

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

REGULAR MEETING

MINUTES – October 8, 2019

Call to Order:

Mayor Cusack called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:30pm

Roll call was taken with the following members present:

Roll Call

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

Absent: None.

OPENING CEREMONIES

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Pro Tem Nassif

INVOCATION: The invocation was given by Father Limo – St Timothy’s Church

PRESENTATIONS: None.

ANNOUNCEMENT:

Mayor Cusack announced the passing of Bishop Dr. Eldoris Bonner, Faith Ministries Church in Apple Valley. He stated that the meeting tonight would be adjourned in her memory.

PUBLIC COMMENTS

Tynelle Olivas, Apple Valley, expressed her concern regarding the home on Tomahawk that has become known as the “party” house. She respectfully requested that the Town conduct enforcement to end the disruption in the neighborhood.

Marcy Taylor and Dr. Dowdy, Apple Valley, commented on the shooting death of Security Officer Isiah Roberts, shot in the line of duty while answering a domestic disturbance call on April 17, 1969. On November 9, 2019 at 6:00 p.m., a Legacy Dinner will be held honoring Tech Sergeant Isiah Roberts at the Hilton Garden Inn. The event will honor the Roberts family and establish an ongoing “George Air Force Base Honor Roll” recognizing others who served at George Air Force Base. Tickets may be purchased at www.don-frse.com/roberts.

Trenae Nelson, Apple Valley School Superintendent, thanked the Town of Apple Valley staff, for their hard work and dedication during the re-pavement project near the schools. She also thanked the Town for delaying the Safe Routes to School Project for the safety of students and staff.

Bud Giboney, Apple Valley, commented on a meter installed in the Jess Ranch/Sun City area for one day to monitor traffic. He respectfully requested that the meter used to monitor traffic be left in place for a minimum of one week to receive an accurate measurement of the traffic coming in and out of the area.

Al Rice, Apple Valley, commented on an article in the paper that referenced employee performance. He believed that errors were occurring within the Town due to a lack of employees focus to detail. He spoke of errors and/or misinformation dealing with the budget, State of the Town and warrant registry.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

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 Nassif commented on committee meetings and events that he attended.

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

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Council Member Bishop respectfully requested that a future update be provided to the Town Council on incidents in the community.

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

A. Regular Meeting – October 22, 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.

Mayor Cusack also 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 abstaining 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, Mayor Cusack will 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 Cusack is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Cusack confirmed that he would be abstaining from voting on these warrants.

MOTION

Motion by Council Member Bishop, seconded by Council Member Leon, to approve the Consent Calendar items numbered 1 - 11 respectfully and that item number 2 be pulled for discussion.

Vote: Motion carried 4-1-0-0

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

Absent: Council Member Emick

1. **Approval of Minutes of the Town Council.**
 - A. **Regular Meeting – September 24, 2019**
Recommendation:
Approve the subject minutes as part of the consent agenda.

3. **September 2019 Payroll/Benefits Warrants Schedule.**
Recommendation:
That the Town Council receive, ratify and file the Payroll/Benefits Schedule.

4. **2020/2021-2024/2025 Capital Project Needs Analysis.**
Recommendation:
 - A. Approve FY 2020/2021 through 2024/2025 Capital Project Needs Analysis
 - B. Adopt Resolution No 2019-27, Adopting the Measure I Five Year Capital Project Needs Analysis

5. **Second Reading of Ordinance 517 of the Town of Apple Valley, California, Amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Modifying Chapter 9.08 "Definitions" and Chapter 9.35 "Commercial and Office Districts" as it Relates to Artisan Beverage Makers and Alcohol Sales, and Chapter 9.57 "Public Facility Districts" to Allow Restaurants as a Permitted Use.**
Recommendation:
Adopt Ordinance No. 517

6. **Second Reading Ordinance 518 of the Town of Apple Valley, California, Amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code by Modifying Provisions Relating to Accessory Dwelling Units Located on Corner Lots and Modify the Definition of Front Lot Line.**
Recommendation:
Adopt Ordinance No. 518

7. **Updated Schedule of future Development Code Amendments**
Recommendation:
Receive and file

8. **Fee Waiver Request for American Cancer Society**
Recommendation:
For good cause shown, and finding a waiver will serve a public purpose, approve the waiver of the Park Rental Fee of \$101.00.

9. **Amendment to the Classification and Salary Plan for the Town of Apple Valley.**

Recommendation:

That the Town Council adopt the attached Resolution No. 2019-28, A Resolution of the Town Council of the Town of Apple Valley, California, amending the current Classification and Salary plan.

10. California Desert Protection Act.

Recommendation:

Adopt Resolution No. 2019-29 approving the resolution for the twenty-five year history of the California Desert Protection Act.

11. Funding for Unpaid Insurance Claims

Recommendation:

That the Town Council approve an additional appropriation of \$200,000 for the funding of all vouchers related to the unpaid claims received from S&S HealthCare Strategies as a result of the Riverstone termination.

PULLED FOR DISCUSSION

2. September 2019 Commercial Warrants and Wire Transfer Schedule.

Al Rice, Apple Valley, commented on various warrants listed in the commercial warrants scheduled that he believed could be incorrect or require explanation.

MOTION:

Motion by Mayor Pro Tem Nassif, seconded by Council Member Bishop to receive, ratify, and file the Commercial Warrants and Wire Transfer Schedules as presented.

Vote: Motion carried 4-1-0-0

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

Absent: Council Member Emick

Mayor Pro Tem Nassif and Mayor Cusack abstained from voting on specific warrants

PUBLIC HEARINGS

12. Second Hearing of Ordinance 516. An Ordinance of the Town Council of the Town of Apple Valley, California, Amending Title 8 of the Town of Apple Valley Municipal Code by Amending Chapters 8.10, 8.12, 8.16, 8.18, 8.21, 8.22, and 8.26, Adopting as Modified the 2019 Edition of the California Building Code Volumes 1, 2 Including the Appendix and Standards, the 2019 Edition of the California Electrical Code, the 2019 Edition of the California Plumbing Code, the 2019 Edition of the California Mechanical Code, the 2019 Edition of the California Energy Code, the 2019 Edition of the California Residential Code, the 2019 Edition of the California Green Building Code and Adopting Other Regulations Relating to Building Requirements.

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

Patrick Carroll, Building Official, presented the staff report as filed with the Town Clerk's Office.

There being no requests to speak, Mayor Cusack closed the public hearing at 7:14 p.m.

MOTION

Motion by, Mayor Pro Tem Nassif, seconded by, Council Member Leon to adopt Ordinance No. 516.

Vote: Motion carried 4-1-0-0

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

Absent: Council Member Emick.

13. **Development Code Amendment to Section 9.08 “Definitions” Adding a Definition for “Assembly of Products” and Amend Table 9.35.030-A “Permitted Uses” of Title 9 “Development Code” of the Town of Apple Valley Municipal Code to Allow the Assembly of Products as an Ancillary Use to Any Permitted or Conditionally Permitted Use, as Long as it is Conducted Within an Enclosed Building. This Ancillary Use Would Be Allowed in all Commercial Zones Town-Wide.’**

Mayor Cusack opened the public hearing at 7:15 p.m.

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

Mayor Cusack closed the public hearing at 7:20 p.m.

MOTION

Motion by, Mayor Pro Tem Nassif, 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 Resolution No. 2019-011 for August 7, 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.519 in its entirety and read by title only.

Vote: Motion carried 4-1-0-0

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

Absent: Council Member Emick.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 519.

Motion by, Mayor Pro Tem Nassif, seconded by Council Member Leon to:

- D. Introduce** Ordinance No. 519 approving Development Code Amendment No. 2019-006; and
- E. Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

Vote: Motion carried 4-1-0-0

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

Absent: Council Member Emick.

BUSINESS OF THE COUNCIL

NONE

REPORTS, REQUESTS AND COMMUNICATIONS

NONE

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Doug Robertson, Town Manager, announced the County Airshow and Car Show on Saturday, October 12, and the Special Apples Halloween Dance also on Saturday, October 12. On October 19, the Town will hold its 14th Annual Paws and Claws Pet Fair.

Mr. Robertson also announced that the Town of Apple Valley will be closed on Monday, October 14, 2019 in observance of Columbus Day.

CLOSED SESSION

14. Closed Session

Mayor Cusack adjourned the meeting of the Apple Valley Town Council at 7:24 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 Nos.: CIVDS1619242, CIVDS 1620483 – De La Cruz vs. Town of Apple Valley.

Upon returning from Closed Session at 7:46 p.m., Mayor Cusack announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Mayor Pro Tem Nassif and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 7:47 p.m. in memory of Bishop Dr. Eldoris Bonner.

Larry Cusack, Mayor

La Vonda M-Pearson, Town Clerk