



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** March 12, 2013

From: Marc Puckett, Assistant Town Manager **Item No:** 12
Finance & Administration

Subject: A RESOLUTION ESTABLISHING SEWER USER CHARGES INCLUSIVE OF AN INCREASE IN AN AMOUNT OF THREE DOLLARS AND SEVENTY THREE CENTS (\$3.73) PER EQUIVALENT DWELLING UNIT PER MONTH AND ESTABLISHING AN OPERATIVE DATE FOR APPLICATION OF THE PROPOSED INCREASE

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

1. Open the public hearing for Resolution 2013-13.
2. Determine whether a majority protest exists, and
3. If no majority protest exists, adopt Resolution 2013-13, revising the sewer user fees for the use of Town sewers.

SUMMARY:

In May, 2012, the Victor Valley Waste Water Reclamation Authority (VWVRA) proposed an increase of 14.9% in the sewer user charge for member agencies for the fiscal year 2012-13. The VWVRA increase was intended to provide funding to off-set subsidies for the capital cost of maintaining its facilities and sewer system infrastructure. This increase was approved and became effective on July 1, 2012.

To date, the Town has not passed through the cost increase and has absorbed over \$112,500 in increased costs. At the time of the proposed public hearing on March 12, the Town will have incurred over \$140,000 in additional sewage charges. The VWVRA rate increase has increased the Town's sewage charges by almost \$17,000 per month. The Town's Sewer Fund cannot sustain the increased costs due to the VWVRA rate increase.

Further, for any proposed fee increase the Town must comply with the Proposition 218 notice requirements. This requirement provides that notices of the proposed fee increase must be sent to the owner of record of each identified parcel upon which any

new or increased sewer rates or charges are being proposed for adoption at least forty-five (45) days in advance of the Public Hearing. This notice procedure will cost the Town approximately \$15,000.

Currently, the Town charges sewer users twenty four dollars and forty-six cents (\$24.46) per equivalent dwelling unit (EDU) per month. The fee is proposed to increase by three dollars and seventy-three cents (\$3.73) or 15.25% to twenty eight dollars and nineteen cents (\$28.19) per EDU per month. Increasing the sewer user charges by 15.25% by passing through the VVWRA rate increase will allow the Town to recapture its future increased cost for waste water treatment and a portion but not all of the increased costs the Town has incurred during the current fiscal year.

At the Town Council meeting on January 11, 2013, Council adopted Resolution 2013-05, setting the time and place of the public hearing as March 12, 2013 in the Town Council Chambers and authorizing the mailing of the required Prop. 218 notices to the property owners of record. Each property owner has the right to submit a written or oral protest against the proposed fee increase and may do so by mail or in person to the Town Clerk no later than the conclusion of the Public Hearing on March 12, 2013. At the Public Hearing the Town will consider all protests against the proposed fee increase. If written protests against the proposed fee increase are presented by a majority of owners of identified parcels, the Town would not impose the fee. If there is no majority protest, the Town Council would then consider a resolution to adopt the proposed fee increase. If adopted, the increase would become effective on March 13, 2013.

Pursuant to Section 6 of Article XIII(D), known more commonly as Proposition 218, on January 12, a total of 8,039 written notices were mailed to property owners notifying them of this hearing and their right to protest the proposed fee increase. The Town has complied with the notice, protest, and hearing requirements as specified by Proposition 218 with respect to the proposed fee increase.

If the protests submitted in opposition to the Proposed Fee Increase **are not** greater than the majority of the parcels subject to the Proposed Fee Increase, a majority protest does not exist and the Town Council may adopt Resolution 2013-13.

If the protests submitted in opposition to the Proposed Fee Increase **are** greater than the majority of the parcels subject to the Proposed Fee Increase, a majority protest does exist and the Town Council must deny Resolution 2013-13.

As of this writing, 249 protest letters (3.1%) were received in opposition to the increase. In addition, 438 notices (5.5%) were returned undeliverable. All notices returned undeliverable are considered as a protest and added to the count of protest letters received. Combined together, the protest letters received of 249 and letters returned undeliverable of 438 totaled 687 (8.6%). A majority protest would require 4,020 property owners to protest the proposed fee increase. At this time, a majority protest does not exist and absent a majority protest, Council may adopt Resolution 2013-13.

If Council adopts Resolution 2013-13, the proposed trash user fee increase will become effective on March 13, 2013.

Attachment: 1) Resolution Number 2013-13

RESOLUTION NO. 2013-13

A RESOLUTION ESTABLISHING SEWER USER CHARGES INCLUSIVE OF AN INCREASE IN AN AMOUNT OF THREE DOLLARS AND SEVENTY THREE CENTS (\$3.73) PER EQUIVALENT DWELLING UNIT PER MONTH AND ESTABLISHING AN OPERATIVE DATE FOR APPLICATION OF THE PROPOSED INCREASE

WHEREAS the Town of Apple Valley's Municipal Code requires all fees and charges to be adopted by Resolution of the Town Council of the Town of Apple Valley; and

WHEREAS the Town currently charges sewage users in the amount of twenty four dollars and forty-six cents (\$24.46) per equivalent dwelling unit (EDU) per month; and

WHEREAS the Town has proposed charging sewage users in the amount of twenty eight dollars and nineteen cents (\$28.19) per equivalent dwelling unit (EDU) per month; and

WHEREAS the Town has duly proposed and made available to the public data including the costs of providing said services; and

WHEREAS the Town Council of the Town of Apple Valley has held a public hearing to consider an amendment to the fees and charges for such services; and the Town Council has duly considered all oral and written presentations which were made in respect to said fees and charges; and

WHEREAS the amount of the fees and charges imposed on any person as an incident of ownership do not exceed the proportional cost of the service attributable to the property, which service is used by or immediately available to the owner of the property; and

WHEREAS the revenues derived from the fees and charges, as amended, will not exceed the cost reasonably borne in providing the services, and will not be used for any purposes other than that for which the fees and charges are imposed, and the fees and charges are not being imposed for general governmental services.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Apple Valley as follows:

Section 1: Sewer User Fees

- (a) Each unit designed for single family occupancy, each residential unit within a multiple family development, and each mobile home unit will be assessed at the rate of \$28.19 per unit per month effective at such time as necessary to cover related costs.
- (b) Each commercial shop or office with individual restroom facilities will be assessed at the rate of \$28.19 per unit per month plus \$1.223 per fixture unit in excess of twenty (20) fixture units effective at such time as necessary to cover related costs.
- (c) Commercial or industrial shops or office with public and/or centralized sewer use facilities will be assessed a minimum of \$28.19 per month plus \$1.223 per fixture unit in excess of twenty (20) fixture units effective at such time as necessary to cover related costs.
- (d) Schools' monthly user fees will be calculated on the basis of total annual enrollment (including faculty) whereby twenty-three (23) students and/or faculty equals one (1) EDU, which is defined as twenty (20) fixture units which will be assessed at the rate of \$28.19 per EDU per month effective at such time as necessary to cover related costs.
- (e) The Sewer User Charge will be collected by the Town on a bimonthly basis for residential service and all others will be collected on a monthly basis.

Section 2: Effective Date

The fees and charges established herein shall become effective on March 13, 2013. Section 1 of this Resolution shall become operative on the same date.

APPROVED and **ADOPTED** by the Town Council of the Town of Apple Valley, California this 12th day of March, 2013.

Curt Emick, Mayor

ATTEST:

LaVonda Pearson, Town Clerk