



APPLE VALLEY TOWN COUNCIL PUBLIC HEARING AND MEETING

1777 N Meadowlark Dr, Apple Valley
Wednesday, January 18, 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 McGinnis led pledge of allegiance.

PRAYER- Prayer offered by resident Michael Gross.

ROLL CALL

PRESENT

Mayor Frank Lindhardt

Council Member Robin Whitmore

Council Member Andy McGinnis

ABSENT

Council Member Kevin Sair

Council Member Barratt Nielson

Other Staff Present

Town Clerk/Recorder Jenna Vizcardo

Town Administrator Jauna McGinnis (virtual zoom)

Planning and Zoning Assistant Kyle Layton

DECLARATION OF CONFLICTS OF INTEREST

None declared.

CONSENT AGENDA

1. Disbursement Listing for December 2022.
2. Budget Report for Fiscal Year 2023 through December 2022.
3. Minutes: December 14, 2022

Mayor Lindhardt asked Council if they have any corrections, comments, or changes. All reviewed previously and had no questions or corrections.

MOTION: Council Member Whitmore motioned that we approve the Disbursement Listing for December 2022, the Budget Report for Fiscal Year 2023 through December 2022, and the minutes of December 14, 2022.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a vote:

Council Member Whitmore - Aye

Council Member McGinnis – Aye



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Mayor Lindhardt - Aye
Council Member Sair - Absent
Council Member Nielson - Absent

The vote was unanimous and the motion carried.

MAYOR'S TOWN UPDATE

No update.

PUBLIC HEARING | DISCUSSION AND ACTION

4. Public Hearing: Update Title 2.14 Planning Commission, Ordinance-O-2023-01.

Town Administrator Jauna McGinnis reported we have found two conflicting ordinances in land use and other on the administrative side. This one is the actual ordinance and the other in Planning Commission will be repealed in the future. Mayor Lindhardt commented so this matches what we are already doing. Town Administrator Jauna McGinnis commented we are also thinking about paying the Planning Commission members \$50 for each meeting and that is in there to discuss.

Mayor Lindhardt opened the public hearing.

Linda Noyes, 2846 N Purple Sage Rd. Curious where we are going to get the \$50 per person.

Town Administrator Jauna McGinnis answered it will be under salaries and we do have enough in the budget. It will be taken from the savings line.

Public comment read into record by Town Clerk/Recorder Jenna Vizcardo:

Janet Prentice, 1567 N. Mount Zion Dr. The planning commission has been a volunteer position beholding to the residents of Apple Valley for 25+ years now as was the town council. I believe the town can find better use for the \$250. After tithing that is only \$45 and that does not come near to paying you for the research and reading, they must do prior to a meeting to be prepared. Use these funds for the Events Committee that blesses the residents and their children. Picking up the trash for us for free was nice, let us stick to that. Thank You and God Bless.

Mayor Lindhardt closed the public hearing.

5. Discussion and Action: Update Title 2.14 Planning Commission, Ordinance-O-2023-01.

Mayor Lindhardt asked Council for their thoughts or feelings.

Council Member McGinnis questioned what initiated this \$50 payment, not that he doesn't believe these folks totally deserve because they've have to do lots of research and spend lots of hours. Town Administrator Jauna McGinnis answered it's something that is done in other places and so I just didn't know if it was time for us to start doing that. They have been putting in enormous amounts of time.



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It's small pittance for what they're doing just like you guys get small pittance but I thought it just might be a good gesture on the Town to provide for the Planning Commission in some sort of way.

MOTION: Council Member McGinnis motioned that we approve Ordinance-O-2023-01 with the amendments as shown.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Whitmore - Aye

Council Member McGinnis – Aye

Mayor Lindhardt - Aye

Council Member Sair - Absent

Council Member Nielson - Absent

The vote was unanimous and the motion carried.

PUBLIC COMMENTS

Michael Farrar, 900 E Mountain Dr. To address what Janet said he will donate his \$50 pay to the event fund.

DISCUSSION AND ACTION

6. **Discussion and Action:** Preliminary Plat Application for AV-1378-Q, Mountain Valley Estates, phase 2. Owner: Land Development Solutions, Applicant: Brant Tuttle, Northern Engineering.

Planning and Zoning Assistant Kyle Layton gave report:

Application is for a preliminary plat for the Mountain Valley Estates Phase 2 subdivision. Phase two will consist of approximately 36 lots ranging from .92 acres up to 2.25 acres. The subdivision will be accessed by using Canaan Way off SR-59 and will have a secondary all weather emergency access on the OST property to the West. The subdivision borders the Canaan Mountain Estates phase one subdivision which has approximately 14 lots on the East as well as undeveloped OST to the West as well as the north. The south side of the property line is the Apple Valley Town limits, so it has Unincorporated County property to the south. This application went in front of the Joint Utility Committee on November 9th, 2022.

AV-1378-Q JUC COMMENTS

FOR AV-1378-Q Mountain Valley Subdivision

November 9, 2022



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Ash Creek Special Sewer District

The Property must be served by an advanced septic treatment system with individual lots having a septic tank for the solids and a subdivision wide advanced affluent treatment system approved through the State of Utah and Ash Creek Special Service District. All sewer system improvements shall be installed as per Ash Creek Special Service District standards.

Rocky Mountain Power

Power needs to be installed to each lot as per Rocky Mountain Powers Standards

South Central Communications

The previously installed copper phone and cable wires need to be replaced with fiber optic wires to each lot as per Rocky Mountain Powers Standards

Big Plains Water District

The water line needs to be looped. A source capacity study needs to be completed and approved through the state and Big Plains Water District to ensure that storage and supply capacity is sufficient to meet the subdivision needs. All water system improvements need to be installed as per Big Plains Special Water District. Big Plain Water district does not guarantee water availability until impact fees has been paid and 1 Acre Foot of culinary water certificate per lot has been deeded to the district.

Apple Valley Public Works

The new road profiles need to meet the Apple Valley Design Standards with curb & gutter and sidewalk as approved by the Town Engineer.

A stormwater detention system needs to be installed in the subdivision and from the exiting subdivision to the storm water detention basin.

The roads through Canaan Mountain Estates Phase 1 needs to be paved (No curb & Gutter or sidewalk is required there).

An all-weather secondary emergency access to HWY-59 must be installed as per town Standards.

All subdivision improvements need to be installed as per The Town of Apple Valley Standards.

UDOT

Turning lanes needs to be installed on HWY 59 at Canaan Drive intersection as per UDOT Standards

Fire requirements for this preliminary plat application:

1. Secondary entrance/exit connected to SR-59.
2. All paved roads must meet Fire Code weight ratings, widths, and radiuses.
3. All unpaved roads must be of all-weather design and meet Fire Code weight ratings, widths, and radiuses.
4. All dead-end roads over 150' shall be provided with width and turnaround provisions as per Fire Code.

End report.



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Planning and Zoning Assistant Kyle Layton reported the Planning Commission recommended approval of this application in their meeting with the conditions that they meet all these requirements that are set forth by the Joint Utility Committee and then they added on the requirement as well that they do curb, gutter, and pavement all the way to SR59 whereas before they were just proposing pavement.

Mayor Lindhardt commented he spoke with UDOT and they said the secondary entrance cannot be open and can only be gated. Council Member McGinnis asked what type of gate and to think about that in the future for emergency purposes. Mayor Lindhardt questioned why it is called phase 2. Mayor Lindhardt asked if for housekeeping purposes to drop phase 2 or change to phase 1. Applicant asked if they would consider the cost of the curb and gutter to the highway. Mayor Lindhardt discussed if developer doesn't do storm drainage on next phase and keeps curb and gutter to the highway it will be more cost efficient.

Council Member McGinnis commented the water system is unused since installation and will need approvals and testing to be placed into service. We will need engineering calculations to ensure proper culinary requirements, fire flows and pressures throughout the development's looped system. Council Member McGinnis commented on the situation with pre-existing fire hydrants and recommend third party person for fire flow test. Mayor Lindhardt asked about looping the water and where the water will be looped to. Council Member McGinnis answered looped currently in subdivision and future running a connection line.

MOTION: Mayor Lindhardt motioned that we approve the preliminary plat application for AV-1378-Q also known as Mountain Valley Estates subdivision. I would either recommend leave the phase off or phase one. The approval is subject to the JUC requirements as outlined in the JUC comments dated November 9, 2022 with the addition of what our Fire Chief added on. And I would recommend that we instead of the Public Works recommended the storm drain system in their comments as of November 9. I recommend we eliminate that but just do the curb and gutter from the highway all the way down through the subdivision. No sidewalk in phase one. So just the curb, gutter and the asphalt and I think everything else is outlined in here so that'll be the motion.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a vote:

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



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The vote was unanimous and the motion carried.

7. Discussion and Action: Appointment of Fire Chief, Resolution-R-2022-04.

Mayor Lindhardt reported we have received the resignation of our current Fire Chief. Public notice to receive new applicants was put out to the public. We have received one applicant. The one we got is resident of Apple Valley and current volunteer of Apple valley Fire Department Michael Gross.

Michael Gross gave brief statement. He has background in construction. Volunteers are needed in Apple Valley Fire Department currently and looking forward to getting going with Apple Valley. Town Administrator Jauna McGinnis added he also served as Fire Captain for five years as volunteer at previous department in Washington state. He was an EMT and let certification lapse. He is hoping to get class for EMT certification in the near future.

MOTION: Council Member McGinnis motioned that we approve Resolution R-2023-04 Resolution For Appointment Of A Full Time Apple Valley Town Fire Chief And Establishment Of Compensation to accept whereas the Town Council has determined that the Town's interests would be best served by the appointment of Michael Gross as the Apple Valley Town Fire Chief to be compensated at the established rate of \$40,000 per year with full benefits.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Whitmore - Aye

Council Member McGinnis - Aye

Mayor Lindhardt - Aye

Council Member Sair - Absent

Council Member Nielson - Absent

The vote was unanimous and the motion carried.

Town Clerk/Recorder administered the Oath of Office to Michael Gross.

8. Discussion and Action: Consider Approval of Allocating ARPA Funds to Big Plains Water Special Service District, Resolution-R-2023-03.

Town Administrator Jauna McGinnis reported APRA stands for America Rescue Plan Act and this is funds that come from government through Covid like Cares Act. Cares Act funds were used previously.



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The APRA funds have 3 certain areas they can be used in. Premium payroll or hazardous pay, revenue loss or water/sewer and broadband infrastructure. Since we don't have any hazardous pay because we don't have any EMT's or nurses. We don't have revenue loss and that leaves the funds to be used for the water infrastructure and that's what this resolution is for. For us to transfer the funds to the District so they can use it to ensure that we have clean water. It will be used for the cleaning of those wells that has been going on in the Cedar Point area and it'll be used for other projects also. The District itself doesn't have the capability to apply for those funds but as a Special District underneath the Town they are able to have the Town apply for that and to transfer the money to them that way. This resolution then we'll just be transferring the funds to them so that they can utilize them to make sure that we have clean water. If we don't move it, the money has to go back to the federal government.

MOTION: Council Member Whitmore motioned that we approve allocating the APRA funds to Big Plains Water Special Service District Resolution R-2023-03.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a Roll Call vote:

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

The vote was unanimous and the motion carried.

9. Discussion and Action: Consider Approval of Bad Debt Write-Off.

Town Administrator Jauna McGinnis reported these are accounts that have been accumulating finance charges. In doing research these accounts were closed in 2020 and 2021. Some changed hands and amounts didn't get paid and we are unable to track previous owners. Writing off \$1055 in loss revenue and penalty part of that is \$800. Overall loss is \$1055. Mayor Lindhardt commented it would certainly cost us a more than that to try to collect.

MOTION: Council Member Whitmore motioned that we approve the bad debt write off.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a vote:



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

The vote was unanimous and the motion carried.

- 10. Discussion and Action:** Consider Approval of Fiscal Year 2022 Agreed Upon Procedures Financial Review, Resolution-R-2023-06.

Town Administrator Jauna McGinnis reported annually we have to have what's called an agreed upon procedures. We don't have to have an audit. We are under the million dollars but over 300,000K threshold and so this is all that is required. During this procedure they went through to look at transactions, accounts, and make sure everything was the way that it should be. Only one area was found out of compliance and that would be about one-third of transactions didn't have any documentation of sampling 25 invoices. It was during the first 6 months of that fiscal year, July 2021-December 2021, and January 2022 we took over. From that point forward no exceptions were found and the area out of compliance has been addressed and corrected. Mayor Lindhardt commented with this administration we have books in order.

MOTION: Council Member McGinnis motioned that we approve Resolution R-2023-06 Consider Approval of Fiscal Year 2022 Agreed Upon Procedures Financial Review.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

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

The vote was unanimous and the motion carried.

- 11. Discussion and Action:** Update Title 10.10.110 Cabins Or Tiny Home Parks Zone and Title 10.12.120 Legal Nonconforming Lots, Ordinance-O-2023-02.



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Mayor Lindhardt commented this is something that is coming from Planning Commission. Mayor Lindhardt commented in 2018 he helped changed to 15 acres minimum. We have one park 5 acres currently. He continued, proposing that we lower the density from 10 per acre to 6 per acre. Also, proposing adding conditional uses. Reviewed changes presented in the packet.

Council Member McGinnis discussed lowering to 5 acres is beneficial for Town to have smaller areas and spread out and not such a large impact on community. On page 5 the roads section Council Member McGinnis wants to amend item A: "All roads need to be constructed to meet the fire code."

MOTION: Council Member McGinnis motioned to approve Ordinance O-2023-02 with the amendments stated first amendment was to on item D 2nd paragraph to leave the accessory building height at 15 feet instead of 25 and page 5 item 2 subitem A pertaining to widths of roads within these parks to read "All roads shall be constructed to meet fire code."

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

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

The vote was unanimous and the motion carried.

12. Discussion and Action: Update Title 11.08.010 Required Improvements, Ordinance-O-2023-03.

Mayor Lindhardt commented just striking sewer from Big Plains.

MOTION: Council Member Whitmore motioned that we approve Ordinance O-2023-03 Required Improvements.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Whitmore - Aye
Council Member McGinnis - Aye
Mayor Lindhardt - Aye



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Council Member Sair - Absent
Council Member Nielson - Absent

The vote was unanimous and the motion carried.

13. Discussion and Action: Update Title 11.08.020 Waste Disposal Systems, Ordinance-O-2023-04.

Mayor Lindhardt commented striking sewer and housekeeping changes.

MOTION: Council Member McGinnis motioned we approve Ordinance O-2023-04 Waste Disposal Systems.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

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

The vote was unanimous and the motion carried.

14. Discussion and Action: Update Title 11.08.080 Water, Ordinance-O-2023-05.

Mayor Lindhardt commented striking sewer and housekeeping changes.

MOTION: Council Member Whitmore motioned that we approve Ordinance O-2023-05 on Water.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a Roll Call vote:

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



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The vote was unanimous and the motion carried.

15. Discussion and Action: Update Title 11.02.030 Definitions, Ordinance-O-2023-06.

Mayor Lindhardt commented all housekeeping. Council Member Whitmore commented housekeeping she would like to see definitions lined up.

MOTION: Council Member Whitmore motioned that we approve Ordinance O-2023-06 on Definitions with the note that we line up the definitions at the bottom.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a Roll Call vote:

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

The vote was unanimous and the motion carried.

16. Discussion and Action: Update Title 11.02.080 Construction Drawings, Ordinance-O-2023-07.

Mayor Lindhardt commented striking sewer on page three.

MOTION: Council Member McGinnis motioned to approve Ordinance O-2023-07 Construction Drawings.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

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

The vote was unanimous and the motion carried.



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17. Discussion and Action: Update Title 11.02.100 Final Plat Requirements, Ordinance-O-2023-08.

Mayor Lindhardt commented housekeeping again striking sewer and adding Ash Creek. Council Member McGinnis commented also adding certificate of approval from Ash Creek on E6.

MOTION: Council Member Whitmore motioned that we approve Ordinance O-2023-08 Final Plat Requirements.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Whitmore - Aye

Council Member McGinnis – Aye

Mayor Lindhardt - Aye

Council Member Sair - Absent

Council Member Nielson - Absent

The vote was unanimous and the motion carried.

18. Discussion and Action: Update Title 10.10.090 MH Manufactured Housing Park Zone, Ordinance-O-2023-09.

Mayor Lindhardt commented Ash Creek changes again.

MOTION: Council Member Whitmore motioned to approve Ordinance O-2023-09 Manufactured Housing Park Zone.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Whitmore - Aye

Council Member McGinnis – Aye

Mayor Lindhardt - Aye

Council Member Sair - Absent



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Council Member Nielson - Absent

The vote was unanimous and the motion carried.

19. Discussion and Action: Update Title 10.28.150 Utility Requirements, Ordinance-O-2023-10.

Mayor Lindhardt commented again doing the Ash Creek and the water district changes and that's it.

MOTION: Council Member McGinnis motioned that we approve Ordinance O-2023-10 Utility Requirements

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Whitmore - Aye

Council Member McGinnis - Aye

Mayor Lindhardt - Aye

Council Member Sair - Absent

Council Member Nielson - Absent

The vote was unanimous and the motion carried.

20. Discussion and Action: Update Title 10.28.190 Curbs, Gutters, Sidewalks, And Road Improvements, Ordinance-O-2023-11.

Mayor Lindhardt commented this one here instead of maybe required, changed to shall and reviewed changes presented in packet. Also discussed special assessments.

MOTION: Council Member Whitmore motioned that we approve Ordinance O-2023-11 Curbs, Gutters, Sidewalks, And Road Improvements.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Whitmore - Aye

Council Member McGinnis - Aye

Mayor Lindhardt - Aye

Council Member Sair - Absent



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Council Member Nielson - Absent

The vote was unanimous and the motion carried.

21. Discussion and Action: Repeal and Replace Title 10.10.120 Planned Development Zone, Ordinance-O-2023-12.

Mayor Lindhardt discussed planned Development approaches and one is what we have on the books currently. The other approach is what is being proposed and in the packet. It is called overlay zone and is a much better way to go for Town and Developer.

Council Member McGinnis discussed this zone gives us control for what we can or don't want in the Town. Town Administrator Jauna McGinnis commented to request amendment to title in motion to be "Planned Development Overlay Zone."

MOTION: Council Member McGinnis motioned we approve Ordinance O-2023-12 with the amendment of changing the title to "Planned Development Overlay Zone."

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

Council Member Whitmore - Aye

Council Member McGinnis - Aye

Mayor Lindhardt - Aye

Council Member Sair - Absent

Council Member Nielson - Absent

The vote was unanimous and the motion carried.

22. Discussion and Action: Update Title 10.07.090 Conditional Use Permit, Ordinance-O-2023-13.

Mayor Lindhardt reviewed changes presented in the packet. Mayor Lindhardt asked Council if they had any discussion of this item.

MOTION: Council Member Whitmore motioned that we approve Ordinance O-2023-13 Conditional Use Permit.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a Roll Call vote:



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

The vote was unanimous and the motion carried.

23. Discussion and Action: Consider Approval of Fee Schedule Amendment, Resolution-R-2023-05.

Mayor Lindhardt reviewed the changes in the fee schedule presented in the packet.

MOTION: Council Member McGinnis motioned that we approve Resolution R-2023-05.

SECOND: The motion was seconded by Council Member Whitmore.

VOTE: Mayor Lindhardt called for a Roll Call vote:

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

The vote was unanimous and the motion carried.

REPORTS, RECOMMENDATIONS, AND ANNOUNCEMENTS

Council Member McGinnis reported we have a new Fire Chief and everything is good. Also, working on getting engines up to snuff and winter fire school is coming up. Mayor Lindhardt commented in Planning we have been fixing and cleaning things.

REQUEST FOR A CLOSED SESSION

No request.



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ADJOURNMENT

MOTION: Council Member Whitmore motioned to adjourn the meeting.

SECOND: The motion was seconded by Council Member McGinnis.

VOTE: Mayor Lindhardt called for a vote:

Council Member Whitmore - Aye

Council Member McGinnis – Aye

Mayor Lindhardt - Aye

Council Member Sair - Absent

Council Member Nielson - Absent

The vote was unanimous and the motion carried.

Meeting adjourned at 7:27 p.m.

Date Approved: 2-15-23

Approved BY: 
Mayor | Frank G. Lindhardt

Attest BY: 
Town Clerk-Recorder | Jenna Vizcardo

