



APPLE VALLEY TOWN COUNCIL MEETING

1777 N Meadowlark Dr, Apple Valley
Wednesday, December 14, 2022 at 6:30 PM

MINUTES

Mayor | Frank Lindhardt |

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

CALL TO ORDER- Mayor Lindhardt called the meeting to order at 6:32 p.m.

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

PRAYER- Prayer offered by resident Britta Nielson.

ROLL CALL

PRESENT

Mayor Frank Lindhardt

Council Member Kevin Sair

Council Member Robin Whitmore

Council Member Andy McGinnis

Council Member Barratt Nielson

Council Member Sair commented and gave thanks to Mayor Lindhardt. He gave him a gift. He opened the gift received and it was a t-shirt.

DECLARATION OF CONFLICTS OF INTEREST

None declared.

CONSENT AGENDA

1. Disbursement Listing for November 2022.
2. Budget Report for Fiscal Year 2023 through November 2022.
3. Approval of Minutes: October 19, 2022.
4. Approval of Minutes: November 16, 2022.

The Council has previously reviewed and has no questions.

MOTION: Council Member Whitmore motioned that we approve the November 2022 Disbursement Listing, the November 2022 Budget Report, the draft minutes from October 19th and the draft minutes from the November 16th meeting.

SECOND: The motion was seconded by Council Member McGinnis.

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



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The vote was unanimous and the motion carried.

PUBLIC COMMENTS

Rich Ososki, 1024 W Little Pinion Way. Commented about shipping containers. Commented about people coming to him. Commented about no code enforcement for shipping containers and that solutions seem to be ignored. We put Planning Commission and residents through process and now you want to do over.

Joanie Moses, 2888 Foothill Dr. Shipping containers are not attractive. They are for people out in the country. They are not for crowded neighborhoods like Gooseberry.

Council Member Whitmore commented about the Christmas party being wonderfully planned and thanked everyone involved.

Council Member Sair commented about shipping containers and property rights. He also commented about a survey that was given a while back to the Town and the majority of that survey were in favor of shipping containers.

Rich Kopp, 2222 E Ranch Rd. Commented he doesn't remember a survey and asked if they could remember the date the survey was given.

Linda Noyes, 2848 Purple Sage Rd. Commented the Planning Commission compromise was good. Commented about the appearance of shipping containers.

Robin Vaughn, 963 W Foothill Dr. Commented she's never been a big fan of shipping containers. Commented about them being rodent proof. She did like the proposal that was originally proposed. She feels that only painting doesn't make them any less attractive.

Mark and Patty Parker, 2826 Purple Sage Rd-on zoom. Commented about petition signed in Gooseberry being opposed to shipping containers being signed by 27 people. Also commented about commercial and not residential and they are ugly.

Mayor Lindhardt closed the public comments.

DISCUSSION AND ACTION

5. **Discussion and Action:** Consider approval of appointment of Michael Farrar for Planning Commission, Resolution-R-2022-55.

Mayor Lindhardt reported he has talked to Michael and has accepted to be on our Planning Commission. He feels he would be good addition. The Mayor makes appointment and council approves or not.



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MOTION: Council Member Sair motioned that we approve Michael Farrar for Planning Commission on Resolution-R-2022-55, Planning Commission regular member starting on January 2nd, 2023.

SECOND: The motion was seconded by Council Member Whitmore.

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.

6. **Discussion and Action:** Consider approval of appointment of Janet Prentice for Planning Commission alternate, Resolution-R-2022-56.

Mayor Lindhardt commented that she has experience and does very thorough research.

MOTION: Council Member Nielson motioned that we approve Resolution-R-2022-56, Resolution appointing Janet Prentice alternate Planning Commission member.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

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

The vote was four aye and 1 abstain and the motion carried.

7. **Discussion and Action:** Form Cemetery Advisory Committee and Appoint Members, Resolution-R-2022-54.

Town Administrator Jauna McGinnis reported we have a little under 4 acres of property dedicated to the Town. We have plat from previously that is ready to go. We are figuring out phases, rules, regulations, and costs. This will be a temporary committee to do the footwork. We want to present to



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the Council and move forward in February. More details will be forthcoming after committee is formed. Once we establish the ordinance then an actual cemetery board will be put together. Council Member Nielson asked about landscape and Town Administrator Jauna McGinnis commented it will be xeriscape with trees probably around the border.

Mayor Lindhardt asked if Council had any other questions. Council thanked the volunteers involved.

MOTION: Council Member McGinnis motioned that we approve Resolution number R-2022-54, Resolution establishing Apple Valley Ad Hoc Cemetery Advisory Committee to include the members as Debbie Kopp, Margaret Ososki, and Amy Alkema.

SECOND: The motion was seconded by Council Member Whitmore.

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. **Discussion and Action:** Consider Approval of Residential Solid Waste Disposal Fee Increase, Resolution-R-2022-53.

Mayor Lindhardt commented this is not a big fee. Council Member Sair who is in on the sanitation board commented this is mainly due to fuel increase and new facility having to be built.

MOTION: Council Member Sair motioned that we approve Resolution-R-2022-53 Residential Solid Waste Disposal Fee Increase.

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



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The vote was unanimous and the motion carried.

9. Discussion and Action: Update Title 10.28.230 Accessory Buildings And Accessory Uses General Requirements, Ordinance-O-2022-42.

Mayor Lindhardt asked if any comments. Council Member Sair asked for someone to explain what we are changing and why. On current ordinance 20-foot container is authorized in 0.5 acre and 1 acre. Council member Barratt Nielson read the current ordinance. Council Member Whitmore read the proposed changes.

Mayor Lindhardt commented when he put this on the agenda to the planning commission it was because they look bad. The struggle is to treat everyone across the board fairly. When he found the county's ordinance, he felt it was better than what we currently have on the books. He feels we should address the real problem of what they look like. We do that with other things. We have a big problem with animals, but we don't create a law that you can't have dogs. Address the real problems with solutions. Taking notes of public comments about aesthetic, and his thoughts are rather than permitted use we change it to conditional use permit. Based on circumstances, the aesthetics can be mitigated on a case-by-case basis. We can do that but making it conditional use.

Council Member Nielson commented big issue is the way they look. The issue is not per say the shipping containers but the way they look. Mayor Lindhardt's thought is to send back to Planning Commission to make list of ways of mitigating options regarding the aesthetics that can be required by the applicant. Since it's by conditional use, it will be up to the Planning Commission in each case, then they go through the list of what is needed and choices. We can't control the size; we must treat them as accessory building. Mayor Lindhardt commented to make sure everyone's voice is heard. He commented about fixing the problem.

Council Member McGinnis commented honestly feel we have the cart before the horse. We can't control our current shipping containers ordinance. Mayor Lindhardt commented about enforcing ordinances. We enforce them on a complaint basis. We have done our part; our judicial system takes time. Council Member Sair discussed about administration trying to push all the issues forward. Council and Mayor is doing due diligence regarding code enforcement. Mayor Lindhardt states if we accept Planning Commission proposal it is still same problem with enforcement. Council Member McGinnis commented about residents that don't want them out there at all. This new proposal removes from entire town of one acre or less.

Town Administrator Jauna McGinnis commented we need to fix for whole town not just Gooseberry. Mayor Lindhardt commented about moving shipping containers to conditional use permit and this is what mitigation will do. Conditional use permit was discussed and get Planning Commission to brainstorm all the different options to mitigate it.

There was a glitch in recording. It was stopped and re-started.



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Mayor Lindhardt commented the question for council is do we accept Planning Commission's proposal, or do we send to Planning Commission with the proposed. He felt like he would like the input of the Planning Commission. It would be better if they tell us about the mitigating the problem. Council discussed the restrictions of acreage. Council Member Whitmore is against limiting lower acreage to not being allowed. Council Member Nielson commented he feels it should fall under accessory buildings with conditional use with requirements.

MOTION: Council Member Nielson motioned that we send back the original proposal to the Planning Commission, 10.28.230 Accessory Buildings And Accessory Uses General Requirements for them to rework. Add conditional use permit with optional mitigation options so they do not look like shipping containers or hidden on property.

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.

10. Discussion and Action: Update Title 10.28.270 Guesthouses Or Casitas, Ordinance-O-2022-36.

Mayor Lindhardt commented we have our ordinances patched. He ran across the county's ordinance on guesthouse and casitas that he would like to send to the Planning Commission for review. He feels this is much better than what we currently have on the books and the amendment. He suggested we deny this amendment and send proposal to Planning Commission of what the county has for them to review.

MOTION: Council Member Nielson motioned that we deny the amendment to 10.28.270 Guesthouses Or Casitas.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Sair - Aye
Council Member Whitmore - Aye



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Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

11. Discussion and Action: Update Title 11.12 Standards, Ordinance-O-2022-60.

Mayor Lindhardt reported these are cosmetic items on this amendment.

MOTION: Council Member Nielson motioned that we approve Ordinance O-2022-60 updating Title 11.12 Standards.

SECOND: The motion was seconded by Council Member McGinnis.

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.

12. Discussion and Action: Update Title 10.10.040 I Industrial Zone, Ordinance-O-2022-63.

Mayor Lindhardt reported removed recycling business from permitted uses and moved to conditional use. Everything in Industrial is conditional use.

MOTION: Council Member McGinnis motioned that we approve Title 10.10.040 amendment to Industrial Zone.

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



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Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

13. Discussion and Action: Adopt Title 10.10.130 Institutional Zone, Ordinance-O-2022-64.

Mayor Lindhardt reported this is a brand-new zone. Engineering company put on general plan and we didn't have zone to match. Mayor Lindhardt read the proposed adoption.

MOTION: Council Member Whitmore motioned to approve Ordinance-O-2022-64 Title 10.10.130 Institutional Zone.

SECOND: The motion was seconded by Council Member McGinnis.

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.

REPORTS, RECOMMENDATIONS, AND ANNOUNCEMENTS

Fire Dept- Fire Chief Andy McGinnis commented he has been offered the opportunity to go back to work in the oil field and is going to pursue. He has been in contact with one of his firefighters and he is willing to take over where he is at. Applications from employment have been posted. He is trying to do his best to get all in place. He appreciates the community support. Thanked everyone. There are a lot of people who have stepped up for the Fire Dept. Other than that, we are working on trying to get some help with Hildale/Colorado City for training. And, as always, on a drive for more volunteers.

Council Member Sair reported about roads and manhole cover repairs on the east side. But excavator has left the community temporarily so that is paused. We have been moving forward with asphalt repair in Town.

Mayor Lindhardt reported that they have received a planning and zoning application for preliminary plat for 36 lots for subdivision on Canaan Way, last subdivision on right side before you leave Apple Valley. JUC meeting was today and input was given to the applicant. Commented probably out of litigation but it hasn't been



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confirmed. Discussed Jepson Canyon and West Temple talking with their attorney due to their preliminary plat has been expired and recommended for them to put in new application. Commented about meeting a week ago about horizontal hotels on other side of the old kokopelli golf course. Discussed that there are also some challenges that are in the works.

Council Member Whitmore reported just deposited our first installment of property taxes.

REQUEST FOR A CLOSED SESSION

MOTION: Council Member Nielson motioned to go into a closed session to discuss litigation.

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.

The council returned from closed session at 8:56 pm. No action taken.

ADJOURNMENT

MOTION: Council Member Sair motioned to adjourn the meeting.

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.



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Meeting adjourned at 8:57 p.m.

Date Approved: _____

Approved BY: _____

Mayor | Frank G. Lindhardt

Attest BY: _____

Town Clerk-Recorder | Jenna Vizcardo

DRAFT