



TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** June 25, 2013

From: Frank Robinson, Town Manager **Item No:** 5
Town Manager's Office

Subject: ADOPT ORDINANCE NO. 448 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, AMENDING CHAPTER 2.10 (TOWN CLERK) OF TITLE 2 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE RELATING TO THE OFFICE OF THE TOWN CLERK AND CHAPTER 2.60 (PERSONNEL) OF TITLE 2 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE RELATING TO EXCEPTIONS OF CHAPTER 2.60.

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

RECOMMENDED ACTION:

That the Town Council adopt Ordinance No. 448.

SUMMARY STATEMENT:

At the Town Council Meeting of June 11, 2013, the Town Council introduced an Ordinance amending Chapter 2.10 (Town Clerk) and Chapter 2.60 (Personnel) of Title 2 of The Town of Apple Valley Municipal Code, changing the reporting of the Town Clerk to the Town Manager.

As part of the requirements to adopt any new Ordinance, Ordinance No. 448 has been scheduled for adoption at this Town Council meeting.

ORDINANCE NO. 448

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING CHAPTER 2.10 (TOWN CLERK) OF TITLE 2 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE RELATING TO THE OFFICE OF THE TOWN CLERK AND CHAPTER 2.60 (PERSONNEL) OF TITLE 2 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE RELATING TO EXCEPTIONS OF CHAPTER 2.60.

WHEREAS, the Town Clerk currently holds office at the pleasure of the Town Council; and

WHEREAS, the Town Council wants the Town Clerk to hold office at the pleasure of the Town Manager, not the Town Council.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 2.10 of Title 2 of the Town of Apple Valley Municipal Code is hereby amended by modifying Section 2.10.010.

2.10.010 Office created--Term. The office of the Town Clerk is created and established. The Town Clerk shall hold office at the pleasure of the Town Manager in accordance with 2.60.030(i)(i)-(iv).

Section 2. Chapter 2.60 of Title 2 of the Town of Apple Valley Municipal Code is hereby amended by modifying Section 2.60.030.

2.60.030 Exceptions. The provisions of this chapter shall apply to all offices, positions and employments in the service of the Town, except:

...[skipping subdivisions (a) through (h)]

(i). Assistant Town Managers, the Town Clerk and Department Heads.

(i) Persons appointed or promoted to Assistant Town Manager, Town Clerk and Department Head positions by the Town Manager on or after the effective date of this Ordinance shall serve at the will and pleasure of the Town Manager and may be terminated from Town employment by the Town Manager without proof of cause or other justification and without right of appeal or hearing.

(ii) Department Heads appointed or promoted to their Department Head positions prior to the effective date of this Ordinance shall have the right to be terminated only under the provisions of this municipal

code as it existed at the time of their appointment or promotion to the position, unless they modify the terms of their employment pursuant to a contract as described below.

(iii) The Town Manager is empowered to negotiate and enter into contracts on behalf of the Town with Assistant Town Managers, the Town Clerk and Department Heads establishing terms and conditions of employment and the separation therefrom. Said employment contracts shall take precedence over and supersede any otherwise applicable ordinance, resolution, rule or regulation, previous or current including, but not limited to, this Subsection 2.60.030.

(iv) Nothing in this Subsection shall be deemed to give the Town Manager the right to appoint or remove the Town Treasurer or the Town Attorney.

Section 3. All other provisions of Chapter 2.10 and Chapter 2.60 shall remain in effect.

Section 4. Effective Date. This ordinance shall be come effective thirty days from and after its adoption.

Section 5. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code.

APPROVED and **ADOPTED** by the Town Council and signed by the Mayor and attested by the Town Clerk this 25th day of June, 2013.

Curt Emick, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

John Brown, Town Attorney

Frank W. Robinson, Town Manager