



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** April 30, 2013

From: Dennis Cron, Assistant Town Manager **Item No:** 11
Municipal Operations and Contract Services

Subject: **ADOPT RESOLUTION 2013-16, A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING THE JOINT EXERCISE OF POWERS AGREEMENT FOR THE VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY**

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

RECOMMENDED ACTION:

Adopt Resolution 2013-16, a Resolution of the Town Council of the Town of Apple Valley, California, amending the Joint Exercise of Powers Agreement for the Victor Valley Wastewater Reclamation Authority.

SUMMARY:

Due to Supervisor Lovingood having a conflict of interest, the County needs to appoint a different representative to the VVWRA Commission. This creates some issues because the current JPA requires residency requirements for anyone serving on the Board of Commissioners on behalf of the County. Section 7 of the JPA, provides literally as follows:

7. Governing Body. This Agreement and Agency shall be administered by the governing body of the Agency which shall be known as the "Commission for the Victor Valley Wastewater Reclamation Authority" ("the Commission"). Subject to the reserved powers of the parties hereto, the powers and functions of the Agency shall be exercised by and through the Commission. Each Commissioner and alternate Commissioner must reside within the territorial boundaries of this Agency to be eligible to serve in this capacity, **except if the Commissioner representing County Service Area #42 and County Service Area #64 is a Supervisor for San Bernardino.**

In order to amend the JPA, all member entities, through their governing bodies need to approve the amendment. The VVWRA Board on its own cannot do that. In order to satisfy the request made by the County, Section 7, would be amended as follows:

7. Governing Body. This Agreement and Agency shall be administered by the governing body of the Agency which shall be known as the "Commission for the Victor Valley Wastewater Reclamation Authority" ("the Commission"). Subject to the reserved powers of the parties hereto, the powers and functions of the Agency shall be exercised by and through the Commission. Each Commissioner and alternate Commissioner must reside within the territorial boundaries of this Agency to be eligible to serve in this capacity, ~~except if the Commissioner representing County Service Area #42 and County Service Area #64 is a Supervisor for San Bernardino.~~ **This residency requirement shall not apply to the commissioner or alternate commissioner appointed by the County to represent County Service Area #42 and County Service Area #64.**

BACKGROUND:

The Victor Valley Wastewater Reclamation Authority (VVWRA) is comprised of four member entities; Town of Apple Valley, City of Hesperia, County of San Bernardino (Spring Valley Lake and Oro Grande) and City of Victorville. These four member entities of VVWRA are bound by the Joint Powers Agreement (JPA) that was originally executed on December 13, 1977.

As a result of the last election, there have been some changes on the membership of the Board of Commissioners. As a result of the election for County Supervisor in the County of San Bernardino, Supervisor Robert Lovingood has been elected as Supervisor for District 1. Supervisor Lovingood has not yet been designated by the County of San Bernardino as the representative for the County at the VVWRA Commission. Currently, Jeff Rigney, head of Special Districts for the County of San Bernardino and the alternate for former Supervisor Brad Mitzelfelt, has been representing the County at the VVWRA meetings. Supervisor Lovingood has an economic interest in a company that provides services to VVWRA and believes that he should not serve on the VVWRA Board of Commissioners as a result of that conflict.

FISCAL IMPACT:

None

ATTACHMENT:

Resolution No. 2013-16

RESOLUTION No. 2013-16

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING THE JOINT EXERCISE OF POWERS AGREEMENT FOR THE VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY

WHEREAS, the Victor Valley Wastewater Reclamation Authority is comprised of four Member Entities; the Town of Apple Valley, City of Hesperia, County of San Bernardino (Spring Valley Lake and Oro Grande) and City of Victorville and are bound by the Joint Powers Agreement (JPA) that was originally executed on December 13, 1977; and

WHEREAS, the last election for County Supervisor in the County of San Bernardino, resulted in some changes on the membership of the Board of Commissioners that may result in a conflict of interest for the newly elected County Supervisor should he serve on the Board; and

WHEREAS, due to this situation, the County must appoint a different representative, requiring an amendment of the JPA Agreement which all member entities, through their governing bodies need to approve.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Apple Valley, California, finds, determines and orders as follows:

Section 1. In order to satisfy the request made by the County, Section 7 of the JPA is amended as follows:

7. Governing Body. This Agreement and Agency shall be administered by the governing body of the Agency which shall be known as the "Commission for the Victor Valley Wastewater Reclamation Authority" ("the Commission"). Subject to the reserved powers of the parties hereto, the powers and functions of the Agency shall be exercised by and through the Commission. Each Commissioner and alternate Commissioner must reside within the territorial boundaries of this Agency to be eligible to serve in this capacity. ~~except if the Commissioner representing County Service Area #42 and County Service Area #64 is a Supervisor for San Bernardino.~~ **This residency requirement shall not apply to the commissioner or alternate commissioner appointed by the County to represent County Service Area #42 and County Service Area #64.**

Section 2. That the Town Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

APPROVED and **ADOPTED** by the Town Council of the Town of Apple Valley this 30th day of April, 2013.

Curt Emick, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk