



SPECIAL APPLE VALLEY TOWN COUNCIL MEETING

1777 N Meadowlark Dr, Apple Valley
Tuesday, October 04, 2022 at 7:00 PM

MINUTES

Mayor | Frank Lindhardt |

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

CALL TO ORDER - Mayor Lindhardt called meeting to order at 7:00 p.m.

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

PRAYER - Prayer offered by Bishop Darren Chipman.

ROLL CALL

PRESENT

Mayor Frank Lindhardt

Council Member Kevin Sair

Council Member Robin Whitmore

Council Member Andy McGinnis

Council Member Barratt Nielson

DECLARATION OF CONFLICTS OF INTEREST

None declared.

DISCUSSION- TOWN HALL MEETING

1. **Question and answer session for all of Apple Valley relating to the Town and the Big Plains Water & Sewer Special Service District.**

Mayor Lindhardt reported that Council asked citizens to submit questions and they received many of the same questions. Council decided rather than just answer questions, topics will be covered from the different departments as followed:

- Jauna McGinnis our Town Administrator
 - Update on Town Finances
 - Update on Code Enforcement progress
 - Update on Meeting procedures
- Council Member Barratt Nielsen
 - Update on Building Department
- Council Member Kevin Sair
 - Update on Road issues
- Water District Chairman Andy McGinnis
 - Update on water issues



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- Mayor Frank Lindhardt
 - Updates on Planning and Zoning and developments
 - Updates on potential trouble and issues
 - Update on pending notices of claim and lawsuits

Town Administrator, Jauna McGinnis and Council Member Robin Whitmore, gave an update on the income and expenditures, code enforcement, and meeting procedures. (See Attached-Attachment A, six pages total)

Council Member Barratt Nielson gave an update on what is going on within our Building Department. He gave a verbal update letting everyone know that the Town has gotten a new building inspector, Kyle Layton and he is doing a fantastic job. He continued, he is very pro-active and knowledgeable, having a background with inspections with the county. He is also our Planning and Zoning Director; he reviews plans, submittals, and compliance to planning and zoning. This has been incredibly positive. Council Member Nielson also showed the people in the meeting, as well as online, the submittal process of a building permit in the online software City Inspect. This can be accessed via our website. He explained the benefits of having everything on the online system, for the benefits of, tracking, certificates, etc. He has been pleased with the process and how everything is going. Jauna McGinnis, Town Administrator interjected that Kyle Layton is not a paid employee and his pay is based off the building permit fee or land use application fee.

Council Member Kevin Sair gave a verbal update on our streets department issues. He started by thanking all the volunteers that have come forward, as well as thanking the Town administration staff. He continued, there are things in Gooseberry subdivision that need to be addressed regarding road improvements. It has been flooding out there for quite some time. He stated that Council Member McGinnis and himself have spent time and money out there doing road improvements recently. This included digging out bar ditches and he confirmed they have got washed out three times this year. Also, culvert improvements are going on, money will be used from the storm drainage fund account. He discussed road funds do not necessarily come out of the taxes that we pay. Even though we are getting more buildings and new homes specifically in Gooseberry, that really does not add that much to the road funds. We are given road funds by the State. It comes through all the mineral, oil, and taxes (fuel). We get a specific amount and it is used for the road maintenance on paved roads. He also discussed that it has taken six months just to get an asphalt bid for locations in Town that need to be repaired. Also discussed they could not get road base for four months as well. Also discussed the equipment and the maintenance that had to take place, before they could get out there and address the road and bar ditches in the community. He discussed that is the only money we have and we need to spend it very wisely. He continued, there are numerous parts in the community that need help. We are going to keep doing our due diligence and knocking them down one at a time until we get them all



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done. He stated this is the plan moving forward and encourages anyone that would like to volunteer to reach out. He commented on the plans for improving the roads and some are questioning in the community if we can put in an SSD for the roads. He has never heard of such a thing. He did confirm that in specific areas there are no plans for paving, and that is why we have changed all the ordinances moving forward, requiring those improvements so we do not have what happened in Gooseberry with unpaved roads happen elsewhere. He mentioned the cost to pave Gooseberry is one million dollars and a special assessment can be discussed being added to that area but mentions most residents including himself would fight against that. He mentioned that you knew when you bought your property that you were on unpaved roads. He said please slow down and respect your neighbor. He mentioned he is going to continue cleaning out the bar ditches. He also called on the community to help clean up their bar ditches. He asked the community, if they see anything that needs to be addressed to please reach out.

Big Plains Water District Chairman Andy McGinnis gave us an update on the status of our water concerns. Presented PowerPoint Presentation (See Attached-Attachment B, sixteen pages total).

Mayor Frank Lindhardt updated on Planning and Zoning and developments, potential trouble, and issues, and on pending notices of claim and lawsuits. Mayor Lindhardt presented PowerPoint Presentation (See Attached-Attachment C, thirty-six pages total).

After Mayor presented, he thanked the community and stated we want your support in all of this. We have a fantastic team of people to work with. He also stated we need the backup of all the citizens to be able to deal with what is ahead, we are not a little Town of Apple Valley anymore. We are 3,300 lots and more coming. The 3,300 lots we cannot stop but we can do what we can to make sure they follow our ordinances, and all our rules, and that is what we intend to do. He continued, he intends to get it all set up so when he is done with his term in a year and a half then it will continue to work and it will continue to run no matter who is here. Thank you.

Council Member Sair commented about needing a new Mayor to run when the election comes and to start to think about it now. He also mentioned the same for these council seats. We need good citizens to step up in the future.

PUBLIC COMMENTS

Mayor Lindhardt opens for public comments or any questions that were not addressed, we can take a few minutes to address.

Debbie Kopp, 2222 E Ranch Rd: Commented, she wants to know how in the future are we going to protect us as residents against developers like we had by us that destroyed our road and made it unusable.

Mayor Lindhardt responded it's very simple, if we have a public works director which we have now, he ensures that nobody starts building until all their plans are approved, and that nobody starts building until they have to



SPECIAL APPLE VALLEY TOWN COUNCIL MEETING

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MINUTES

put in all the improvements or they won't be able to do it, and they will have to bond, and it will never happen like this again.

Debbie Kopp: Asked what we do know.

Mayor Lindhardt responded, right now that subdivision is dead because the developer refused to move forward. I made call after call to get him to come to the table and he never returned one phone call. I do not know where it is going to go but, in the meantime, you're welcome to use my driveways.

Linda Noyes, 2846 N Purple Sage Rd: Commented, I was looking at your sheets and you addressed the complaints and what the steps that you take are, and would like to know if they will be available for viewing after this meeting.

Town Administrator, Jauna McGinnis commented that the audio and video of this meeting will be available along with the presentations and documents.

Mayor Lindhardt discussed about code enforcement and the lengthy process that takes place. He also commented that they are taking code enforcement seriously.

Libby Wells, 1363 N Rome Way: Commented, she would like clarification on zone changes, particularly on the recent zone changes discussed as they were one of them. Recently a zone change was approved from open space zoning changed to commercial. I know us as well as others had their zone change denied due to water. She asked what has changed, what made you approve a zone change from open space to commercial. She continued to comment that they offered to bring water, tanks, and sewer to help the town.

Mayor Lindhardt responded its apple and oranges. This is a commercial building; they freeze dry with five employees and one toilet. He also mentioned their site plan. But regardless if it is ten employees and two toilets, vs Wells projects with 160 acres and multiple hundreds of lots. We did not feel like we had capacity at the time when you brought in, and we felt like we did not know where we were at with water and sewer. We saw no need to turn a commercial business down that was at the perfect location. But we did see a need to turn down an additional 3,000 lots down when we already have 3,300 lots coming, with which we must deal. Cities survive from commercial business with commercial taxes. He also mentioned that homes cost cities more in property taxes. He continued, that is costs us more to provide services and road maintenance. But commercial will not come until you have the residential. He also discussed the survey where everybody came back that they wanted to stay rural and low density. He commented about the 3,300 lots that are coming. He commented that everyone has rights and we need to find balance in those rights. Council Member Sair commented that we need sustainable commercial businesses.

Walter Josey, 1224 N Rome Way: Commented that a couple statements had him confused. In Andy's (Council Member Andy McGinnis) presentation, he is saying that we have to be cautious with our water and our current citizens yet you are informing us that we have these 3,000 plus lots and we can't stay rural. But if we don't have the water to service then we can stay rural.

Mayor Lindhardt responded we can go to people like Libby Wells, when she said, I want to develop, I will get the water, build the tanks, and I will do what I need too. We make it their problem, not ours, because we do not have the answers. There are other developers, like Jepson Canyon, who have agreed to provide us with a million-gallon tank as part of their approval for their development We are going to get a million-gallon tank that would alleviate the storage problems over here. If we would have got all approved (the additional 6,000 lots),



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we simply do not have enough water. If you take all the water shares that exist in Apple Valley and add them all up, we do not have enough.

Walter Josey asked if we have enough water for the 3,300.

Mayor Lindhardt responded, I doubt it and Council Member Sair agreed.

Walter Josey, commented, then we can stay rural in my mind. Well, that is why I do not understand, why did we ever approve when we do not know whether we can support it or not.

Mayor Lindhardt commented that should have been on the table before you start approving a whole bunch of stuff, you need to know. He also commented that is like the rest of us, for example before I go buy a house, I have to make sure I have my funds, the ability to support it, and to buy it. It is the same thing here we should have known what we are doing but in those eighteen months with the Marty Lisonbee administration and then Dale Beddo administration, they just approved, approved, and approved and now we are stuck trying to figure out asking those questions, like "do we have water". We know like Council Member/Water Board Chairman Andy McGinnis said we can support some growth for now.

Walter Josey, thanked for trying to clarify.

Rich Ososki, 1024 W Little Pinion Way: Commented, I like what we did tonight, commended all, and thanked everyone for everything that they have done. I think we should do this again at a later date. He also thanked Jauna McGinnis, Town Administrator, and continued, she has worked with our nuisance complaints and grama requests. Kevin's right, what we will do in the future starting tomorrow is not turn in so many. We will just turn in one and everybody can sign the bottom of it. That will help the situation and the others will be satisfied that they had a part in it. The last thing is mitigation. In Gooseberry, there is several homeowners, that said, they would like to have their property cleaned up. It is quite a project and Rich (Rich Kopp on Mitigation Board) says to give them 3-4 weeks. Could you just touch on mitigation and how important it is.

Mayor Lindhardt responded, Andy McGinnis (Fire Chief), for follow-up on mitigation.

Margaret Ososki, 1024 W Little Pinion Way: Commented, Is there any way our Charter could be changed when we have an opening on the Town Council, we do not have musical chairs. Like when Marty was Mayor, then they put Beddo in as Mayor and then put Marty back on as Town Council. Is there any way that can be changed if you are on the Town Council and you leave that you cannot go back on the Town Council for a year.

Mayor Lindhardt responded, talk to your legislators and unfortunately that is state law.

Darin Birch, 873 W Foothill Dr: He asked the status of the moratorium.

Mayor Lindhardt responded that it is over. A moratorium can only last six months. We are accepting building permits and dealing with developers daily. The only area that we will not be able to issue buildings permits still, is in Cedar Point area because we still do not have those wells up that Council Member/Water Board Chairman Andy McGinnis talked about to be able to support growth. But we can support everyone who lives there .

Council Member/Water Board Chairman Andy McGinnis commented I would like to add for everyone in Cedar Point if it was not clear, restrictions are off out there. By no means do I want you to go out and waste water but we are not under the restrictions of conservation like we were this summer. We can keep up with current usage.

Council Member Sair mentioned Statewide there is a concern about water.



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ADJOURNMENT

MOTION: Council Member Nielson motioned to adjourn the meeting.

SECOND: The motion was seconded by Council Member Sair.


VOTE: Mayor Lindhardt called for a vote:

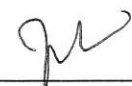
Council Member Sair - Aye
Council Member Whitmore – Aye
Council Member McGinnis - Aye
Council Member Nielson - Aye
Mayor Lindhardt - Aye

The vote was unanimous and the motion carried.

Meeting adjourned at 9:59 p.m.

Date Approved: 11/21/22

Approved BY: 
Mayor | Frank G. Lindhardt

Attest BY: 
Town Clerk-Recorder | Jenna Vizcardo



Attachment A, page 1 of 6

From the list of questions that were submitted, we have chosen to focus on the following areas:

- Town Debt
- Employee Payroll
- Code Enforcement
- Meetings – Public Comment

We will begin with **Town Debt**. One specific question asked was what the plan was to get the town out of debt. We believe the pertinent question is how to keep the town from going further into debt. To begin this discussion, you must understand what our sources of income are. We have:

- 37% **Taxes**, which include Property, Sales, Energy, RAP, Transient, and Highway tax
- 10% **Licenses and Permits**, which include Business licenses, building permits and animal licenses
- 10% **Intergovernmental Revenue**, which includes Grants, Class C Road funds, liquor profits and federal grants
- 17% **Charges for Services**, which include special events, zoning & subdivision fees, solid waste, storm drainage, and clerical services
- 26% **Miscellaneous**, which includes interest, fundraiser and impact fees

Out of the 100% revenue funding that we bring in, 44% is either restricted or assigned (underlined/italicized above), meaning it can only be expended on certain areas within our budget. This leaves 56% of the annual budget to pay for the operation of the town. Our budget literally is a balancing act that we as the current administration must deal with due to actions of prior administrations. Eleven (11) percent of the budget pays for the debt in the town.

The biggest glaring debt remaining is the Gateway project in the remaining amount of \$1.091 million over the next twenty-three (23) years (\$63,000/year, 7% of budget). This is a debt that should have been paid for by the developer, not us as residents. Mayor Lindhardt will explain this in more depth in his presentation.

We will have the other 4% of the debt paid off at the end of this fiscal year (June 2023).

So to answer the question, what is the plan to get the town out of debt: We must continue to budget appropriately so that we may:

- Pay our debt each year, with the hope that as we grow, we may put more of the property taxes toward the principal of the Gateway project; and
- With the 2nd part of the equation to make the appropriate decisions regarding any new development to lessen the impact upon the citizens; and
- With the 3rd part of the equation to make equipment purchases sensibly, i.e., no loans; and
- With the 4th part of the equation to encourage community based commercial businesses to come to our area thereby producing an increase in sales tax, even though it is only a minimal 1%; and
- With the 5th part of the equation to always be searching for ways to reduce our debt, perhaps by better loan terms and possibly grants that would fund already completed projects.

The next topic is **Employee Payroll**. The specific question for this is how the town is paying for all the new hires. We will demonstrate this with the following tables.

UNDER PRIOR ADMINISTRATION

UNDER PRIOR ADMINISTRATION				BENEFITS			
DEPARTMENT	RATE	HOURS/ UNITS/ MO	ANNUAL WAGES	TAXES 11.44%	URS 16.69%	WAGES	BENEFITS
COUNCIL							
Mayor	850.00	1	10,200.00	1,166.88		10,200.00	1,166.88
Treasurer	75.00	3	2,700.00	308.88		2,700.00	308.88
Council Member	75.00	3	2,700.00	308.88		2,700.00	308.88
Council Member	75.00	3	2,700.00	308.88		2,700.00	308.88
Council Member	75.00	3	2,700.00	308.88		2,700.00	308.88
	\$1,150.00	13	\$21,000.00	\$2,402.40	\$0.00	\$21,000.00	\$2,402.40
PUBLIC WORKS/ROADS/PARKS							
Parks			20,000.00			20,000.00	
	\$0.00	0	\$20,000.00	\$0.00	\$0.00	\$20,000.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
FIRE/POLICE							
Chief	3,750.00	1	45,000.00	5,148.00	7,510.50	45,000.00	12,658.50
	\$3,750.00	1	\$45,000.00	\$5,148.00	\$7,510.50	\$45,000.00	\$12,658.50
ADMINISTRATION							
Clerk/Recorder	17.00	174	31,200.00	3,569.28	5,207.28	31,200.00	8,776.56
Office Assistant	20.00	70	16,800.00	1,921.92		16,800.00	1,921.92
Housekeeper	15.00	10	1,800.00	205.92		1,800.00	205.92
Finance Director	5,084.00	1	61,008.00	6,979.32	10,182.24	61,008.00	17,161.55
Administrator	36.06	56	24,232.32	2,772.18		24,232.32	2,772.18
Accountant	2,500.00	1	30,000.00			30,000.00	
	\$7,672.06	312	\$165,040.32	\$15,448.61	\$15,389.52	\$165,040.32	\$30,838.13
GRAND TOTAL	\$12,572.06	326	\$251,040.32	\$22,999.01	\$22,900.02	\$251,040.32	\$45,899.03

Contract

Contract

\$296,939.35

CURRENT ADMINISTRATION

DEPARTMENT	RATE	HOURS /UNITS /MO	ANNUAL WAGES	BENEFITS		WAGES	BENEFITS
				TAXES 11.44%	URS 16.69%		
COUNCIL							
Mayor	850.00	1	10,200.00	1,166.88		10,200.00	1,166.88
Treasurer	75.00	3	2,700.00	308.88		2,700.00	308.88
Council Member	75.00	3	2,700.00	308.88		2,700.00	308.88
Council Member	75.00	3	2,700.00	308.88		2,700.00	308.88
Council Member	75.00	3	2,700.00	308.88		2,700.00	308.88
	\$1,150.00	13	\$21,000.00	\$2,402.40	\$0.00	\$21,000.00	\$2,402.40
PUBLIC WORKS/ROADS/PARKS							
Laborer-General	18.00	125	27,000.00	3,088.80		27,000.00	3,088.80
	\$18.00	125	\$27,000.00	\$3,088.80	\$0.00	\$27,000.00	\$3,088.80
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
FIRE							
Chief	3,334.00	1	40,008.00	4,576.92	6,677.34	40,008.00	11,254.25
	\$3,334.00	1	\$40,008.00	\$4,576.92	\$6,677.34	\$40,008.00	\$11,254.25
ADMINISTRATION							
Clerk/Recorder	18.50	174	38,628.00	4,419.04	6,447.01	38,628.00	10,866.06
Finance Director	20.00	70	16,800.00	1,921.92		16,800.00	1,921.92
Housekeeper	12.00	10	1,440.00	164.74		1,440.00	164.74
Administrator	4,167.00	1	50,004.00	5,720.46	8,345.67	50,004.00	14,066.13
	\$4,217.50	255	\$106,872.00	\$12,226.16	\$14,792.68	\$106,872.00	\$27,018.84
GRAND TOTAL	\$8,719.50	394	\$194,880.00	\$22,294.27	\$21,470.02	\$194,880.00	\$43,764.29

\$238,644.29

Reduced by: \$58,295.06

Attachment A, page 4 of 6

As you will notice, there are missing pieces to this equation, i.e., EMS services, police services, public works director. These are areas that we have people in place to do what they can and are working to find a solution to these needed services, i.e., Kevin Sair.

Attachment A, page 5 of 6

The next topic is **Code Enforcement**. Most of the questions revolved around how the code enforcement is working.

There is a process that is followed in which a time frame is involved providing for due diligence on both our part and the resident. Following is a general outline. There are other factors that may speed up or slow down the process.

1. Receipt of the complaint (1 day)
2. Determine if the resident is out of compliance with our ordinances (1 day)
3. Determine if the non-compliance is under the purview of code enforcer or the building inspector and assign (1 day)
4. Logging in to the system and providing an initial action to be taken (1 day)
5. Begin the process of sending the initial letter to the resident stating the ordinances in violation and the process they must go through. This letter is sent by certified mail (Up to 20 days)
6. Resident is given 30 days from letter date to correct the violation (30 days)
7. If resident complies, then the issue is deemed complete (Up to a total of 54 days)
8. If resident does not comply, then it is turned over to the Washington County Sheriff to issue a citation, or if in the purview of the building inspector, it is turned over to the process server to give notice to "stop work". This could take an additional 30 days to process, as these officers must track down the individual to serve them.

If a complainant would like to get an update on the submitted complaint, they must submit a GRAMA request for this information. It is not under our purview to respond. Once the complaint is in our hands, then we go to work to resolve it.

The fees attached to the citations, and such are dependent upon the misdemeanor class and if it is an individual or a company. Each day is considered a violation. A class 'B' misdemeanor for an individual is \$750 - \$1,000 and a company is \$5,000.

Attachment A, page 6 of 6

Last topic is **Public Comments** in meetings.

The purpose of meetings is for the public body to convene to discuss and make decisions.

A regular meeting provides for a public comment section, which a public body may or may not utilize.

A public hearing is for the public body to listen to comments and concerns from the residents. This gives the public body the opportunity to understand what is important to residents and even take note to make changes.

All items for discussion and action are put onto the agenda, by which the public will be given an opportunity to review and ask questions prior to the meeting by contacting the council members and/or other administrative staff, if they would like.

It was asked if each agenda item could have a public comment immediately following the discussion. This would only lend to extending the meeting beyond a normal timeframe.

There are two apparent approaches to facilitate public comments:

1. Public comments prior to the discussion and action.
2. Public comments after the discussion and action.

In other cities, residents must sign up to even participate in the public comment section.

We have chosen to have the public comments prior to any discussion and action so opinions may be heard and considered. The possibility to have a sign-up sheet has been discussed, though no decision has been made in this direction.

It is suggested that our residents become informed about the agenda items prior to the meeting. Your pre-meeting input may have more weight to the discussion, as each individual council member will have been researching, forming opinions, and considering action prior to the meeting.

Attachment B, 16 pages total



The logo for the Big Plains Water and Sewer Special Service District. It features a central illustration of a silver faucet with a single blue water drop falling from it into a pool of water with ripples. Above the faucet is a green leaf with a black stem. The entire scene is framed by a red circular border with decorative flourishes. The text "Big Plains Water and Sewer Special Service District" is written in blue, bold, sans-serif font, curving around the top and sides of the red border. Below the faucet, the text "TOWN HALL QUESTION AND ANSWER MEETING" and "OCTOBER 4, 2022" is written in a smaller, white, sans-serif font.

Big Plains Water and Sewer Special Service District

TOWN HALL QUESTION AND ANSWER MEETING
OCTOBER 4, 2022

BIG PLAINS SSD

Big Plains Water and Sewer Special Service District is made up of 5 volunteer board members and an FT Water Superintendent.

Most work on the water system is performed by volunteers and the one paid employee, minus the larger bid projects.

Without the knowledge and willingness of our volunteers, many of them board members, the District would have failed long ago. Most recently it was these volunteers that kept water flowing to Cedar Point this summer, all the while dealing with multiple well issues that took all but one well offline.

Numerous hours, gallons of fuel, favors called in and financial support happen day in and day out by these volunteers without recognition. These folks deserve our "Thanks" and Support.

THE SYSTEM

The Big Plains water system consists of three separate systems:

- Apple Valley
- Cedar Point
- Canaan Springs

Apple Valley has (2) wells and (2) tanks totaling 440,000-gal storage

Cedar Point has (5) wells and (1) 1,000,000-gal storage

Canaan Springs has (2) springs (currently developed) and (2) tanks totaling 150,000-gal storage

There is currently no interconnectivity between the systems. The District is looking at options to get our systems connected for the future.



HYDROLOGY STUDY PAST AND PRESENT

PAST- Big Plains Water and Sewer Special Service District's last aquifer evaluation was in July of 2015 and was produced by Ensign Engineering.

Highlights:

- Potential future well sites
- Aquifer estimated in balance to slightly over-drafted (assumption dependent)
- 3.61% growth rate estimate for Apple Valley 2010-2030

PRESENT- Washington County Water Conservancy District is presently conducting a study for Washington County. Apple Valley will be included and there is currently not a completion date set as there is a very large amount of data to compile for the entire county.



WATER SHARES AND THE SSD

The District as part of the building permit process requires the developer or the property owner to deed culinary water shares to the district in return for supplying water to their project.

Culinary/Municipal water shares are generally utilized for residential and commercial projects.

Irrigation water shares are generally utilized for Ag uses such as crop watering and stock water. In most cases an irrigation water share does not convert straight across to a culinary/municipal share and currently in our area it takes an approximate 30% haircut (1acft = .7acft).

The District will always be looking to purchase additional culinary water shares and wells at a discounted rate to add to our assets. The District has had no such offers or conversations to this effect as of late.



CEDAR POINT THE SYSTEM

The Cedar Point water system consists of:

5- Wells

- Well 59
- Cooke
- Jessop
- Well #1 (Canyon well)
- Well #5 (Rock well)

1- 1,000,000 gal water tank

All associated piping and valves



CEDAR POINT THE SYSTEM

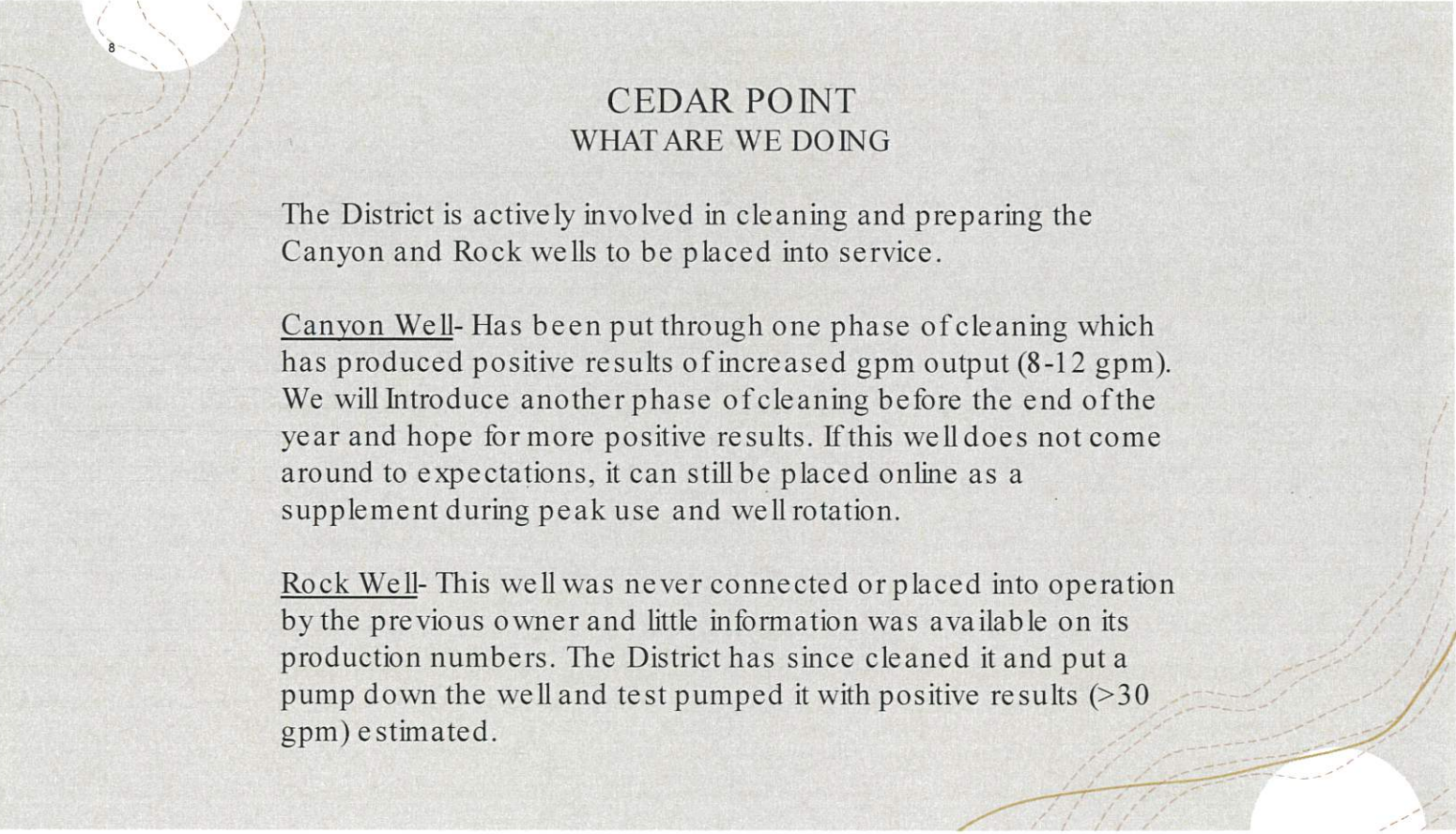
The Cedar point system is currently running on two wells, the Cooke and the Jessop thanks to the conservation efforts of the Cedar Point and Bubbling Wells community members.

As Fall and Winter month approach us, water consumption usually lessens and allows for well rotation and maintenance.

Historically the Cedar Point system has operated on two of the following three wells; Well 59, Cooke, and the Jessop intermittently.

Well 59 is still not able to be utilized due to a backlog at the lab. We will put this well back in service or continue the cleaning process as directed by the results.

The Cedar Point system supplies water to all current housing in the Cedar Point and Bubbling Wells area.



CEDAR POINT WHAT ARE WE DOING

The District is actively involved in cleaning and preparing the Canyon and Rock wells to be placed into service.

Canyon Well- Has been put through one phase of cleaning which has produced positive results of increased gpm output (8-12 gpm). We will introduce another phase of cleaning before the end of the year and hope for more positive results. If this well does not come around to expectations, it can still be placed online as a supplement during peak use and well rotation.

Rock Well- This well was never connected or placed into operation by the previous owner and little information was available on its production numbers. The District has since cleaned it and put a pump down the well and test pumped it with positive results (>30 gpm) estimated.



CEDAR POINT WHAT ARE WE DOING

Rock well(cont.)- The District is currently working on paperwork with the State, as well as getting the required piping, valves, controllers and pump specifications ready for procurement. We hope to have this well connected and online by summer of 2023.

Canaan Springs- Our pipeline running from the springs will require some mitigation work to be performed due to the monsoon storms we experienced this fall. Work will be performed to prepare for future runoff and is scheduled to be completed early spring 2023.

CEDAR POINT WHAT ARE WE DOING

Cedar Point Pipeline- The District has applied for a grant, which was prompted by and applied for during the Cedar Point water shortage this summer. The grant is currently in the Federal level of approval with no timeline for final approval. Our hope is it is approved by years end.

The state must approve any extension to our system and will be closely involved in all aspects of this project.

This grant will allow the District to connect Canaan Springs to the Cedar Point System for additional water needs as determined by the Water Superintendent.

Dependent on timing, the pipeline project may start early spring as the contractor finishes up the Springs mitigation project. If the timing does not work out, then we will be subject to contractor scheduling.



CEDAR POINT WHAT ARE WE DOING

Cedar Point Pipeline- During initial discussions on the pipeline, the District wanted to connect it from the Springs to the 1M gallon tank, but arrangements with the landowners involved could not be finalized to everyone's satisfaction.

Public Awareness- The District welcomes community involvement, and asks that waste of water or unauthorized use of Fire Hydrants be reported to the Town Office at 435.877.1190

Water is a vital resource, and it is our duty to protect it for our future and the future of those that follow.

APPLE VALLEY SYSTEM UPGRADES

Tanks- The storage tanks for the Apple Valley system are aging and approaching their expected service life. The District is exploring options of repairs, and linings for the existing tanks to extend the service life.

The District is also in communications with a developer, that would install a 1M gallon tank for the Apple Valley system as part of their development agreement. This addition to our system would increase storage as well as increase fire flow in key areas.

BIG PLAINS SSD THE FUTURE

Are we going to run out of water? Only Mother Nature will be able to answer that question. As we all know most of the Western United States are in drought conditions, we only have to look at the Colorado River and the man-made lakes on it to know we all need to conserve or run out.

As far as Apple Valley is concerned there are no indications currently of that being the case. Water levels within our wells are at this point maintaining their historical levels. But during the Summer months we do see considerable drawdown in certain areas of our valley. Most of our wells now have telemetry that allow us to better monitor levels throughout the year and better understand the stresses we are placing on each well.

As stewards of the water in our valley, the District takes seriously the amount of water removed from our aquifers and how it ultimately relates to our growth.

BIG PLAINS SSD THE FUTURE

The community can rest assured that the water needed to provide for those currently living here is our priority. All decisions on future growth at the District level will be gauged against that metric.

Growth- Using numbers requested by the District and Town from Sunrise Engineering, storage capacity in each system of the town will support further growth.

Apple Valley- substantial growth due to storage and source.

Cedar Point- No/minimal growth due to source inconsistency and historical data.

Canaan Springs- minimal growth due to storage capacity.

BIG PLAINS SSD THE FUTURE

As shown in the previous slide there is room for growth in Apple Valley, but rest assured the District will do its due diligence to ensure that the growth is in alignment with the water available as determined by aquifer studies and well level data.

As far as the Cedar Point system and growth goes, the District wants to get all wells online and in use for a period of time to attain data to support further growth due to a consistent source.

Conservation- This word will become common place if it is not already. It is our duty as community members to do our part in reducing our water use, and as you may have seen in our surrounding cities measures have been adopted to help with that conservation, as I am sure will happen in Apple Valley. There is plenty of information available to help you in making changes inside and outside your home if you are willing.

BIG PLAINS SSD IN CONCLUSION

- The District is mostly a volunteer group giving of their time and talents.
- The WCWCD aquifer study will allow the District to make better and more up to date decisions on water use in our valley.
- The Cedar Point system should be up and running on all wells by next summer.
- The tanks on the Apple Valley system will be replaced or slated for repairs in the near future.
- We are not running out of water (currently).
- Growth in Apple Valley is available.
- Conserve for the FUTURE.

If I haven't answered your questions during this presentation, feel free to reach out to me at 435.877.1194.



Town of Apple Valley

WELCOME TO OUR
TOWN HALL QUESTION AND ANSWER
MEETING

October 4,2022

Tonight's Agenda

- Pledge of Allegiance
- Opening Prayer by Bishop Darren Chipman
- Jauna McGinnis our Town Administrator
 - Update on Town Finances
 - Update on Code Enforcement progress
 - Update on Meeting procedures
- Council Member Barratt Nielsen
 - Update on Building Department
- Council Member Kevin Sair
 - Update on Road issues.
- Water District Chairman Andy McGinnis
 - Update on water issues.
- Mayor Frank Lindhardt
 - Updates on Planning and Zoning and developments
 - Updates on potential trouble and issues
 - Update on pending notices of claim and lawsuits.

Government in Apple Valley

- Five Member Town Council with the Mayor being able to vote.
- Mayor and Council creates & maintains our laws and ordinances.
- Mayor has been given the responsibility to enforce all those laws and ordinances, including:
 - Ensure all zoning ordinances are enforced equally among our citizens.
 - Ensure our subdivision ordinances are enforced and followed.
 - Ensure all our building codes and ordinances are followed.
 - The Mayor has the responsibility to ensure the councils will is carried out.
 - The Mayor does NOT have the authority to NOT follow Town Ordinances or Laws.

Title 11.02.150 Enforcement of Codes

- No Apple Valley Town officer or employee shall issue any permit or license for any building or structure or use when such land is a part of a "subdivision" as defined herein until such subdivision has been approved and recorded in the county recorder's office, and unless the improvements shown on approved construction plans for the subdivision have been installed and preliminarily accepted, and all other provisions of law have been complied with.
- Any license or permit issued in conflict with this title shall be null and void.

Town Debts From Subdivision Improvements

• Replaced all the water lines in old part of Apple Valley	\$5,204,000
• Replace bridge built with just culverts	\$1,336,903
• Installed Chip & Seal because road were just road base	\$ 640,097
• Installed Storm Water improvements	\$ 46,046
• Lawsuits from stormwater washing peoples lots away	\$???
• <u>Water system improvements due to non-spec system</u>	<u>\$ 99,246</u>
• TOTAL COST OF THESE IMPROVEMENTS	\$7,327,092
• TOTAL DEBT FROM THESE IMPROVEMENTS	\$6,610,800

COMPLETELY UNNECESSARY DEBT

- Water lines were not installed per our Ordinances and Standards
- Bridge was not installed as per our Ordinance and Standards
- Roads were not installed as per our Ordinances and Standards
- Storm Water Detention systems were not installed at all
- Water systems were not installed per our Ordinance and Standards
- **THE SUBDIVISION DEVELOPERS SHOULD HAVE INSTALLED IT AS PER OUR ORDINANCES AND STANDARDS.**
- **THEY SAVED A BUNCH OF MONEY BY NOT DOING IT, AND ALL OF US ARE NOW PAYING FOR IT.**

⁷ How do we prevent this from happening again?

- ENFORCE THAT DEVELOPERS AND SUBDIVIDERS FOLLOW OUR ORDINANCES AND STANDARDS.
- ENFORCE THAT DEVELOPERS PAY FOR THE INFRASTRUCTURE NEEDED FOR THEIR SUBDIVISIONS.
- ENFORCE THAT DEVELOPERS PAY THEIR SHARE OF IMPACT FEES.
 - Water Tank and improvements \$9,000,000
 - Need that tank & improvements in 10 years
 - Project 50 new water connections a year
 - 50 connections x 10 years = 500 (divided by) \$9,000,000 = \$18,000 impact fee

What are our improvement standards for new subdivisions:

- Water System and Fire Hydrants (Big Plains Water District)
- Septic System (Ash Creek Special Sewer District)
- Storm Water Detention System (Town)
- Power System (Rocky Mountain Power)
- Phone & Internet (South Central Communications)
- Road Improvements (Town. What is required Depends upon Zone)
 - Road Base
 - Asphalt
 - Curb & Gutter
 - Sidewalk
- Bridges if needed

Why Asphalt?

“We want Apple Valley to remain with the rural feel.”

Roads are deeded to the town when subdivisions are created for us to maintain.

- Little to no maintenance for 15 years or longer for asphalt.
- VS Road Base which require maintenance several times a month to get rid of washboard and dust.
- Not to mention the constant complaints from citizens.
- We receive 3 times as much in State Road funds for asphalt roads, compared to road base or dirt roads.
- **WHY NOT ASPHALT** when the developer or subdivider should be paying for it, not the town.
- The Town would have to raise taxes to hire permanent street maintenance workers if we keep allowing road base roads in new subdivisions. Then we all pay for the maintenance and the developer saves a bunch of money. **WHY?**

Why Curb & Gutter & Sidewalk?

“We want Apple Valley to remain with the rural feel”.

- **Curb & Gutter vs borrow ditches?**

- Curb & Gutter directs storm water to a detention basin and protects asphalt from cracking and falling apart along the edges. They also require very little maintenance.
- It provides a safety barrier between cars and pedestrians.
- Borrow Ditches are a constant maintenance item that will often fail and water will then wash out portions of our roads.
- Borrow Ditches also fill up with sand and weeds clogging them up.
- Again, why not? Developers and subdividers pay for the improvements and we have a whole lot less maintenance and time spent maintaining curb and gutters, than we would borrow ditches.
- The Town would have to raise taxes to hire permanent street maintenance workers if we keep allowing borrow ditches in new subdivisions.

- **Benefit of Sidewalk (mainly required in higher density subdivisions)**

- They give children and adults a safe place to walk and drive bikes
- Again, why not? Developers and subdividers pay for the sidewalk.

Already Approved Growth

- **New or under Construction Subdivisions:**

• Wells Estates	Off Rome Ave	25 Lots
• Farrar	Across from Cedar Point	9 Lots
• <u>Mountain View Estates</u>	<u>Bubbling Wells</u>	<u>6 Lots</u>
• TOTAL		40 Lots

Already Approved Growth

- **Subdivisions with Preliminary Plat approvals as of January 2022:**

• Crimson Peaks (Desert Rose)	Off Rome Ave	268 Lots
• <u>West Temple</u>	<u>West of Bus Stop</u>	<u>27 Lots</u>
• TOTAL		295 Lots/Units

Already Approved Growth

- **Properties with approved Zoning Changes**

• Jepson Canyon Commercial, Lodge, Cabins and Tents.	Across from Chevron	100	Units+
• Jepson Canyon Homesites	Across from Chevron	352	Lots
• Redstone	Off East Main Street	1,520	Lots
• Redstone Cabins	Off East Main Street	400	Cabins
• West Temple	West of Bus Stop	211	Lots
• Miles Mark	By water Tanks	27	Lots
• Gateway North	On Main Street	157	Lots
• Gateway Commercial	Cabins, Motel, Grocery Store	200	Units
• Canaan Mountain Phase 2	By Canaan Mountain Estates	36	Lots
• TOTAL		3,003	Lots/Units
• TOTAL APPROVED LOTS	(Under Construction, Preliminary Plat & Zoning Change)	3,338	LOTS/ Units

Proposed Zoning Change in December 2021

- Misc. additional property owners that attempted to obtain zoning changes in November and December 2021.
- **1,374 Acres for a total of over 3,000 additional lots.**
- **If all were approved we would have had a total of 6,338 additional lots in Apple Valley. (That's bigger than Hurricane).**
- **Now we "ONLY" have 3,338 LOTS/ Units to try to deal with as a Town.**
- **Apple Valley currently have less than 422 Homes.**
- **Thanks to Council members Sair and McLaughlin we averted this additional disaster, by not approving the extra 3,000 lots that we have no ability to support.**

To deal with this growth, we have had to hire

- Kyle Layton (former Planning Director for Hildale City and current County building inspector), as our Planning and Zoning Director to help ensure developers follow our ordinances in getting all their approvals.
- Mike VersimaC (Current Hurricane City's Public Works Director), as our Public Works Director, to ensure developers follow our ordinances with their construction plans and ensure the construction of the subdivision gets inspected and built as per our Town Codes.
- Kyle Layton as our Building Department manager/Inspector to ensure all the homes being built are safe and built to building code.
- How do we pay for these professionals?
- We are making the developers & builders pay all the cost, by paying these contracted professionals per lot or per home, not as employees of the Town. They only get paid when there is work for them to do.
- THIS WILL ENSURE THE WHOLE DEVELOPMENT AND BUILDING PROCESS IS RUN BY PROFESSIONALS, NOT MAYORS, AND THAT WE DO NOT GET FURTHER IN DEBT because developers will not be able to build incomplete subdivisions, that we the citizens of Apple Valley later end up paying to get finished or pay for unnecessary repairs.

SUBDIVISION APPROVAL PROCESS

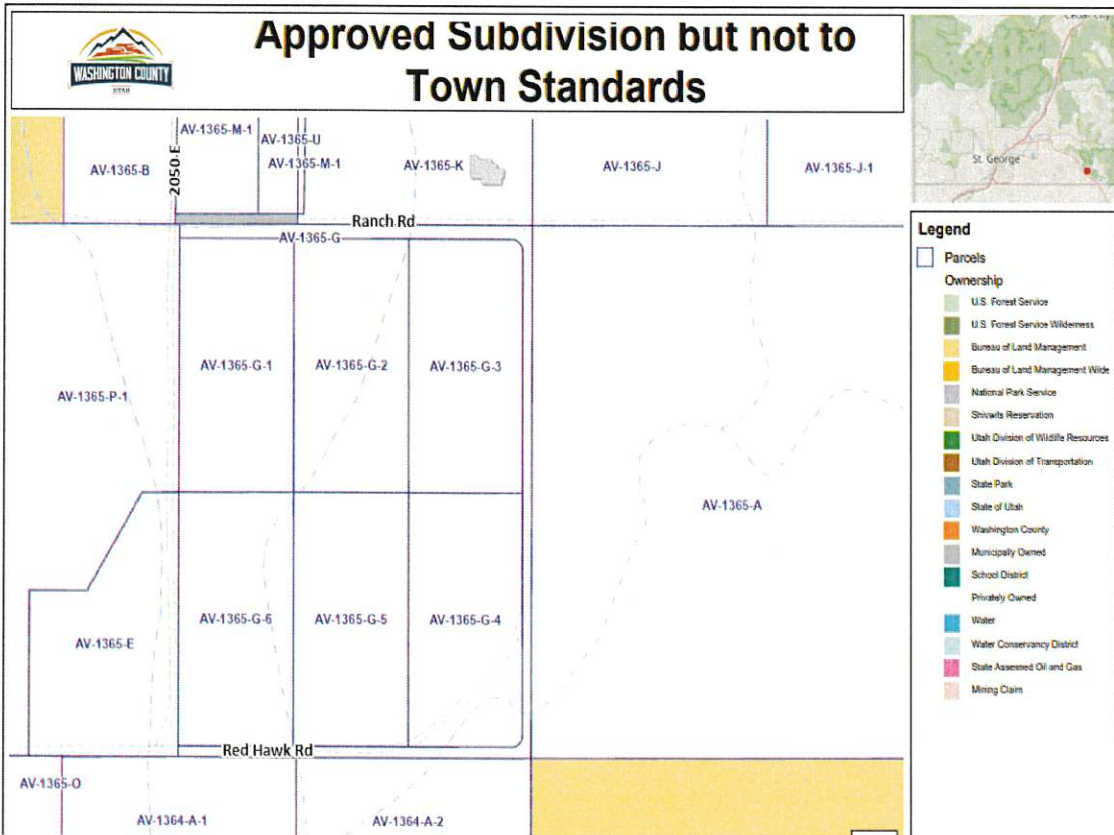
PROJECT NAME		JEPSON	CANAAN	MAIN	W. TEMPLE	CRIMSON	MOUNT. V.	TOTAL
PROCESS (Must be done in this order)	# LOTS	400	36	176	25	268	6	911
1	ZONING CHANGE	YES	YES	YES	YES	YES	YES	
2	WATER DISTRICT PRELIMINARY WILL-SERVE LETTER FOR SUBDIVISION	YES	YES	YES	YES	YES	YES	
3	SEWER DISTRICT PRELIMINARY WILL-SERVE LETTER FOR SUBDIVISION							
4	POWER COMPANY PRELIMINARY CAN-SERVE LETTER FOR SUBDIVISION							
5	PRELIMINARY PLAT RECOMMENDATION BY PLANNING COMMISSION				YES	YES		
6	PRELIMINARY PLAT APPROVAL BY TOWN COUNCIL							
7	DEVELOPER SUBMITS PROPOSED CONSTRUCTION PLANS TO JUC	YES	YES		YES	YES	YES	
8	TOWN & ALL UTILITIES REVIEW PROPOSED PLANS & REDLINE PLANS							
9	UTILITIES RETURN REDLINES TO DEVELOPER FOR CORRECTIONS @ JUC							
10	DEVELOPER SUBMIT CORRECTED MASTER PLANS @ JUC FOR SIGNATURE							
11	Power Signs off on Master Plans (All Signatures collected by Public Works Manager)							
12	Water Signs off on Master Plans (All Signatures collected by Public Works Manager)				YES	YES		
13	Phones Signs off On Master Plans (All Signatures collected by Public Works Manager)							
14	Sewer Signs off On Master Plans (All Signatures collected by Public Works Manager)							
15	Streets Department Signs off on Master Plan (collected by Public Works Manager)							
16	Public works Sign off On Master Plans Stormwater Detention System.							
17	Town Engineer signs off on Master plans (collected by Public Works Manager)	YES	YES		YES	YES	YES	
18	Mayor Signs off that plans meet all town codes & utilities signed off	YES	YES		YES	YES	YES	
19	FINAL PLAT REVIEWED AND SIGNED BY TOWN ENGINEER						YES	
20	FINAL PLAT IS APPROVED AND SIGNED BY MAYOR		YES		YES	YES	YES	
21	FINAL PLAT IS REVIEWED AND APPROVED BY TOWN ATTORNEY						YES	
22	PROVIDE GUARANTEE BOND IF RECORDING PRIOR TO COMPLETION							
23	OR COMPLETE IMPROVEMENTS FIRST							
24	MAYOR OR PLUBIC WORKS MANAGER ISSUE NOTICE TO PROCEED	YES	YES		YES	YES	YES	
25	FINAL PLAT IS RECORDED BY TOWN ATTORNEY						YES	
26	START SELLING LOTS OR BUILDING HOMES						YES	
Steps followed out of 26 required		6	7	2	9	9	11	

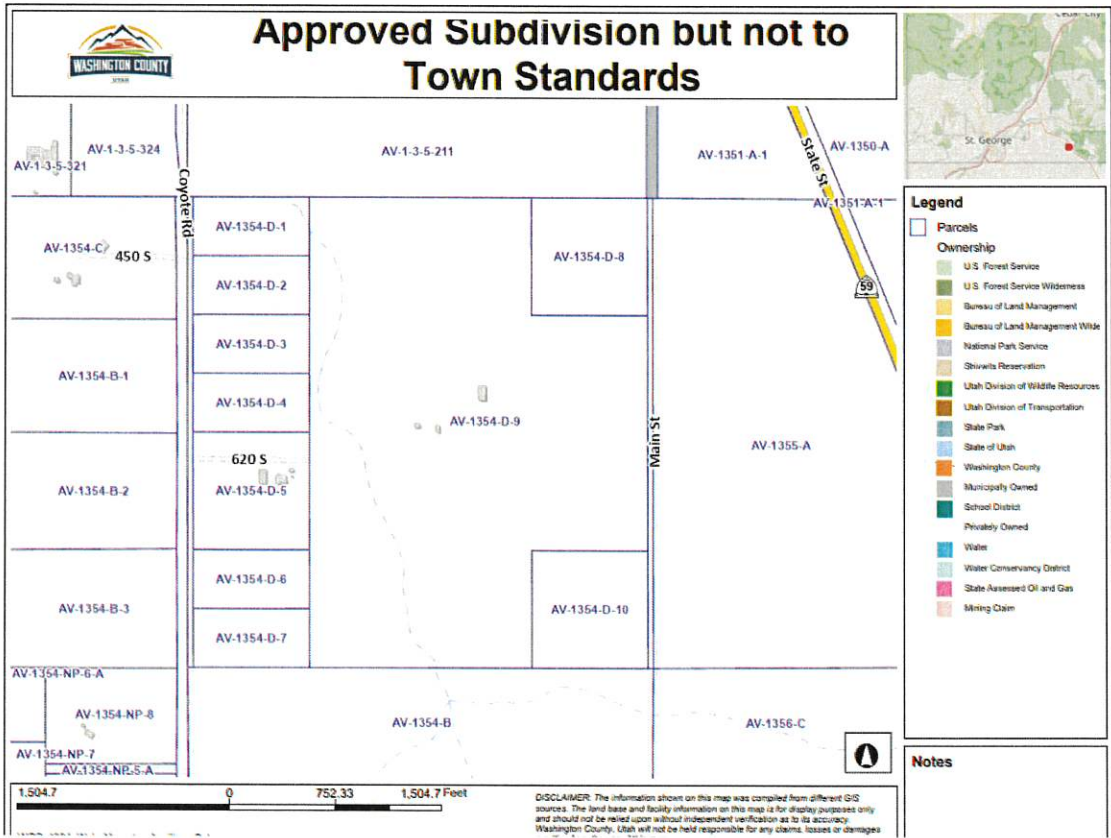
Dixie Springs Subdivision in Hurricane

- The County approved the Dixie Springs Subdivision
- The County allowed the Developer to record the subdivision plat.
- The County failed to require the Developer to install all the improvements prior to recording the plat.
- The County failed to get the developer to bond for the improvements.
- So the Developer started selling lots to people all over United States
- Buyers were told he would install the improvements later, but he never did.
- The County got sued because they did not follow their own ordinances that are in place to protect the public and the County.

All Subdivisions must install improvements

- **11.02.040 Necessity Of Plat; Exemption From Plat Requirements**
- All subdivisions shall be required to prepare and receive approval of a preliminary and final plat in accordance with the provisions of this chapter, except as follows:
 1. A. A subdivision creating no more than one (**Lisoonee Changed this to 10 Lots**) new lot may be approved by the Town staff without the necessity of preparing and filing a preliminary plat or final plat if:
 1. Notice is provided by Town as required by this title.
 2. The proposed subdivision:
 1. Is not traversed by the mapped lines of a proposed street as shown in the general plan and **does not require the dedication of any land for streets or other public purpose. Created lots shall be located on a public right-away or dedicated street.**
 2. Does not impact an existing easement or right of way or, if it does have an impact, evidence is shown that the impact will not impair the use of any such easement or right of way.
 3. **Has been approved by the culinary water authority, sanitary sewer authority, and all other members of the joint utility commission, in writing.**
 4. Is located in a zoned area, and conforms to all applicable land use code or has properly received a variance from the requirements of an otherwise conflicting and applicable land use code.
 2. B. A lot or a parcel resulting from a division of agricultural land is exempt from the plat requirements of this title if the lot or parcel:
 1. Meets the minimum size requirement of applicable zoning; and is not used and will not be used for any non agricultural purpose.
- 3. **The creation of a lot under subsection A of this section shall not be approved until a plan for providing utilities and other required improvements (as per Title 11.08) to the proposed lot, has been reviewed and approved by all members of the joint utility commission, in writing. No building permit will be issued for said lot until the approved improvements are constructed and accepted.**







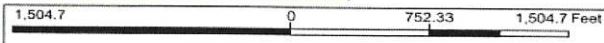
Roads Dedicated without improvements



Legend

- Parcels
- Ownership
 - U.S. Forest Service
 - U.S. Forest Service Wilderness
 - Bureau of Land Management
 - Bureau of Land Management Wide
 - National Park Service
 - Shoshone Reservation
 - Utah Division of Wildlife Resources
 - Utah Division of Transportation
 - State Park
 - State of Utah
 - Washington County
 - Municipally Owned
 - School District
 - Privately Owned
 - Water
 - Water Conservancy District
 - State Assessed Oil and Gas
 - Mining Claim

Notes



DISCLAIMER: The information shown on this map was compiled from different GIS sources. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy.

Unimproved Subdivision Problem

- 1. Some of these lots have no water, power, phone, storm water detention or have cinder road improvements (not approved).
- 2. Most of the lots have no road improvements in front of the lots, as is required by fire code and Town Ordinances.
- 3. The Buyer of the lots will not be able to obtain a building permit.
- 4. Who will pay for improving the roads in front of these lots?
- 5. The lot owners expect the Town to pay for the road improvements as the land (road) was dedicated to the Town.
- Just two of the previous examples show 9,744 linear feet x 25' wide is 88,704 sq ft of road base at \$1.25 per sq ft is \$110,880 to improve just those sections of road to make them meet fire code.
- WHY SHOULD WE THE CITIZENS OF APPLE VALLEY PAY FOR THIS?
- IT SHOULD CLEARLY BE PAID FOR AND INSTALLED BY THE SUBDIVIDERS AND OR LOT OWNERS.

Pending Lawsuits

- **Notice of Claims**

- Knollwood RV Park
- Paul Cleverly
- Gateway on Main St. Richard Wry
- Ladd McDonald

Lawyer Justin Heideman
Lawyer Nathan Fisher
Lawyer Justin Heideman
Lawyer Richard Allen

- **Lawsuits**

- David Zolg, Jr Old Fire chief
- Daniel Musser
- Bitter Bean Richard Fischer
- Canaan Mountain Estates Phase 2 Pat Melfi
- Desert Rose Richard Wry

Eric Strindberg
Lawyer Justin Heideman
Lawyer Justin Heideman
Lawyer Justin Heideman
Lawyer Justin Heideman

Who pays for lawsuits?

- The Town has a liability insurance policy through the League of Cities and Towns.
- On lawsuits pertaining to land use issues, we have no liability coverage.
- But they will cover legal costs up to \$25,000 per lawsuit, with a maximum of \$50,000 per year.
- So far the Town has not had to pay anything pertaining to lawsuits as none of the legal fees have not exceeded those amounts.

Knollwood RV Park

Lawyer Justin Heideman

Location: Immediately next to Chevron

Issue: Impact fees were the primary concern of their notice of claim.

The town adopted a new impact fee schedule in January 2021, which was ignored by Mr Beddo causing trouble for the RV Park owner when we were forced to follow our ordinances and apply the adopted impact fees.

They were also allowed to start construction without any approved sites plans and many of their construction plans.

STATUS: With cooperation from Mr Dan Tygard and concessions from the Town, these issues are now resolved and the RV park has been completed and is open for business.

Building Permit for Paul Cleverly

(Lawyer Nathan Fisher)

Location: Immediately next to the water tanks in Apple Valley

The issue: The issue is the Town will not issue a building permit for Mr. Cleverly's addition, due to the fact that we do not have enough water pressure and flow to be able to fight a fire at that location and would also not be able to prevent it from spreading to adjacent properties, as the home is located immediately next to our water tanks.

- Mr. Cleverly started construction on his foundation for his addition to his home without a building permit being issued. But Mr. Beddo allowed this to happen anyway and allowed for building inspections.
- A judge will determine if this creates any liability for the town.

STATUS: We are working with Mr. Cleverly to find an in-home sprinkler solution that will allow the fire department to sign off on the building permit, so the Town can issue the building permit.

Gateway Subdivision (Richard Wry)

Attorney Justin Heideman

Location: South side of Main Street and HWY-59

Issue: Mr Wry believes that he has received preliminary plat approval for a subdivision on Main Street, and demands that the Town agree and work with him on approval of his construction plans for the subdivision.

The Town believes his preliminary plat was tabled and later expired, due to inactivity on his part.

- If it turns into a lawsuit and goes to trial, a judge will decide if the minutes and video recordings from the December 2021 Town Council meeting supports Mr. Wry claim or the Towns.

Status: We are waiting to see if they will file an actual lawsuit, or simply follow our subdivision ordinances and try to get their approvals.

²⁸Ladd McDonald

Lawyer Richard Allen

Location: Next to Wells Estates

Issue: Mr Ladd believes that his property is already zoned 1 acre, and that he does not need a zoning change in order to develop his property.

The Town believes that the Town records do not support Mr. Ladd's claim.

- If this turns into a lawsuit a Judge will determine if Mr. McDonald is right or the Town.

- **Status:** We are waiting to see if they will file an actual lawsuit, or simply follow our subdivision ordinances and try to get their approvals.

David Zolg, Jr (prior Fire chief)

Personnel Issues

Issue: Mr Beddo, fired Town Fire chief David Zolg for warning neighbors of one of the towns water tanks, that had sprung a leak. Chief Zolg thought the leak might get worse and cause harm or damage to neighbors below the tanks. Mr. Beddo disagreed and Fired Chief Zolg.

Chief Zolg felt it was a wrongful termination, as he was just doing his job and sued the Town for wrongful termination.

If a settlement is not reached, a Judge will determine if Mr. Beddo is right in his claims or Chief Zolg is.

Status: It looks like this will not go to court, as a settlement is being worked out presently.

Daniel Musser the Police/Fire Chief hired by Mr. Beddo.

Lawyer Justin Heideman

Personnel Issue

Issue: Just two months before his terms as mayor was up, Mr. Beddo hired Daniel Musser to be the combined fire/police chief for Apple Valley to replace Chief Zolg.

- In January 2022, Mayor Mason Walters fired Mr. Musser as she determined he was qualified for the jobs, plus she felt part of his employment contract was not legal.
- If this case reaches a judge, the judge will have to determine the following, among other issues:
- Did Mr. Beddo have the unilateral authority to hire a new Fire/Police chief, without Town Council approval?
- With no fire experience or certifications was Mr. Musser qualified for the fire chief job?
- With only having patrol officer experience from Colorado City Marshall's office was Mr. Musser qualified for the police chief job?
- Was it legal to put Mr. Musser on a fixed wage PLUS 60% of all income derived from issuing tickets as a police chief?
- Was it legal to have no probation period in his contract and a one year severance pay for "ANY" Termination.

STATUS: A Lawyer has been assigned and are in the process of doing discovery in the case.

³¹

Bitter Bean Coffee Shop Richard Fischer

Lawyer Justin Heideman

Location: Immediately adjacent to the Town Mail boxes and bus stop.

Issue: Mr. Beddo leased the Town owned property to Richard Fischer for a coffee shop. When Mayor Mason Walters took office in January 2022, she discovered the lease and the terms of it, they issued an order to stop the construction until Mr Fischer complied with the towns codes and ordinances.

Mr. Fischer sued the Town for stopping him from opening his business.

Mr. Fischer filed a motion to get permission to open his coffee shop while the lawsuit was adjudicated. The judge not only denied the motion but also made the following rulings that:

- The lease was invalid.
- The Plaintiff (Fischer) is not likely to prevail on the merits of the lawsuit.

Items to be ruled on by the Judge if case continues:

When or if the merit of the case goes to trial, the judge will have to determine the following:

- Did Mr. Beddo have the right to lease the property without Town Council approval?
- Did Mr. Beddo have the right to only offer the property to Mr. Fischer, and not offer the property to the public?
- Did Mr. Beddo have the right to just determine the lease amount without getting an appraisal?
- Did Mr. Beddo have the right to claim that the property did not need a zoning change because it was owned by the Town? (Judge already ruled that the town is not exempt from its own zoning ordinances.)
- Did Mr. Beddo have the right to lease the property for 20 years without the Town being able to terminate the lease?
- Did Mr. Beddo have the right to waive all impact fees for Mr. Fischer, that's required by all other businesses?
- Did Mr. Beddo have the right to not require a Site Plan approval through the Planning Commission?
- Did Mr. Beddo have the right to not require site improvements, like paving roads in front of the business, install required parking etc etc, that is required of all other businesses?
- Can Mr. Fischer claim Estoppel (he did not know that some things were not legal in his contract, but trusted Mr. Beddo). Judge already ruled that he cannot, since he should know better, as he was a member of the Towns Planning Commission.
- Is the lease legal and enforceable? The judge already ruled that it is not.

Status: Attorneys has been assigned and the case is in the discovery phase.

Canaan Mountain Estates Phase 2 Pat Melfi

Attorney Justin Heideman

Location: Next to Canaan Mountain Estates Phase 1

Issue: Mr. Melfi bought some property where the previous owner had received preliminary plat approval for a 36 lot subdivision in 2007, but due to the market crash in 2008, the owner stopped construction of the improvements. The owner asked for and was granted a one year extension of the preliminary and final plat in August of 2008 by the Town. All subdivision approvals expired in August of 2009.

Mr. Melfi and Mr. Beddo determined that all Mr. Melfi needed to bring this subdivision back from the dead, was for Mr. Beddo to say so, in violation of all the Towns subdivision ordinances.

If this case goes to trial, the judge will have to determine the following:

- Did Mr Beddo have the right to not require a dead subdivision to get preliminary and final plat approvals, and just approve it by himself?
- Did Mr. Beddo have the right to not require the developer to follow the Towns current design standards for the subdivision?
- Did Mr. Beddo have the right require the developer to deliver only ½ acre foot of water for each lot, when the Water District Policy is one AF for each lot?
- Did Mr. Beddo have the right to not make the developer follow fire code for additional access points for the subdivision?
- Did Mr. Beddo have right to guarantee water from Canaan Springs, without board approval, when the Water District had already allocated that water for the Cedar Point area?

Status: Attorneys has been assigned, and the case is in the discovery phase. It does however, appear as if the developer might be coming around, as his engineer has contacted the Town to try to work out what they need to do to get the needed approvals to develop the subdivision.

Desert Rose Mr. Richard Wry

Attorney Justin Heideman

Location: Adjacent to the road to Gooseberry

Issue: Mr. Wry bought a property to build 268 lots in 2007 and received Town preliminary plat, construction plan and final plat approvals back then. When the market crashed in 2008, Mr. Wry stopped construction on his subdivision and subsequently lost the property to foreclosure.

Mr. Wry claims that that he lost the property to foreclosure because the town failed to deliver their final plat back to them in 2007, so he could record the plat and start selling lots.

The Town code requires that either developers bond for their improvements or install all improvements, before a Final plat can be recorded by the Town Attorney, and since Mr. Wry did neither, that is the reason his plat was not recorded, not any error on the Towns part. We also are sure that the statue of limitations has expired long ago.

Status: The case has been assigned to a lawyer and we are in the discovery phase.

³⁶

Any Questions that we did not answer in our presentations?