



## TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

---

**To:** Honorable Mayor and Town Council      **Date:** June 10, 2014  
**From:** Marc Puckett, Assistant Town Manager      **Item No:** 16  
**Subject:** A RESOLUTION ESTABLISHING SEWER USER CHARGES INCLUSIVE OF AN INCREASE IN AN AMOUNT OF THREE DOLLARS AND TWENTY-FOUR CENTS (\$3.24) 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 2014-18,
2. Determine whether a majority protest exists, and
3. If no majority protest exists, adopt Resolution 2014-18, revising the sewer user fees for the use of Town sewers.

### SUMMARY:

March, 2014, the Victor Valley Waste Water Reclamation Authority (VWRA) proposed an incremental increase totaling 43.0% (FY15 - 9%, FY16 - 9%, FY17 - 9%, FY18 - 9%, FY19 - 7%) in the sewer user charge for member agencies over the next five fiscal years beginning July 1, 2014. The VWRA increase is intended to provide resources to fund the construction of sub-regional treatment plants for reclaimed water and fund the capital cost of maintaining its facilities and sewer system infrastructure. This increase was approved by VWRA and becomes effective for member agencies on July 1, 2014.

As reported to Council during Fiscal Year 2013, the Town did not fully pass through the prior cost increase and absorbed over \$140,000 in increased sewer costs at the time of the public hearing in March, 2013. This VWRA rate increase will increase the Town's sewage charges by approximately \$18,500 per month in the first year. The Town's Sewer Fund cannot sustain the increased costs due to the VWRA 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.

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 VVWRA 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 VVWRA 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-eight dollars and nineteen cents (\$28.19) per equivalent dwelling unit (EDU) per month. The fee is proposed to increase by three dollars and twenty-four cents (\$3.24) or 11.5% to thirty-one dollars and forty-three cents (\$31.43) per EDU per month effective June 11. Increasing the sewer user charges by 11.5% by passing through the VVWRA rate increase will allow the Town to recapture its future increased cost for waste water treatment from VVWRA, a portion but not all of the previous increased treatment costs that were not passed through by the Town and fund necessary future capital improvements.

At the Town Council meeting on April 8, 2014, Council adopted Resolution 2014-10, setting the time and place of the public hearing as May 27, 2014 in the Town Council Chambers and authorizing the mailing of the required Prop. 218 notices to the property owners of record. Due to scheduling conflicts, the Council meeting on May 27, 2014 was cancelled and the public hearing was rescheduled for June 10, 2014. 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 June 10, 2014. 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 June 11, 2014.

Pursuant to Section 6 of Article XIII(D), known more commonly as Proposition 218, on April 9, 2014, a total of 8,246 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 2014-18.

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 2014-18.

As of this writing, 319 protest letters (3.9%) were received in opposition to the increase. In addition, 425 notices (5.2%) 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 319 and letters returned undeliverable of 425 totaled 744 (9.0%). A majority protest would require 4,124 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 2014-18.

If Council adopts Resolution 2014-18, the proposed trash user fee increase will become effective on June 11, 2014.

**ATTACHMENT:**

Resolution Number 2014-18

**RESOLUTION NO. 2014-18**

**A RESOLUTION ESTABLISHING SEWER USER CHARGES INCLUSIVE OF AN INCREASE IN AN AMOUNT OF THREE DOLLARS AND TWENTY FOUR CENTS (\$3.24) PER EQUIVALENT DWELLING UNIT PER MONTH AND ESTABLISHING AN OPERATIVE DATE FOR APPLICATION OF THE PROPOSED INCREASE**

**WHEREAS**, the Town Council of the Town of Apple Valley is a member entity of the Victor Valley Wastewater Reclamation Authority (VWVRA), a Joint Powers Authority, duly formed under the laws of the State of California; and

**WHEREAS**, the VWVRA approved a 43.0% increase in total (FY15 - 9%, FY16 – 9%, FY17 – 9%, FY18 – 9%, FY19 – 7%) in the sewer user fees for member agencies over the next five years beginning fiscal year 2014-15 effective on July 1 which increased VWVRA's rates for FY15 from \$2,528 per million gallons treated, to \$2,756 per million gallons treated or a \$228 increase per MG treated and from Twenty Two Dollars Twenty Seven Cents (\$22.27) to Twenty Four Dollars Twenty Seven Cents (\$24.27) per equivalent dwelling unit (EDU) per month; and

**WHEREAS**, the Town as a member entity of the VWVRA, will be charged the additional 43.0% increase for sewage treatment costs over the next five years beginning July 1, 2014 as outlined above; and

**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-eight dollars and nineteen cents (\$28.19) per equivalent dwelling unit (EDU) per month; and

**WHEREAS**, the Town is requesting to increase the current sewer user fee by an amount of 48% in total (FY15 – 11.5%, FY16 – 11.5%, FY17 - 9%, FY18 – 9%, FY19 – 7%) or Three Dollars and Twenty-Four Cents (\$3.24) equaling 11.5% beginning May 28, 2014 with incremental increases as stated herein thereafter to be effective each July 1 of each subsequent fiscal year in order to recapture and recover the additional sewage treatment charges to the Town charged to it by the VWVRA; and

**WHEREAS**, the Town has proposed charging sewage users in the amount of thirty-one dollars and forty-three cents (\$31.43) per equivalent dwelling unit (EDU) per month in the first year of the rate increase; 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.

**WHEREAS**, the Town desires to comply with Section 6 of Article XIII(D) of the California Constitution regarding the notice, hearing and protest procedures.

**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 \$31.43 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 \$31.43 per unit per month plus \$1.572 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 \$31.43 per month plus \$1.572 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 \$31.43 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 June 11, 2014. 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 this 10<sup>th</sup> day of June, 2014.

\_\_\_\_\_  
Art Bishop, Mayor

**ATTEST:**

\_\_\_\_\_  
LaVonda Pearson, Town Clerk