



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council      **Date:** June 28, 2016  
**From:** Town Attorney's Office      **Item No:** 8  
**Subject:** VERIFICATION OF SUFFICIENCY OF SIGNATURES FOR AN INITIATIVE MEASURE PROPOSING THAT THE ISSUANCE OF PUBLIC DEBT IN EXCESS OF \$10 MILLION BE SUBJECTED TO VOTER APPROVAL

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

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### RECOMMENDED ACTION:

Staff recommends that the Town Council takes the following actions:

1. Receive, file and accept Certificate of Sufficiency of Initiative Petition issued by Town Clerk on June 21, 2016.
2. Direct Town Staff to prepare a report on the Proposed Initiative Measure for presentation to the Town Council at its July 26, 2016 meeting.

### SUMMARY:

On May 10, 2016, proponents of an initiative measure proposing that the issuance of public debt in excess of \$10 million be subjected to voter approval filed a signed petition with the Town Clerk's office. Pursuant to the California Elections Code, the petitions were examined for signature verification by the Town Clerk's Office with assistance from the Elections Office of the Registrar of Voters for San Bernardino County.

In a letter dated June 21, 2016, the Town Clerk's Office verified that the petition contained 3,873 valid signatures and notified the proponents of this fact. Under State Law, the petition needed 3,172 signatures to qualify the measure for the ballot. Therefore, the measure has obtained the required signatures. The remainder of this report will provide the Town Council with options under the California Elections Code. The recommendation is to direct staff to prepare an impartial and informational report on the potential impacts of the measure, which must be presented to the Town Council within 30 days.

## **DISCUSSION:**

On December 21, 2015, the Town received a Notice of Intent to circulate an initiative petition from proponents that would amend the Town's Municipal Code by prohibiting the Town from issuing public debt to provide funds for the acquisition, construction, improving, or financing of an enterprise in excess of \$10 million without voter approval ("Measure").

In accordance with the Elections Code, the Town Attorney's office prepared a ballot title and summary, which was received by the proponents on January 6, 2016. On January 15, 2016, the proponents published the Notice of Intent along with the ballot title and summary in the Apple Valley News. The proponents then had six (6) months to gather enough signatures to qualify the Measure for the ballot. On May 10, 2016, the proponents submitted a signed petition to the Town Clerk's Office. The petition contained 5,348 raw signatures.

On June 21, 2016, the Town Clerk's Office, with assistance from the Elections Office of the Registrar of Voters for San Bernardino County, verified that the petition contained 3,873 valid signatures to qualify the Measure for the ballot. Under the Elections Code, 3,172 valid signatures were required. The Certificate of Sufficiency of Initiative Petition is attached to this report and it is recommended that the Town Council receive, file, and accept the certificate as valid in all respects.

Since the Measure has obtained the required number of signatures, tonight, the Town Council's options under the Elections Code are as follows:

1. Adopt the Measure outright as an ordinance, without alteration;
2. Submit the Measure to the voters at the next regular municipal election. A "regular election" is one where Council Members are elected. That would be November 8, 2016; or
3. Direct staff to prepare an impartial and informational report analyzing the impact of the Measure on the Town's finances, its ability to provide public services, and the like. Staff must present the report not later than 30 days after it is ordered by the Town Council. Staff would expect to present the report at the July 26 Town Council meeting. If the Town Council chooses this option, once the report has been prepared and presented, the Town Council will need to consider all available options, including options 1 and 2 above.

Town Staff believes the Measure, if adopted, could have a significant effect on the Town. As a result, Town Staff would like the opportunity to more fully consider its impacts as permitted by the Elections Code.

**FISCAL IMPACT:**

None.

**ATTACHMENTS:**

1. Certificate of Sufficiency of Initiative Petition Prepared By Town Clerk and Letter Sent to Proponents on June 21, 2016.
2. Notice of Intent to Circulate Petition



Town of Apple Valley

A Better Way of Life

**CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION**

I, LA VONDA M-PEARSON, CMC, Town Clerk of the Town of Apple Valley, HEREBY CERTIFY that the San Bernardino County Elections Office has examined the petition entitled "Initiative Measure Prohibiting the Town of Apple Valley from Issuing Bonds or Other Forms of Public Debt to Provide Funds for the Acquisition, Construction, Improving, or Financing of an Enterprise Secured by Revenues Derived from the Operations of the Enterprise in Excess of \$10,000,000 Without Voter Approval." As a result of the examination, the following is reported:

Raw Count:	5,348
Signatures Verified:	5,348
Signatures Found Valid:	3,873
Signatures Not Found Valid:	1,475

The number of valid signatures required is 3,172. Based upon the information received, I report that the number of signatures found valid exceed the number required and therefore find that the petition was successful and hereby certify the results.

Dated this 21<sup>st</sup> day of June 2016.

**TOWN OF APPLE VALLEY  
OFFICE OF THE TOWN CLERK**

**La Vonda M-Pearson, CMC  
Town Clerk**





# Town of Apple Valley

14955 Dale Evans Parkway • Apple Valley, California 92307

June 21, 2016

Mr. and Mrs. Charles Hanson  
22113 Sioux Road  
Apple Valley, CA 92308

**RE: PROPOSED INITIATIVE MEASURE PROHIBITING THE TOWN OF APPLE VALLEY FROM ISSUING BONDS OR OTHER FORMS OF PUBLIC DEBT TO PROVIDE FUNDS FOR THE ACQUISITION, CONSTRUCTION, IMPROVING OR FINANCING OF AN ENTERPRISE SECURED BY REVENUES DERIVED FROM THE OPERATIONS OF THE ENTERPRISE IN EXCESS OF \$10,000,000 WITHOUT VOTER APPROVAL**

On May 10, 2016, the Town of Apple Valley accepted petitions for voter approval of the placement of the above mentioned amendment. The petitions were delivered to the Elections Office of the Registrar of Voters in San Bernardino County for validation.

We have been notified that the examination of petitions has been completed. Based upon the information received, I would like to report that the number of signatures found valid exceed the number required and therefore find that the petition was successful.

This item will be presented to the Apple Valley Town Council at its next regularly scheduled meeting of June 28, 2016. Should you have any questions, please contact the undersigned at (760) 240-7000, ext 7800.

Sincerely,

**TOWN OF APPLE VALLEY  
OFFICE OF THE TOWN CLERK**

La Vonda M-Pearson  
Town Clerk

Received By Town Clerk	
Date	<u>12-21-15</u>
Time	<u>12:37pm</u>
Town of Apple Valley	

Charles and Patricia Hanson

22113 Sioux Rd  
Apple Valley, CA 92308

December 18, 2015

La Vonda M-Pearson, Town Clerk  
Town of Apple Valley  
14955 Dale Evans Parkway  
Apple Valley, CA 92307

Re: Initiative Measure to be Submitted to Voters

Dear Ms. M-Pearson:

Please find enclosed with this letter a copy of a proposed initiative measure and Notice of Intent to Circulate Petition for the Town of Apple Valley. Please transmit the initiative measure to the Town Attorney for a Title and Summary pursuant to California Elections Code Section 9203. Also enclosed please find a check in the amount of \$200 with this letter.

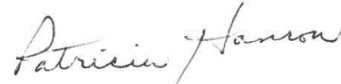
We are the proponents of this measure and are registered voters within the Town of Apple Valley. Attached please find a signed proponent affidavit as required by section 9608 of the California Elections Code.

Should you have any questions or require additional information, please contact our attorneys, Thomas W. Hiltachk and Ashlee N. Titus, at 455 Capitol Mall, Suite 600, Sacramento, CA 95814 or (916) 442-7757. Thank you.

Sincerely,



Charles Hanson



Patricia Hanson

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The town attorney has prepared the following title and summary of the chief purpose and points of the proposed measure: [Insert title and summary prepared by town attorney]

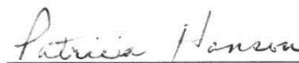
NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the Town of Apple Valley for the purpose of requiring voter approval before the town can issue public debt secured by fees or charges on town services. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

- 1) The town council, using the power of eminent domain, desires to acquire the local water system, currently owned and operated by a private company.
- 2) The council believes the cost of acquisition to be more than \$50 million, but it could cost \$100 million or more.
- 3) The council has determined it can raise the money necessary to pay for acquisition by incurring debt that does not currently require voter approval.
- 4) Recognizing the significant financial risk that such a move entails, the voters of the Town of Apple Valley should possess the right to provide direct voter approval prior to the Town Council incurring more than ten million dollars in public debt.
- 5) Therefore, the people of the Town of Apple Valley amend the municipal code to require prior voter approval before the council can issue more than ten million dollars in public debt secured by fees or charges on town services.



Charles Hanson



Patricia Hanson

The people of the Town of Apple Valley do ordain as follows:

Chapter 3.35 of Title 3 of the Municipal Code is added to read:

3.35 VOTER APPROVAL PRIOR TO ISSUANCE OF PUBLIC DEBT SECURED BY FEES OR CHARGES ON SERVICES

(a) No ordinance or resolution authorizing the issuance of bonds or other forms of public debt in an amount exceeding ten million dollars (\$10,000,000) to provide funds for the acquisition,

construction, improving, or financing of an enterprise, secured by revenues derived from the operation of the enterprise, shall become effective unless approved by the voters, as provided herein.

(b) For purposes of this section:

(1) The terms "bonds," "enterprise," "charges," and "revenues" shall have the same meaning as provided for the in the Revenue Bond Law of 1941 (Chapter 6 of Division 2 (commencing with section 54300) of the Government Code);

(2) The term "public debt" includes, but is not limited to, certificates of participation, or public leaseback, secured by revenues derived from the operation of the enterprise, or lease payments made by or to advance the purpose of the enterprise.

(c) The election required shall comply with the provisions of Article 3 of Chapter 6 of Division 2 (commencing with section 54380) of the Government Code.

(d) No ordinance or resolution that authorized the issuance of bonds or public debt that would have been subject to the voter approval requirement of this section, enacted by the council after the date the notice of intent to circulate petitions was filed by the proponents proposing enactment of this section, but before its adoption by the voters, shall be implemented or enforced unless and until the voters approve that ordinance or resolution pursuant to this section.

(e) If any provision of this section, or any part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end, the provisions of this section are severable.