



APPLE VALLEY TOWN COUNCIL PUBLIC HEARING AND MEETING

1777 N Meadowlark Dr, Apple Valley
Wednesday, November 16, 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 the meeting to order at 6:01 p.m.

PLEDGE OF ALLEGIANCE- Led by Council Member Sair.

PRAYER- Offered by Council Member Nielson.

ROLL CALL

PRESENT

Mayor Frank Lindhardt

Council Member Kevin Sair

Council Member Robin Whitmore on zoom

Council Member Andy McGinnis

Council Member Barratt Nielson

DECLARATION OF CONFLICTS OF INTEREST

None declared.

CONSENT AGENDA

1. Disbursement Listing for September 2022, single item.
2. Disbursement Listing for October 2022.
3. Budget Report for Fiscal Year 2023 thru October 2022.
4. Approval of minutes from September 14, 2022.
5. Approval of minutes from October 4, 2022.

Council Member McGinnis asked about color land sales on the fire disbursement listing and if that is supposed to be under a different listing. It was confirmed with Council Member/Treasurer Whitmore and Town Administrator Jauna McGinnis that it was returned so that will be reflected next month.

MOTION: Council Member Nielson motioned that we approve the consent agenda, item #1 Disbursement Listing for September 2022, and item # 2 Disbursement Listing for October 2022, and item #3 Budget Report for Fiscal Year 2023 thru October 2022, and item #4 Approval of minutes from September 14, 2022 and minutes from October 4, 2022

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a vote:

Council Member Sair - Yes

Council Member Whitmore - Yes

Council Member McGinnis - Yes



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Council Member Nielson - Yes

Mayor Lindhardt - Yes

The vote was unanimous and the motion carried.

PUBLIC COMMENTS

Richard Ososki, 1024 W Little Pinion: Complimented planning commission's meeting last night. With the outcome they are feeling more confident and feel residents were represented last night.

Rich Kopp, 2222 E Ranch Rd: Commented about a reminder about the signs at the dumpsters that was discussed at a previous meeting.

PUBLIC HEARING | DISCUSSION AND ACTION

6. Public Hearing: Update Title 1.08 General Penalties, Ordinance-O-2022-59.

Mayor Lindhardt opened the public hearing.

Council Member Sair commented changing from County to Town and County Commissioners to Town Council.

Rich Kopp, 2222 E Ranch Rd: Commented, just wanted to reiterate the penalties and fines have been in place and this is a little housekeeping.

Mayor Lindhardt closed the public hearing.

7. Discussion and Action: Update Title 1.08 General Penalties, Ordinance-O-2022-59.

MOTION: Council Member Nielson motioned that we approve the changes in Ordinance-O-2022-59, 1.08 General Penalties Amendment.

SECOND: The motion was seconded by Council Member McGinnis.

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



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The vote was unanimous and the motion carried.

DISCUSSION AND ACTION

8. **Discussion and Action:** Appoint Margaret Ososki and Garth Hood as regular Planning Commission Members, Resolution-R-2022-50.

Mayor Lindhardt reported that Garth Hood is sick and will not be joining us tonight.

Mayor Lindhardt commented the Planning Commission members are appointed. Mayor suggests and puts the recommendation to the Council. There is no law in the books that requires the Mayor to go out and post an ad in the paper. This is much different than the requirement of Town Council.

Mayor Lindhardt reported Margaret Ososki is taking Richard Fischer's term/position and Garth Hood is taking Forrest Kuehne's term/position.

MOTION: Council Member Sair motioned that we approve R-2022-50 A Resolution Appointing Planning Commission Members Margaret Ososki and Garth Hood.

SECOND: The motion was seconded by Council Member Nielson.

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.

9. Oath of Office for Margaret Ososki and Garth Hood.

Mayor Lindhardt reported earlier that Garth Hood is sick and will not be joining us tonight.

Oath of Administered to Margaret Ososki by Town Clerk/Recorder Jenna Vizcardo.

10. **Discussion and Action:** Zone Change for AV-1354-NP-6-A from Open Space/Open Space Transition Zone (OS/OST) to A-5 Agricultural Zone (A-5) for the stated purpose of constructing residence and farm. Applicant: The Little Creek Trust Dated April 28, 2021, Agent: Sophia Daley, Ordinance-O-2022-61.



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Planning and Zoning Assistant, Kyle Layton reported: This property consists of 5.00 acres that is undeveloped and is currently zoned OST. It is bordered by OST properties to the North, East, and South as well as OSC (Open Space Conservation) to the West. There are residential properties to the East and South of this property. It appears that the property will have water via a private well as it is too far from any municipal water services. Rocky Mountain Power has supplied a will serve letter stating that they will be able to provide power to the property. Applicant has also submitted an agreement for approval of onsite wastewater system from Ash Creek Special Services District.

The following is our report based upon the property location and other facts: Required considerations to approve a zone change. When approving a zone change, the following factors should be considered by the Planning Commission and Town Council:

I. Whether the proposed amendment is consistent with the Goals, Objectives, and Policies of the Town's General Plan;

The general plan shows this property as a low-density residential area. The proposed zoning of Agricultural 5 acre is consistent with a low-density zone.

2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;

This property is surrounded by mostly undeveloped property with 2 residences, one to the east and one to the north of the property.

3. The extent to which the proposed amendment may adversely affect adjacent property; and

This property is consistent with the surrounding property.

4. The adequacy of facilities and services intended to serve the subject property, including, but not limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and wastewater and refuse collection.

Applicant has provided documentation for most major utility services.

The Council discussed road improvements and it was discussed with applicant that it is a private road.

MOTION: Council Member Sair motioned that we approve the Zone Change from Open Space/Open Space Transition Zone To A-5 Agricultural Zone on Ordinance-O-2022-61, Tax Id: Av-1354-NP-6-A.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:



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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.

- 11. Discussion and Action:** Zone Change for AV-1330-D-1 from Open Space/Open Space Transition Zone (OS/OST) to A-10 Agricultural Zone (A-10) for the stated purpose to change it back to the original zoning of agricultural. Applicant: Caren Widner, Ordinance-O-2022-62.

Planning and Zoning Assistant Kyle Layton reported: Applicant has put in application with the stated purpose to change the property back to a previous zoning designation of agricultural. This property consists of 10.00 acres that is undeveloped and is currently zoned OST. It is bordered by A-20 properties to the North, OST Property to the East, A-10 Property to the South, and RE-1 Properties to the West. The properties to the south and east are currently undeveloped, the properties to the north and west are developed with single family residences. Application was submitted to the Joint Utility Committee and did not receive any feedback.

The following is based upon the property location and other facts: REQUIRED CONSIDERATIONS TO APPROVE A ZONE CHANGE When approving a zone change, the following factors should be considered by the Planning Commission and Town Council:

I. Whether the proposed amendment is consistent with the Goals, Objectives, and Policies of the Town's General Plan;

- The General plan shows this property as a medium density residential. A zone change to A-10 is not necessarily medium density (medium density is considered 1-5 acres).

2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;

- Property is bordered by private residences on the north and west and vacant land to the south and east. Applicant has not stated whether there are any plans to build a residence on this property or if the property will solely be used for agricultural purposes. Property seems to match surrounding development.

3. The extent to which the proposed amendment may adversely affect adjacent property; and

- There appears to be no negative affect to neighboring properties cause by this zone change.



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4. The adequacy of facilities and services intended to serve the subject property, including, but not limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and wastewater and refuse collection.

- Applicant has not provided any proof of utilities. However, it does have access to a main road. Utilities may be something that could be addressed at the time of the building permit. Joint Utility Committee did not have any negative response to this application.

Mayor Lindhardt commented if no other discussion, then he would call for a motion.

MOTION: Council Member McGinnis motioned we approve zone change for AV-1330-D-1 Open Space Transition to A-10, Ordinance O-2022-62.

SECOND: The motion was seconded by Council Member Nielson.

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.

12. Discussion and Action: General Plan Map Amendment, Ordinance-O-2022-58.

Mayor Lindhardt commented this went to Planning Commission. He continued correcting the density on a parcel that was an error.

MOTION: Council Member McGinnis motioned that we approve General Plan Map Amendment Ordinance O-2022-58.

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



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The vote was unanimous and the motion carried.

13. Discussion and Action: Update Title 10.10.020 A Agricultural Zone, Ordinance-O-2022-17.

Mayor Lindhardt read the changes in the ordinance that is in the public packet. He then asked the Council if there are any questions, concerns, or comments.

Chairman McGinnis commented about misspelled word "solo" should be "silo".

MOTION: Council Member Nielson motioned that we approve Ordinance O-2022-17 changes with this additional change that in under item F,1 that "solos" get changed to "silos".

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.

14. Discussion and Action: Update Title 10.10.050 RE Rural Estates Zone, Ordinance-O-2022-33.

Mayor Lindhardt read the presented changes in packet and additional change of "household pets, dog and cats" presented in the meeting. He clarified the square feet was changed from 1250 sq feet to 1000 sq feet due to Utah State Code.

Council Member Nielson questioned why a metal building would be a conditional use and not a permitted use. Mayor Lindhardt responded because it wasn't allowed before and had trouble so we added to the conditional use. Council Member Nielson discussed to move C-2 on Page 5 up to permitted use (B) item #11.

MOTION: Council Member Nielson motioned that we approve Ordinance O-2022-33 with the following change that we move metal building under C conditional uses up to B item #11 under permitted uses and under 10, item e to as "including household dogs and pets".

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:



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

The vote was unanimous and the motion carried.

- 15. Discussion and Action:** Update Title 10.28.100 Parking Requirements Of Private Recreational Vehicles In Residential Zones, Ordinance-O-2022-34.

Mayor Lindhardt read the proposed changes.

MOTION: Council Member Nielson motioned to approve Ordinance O-2022-34 amending 10.28.100 Parking Requirements Of Private Recreational Vehicles In Residential Zones.

SECOND: The motion was seconded by Council Member Whitmore.

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.

- 16. Discussion and Action:** Update Title 10.10.060 SF Single Family Residential Zone, Ordinance-O-2022-35.

Mayor Lindhardt read the proposed changes.

Council Member Nielson commented has same concerns that metal buildings are under conditional uses and he feels should be under permitted uses.

Council McGinnis commented has question on location of front yard parking setbacks. He feels that's needs to be looked at as well.



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Town Administrator Jauna McGinnis mentioned that we may have to go through another public hearing to make those changes. Mayor Lindhardt directed staff to follow-up on updating that in the future.

MOTION: Council Member Nielson motioned that we approve Ordinance O-2022-35 amending 10.10.060 Single Family Residential Zone and moving metal building from conditional uses up to permitted uses.

SECOND: The motion was seconded by Council Member McGinnis.

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.

17. Discussion and Action: Update Title 10.10.030 C Commercial Zones, Ordinance-O-2022-38.

Mayor Lindhardt read the proposed changes. He discussed metal buildings to be changed to "P", permitted.

MOTION: Council Member Nielson motioned that we approve Ordinance-O-2022-38 amendment to 10.10.030 Commercial Zones with the change under metal buildings they will be permitted in C-1, C-2, and C-3.

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.



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18. Discussion and Action: Update Title 10.10.040 I Industrial Zone, Ordinance-O-2022-39.

Council Member Nielson discussed that in the industrial zone it should only have conditional uses and no permitted use. Remove the permitted use of recycling business.

Mayor Lindhardt directed staff to do research on industrial zoning.

MOTION: Council Member McGinnis motioned to approve Ordinance-O-2022-39 10.10.040 Industrial Zone Amendment.

SECOND: The motion was seconded by Council Member Whitmore.

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.

Council Member McGinnis commented to direct staff to re-visit this because it doesn't fit into our current zoning map.

19. Discussion and Action: Update Title 10.04.010 Terms Defined, Ordinance-O-2022-40.

Mayor Lindhardt read the proposed changes of the Title 10.04.010 on Ordinance-O-2022-40.

Mayor Lindhardt clarified this is for future movement going to agricultural zoning.

MOTION: Council Member Whitmore motioned that we approve O-2022-40, 10.04.010 Terms Defined with the proposed changes.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Sair - Yes



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

The vote was unanimous and the motion carried.

20. Discussion and Action: Update Title 10.20 Conditional Uses, Ordinance-O-2022-41.

Mayor Lindhardt commented that we are adding the conditional use process back in.

Chairman McGinnis commented would like to bring attention to page 7 "If the approved use or activity ceases for any reason for a continuous period of one year, the conditional use permit shall automatically terminate, as having been abandoned. A new conditional use permit must be granted prior to continuance of the conditional use."

Town Administrator, Jauna McGinnis questioned about the metal building being regulated in conditional use and being in permitted use it will not be able to be regulated.

Mayor Lindhardt commented the State of Utah does not allow us to regulate how a home looks.

MOTION: Council Member Nielson motioned that we approve Ordinance O-2022-41 amending 10.20 Conditional Uses.

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.

21. Discussion and Action: Update Title 10.10.090 MH Manufactured Housing Park Zone, Ordinance-O-2022-43.

Mayor Lindhardt read the proposed changes.



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MOTION: Council Member Nielson motioned that we approve Ordinance-O-2022-43 amendment to 10.10.090 Manufactured Housing Park Zone.

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.

22. Discussion and Action: Update Title 11.02.050 Notice Requirements, Ordinance-O-2022-57.

Council Member Nielson mentioned changing the publish requirements due to the change in state regulation.

MOTION: Council Member Nielson motioned that we approved Ordinance O-2022-57 amendment to 11.02.050 Notice Requirements.

SECOND: The motion was seconded by Council Member McGinnis.

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.

23. Discussion and Action: Update Title 10.18.020 Residential Lots; Access, Ordinance-O-2022-56.

Mayor Lindhardt commented changing one thing, making minimum culvert size for borrow ditches on driveways, 18 inches rather than 15 inches.



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MOTION: Council Member Sair motioned that we approve Ordinance-O-2022-56 update Title 10.18.020 for Residential Lots; Access and culvert amendment.

SECOND: The motion was seconded by Council Member McGinnis.

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.

24. Discussion and Action: Consider approval of new copier lease.

Mayor Lindhardt commented we are getting a new copier that is better, faster, and cheaper.

MOTION: Council Member Whitmore motioned that we approve the Les Olson Equipment Lease Agreement.

SECOND: The motion was seconded by Council Member McGinnis.

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.

25. Discussion and Action: Amendment of Resolution-R-2022-46, Resolution-R-2022-51.

Town Administrator Jauna McGinnis commented we are amending Resolution 46 because the date was incorrect on it.

MOTION: Council Member McGinnis motioned that we re-approve Resolution R-2022-51 A Resolution Amending Resolution R-2022-46.



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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.

- 26. Discussion and Action:** Consider approval of Apple Valley Personnel Policies and Procedures Manual Amendment, Resolution-R-2022-52.

Mayor Lindhardt read the proposed changes.

MOTION: Council Member Sair motioned that we approve Resolution R-2022-52, Amended Personnel Policies and Procedures Manual.

SECOND: The motion was seconded by Council Member McGinnis.

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.

REPORTS, RECOMMENDATIONS, AND ANNOUNCEMENTS

Margaret Ososki reported from the Mosquito Abatement meeting and good to report that they did not have any West Nile virus this year. If problem please call, them directly with the issue. Next meeting will have things and flyers to put out for the community. Thank you.

Council Member Sair gave update that Washington County Solid Waste had landfill that was filled. They have had increases with fuel and recycling being more expensive. They are trying hard not to raise rates. But there is no guarantee.



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Town Administrator has been in touch with Republic with the commercial dumpsters, but coming up more that it is not feasible. Discussed another dumpster and possibility of seeing if they can have their own personal cans.

REQUEST FOR A CLOSED SESSION

No request.

ADJOURNMENT

MOTION: Council Member Sair motioned to adjourn the meeting.

SECOND: The motion was seconded by Council Member McGinnis.

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.

Meeting adjourned at 7:56 p.m.

Date Approved: _____

Approved BY: _____

Mayor | Frank G. Lindhardt

Attest BY: _____

Town Clerk-Recorder | Jenna Vizcardo