yucca Loma Corridor Project, subject to approval as to form by the Town Attorney.
  
7. **Release of Securities for Parcel Map No. 18893**

**Recommendation:**  
Find that the construction of various improvements required for Parcel Map 18893 are complete and approve the 50% reduction of the performance securities.
  
8. **Accept the Final Map for Parcel Map No. 19878. Applicant: Omar Alfaro**

**Recommendation:**  
Move to accept the final map Parcel Map No. 19878
  
9. **National Pollutant Discharge Elimination System Stormwater Permit Implementation Agreement with the Mojave River Watershed Group**

**Recommendation:**

  - A. Approve the New National Pollution Discharge Elimination System (NPDES) Stormwater Permit Implementation Agreement with the County of San Bernardino (County) and the cities of Victorville and Hesperia, collectively known as the Mojave River Watershed Group.
  - B. Authorize the Mayor to execute the Agreement.
  
11. **Fee Waiver Request for Apple Valley Lions Club for the Roar for A Cure 5k Run/Walk Event for the use of Civic Center Park**

**Recommendation:**  
For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Park Rental Fee and Special Events permit fee, totaling \$613.00.

**12. Fee Waiver Request for St. Mary's High Desert Fit for Life 5K Event for the Use of the Civic Center Park/Amphitheater**

**Recommendation:**

For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Facility Rental Fee and Special Events permit of \$1,201.00.

**PULLED FROM CONSENT**

**10. Jess Ranch Community Manholes - Project No. PW2019-01**

Council Member Bishop questioned the area in Jess Ranch where the manholes would be placed.

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

**MOTION**

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

- A. That the Town Council review and approve the bid documents for the Jess Ranch Community Manholes – Project No. PW2019-01
- B. That the Town Council authorize staff to solicit bids for construction of said project.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Cusack.

**PUBLIC HEARINGS**

**13. A Request to Consider Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Modifying Provisions Relating to Accessory Dwelling Units and Other Accessory Structures.**

Mayor Pro Tem Nassif opened the public hearing at 7:18 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Town Clerk.

Council Member Leon questioned the lack of sewer in areas that are less than one acre. She commented on the fact that these residents who typically have septic tanks are prohibited from building a second dwelling unit on their property. She believed this issue should be revisited and that a possible amendment be done that could lessen the restrictions on these homeowners.

Lori Lamson, Assistant Town Manager, explained the rules and regulations as enforced by Lahontan Water that preclude smaller lots from utilizing one septic tank for two dwelling units.

Cecil Volsch, High Desert Association of Realtors, spoke in support of the project, however, he commented on the need for additional housing which include accessory units.

There being no additional requests to speak, Mayor Pro Tem Nassif closed the public hearing at 7:31 p.m.

**MOTION**

Motion by Council Member Emick, 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 staff report for February 6, 2019, 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. 504 in its entirety and read by title only.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Cusack.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 504.

**MOTION**

Motion by Council Member Emick, seconded by Council Member Bishop, to introduce Ordinance No. 504 approving Development Code Amendment No. 2019-003.

Vote: Motion carried 4-0-0-1

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

Absent: Mayor Cusack

**REPORTS, REQUESTS AND COMMUNICATIONS**

**BUSINESS OF THE COUNCIL**

None.

**TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE**

Doug Robertson, Town Manager, announced the continuance of the Mayor's Weight Loss Challenge. He stated that final weigh in will be Wednesday, May 1, 2019. He also announced the Joint Town Council/Planning Workshop which will be held Wednesday, May 1 at 6:00 p.m. in the Conference Center.

**CLOSED SESSION**

**14. Closed Session**

Mayor Pro Tem Nassif recessed the meeting of the Apple Valley Town Council at 7:35 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 Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1725027 – Christina Lopez-Burton v. Town of Apple Valley.

Upon returning from Closed Session at 8:55 p.m., Mayor Pro Tem Nassif announced that there was no reportable action taken.

**ADJOURNMENT**

Motion by Council Member Bishop, seconded by Council Member Emick and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:55 p.m.

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Mayor Pro Tem Nassif

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La Vonda M-Pearson, Town Clerk