

**TOWN OF APPLE VALLEY
TOWN COUNCIL/SUCCESSOR AGENCY/
PUBLIC FINANCING AUTHORITY**

REGULAR MEETING

MINUTES – November 13, 2018

CALL TO ORDER:

Mayor Bishop called to order the regular session of the Apple Valley Town Council, Successor Agency and the Public Financing Authority at 6:31 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Council Members Emick; Nassif; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: None.

OPENING CEREMONIES

INVOCATION: The Invocation was given by Minister James Campbell, JC Ministries

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Pro Tem Cusack

PRESENTATIONS:

PUBLIC COMMENTS

Geri Inger, Apple Valley, expressed concern regarding the number of acronyms used during Town Council Meetings.

Al Rice, Apple Valley, expressed concern regarding the financial reports listed on the Town Council agenda.

Roger LaPlante, Apple Valley, congratulated the successful candidates at the General Municipal Election for Town Council.

Marcy Taylor, Apple Valley, thanked everyone for their contributions and participation with the legacy event. She also commented on the 30th Anniversary Celebration.

Bill Inger, Apple Valley, asked a series of questions regarding voting and the financial reporting.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

Council Member Emick commented on the committee meetings and events that he attended.

Council Member Nassif commented on the committee meetings and events that he attended.

John Brown, Town Attorney, answered questions that were addressed by members of the public.

Mayor Pro Tem Cusack commented on the committee meetings and events that he attended.

Mayor Bishop commented on the committee meetings and events that he attended.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Time, Date & Place for Next Town Council Regular or Special Meeting:

- A. Regular Meeting – Tuesday, December 11, 2018 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL/SUCCESSOR AGENCY CONSENT AGENDA

Hannah Raleigh, Senior Office Assistant, read the following disclosure statement:

Council Member Nassif has a remote interest in specific warrants on tonight's Commercial Warrants dealing with NAPA Auto Parts or High Desert Auto Supply for the Town of Apple Valley as the owner of these businesses. Therefore, he will be abstaining from voting on the warrants for NAPA Auto Parts and High Desert Auto Supply listed under Agenda Item Number 2. In addition, due to his interest in both businesses, Council Member Nassif will also be abstaining from voting on specific warrants listed under Agenda Item Number 2 because these entities are considered sources of income to his businesses. A list of business entities for Council Member Nassif is maintained on file in the Town Clerk's Office and available for review at the dais.

Council Member Nassif confirmed that he would be abstaining from voting on these warrants.

Mayor Pro Tem Cusack also has a remote interest in specific warrants on tonight's Commercial Warrants dealing with Apple Valley Communications, AV Tech Services or AVCOM Services for the Town of Apple Valley as the owner of these businesses. Therefore, he too will be abstaining from voting on the warrants for Apple Valley Communications, AV Tech Services and AVCOM Services listed under Agenda Item Number 2. In addition, due to his interest in these businesses, Mayor Pro Tem Cusack will be abstaining from voting on specific warrants listed under Agenda Item Number 2 because these entities are considered sources of income to his businesses. A list of business entities for Mayor Pro Tem Cusack is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Pro Tem Cusack confirmed that he would be abstaining from voting on these warrants.

Mayor Bishop recommended Agenda Item No. 2 be pulled.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to approve the Consent Calendar items numbered 1, 3, 4, 5, 6 and 7, respectfully, and that item number 2 be pulled for voting.

Vote: Motion carried 4-0-0-1

Yes: Council Members Emick; Nassif; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: Council Member Stanton.

1. **Approval of Minutes**
 - A. **Regular Meeting – Town Council – October 23, 2018**
Recommendation:
That the Town Council and the Board of Directors approve the subject minutes as part of the consent agenda.

3. **October 2018 Payroll / Benefits Warrants Schedule**
Recommendation:
That the Town Council receive, ratify and file the payroll/benefits warrants as presented.

4. **Bear Valley Road Bus Stop Improvement Project No. 2018-05**
Recommendation:
Award a contract to TSR Construction and Inspection for the Bear Valley Bus Stop Improvement Project subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.

5. **Application to San Bernardino County Transportation Authority (SBCTA) for Local Transportation Funds – Article 8 – Other Purpose Claim**
Recommendation:
Authorize the Town Manager to apply for Local Transportation Funds – Article 8 – Other Purpose Claim in the amount of \$662,418 for Fiscal Year 2018-19.

6. **Budget Amendment for the Construction of a new Road South of Highway 18 between Kasota Road and Tuscola Road**
Recommendation:
That the Town Council approve the new CIP project to construct a new access road between Kasota Road and Tuscola Road approximately 400’ south of Outer Highway 18 south and approve a budget amendment in an amount of \$250,000 from Measure I funds.

7. **Adopt Resolution no. 2018-52, a Resolution of the Town Council of the Town of Apple Valley, California, Amending the Classification and Salary Plan for the Town of Apple Valley**
Recommendation:
That the Town Council adopt Resolution No. 2018-52, a Resolution of the Town Council of the Town of Apple Valley, California, amending the current Classification and Salary plan.

PULLED FROM CONSENT CALENDAR:

2. **October 2018 Commercial Warrants and Wire Transfer Schedules**

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif, to approve the October 2018 Commercial Warrants and Wire Transfer Schedules excluding all warrants dealing with NAPA Auto Parts.

Vote: Motion carried 3-0-1-1

Yes: Council Members Emick; Nassif; Mayor Bishop.

Abstain: Mayor Pro Tem Cusack

Absent: Council Member Stanton.

MOTION

Motion by Council Member Emick, seconded by Mayor Pro Tem Cusack to approve the October 2018 Commercial Warrants and Wire Transfer Schedules excluding all warrants dealing with Apple Valley Communications.

Vote: Motion carried 3-0-1-1

Yes: Council Members Emick; Mayor Pro Tem Cusack; Mayor Bishop.

Abstain: Council Member Nassif.

Absent: Council Member Stanton.

PUBLIC HEARINGS

None.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

8. Agreement between the Town of Apple Valley and the Apple Valley Unified School District for Use of the Swimming Pool

Ralph Wright, Parks and Recreation Manager, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Council Member Emick, seconded by Council Member Nassif to approve the updated Swimming Pool Use Agreement between the Town and the Apple Valley Unified School District (AVUSD).

Vote: Motion carried 4-0-0-1

Yes: Council Members Emick; Nassif; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: Council Member Stanton.

9. Approve the Town's Entry into a Joint Exercise of Power Agreement Regarding the California Choice Energy Authority, an Administrative Services Agreement and Other Ancillary Agreements, and Directing the Taking of Further Actions Related Thereto

Doug Robertson, Town Manager, presented the staff report as filed with the Town Clerk.

Cathy DeFalco, California Choice Energy, commented on the partnership with the various Community Choice Aggregate agencies in an effort to share expertise and costs with the programs.

Bill Inger, Apple Valley, commented on the proposed agreement. He asked a series of questions regarding the information as outlined in the summary section of the report.

MOTION

Motion by Council Member Nassif, seconded by Council Member Emick, to:

1. Adopt Resolution No.2018-50, authorizing the Town's entry into a Joint Exercise of Power Agreement regarding the California Choice Energy Authority, an Administrative Services Agreement and other Ancillary Agreements, and directing the taking of further actions related thereto; and
2. Adopt Resolution No. 2018-51, granting authority to the Town Manager to enter into certain contracts on behalf of the Town of Apple Valley, subject to Town Attorney approval.

Vote: Motion carried 4-0-0-1

Yes: Council Members Emick; Nassif; Mayor Pro Tem Cusack; Mayor Bishop.

Absent: Council Member Stanton.

Doug Robertson, Town Manager, provided additional comments and clarification as it relates to the California Choice Energy Agreement.

TOWN MANAGER'S COMMENTS UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Doug Robertson, Town Manager, recommended that Boards Commissions and Committees be included in the small agenda packet which is distributed to the public at the Town Council Meeting.

Mr. Robertson announced the success of the recently held community clean-up day where Code Enforcement collected 75 tons of waste, including 8.5 tons of metal. Mr. Robertson also announced the following upcoming events, this Saturday Park and Recreation will be holding a Turkey Run, December 4th is the Town's tree lighting ceremony, and the Town Council's Christmas Tea on December 11th beginning at 5:00 p.m. followed immediately by the swearing-in of the recently elected Town Council members.

CLOSED SESSION

10. Closed Session

Mayor Bishop stated that if needed, Mayor Pro Tem Cusack will be abstaining from one (1) or more of the Closed Session items as it pertains to Liberty Utilities Company due to a potential conflict of interest, as his company does business with the above company.

Mayor Bishop recessed the meeting of the Apple Valley Town Council at 7:33 p.m. to Closed Session to discuss the following

- A. Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Paragraph (2) of subdivision (d) of Section 54956.9: one or more potential cases.

- B. Conference with Legal Counsel – Anticipated Litigation – Initiation of litigation pursuant to Paragraph (4) of subdivision (d) of Section 54956.9: one or more potential cases.
- C. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8. Property: Apple Valley Ranchos Water Company (now Liberty Utilities (Apple Valley Ranchos Water) Corp.); Authority Negotiator: Town Manager; Negotiating Parties: Liberty Utilities Co., Liberty WWH, Inc., Algonquin Power & Utilities Corp., Park Water Company, Western Water Holdings LLC, Tony Penna, General Manager, Apple Valley Ranchos Water Company; Under Negotiation: Price and Terms of Payment.
- D. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1600180 – Town of Apple Valley vs. Apple Valley Ranchos Water Company Et Al.
- E. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1725027 – Christina Lopez-Burton v. Town of Apple Valley.
- F. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1601999 – Town of Apple Valley vs. Jess Ranch Development, Et Al.
- G. Personnel Matters – Government Code Section 54957/Public Employee Performance Evaluation. Title: Town Manager.

Upon returning from Closed Session at 8:44 p.m., Mayor Bishop announced that there was no reportable action taken.

ADJOURNMENT

Motion by Mayor Pro Tem Cusack, seconded by Council Member Emick, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:45 p.m.

Art Bishop, Mayor

La Vonda M-Pearson, Town Clerk