



APPLE VALLEY TOWN COUNCIL PUBLIC HEARING AND MEETING

1777 N Meadowlark Dr, Apple Valley
Wednesday, March 22, 2023 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 6:00 p.m.

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

PRAYER- Prayer offered by Council Member Sair.

ROLL CALL

PRESENT

Mayor Frank Lindhardt

Council Member Kevin Sair

Council Member Robin Whitmore

Council Member Barratt Nielson

ABSENT

Council Member Andy McGinnis

DECLARATION OF CONFLICTS OF INTEREST

None declared.

CONSENT AGENDA

1. Disbursement Listing for January 31, 2023 through February 28, 2023.
2. Budget Report for Fiscal Year 2023 through February 2023.
3. Minutes: February 15, 2023.

MOTION: Council Member Whitmore motioned we approve the three items on the consent agenda, the Disbursement Listing for January 31, 2023, Budget Report for Fiscal Year 2023, and minutes from February 15, 2023.

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 Nielson - Aye

Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

MAYOR'S TOWN UPDATE



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Apple Valley Spring Celebration, Saturday, April 8th, 11am-2pm announced by Mayor Lindhardt. He continued a 6-month update meeting will be forthcoming soon.

PUBLIC COMMENTS

Margaret Ososki, 1024 W Little Pinion Way. I want you guys to really consider your vote on the ADU. In a PC meeting on 11/2/22 the Mayor stated that Apple Valley was almost a city and 1000 people was the magic number as far as the law is concerned. Once we reach 1000 people, we need to have accommodation for low-income housing, this is not correct. The state only needs a plan for moderate income housing aka accessory dwelling units which is already in the general plan. AV is not a city yet and not until the population reaches 5,000 residents do we need to provide any type of low, moderate-income housing. Residents are allowed now to have a casita for their family and friends. This is ultimately going to end single-family zoning. It could double the population of Apple Valley. Why do we need to put another code on the books that will not get enforced. Thank you.

Mayor Lindhardt discussed at the last Town Hall meeting he did correct that information with attorney's clarification and that is not one of the reasons this on the agenda tonight.

Joanie Moses, 2888 N Foothill Dr. After the water study that just came out, I don't know how we can approve ADU's. It's going to add to the population and drain the water we do have.

Stewart Riding spoke on behalf of resident Roxanne Naylor at 1582 N Mt Zion Dr. Against street name changes and this has created undue stress. The post office doesn't deliver to houses.

Hildegad Simion, 1483 N Zion Cir. Against street name change.

Shelby Brewer, 1542 N Zion Cir. Has lived at address for 28 years. In 28 years, he has never heard of any problems. Objects to the street name. Patent office, national and international advertising, and trademarked name so can't just be taken. Just because a small group doesn't feel it merits this abuse.

DISCUSSION AND ACTION

4. Discussion and Action: Special Event Permit Application for April 14-16, 2023. Event: Zion Ultra.

Lyle Anderson with Vacation Races is here representing this event. He explained April 14th is going to be the expos day at Ruby Rider Ranch at the end of Main Street. There are different running events, with some on the 14th and others on the 15th. He confirmed not crossing on State Highway 59 and running mostly on the mesa, Gooseberry mesa and dropping into Virgin. Protocols on the special event permit application were discussed. Regarding campfires, the applicant confirmed he will be staying on site to supervise and make sure there are no campfires.

MOTION: Council Member Nielson motioned that we approve the special event permit application for Zion Ultra for Ruby Rider Ranch Vacation Races for April 14th through 16th.



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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 Nielson - Aye

Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

5. **Discussion and Action:** Zone Change Application for AV-1351-D (Approx. 199 N Coyote Rd) from Open Space Transition Zone (OST) to Rural Estates Zone (RE-5.0). Applicant: Aaron and Jill Hamblin. Ordinance O-2023-17.

Jill Hamblin applicant is here and commented we have been in contact with Fire Chief. The biggest question is the road crossing. They are pending improvements installed that will be needed for a building permit. They also discussed investing in a well.

Planning Assistant Kyle Layton gave the JUC report. Comments: Applicant has put in application with the stated purpose to change the property to an A-5 zone with the intention of building a residence. Planning Commission recommendation recommend approval for RE-5 zoning. This property consists of 5.00 acres that is undeveloped and is currently zoned OST. It is bordered by OST and RE-1 properties to the North, RE-20 Property to the East, OST Property to the South, and OSC Properties to the West. Surrounding properties are currently undeveloped however, there are residential properties in the close vicinity.

Application was submitted to the Joint Utility Committee through email and received the following feedback: Rocky Mountain Power: Stated that they have spoken with the applicant and they will require an extension of power to their property. They are also requesting an easement along the access road to install the new lines. They will need to continue to work with the power company to get a detailed power design and cost when they are ready to build their home.

Roads: There is currently no access to the property. There is an access easement onto the property. There was a "road" pushed into the property but it does not meet any town standards and will need to be upgraded before a building permit will be issued.

Fire: The access easement is a long dead end and will need turn arounds for EMS access. Access will also need to meet requirements for an all-weather road that can handle EMS vehicles.



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Ash Creek SSD: They are fine with the application the lot meets the requirements for an alternate septic systems. The applicant will also need to provide Ash Creek with the required septic agreement.

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:

1. 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-5 is consistent with the general plan.

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 undeveloped land however, there are some residences in the vicinity. The proposed change would most likely be harmonious with future development in that area.

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.

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 waste water and refuse collection.

- The applicant will have some challenges when it comes to utilities. Mainly with the road access and fire protection. These items have been discussed in the JUC notes.

End report.

MOTION: Council Member Sair motioned that we approve zone change application for AV-1351-D from OST to Rural Estate 5, Ordinance O-2023-17.

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 Nielson - Aye

Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

6. Discussion and Action: Zone Change Application for AV-2194-D, AV-2194-B, AV-2-2-27-432 (Approx: 1 N. Cinder Hill Road) from Open Space Transition Zone (OST) and General Commercial (C-3) to Planned



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Development Overlay Zone, Cabin Zone (CTP) for the stated purpose of planned development of low density hotel and large ranch lot AG-5 residential. Applicant: Hidden Rock Development Group. Ordinance O-2023-18.

Zoom failure, restarted recording.

Planning Assistant Kyle Layton gave the JUC report. Comments: Applicant is requesting a zone change to agricultural 5 acre and cabin with a planned development overlay. The intent is to develop a horizontal hotel. The property is currently surrounded by C-3 property to the West and North, as well as some BLM property to the East and South. The general plan shows this property as well as all surrounding properties as agricultural land.

This project was presented to the Joint Utility Committee on November 16th, 2022. Several concerns were brought up during this meeting and while the applicants have addressed some, the following are still concerns from staff:

The first concern is access to the property. It is currently accessed through Cinder Hill Road as well as Gouldwash Road. Both roads are not currently roads that have been dedicated to the town and run through multiple private properties. The transportation master plans show only a portion of Gouldwash road to be used for future planning. The master plan shows these roads as a collector street and would require major improvements to bring them up to town standards. Due to the size of the project the applicants would be required to have a primary access as well as a secondary access in case of emergency. Another concern with access would be approval from UDOT for access off highway 59 as far as staff knows there hasn't been any information on whether this would be possible.

The second concern is the site plan that was provided shows quite a bit of development on the hillside. The applicants did a good job of keeping the buildings on relatively flat ground but there are concerns on the road running through their property for emergency vehicle access. Much of their development is on a slope greater than 30% which is not allowed by Apple Valley's hillside ordinance. The hillside ordinance allows slopes up to a maximum of 12% for the road if the road is brought up to full improvements including pavement. It may be difficult to develop roads to meet these requirements.

The last concern is with the water the applicant has added property since their first proposal. The main reason for adding that property is to obtain some existing wells that would be dedicated to the project. It is unknown if the wells are working and could provide the water to the project.

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 town General Plan shows this property as Agricultural. This zone change would not be consistent with the General Plan

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



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There is not currently much development in the vicinity of this project. The location is the old kokopelli golf course. So, there is part of a clubhouse as well as the golf cart paths which are being proposed to be integrated into this project.

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

There is not currently any development on the adjacent property. This zone change would most likely set the course for how the property would be developed in this part of town.

7. 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 waste water and refuse collection.

There are not currently any utilities for this area. The applicant would need to provide all utilities and road access.

End report.

Planning and Zoning Assistant Kyle Layton discussed the hillside ordinance concern. Also discussed the road concerns with the Fire Department. Our ordinance states nothing over 10% and if full improvement road it can be 12% grade. Anything over 30% grade is no development allowed at all. Based on the slope analysis they have strategically tried to place cabins. General Plan as agricultural zone. Not a lot of development out there.

Planning Commission recommendation for approval of project with the stipulation that they reach an approved Development Agreement with the Town within one year.

Dalin Joley applicant of project discussed they are trying to achieve a high level very low-density hotel resort with 22 residential homes. This doesn't drive additional traffic into Apple Valley Town. The water has been discussed with the Water Board. Discussed water and other property owners that have access to water, understanding that this is contingent. Hillside ordinance with civil engineering was discussed and no building, structures or roads are over 30%. Discussed cut and fill analysis and that they have had a conversation with Ash Creek Sewer. All is single level and low density. 44 keys villas/cabins as well as residential component. Council Member Sair asked about open space. A vegetable garden, event space, and horse stable were mentioned. Discussed road access and the General Transportation Plan. No building permit or construction until at least a year was mentioned. There is an issue that the road can't be in the middle of the wash. Another issue is meeting our Hillside Ordinance and this purpose avoids cutting up our mesas. Mayor Lindhardt recommended that due to Planned Development we need to make sure Hillside Ordinance is met. Visual walk through requested by the Council. Mayor Lindhardt asked Fire Chief about code. Showing it meets code and the Hillside Ordinance was discussed with the Fire Chief.

MOTION: Council Member Sair motioned we approve this.

SECOND: No second, motion died.



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Mayor Lindhardt commented not comfortable to approve as is. The Fire Chief asked can it be approved contingent on the Fire Code and Hillside Ordinance being met, as well as a pending walk through. Mayor Lindhardt commented about how he can't visualize this project. Development Agreement assurance was discussed from the applicant.

MOTION: Mayor Lindhardt motioned that we approve this plan subject to a Development Agreement and the actual zone change will not take place until, the combination of the zone change is when the Development Agreement is signed, sealed, and delivered. Also, with the understanding that roads need to be moved and changed from the site plan that we are approving tonight if they do not meet our Hillside Ordinance. You need to improve the access off the highway like UDOT required. You need to improve the roads, asphalt from the highway to your project the main Cinder Rd. The secondary road should just meet Fire Code which would be 25 feet of road base not cinders but road base that actually meet Fire Code. You need to work out a separate agreement with the water District pertaining to your water whether you can actually get enough water for the project, whether they require a tank but all that is hammered out with the District and not with the Town. Of course, you need to do the sewer system as required by Ash Creek. And just so you are aware there may be two separate sewer systems, I don't know how they are going to work that because you're lots are separate from your development. Subject to Fire Chief signs off on the final, that he's happy with the final results because without him it won't happen. He actually has way more power than we do. I want this Development Agreement to be done within one year from today and if it's not then you can come and request an extension but if it's not done within one year then you're essentially back to square one unless you apply for an extension say two weeks before so we have a little timeline on there. This is not subject to; I still want the tour. But this is a Zone Change for Av-2194-D, AV-2194-B, AV-2-2-27-432 and which one of them are the Ag. The last one, so the zone change for that is AG, that is the underlying Zone, the underlying zone for the other two parcels is our Cabin Ordinance that controls the density. And then a PD is on top of all of it. And this is Ordinance number O-2023-18.

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 Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.



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7. **Discussion and Action:** Repeal Title 10.28.270 Guesthouses Or Casitas and Replace Title 10.28.270 Accessory Dwelling Unit (ADU), Ordinance-O-2023-15.

Mayor Lindhardt discussed the employee housing ordinance that was repealed in April 2022. He commented a year or two ago we had 2 similar ordinances but unrestricted. This proposal is reasonable but still restrictive enough to not let a bunch of houses on a single lot. Discussed renting out casitas especially since we are restricting size so it doesn't come with a bunch of giant houses on a single lot. He feels we should not be more restrictive and not everyone is well off as other people. Reviewed ordinance changes allowing people to rent out casitas for extra income. Planning Commission recommendation reviewed. Council Member Sair commented about the ADU's. He continued, ADU's are not considered rural. He commented about squeezing people in dense areas and how this eliminates single family homes and zoning. He doesn't feel we need this right now. In his opinion, ADU would be the worst nightmare for Apple Valley. The ADU is not what you think it is.

MOTION: Council Member Sair motioned to remove this right off agenda and never see it again.

SECOND: No second, motion died.

Council Member Whitmore commented every time we have talked about this, she doesn't know what it is but something is telling her not to vote for it. Mayor Lindhardt discussed current ordinance allows the same just the difference is you can rent it out. Council Member Sair commented if we approve the ADU ordinance we are selling our Town out. The terminology of ADU was discussed amongst the Council. Council Member Whitmore is not comfortable voting yes on this tonight. Mayor Lindhardt asked the Council for direction in accomplishing what changes we are trying to make to give people freedom, less restrictive, and more property rights. Council Member Nielson commented about needed changes to the current casita ordinance, giving people rights back that they should have. The ability to rent out gives people freedom and more property rights. Mayor Lindhardt commented about an example of elderly people, that this could give them an option to rent out their casita and make extra income, possibly allowing someone to not work for their entire life.

MOTION: Council Member Sair motioned that we deny the ADU.

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 Nielson - Aye

Mayor Lindhardt - Nay



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The vote was three aye and one nay and the motion carried.

8. Discussion and Action: Consider approval of appointing Event Committee members, Resolution-R-2023-09.

Mayor Lindhardt commented that we are appointing Tara Hood, Delila Russon, Pam Taylor, Isela Gollehon, and Kimberly (Kim) Wood to the Events Committee. He continued they have agreed to be on our Events Committee. The Council thanks and gave appreciation to the members as well as past members.

MOTION: Council Member Whitmore motioned that we adopt Resolution-R-2023-09, A Resolution Appointing Events Committee Members.

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 Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

9. Discussion and Action: Street name changes.

Mayor Lindhardt discussed street name changes and fully agreed with the recourse. He continued, the only one to change that could be beneficial is Main Street due to Hurricane having Main Street with the same zip code. Mayor Lindhardt commented that he would like to put a survey to the Town for their input on the Main Street name change. He commented something for example like Gateway to Zion that reflects the name of our area.

MOTION: Mayor Lindhardt motioned that we do not change any street names other than Main Street but put it out for a survey for request for names amongst the citizens of Apple Valley.

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 Nielson - Aye



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Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

10. Discussion and Action: Consider approval of appointment of a member to the Southwest Mosquito

Mayor Lindhardt commented Lincoln Wood has volunteered to be our member and he has experience in this field. The Council appreciates his appointment.

MOTION: Council Member Whitmore motioned to adopt the Resolution number R-2023-10, A Resolution For The Appointment Of A Member To The Southwest Mosquito Abatement And Control District Board, that member being Lincoln Wood.

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 Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

11. Discussion and Action: Consider approval of amendment to the Interlocal Agreement, Resolution R-2023-11.

MOTION: Council Member Nielson motioned that we approve Resolution R-2023-11.

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 Nielson - Aye
Mayor Lindhardt - Aye



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The vote was unanimous and the motion carried.

12. Discussion and Action: Decision on Municipal Alternate Voting Methods pilot project (Ranked Choice Voting).

The Council discussed election integrity at the community level. Council Member Nielson commented about the canvassing that will be happening before the election.

MOTION: Council Member Sair motioned to deny.

SECOND: The motion was seconded by Mayor Lindhardt.

VOTE: Mayor Lindhardt called for a vote:

Council Member Sair - Aye

Council Member Whitmore - Aye

Council Member Nielson - Aye

Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

13. Discussion and Action: Contracting with County Clerk for election.

MOTION: Council Member Nielson motioned to deny contracting with the County Clerk for election.

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 Nielson - Aye

Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.



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14. Public Hearing: Adopt Title 14.13 Cemeteries, Ordinance O-2023-16.

Mayor Lindhardt questioned the money for this. He asked if this is the first step. The Town Administrator Jauna McGinnis commented about the sale of plots. She continued, suggested getting a loan for the first phase and then selling lots to fund the next phases. Mayor Lindhardt discussed a survey for the community to see if people are willing to buy plots here. Council Member Nielson loves the idea of a cemetery here. It was discussed about community volunteering for the labor portion of the work.

Mayor Lindhardt opened the public hearing.

Pam Verkin, 205 N 560 W, La Verkin, UT. She is looking at purchasing property in Apple Valley. She loves the beautiful design and agrees with starting small, fundraising, and growing from there. She is a patriot and all for it.

Annie Spendlove, 1260 E 2000 S. She asked the clerk to bring up the plot map. She discussed east and west placing as cultural and half of these graves are north/south. Also, reading through the transferring of plots from one person to another is not allowed and she would like that to be considered.

Mayor Lindhardt closed the public hearing.

15. Discussion and Action: Adopt Title 14.13 Cemeteries, Ordinance O-2023-16.

The Council discussed passing and nothing happens until funding. Also, discussed the survey and nothing lost by doing a survey. The land donated by Ira Bradshaw was mentioned and obligation that comes with the donation of the gift.

MOTION: Council Member Whitmore motioned that we adopt Ordinance O-2023-16, 14.13 Cemeteries.

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 Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.



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16. Discussion and Action: Cemetery Process.

Town Administrator Jauna McGinnis and Council discussed the plan. The original plan was approved and recorded by a previous administration. They discussed volunteers and making sure the cemetery is the way we want it. With this design of circular, you lose about 5% space. Discussed plots facing east/west. The process of survey, redesign and then go from there was discussed. Discussed pre-selling with understanding of disclaimer but survey would be first. Burial rights were discussed.

MOTION: Mayor Lindhardt motioned we are voting on here the process is do a survey, and then redraw the cemetery after the survey, and then figure out how to fund it.

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 Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

17. Discussion and Action: Addition of PTIF Accounts for Cemetery Funds, Resolution R-2023-07.

18. Discussion and Action: Fee Schedule Amendment Cemetery Fees, Resolution R-2023-08.

The Council discussed amongst to table agenda items # 17 and # 18 until after the cemetery for the survey is completed.

MOTION: Council Member Whitmore motioned we table Resolution 2023-07, 2023-08.

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 Nielson - Aye
Mayor Lindhardt - Aye



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The vote was unanimous and the motion carried.

REPORTS, RECOMMENDATIONS, AND ANNOUNCEMENTS

Council Member Sair reported the roads are messy due to the weather. Mayor Lindhardt commented he has received a call from a citizen about vacation rental on a county road that has been washed out. He continued, the road that he received a complaint about is not owned by the Town of Apple Valley. We are just 1000 people; 4000 homes and we can't afford to fix private roads. Council Member commented about the flooding prevention that has been done in some areas. There is road base built up for when the new budget comes out and major improvements that are needed in Town. He discussed the grader maintenance and is currently looking for a person to help the Town. The Town insurance policy requires people to be employees and not volunteers so this is a way to incentivize the volunteers.

Town Administrator Jauna McGinnis reported on the CIB grant that is coming up for projects forthcoming. This will be coming to the Council and for a public hearing. These include road improvements, storm drainage and fire engine.

REQUEST FOR A CLOSED SESSION

No request.

ADJOURNMENT

MOTION: Council Member Whitmore 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 Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

The meeting was adjourned at 9:22 p.m.




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Date Approved: 5/17/23

Approved BY: 
Mayor | Frank G. Lindhardt

Attest BY: 
Town Clerk-Recorder | Jenna Vizcardo

