

**TOWN OF APPLE VALLEY  
TOWN COUNCIL/SUCCESSOR AGENCY**

**REGULAR MEETING**

**MINUTES – August 14, 2018**

**CALL TO ORDER:**

Mayor Bishop called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:33 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Council Members Emick; Stanton; Mayor Pro Tem Cusack; Mayor Bishop

Absent: Council Member Nassif

**OPENING CEREMONIES**

**INVOCATION:** Pastor Kit Johnson, Life Point Baptist Church

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Council Member Stanton.

**PRESENTATIONS:** Employee of the Quarter – Andy Shoup, Recreation Supervisor,  
Parks and Recreation Department

Employee of the Quarter – Tom Bechtol, Deputy, Apple Valley  
Sheriff's Department

**PUBLIC COMMENTS**

Mike Dicken, Induction Tech Corporation, commented on a citation he received from Code Enforcement for metal cargo containers on his property. He stated that he was unaware of the Town's regulations of metal containers and respectfully requested that the Town Council consider granting him a variance that would allow him to retain his containers.

Boguslaw "Gus" Kieper, Sun City, expressed concern regarding possible changes that could cause the closure of the golf course at Sun City. He spoke of discussions that have occurred with Pulte Homes regarding the course and the original design of the development.

John Meier, Apple Valley, commented on the roundabouts located at Civic Center Park and the adjacent dog park. He expressed concern regarding the roundabouts near the dog park being red curbed which restricted access by patrons in that area. He felt that these individuals were being unfairly treated in comparison to those that visited the park. He also discussed issues related to handicap parking at the facility. He respectfully requested the Town Council's consideration in resolving these issues.

John Brown, Town Attorney, explained for the benefit of the public, the three-minute speaker rule as it applies when addressing the Town Council.

Sandi Ferguson, Apple Valley, expressed concern regarding the roundabouts at Civic Center Park. She questioned why the roundabout located near the dog park is the only one that is red curbed.

Ruth Cordova, God and Country, stated that she was very sad to hear that Council Member Stanton is leaving. She thanked Council Member Stanton for her leadership while serving on the Council. She also expressed concern regarding the road conditions at the intersection of Highway 18 and Apple Valley Road.

#### **COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION**

Council Member Stanton commented on committee meetings and events that she attended.

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

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

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

#### **TOWN COUNCIL ANNOUNCEMENTS**

Mayor Pro Tem Cusack requested an update on the Green Tree Extension project. He also requested a future discussion item regarding the interpretation of the current regulations related to buildings that are built with metal facades in the Town

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

- A. Regular Meeting – Tuesday, August 28, 2018 – Council Chamber  
Regular Session at 6:30 p.m.**

#### **TOWN COUNCIL CONSENT AGENDA**

Yvonne Rivera, Deputy Town Clerk, read the following disclosure statement:

Mayor Pro Tem Cusack 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 3. 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 3 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 they would be recusing from voting on these matters.

#### **MOTION**

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

Vote: Motion carried 4-0-1-0

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

Absent: Council Member Nassif.

**Mayor Pro Tem Cusack abstained from voting on specific warrants listed under Agenda Item Number 3.**

**1. Approval of Minutes of the Town Council**

**A. Regular Meeting – July 24, 2018**

**Recommendation:**

Approve the subject minutes as part of the consent agenda.

**2. Award Paving 18-19 - Project No. 2018-04**

**Recommendation:**

Award a contract to VSS International, Inc. for the Paving 18-19 - Project No. 2018-04 subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

**3. July 2018 Commercial Warrants and Wire Transfer Schedules**

**Recommendation:**

That the Town Council receive, ratify, and file the Commercial Warrants and Wire Transfer Schedules as presented.

**4. June 2018 Payroll/Benefits Warrants Schedule**

**Recommendation:**

That the Town Council receive, ratify and file the payroll/benefits warrants as presented.

**5. Acceptance of Work for Paving 17-18 - Project No. 2018-01**

**Recommendation:**

That the Town Council:

- A. Accept the work completed as part of the Paving 17-18 - Project No. 2018-01 for a total contract cost of \$2,301,136.82
- B. Direct the Town Clerk to file the Notice of Completion for the contract work.
- C. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

**PULLED FOR DISCUSSION**

**6. Accept the Final Map for Tract Map No. 16059-3, 4, 5**

Andrew Pham, Nu Pac Investments, LLC, thanked the Town Council for their assistance in helping to move the project forward.

**MOTION**

Motion by Council Member Stanton, seconded by Council Member Emick, to move to accept the final map and Lien Agreement for Tract Map No. 16059-3, 4, 5.

Vote: Motion carried 4-0-1-0

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

Absent: Council Member Nassif.

**7. Approve the Initial Selection of JPMorgan as the Provider of a Revolving Line of Credit, Authorize the Town Manager to Negotiate Terms with JPMorgan, and Authorize Bank Counsel Fees to Develop the Financing Documents**

Lawrence McCarthy, Apple Valley, expressed concern regarding the Town's plan to borrow money for what he believed was to get out of debt. He also commented on the financial information as shown on the schedule included in the staff report.

**MOTION**

Motion by Council Member Stanton, seconded by Council Member Emick, to approve the initial selection of JPMorgan as the provider of the revolving line of credit, authorize the Town Manager to negotiate terms with JPMorgan, and authorize bank counsel fees to develop the financing documents.

Vote: Motion carried 4-0-1-0

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

Absent: Council Member Nassif

**PUBLIC HEARINGS**

None.

**REPORTS, REQUESTS AND COMMUNICATIONS**

**BUSINESS OF THE COUNCIL**

None.

**TOWN MANAGER'S COMMENTS UPDATE**

Doug Robertson, Town Manager, stated that he would schedule a meeting with Mr. Meier to address his concerns regarding the dog park.

Mr. Robertson recognized Mr. Kofi Antobam, Director of Finance, who has worked for the Town of Apple Valley for over 10 years as both an employee and as part of the auditing team. He stated that he has accepted a new position and would be leaving the Town. He commented on Mr. Antobam's many contributions to the organization and wished him the best in his future endeavors.

**CLOSED SESSION**

**8. 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 7:36 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.

Upon returning from Closed Session at 8:46 p.m., Mayor Bishop announced that there was no reportable action taken.

<b>ADJOURNMENT</b>
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Motion by Council Member Emick, seconded by Council Member Stanton, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:47 p.m.

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Art Bishop, Mayor

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Yvonne Rivera, Deputy Town Clerk