



(Jenna) Town Clerk <clerk@applevalleyut.gov>

---

## Big Plains Water SSD

---

Heath Snow <[REDACTED]>

Mon, Apr 1, 2024 at 12:43 PM

To: Mayor <mayor@applevalleyut.gov>

Cc: "(Jenna) Town Clerk" <clerk@applevalleyut.gov>, Michelle Kinney <mkinney@applevalleyut.gov>

Mayor,

With all of the information provided, I am going to take your analysis one step further. Section 17B-1-102(1) defines who the appointing authority is for appointment of members of all types of special districts' controlling boards. This section states:

**17B-1-102. Definitions.**

*As used in this title:*

(1) "Appointing authority" means the *person or body* authorized to make an appointment to the board of trustees.

As you can see from the words in red, this section states that the Appointing Authority can be a person or a body as long as they are authorized to do so.

Looking at Apple Valley Resolution 2011-5 that was adopted by the Apple Valley Town Council to create the BPW SSD it clearly says that the Town Council delegated the power of appointment to the Mayor (see Section 7 of the Resolution). They did not retain that power. If the Resolution creating the District was silent on who appointed the District's Board of Trustees, then I would probably render the opinion that the Town Council retained that power - as they were exercising the power vested in the Town (as its governing body) to create the District in the first place.

Because there is a very clear delegation of appointment power and the power to fill interim vacancies in Section 7 solely by appointment by the Mayor only in the District's initial governing documents, I don't see how there is any other argument that can be made that the office of the Mayor of Apple Valley is the "Appointing Authority" under State Law.

The fact that BPW SSD's By-Laws that were adopted by the Board of Trustees in 2022 also indicates the mayor's sole appointment power, is additional evidence that this singular power was not only intended by the Apple Valley Town Council but also the District's Board.

One last point to be made is this.....BPW SSD Board of Trustees, acting alone in November of 2022, could not have amended (or adopted new By-Laws) which made the Town Council the Appointing Authority. They don't have the authority to do this. That would be like my last teenager making the decision on his own that me and his mother no longer had the authority to make him go to school and that he was granting that authority to his best friend, Joey. The Town Council, in the form of a resolution, would need to give their consent to the amendment that the District's Board had approved.



HEATH H. SNOW, ESQ. – Managing Partner  
SNOW CALDWELL BECKSTROM & WILBANKS



This electronic mail transmission, and any documents accompanying this, may contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this electronic mail in error, please immediately notify this office by calling the sender of this message at (435) 656-1900.



Please consider the environment before printing this e-mail



[Quoted text hidden]