



SPECIAL APPLE VALLEY TOWN COUNCIL MEETING

1777 N Meadowlark Dr, Apple Valley
Wednesday, August 24, 2022 at 6:00 PM

MINUTES

Mayor | Frank Lindhardt |

Council Members | Andy McGinnis | Barratt Nielson | Kevin Sair | Robin Whitmore |

CALL TO ORDER- Mayor Lindhardt called meeting to order at 6:01 p.m.

PLEDGE OF ALLEGIANCE- Council Member Whitmore led pledge of allegiance.

PRAYER- Prayer offered by Jarry Zaharias.

ROLL CALL

PRESENT

Mayor Frank Lindhardt

Council Member Kevin Sair

Council Member Robin Whitmore

Council Member Andy McGinnis

Council Member Barratt Nielson

DECLARATION OF CONFLICTS OF INTEREST

None declared.

CONSENT AGENDA

- A. Minutes: July, 28 2022

No changes were made.

MOTION: Council Member Sair motioned to accept the minutes for July 28, 2022 for the Special Apple Valley Town Council meeting.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a vote:

Council Member Sair - Aye

Council Member Whitmore – Aye

Council Member McGinnis - Aye

Council Member Nielson - Aye

Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

- B. Minutes: July 6, 2022

- C. Minutes: April 14, 2022

No changes were made.



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MOTION: Council Member Sair motioned to accept the draft minutes for the Special Apple Valley Town Council Work Meeting with Planning Commission on July 6, 2022 and the minutes for April 14, 2022 Town Council Special Meeting minutes.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a vote:

Council Member Sair - Aye
Council Member Whitmore – Aye
Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

MAYOR'S TOWN UPDATE

Mayor Lindhardt reminded everyone of the October 4th-Town Hall Meeting at 7pm and explained the intent for this meeting. We have asked everyone with questions to submit questions in writing by Sept 23 at 3pm. Please keep questions that pertain to everyone or neighborhoods, not individuals. We will be happy to answer as many questions as possible.

PUBLIC COMMENTS

Nate Baker from Toquerville, Utah has friends in the area of Apple Valley and is the representative of Beautiful Valley, LLC. He read letter from Beautiful Valley, LLC aloud (See Attachment A).

Richard Allen, Attorney on Zoom with situation similar to previous public comment. He has issues related to general plan action since the public hearing closed. He commented the work meeting was not properly noticed so therefore illegal that makes approval inappropriate or illegal since based on illegal meeting. The map has been changed twice and general plan map presented was different than the one at the public hearing making it illegal. His client requests the map designation be changed to residential medium before amendment is made to the general plan.

Libby Wells on zoom commented General plan needs to be created with sunrise engineering and she spoke with sunrise engineering. They spoke to Paul Wright because water was discussed and clarified. There are no plans for a treatment plant. The maps don't make sense to her. In her opinion this is a "save my view" plan.

MOTION: Council Member Sair motioned to close public comments.

SECOND: The motion was seconded by Council Member Whitmore.



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VOTE: Mayor Lindhardt called for a vote:

Council Member Sair - Aye
Council Member Whitmore – Aye
Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt – Aye

The vote was unanimous and the motion carried.

DISCUSSION AND ACTION

1. Consideration of Impact Fees for Knollwood RV Park and Development Agreement Revision

Mayor Lindhardt gave brief synopsis about Dan Tygard with Knollwood RV. Due to inconsistency with what our Ordinances required; he built his park before he received all the necessary approvals, and it wasn't his fault but due to previous Town staff and/or officials. We are trying to rectify these problems. One problem is the site plan which will be addressed in the next planning commission meeting. They were told the impact fees that pertain to their development were not very much, yet the same Town official had just passed in the same year a new impact fee ordinance and that left them in a bad spot, didn't have things in their budget, didn't have the proper amount, and they weren't told. Our impact fee ordinance requires his engineer challenges our engineer on each of those items that are in the impact fee, which they did. The comparison from their Engineer is \$161K and Mayor Lindhardt's thought is to accept their proposal for the impact fees and give them some time and tools. A payment plan is proposed and their current zoning of RV park, the maximum time frame allowed is 90 days, so it doesn't turn into a trailer park. An amendment to the Development Agreement was discussed to allow long term rental on 15 lots with restrictions as presented. We are correcting a wrong and we are not breaking any ordinances and followed the appeal impact fee procedure, and we have authority as Town Council to amend the Development Agreement .

Dan Tygard added as developers, we went through the process that was presented. Unfortunately, we are here in this situation. The intention is to benefit the community and the last thing we want is a trailer park.

Council Member Sair apologized for the misleading. He likes the idea; I would like to see that those 15 lots would be temporary and would go away after paid in full. Council Member Sair commented he would like to see trailers 5 years or newer but conversation amongst is 10 years is the standards with other RV parks. Dan Tygard commented a growing trend for restored RVs that are well done and that is why that want to reserve the right. Council Member Whitmore asked who will be making the final say so regarding RV's that are 10 years or older. Dan Tygard commented he would be approving, and



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he is ok reducing, but 10 years is the standard. Council Member Sair questioned if the Development Agreement would need to be new. Mayor Lindhardt discussed amending the Development Agreement. Mayor Lindhardt commented vacillated back and forth from only giving the 2.5 years or leaving it there. As soon as we reach 1000 population, we are required to have low-income housing and if we left long-term rentals with stipulations, we could use that to serve the low-income report when our Town becomes a City. One of things we have done already is tweaking our Casita ordinance and continue to update allowing people to rent out part of their house if they live there. Mayor Lindhardt commented about adding we can't have a lot of police reports on this development and/or nuisance complaints.

Council Member McGinnis asked is it a percentage that needs to be low income when we reach that status, how many casitas, etc. Mayor Lindhardt has only seen it one time but has inquired with Washington County. Allowing long term rentals but limiting to 15 spaces. Mayor asks about tax and what percentage if any for sales or is there overnight tax. Tia Tygard, Dan Tygard's wife commented there is sales tax and there is transient tax.

Council Member McGinnis commented there should be something brought up about pet situation seeing as this development is right across from residential areas. Commented about if we get exuberant number of calls that we have something to mitigate about. Dan Tygard discussed that you can come to him, and he will have very tight restrictions on these long-term rentals.

Council Member McGinnis also discussed leaning toward only having this agreement while paying off the impact fee for 2.5 years. At the end of 2.5 years that we can extend or review and have him reapply for the long-term rentals.

Dan Tygard commented had our project been assessed correctly we could have made changes but being at the end, the money that we have on loan is spent and accounted for. This puts us in a difficult position. Discussed looking to open mid-end September with 65 sites and remaining sites to be finished after.

Council Member McGinnis commented he supports it and looks forward to coming together on the amended development agreement.

Council Member Sair asked question if the tiny homes would qualify for low-income housing. Mayor Lindhardt states those park models are considered short term rentals so that would not qualify more than likely.

Mayor Lindhardt discussed about another development in discussion of preliminary plat, would be responsible to pay for a portion of the acceleration lane, and Knollwood could possibly get credit from the other developer. Council will make every effort to get that included. But it didn't make it into the motion.

MOTION: Council Member Nielson motioned to accept Knollwood85 LLC's impact fee challenge of \$161,583 and that is the total of what they need to pay.



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SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a vote:

Council Member Sair - Aye
Council Member Whitmore – Aye
Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

MOTION: Mayor Lindhardt motioned that we put together an amendment to the RV Park Development Agreement that allows him to take 15 of his rentals and turn them in to long-term rentals for the period of 2.5 years and on the condition that they implement the proposed long-term rental terms that are in this agreement that we have in front of us called Range RV Campground into the Development agreement and that if we at any time end up with that this agreement is not followed then this 15 space will be revoked.

SECOND: The motion was seconded by Council Member Nielson.

VOTE: Mayor Lindhardt called for a vote:

Council Member Sair - Aye
Council Member Whitmore – Aye
Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

2. Termination of Current and Approval of New Town Attorney with Contract Forthcoming

Mayor Lindhardt discussed changing from Ruesch and Reeve with Nathan Reeve and the Town will now be represented by Shawn Guzman, the previous Town Attorney.

MOTION: Council Member Whitmore motioned to adopt resolution number R-2022-43, a resolution to appoint the Town Attorney.

WHEREAS, the Town of Apple Valley ("Town") is a Utah municipality; and

WHEREAS, the Town has the right to have legal representation; and



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WHEREAS, the Town has terminated the legal contract with Ruesch and Reeve, PLLC; and

WHEREAS, the Mayor, with the advice and consent of the Town Council desires to appoint Shawn Guzman to provide the legal needs of the Town; and

NOW, THEREFORE, IT IS RESOLVED by the Town Council of the Town of Apple Valley that Shawn Guzman is hereby appointed as Town Attorney.

PASSED this 24th day of August 2022. This resolution shall be in full force and effect from the date of passage.

SECOND: The motion was seconded by Council Member Sair.

Council Member McGinnis had question that we have discussed with the lawyer the same fee schedule as before. Town Administrator, Jauna McGinnis commented that he is giving a good deal.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Sair - Yes
Council Member Whitmore – Yes
Council Member McGinnis - Yes
Council Member Nielson - Yes
Mayor Lindhardt - Yes

The vote was unanimous and the motion carried.

3. Adopt General Plan and Map Amendments, Ordinance O-2022-31

Mayor Lindhardt commented on what a "general plan" is and that it is intended to be a general sweep. Anyone who is not happy can apply for general plan map amendment just like a zone change. Our planning commission is only making a recommendation. We have followed all of the procedures and we have every right as Town Council to confirm or deny recommendations and fixing errors from planning commission or others.

MOTION: Council Member Whitmore motioned that we adopt Ordinance O-2022-31 An Ordinance Adopting Amendments To The General Plan Map, Transportation Map And Adopt The General Plan.

WHEREAS, the Town of Apple Valley ("Town") has the statutory authority to adopt a general plan for the Town with associated maps; and



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WHEREAS, the Planning Commission, on August 9, 2022, held a public hearing with regard to the amendments to the Town's General Plan Map, the Transportation Map, and the General Plan, to consider any comments regarding the adoption of the proposed map amendments and General Plan; and

WHEREAS, the Planning Commission accepted all comments and recommended approval of the proposed General Plan Map amendments, Transportation Map amendments, and the General Plan to the Town Council for adoption; and

WHEREAS, at a meeting of the Town Council of Apple Valley, Utah, duly, noticed and held on the 24th day of August, 2022, and upon motion duly made and seconded:

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, UTAH, that Apple Valley Town adopts the Amendments to the General Plan Map and Transportation Map, and adopts the General Plan.

EFFECTIVE DATE. This amendment shall be effective upon passage, without further publication.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Apple Valley, Utah this 24th day of August, 2022.

SECOND: The motion was seconded by Council Member Sair.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Sair - Yes
Council Member Whitmore – Yes
Council Member McGinnis - Yes
Council Member Nielson - Yes
Mayor Lindhardt – Yes

The vote was unanimous and the motion carried.

4. Street name change for Zion Circle

Town Administrator, Jauna McGinnis stated we are looking at the street names that are similar and causing problems with delivery issues and part of our Ordinance says to not have names similar. Zion Circle is smaller of the two streets. Approval is needed and plan is for them to get together with the residents. Explained why the names should be changed. Mayor Lindhardt likes asking the residents about their input. Council Member Nielson would like to move forward.



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MOTION: Council Member Whitmore motioned to move forward on possible street name change for Zion circle.

SECOND: The motion was seconded by Council Member Sair.

VOTE: Mayor Lindhardt called for a vote:

Council Member Sair - Yes
Council Member Whitmore – Yes
Council Member McGinnis - Yes
Council Member Nielson - Yes
Mayor Lindhardt – Yes

The vote was unanimous and the motion carried.

5. Lot splits, road issues and ordinance violations

Mayor Lindhardt discussed significant problem in the Town and discussed with our attorney to be Shawn Guzman.

Mayor Lindhardt discussed our subdivision ordinance 11.02.040, currently in our Ordinance there is an exception if easement. The whole purpose is to be alternative to subdividing because if you are located that has a street with utilities, no dedication and things that have happened, people have subdivided on their own without the Town's knowledge. They were done legally but ignored section c of the ordinance. This is primarily when we are dealing with roads. Previously with the help of previous Town administration adjusting metes and bounds with requirement for metes and bounds to be located on a public street so they can bypass the subdividing method. The ones that did their own lot splits we do not have to accept a piece of land that was dedicated to use. This does not create a road. They had deeded the 25 feet and the problem is that “we the people” as Apple Valley cannot be responsible for creating and maintaining these roads. For the illegal lot splits and if it has been improved, we will accept a road dedication to maintain the roads. We get funds from state to maintain the roads. Even if the ones that have been done legally, we have to tell everyone when they pull a permit. This is significant problem we have. Even though that have been allowed we do not have to accept until they follow suit.

Town Administrator, Jauna McGinnis discussed the difference between deeded road and road dedication. Mayor Lindhardt explained it doesn't exempt from c of the 11.02.040 ordinance. Mayor Lindhardt stated we hear the comment “that this is only a lot split I don't have to follow the subdivision ordinance”. Anytime no matter 1-10 lot splits, it becomes a subdivision.

Council Member Sair discussed that this Ordinance has been on the record since 2005. In 2019 when Marty Lisonbee was Mayor, this Ordinance (11.02.040) was changed to be able to Subdivide 10 lots VS the previous of only 3 lots without approval of Planning Commission and/or Town Council.



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Mayor Lindhardt commented we intend to follow our ordinances which means that they won't be able to get a building permit until they improve the roads. Council Member McGinnis mentioned this is falling back to the landowners and/or developers. Mayor Lindhardt confirmed this would fall back on the landowner.

Council Member Nielson had conversation with council on how to possibly to flag these lots.

Mayor Lindhardt let the public know that this must be solved. Commented on how bad cinders are for the roads and they do not meet fire code.

No action taken.

6. Inclusion Consent into Ash Creek SSD, Resolution-R-2022-40.

Mayor Lindhardt commented this is the final step for Ash Creek SSD on taking over our Sewer services. Town Administrator, Jauna McGinnis commented Commissioners with Washington County couldn't pass until after 60-day public comment period. Looks like it will be approved September 6th.

MOTION: Council Member Whitmore motioned to accept resolution R-2022-40, Resolution Consenting To The Inclusion Of All Property Within The Town Of Apple Valley In Ash Creek Special Service District.

WHEREAS, on February 17, 2022, the Town of Apple Valley adopted a Joint Resolution with Ash Creek Special Service District requesting the annexation of property within the boundaries of Apple Valley into Ash Creek Special Service District ("Ash Creek SSD");

WHEREAS, on April 19, 2022, the Washington County Commission adopted a resolution proposing to have Ash Creek SSD annex the property within the boundaries of Apple Valley into Ash Creek SSD;

WHEREAS, under Utah Code Sections 17D-401(4) and 17D-1-202(2)(d) municipal consent is required for a special service district to annex property within municipal boundaries; and

WHEREAS, as stated in the Town of Apple Valley's Joint Resolution requesting the annexation, the Town continues to support the annexation, and the Town wishes to provide the statutorily required consent so that Ash Creek SSD can annex the property within the Town of Apple Valley.

NOW, THEREFORE, IT IS RESOLVED by the Town Council of the Town of Apple Valley that the Town of Apple Valley consents to the inclusion of all property within the Town of Apple Valley in the Ash Creek Special Service District.

RESOLVED this 24th day of August, 2022.



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SECOND: The motion was seconded by Council Member Nielson.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Sair - Aye
Council Member Whitmore – Aye
Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

7. Discontinue Sewer Service Provided by Big Plains SSD, Resolution-R-2022-41

Council Member Whitmore read resolution aloud.

MOTION: Council Member Whitmore motioned to adopt this resolution R-2022-41.

SECOND: The motion was seconded by Council Member Sair.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Sair - Aye
Council Member Whitmore – Aye
Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

8. Constitution Week R-2022-42

Council Member Whitmore read resolution aloud. She elaborated that people are to be represented first. This is council's goal. To represent those who elected them to follow the ordinances and reject previous administration no following ordinances. They ran for election on this principle. They will follow what our people have chosen us as representatives to do.

MOTION: Council Member Whitmore motioned to adopt this resolution R-2022-42, A Resolution to Proclaim September 17-23, 2022 As Constitution Week.

SECOND: The motion was seconded by Mayor Lindhardt.

VOTE: Mayor Lindhardt called for a Roll Call vote:



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Council Member Sair - Aye
Council Member Whitmore – Aye
Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

REPORTS, RECOMMENDATIONS, AND ANNOUNCEMENTS

Mayor Lindhardt asks for any reports from council.

Council Member Sair as far as roads and bar ditches we have our hands full. But we are doing our due diligence. Please be patient and give hats off to Council Member McGinnis. Mayor Lindhardt thanks Council Member Sair and McGinnis for their work.

Fire Chief Andy McGinnis reports we have had a couple of runs. One was flooding at mile marker 9 due to a plugged culvert. We provided traffic control and Town provided the backhoe to fix this issue. Council Member Sair discussed this always been an issue, even people killed there. We are reaching out to that property owner. Chief McGinnis continued that; several medical assists called. Striping outside the fire bays were added that will help apparatus drivers being able to see and back into the station a little easier. Thanks, Council Member Sair for bringing the folks up to do the striping.

Council Member McGinnis commented for SSD that work continues on the USDA loan. It is currently in environmental review. It should be able to get signed before end of week or next week, which will allow to move on to Washington for their review. Telemetry communication between AV1 well and tanks were blown by lightning strike. Our water superintendent noticed and parts were replaced. For Cedar Point cleaning continues to get more wells online. Currently trying to get more flow out of Canyon well on Canyon Dr. Currently still waiting for the past 8 weeks, on sample results for Well 59 which is a bigger well and bigger source. As soon as we get that sample back, we will get it back online. He thanked the community for keeping up with current demand with what wells are online; Cook and Jessop wells. We continue to clean wells and add source to our system. Council Member McGinnis gave big thanks to Ross Gregerson and Harold Merritt.

Council Member Sair and Mayor Lindhardt gave thanks to Council Member McGinnis. Council Member Whitmore thanks Recorder, Jenna Vizcardo for doing minutes from previous administrations that we will have to approve. Mayor Lindhardt commented that it is a misdemeanor for not preparing the minutes and individuals could be cited. Council Member Nielson added from the building department that everything is going well.

REQUEST FOR A CLOSED SESSION

No request.



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Mayor Lindhardt commented that he received letter from Mountain View, Land Development Solutions LLC (Pat Melfi) that they want to meet and that is positive. We are looking for solutions and working with people on great strides. Jepson Canyon is coming to the table and working on their preliminary plat. Very positive things coming. Council thanked Mayor Lindhardt for all his hard work.

Mayor Lindhardt commented met with our insurance provider (Risk Assessments) and commented the best thing you can do is follow your ordinances and follow the rules to lower risk.

Mayor Lindhardt thanked everyone and all the volunteers.

ADJOURNMENT

MOTION: Council Member McGinnis motioned to adjourn the meeting.

SECOND: The motion was seconded by Council Member Sair.

VOTE: Mayor Lindhardt called for a vote:

Council Member Sair - Aye
Council Member Whitmore – Aye
Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

Meeting adjourned at 8:13 p.m.

Date Approved: _____

Approved BY: _____

Mayor | Frank G. Lindhardt

Attest BY: _____

Town Clerk-Recorder | Jenna Vizcardo