SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. III-D**

FROM: Steve Mack, General Manager

Meeting Date : May 6, 2010

SUBJECT: CHANGES TO POLICY NUMBERS 3020, 3080, AND 3090 OF THE DISTRICT'S POLICY AND PROCEDURES PROVIDING FOR REMEDIES FOR WATER BILL NON-PAYMENT AND METER TAMPERING

RECOMMENDED ACTION: Adopt, by reading of title only, Ordinance 44, Making Changes to Policy Numbers 3020, 3080, and 3090 of the District's Policy and Procedures Providing for Remedies for Water Bill Non-Payment and Meter Tampering, and place on the May Agenda for adoption.

FISCAL IMPACT: Minimal, but the proposed ordinance may help reduce the number of accounts referred to our collections agency and the proposed reinstatement fee and expansion to our tampering fee will add a small amount of revenue to our Water Sales.

DISCUSSION:

Staff recommends adoption of Ordinance 44 which was introduced at the Board meeting on April 1, 2009. Staff made a presentation at introduction and responded to Board questions. No changes were made to the introduced Ordinance. If adopted at the May meeting, Ordinance 44 will become effective 30 days after adoption on June 5, 2009.

Below is the discussion from the April 1, 2009 staff report:

District staff have identified four scenarios that are not addressed in our District policies:

<u>Scenario 1</u>. We send a property owner to collections for non-payment of their bill. The owner later wishes to reopen the account. Currently, we require the owner to pay off the collections agency and tender a $150 refundable collections deposit to the District before water will be restored to the account. However, the District still loses money because the collections agency keeps 40% of what they collect as their fee. New policy 3020.121 would to require the owner to pay a <u>reinstatement fee</u> to the District in addition to the $150 collections deposit before they can reopen the account. The reinstatement fee would recoup the 40% fee retained by the collections agency.

<u>Scenario 2</u>. Same situation as Scenario 1, except this time the owner has been terminated for non-payment but has a tenant who wishes to reopen

the account. Currently, the tenant would not be required to pay the owner's past due amount or to tender a deposit. Under new policy 3080.25, however, water would not be restored to the account until all past charges were paid. In this situation, if the account had already been referred to a collections agency, the District would lose the 40% collections agency fee and would not have a deposit on file, but it would encourage the owner of the property to take responsibility for their past due account.

Scenario 3. Same situation as Scenario 1, except this time the owner has lost the property to a bank. The economy has triggered a rash of foreclosures in the District. Currently, the District has no policy that requires the foreclosing bank or real estate agent acting on behalf of a foreclosing bank to pay the past due amount of the foreclosed owner. New policy 3080.25 would require the bank or their real estate agent to deal with those past charges if they wanted water restored to the property for clean-up or resale. Policy 3080.25 is less drastic than filing a utility lien, but much easier to implement and, we believe, more effective.

Scenario 4. The District discovers an inactive account has been turned on and is using water, and may have damaged our meter/parts in the process. Currently, policy 3090.20 only provides for assessing tampering fees to active customers. However, sometimes District investigation leaves staff with a very good idea of who tampered with our equipment. New policy 3090.20(e) would give the General Manager discretion to assess a tampering fee to the last customer or the owner if it makes sense based on the District's investigation.

Legal counsel has reviewed Ordinance 44. If adopted, the new policies would tighten up District remedies for errant customers.

ORDINANCE NO. 44

AN ORDINANCE OF SWEETWATER SPRINGS WATER DISTRICT MAKING CHANGES TO POLICY NUMBERS 3020, 3080 AND 3090 OF THE DISTRICT'S POLICY AND PROCEDURES PROVIDING FOR REMEDIES FOR WATER BILL NON-PAYMENT AND METER TAMPERING

WHEREAS, water bill nonpayment and meter tampering are ongoing issues that add extra costs onto the Sweetwater Springs Water District and its water bill paying customers; and

WHEREAS, staff have determined that small changes to the District's Policies and Procedures can firm up the procedures for addressing water bill nonpayment and meter tampering in a manner fair to all District customers; and

WHEREAS, the District has established policies for tenants nonpayment of water bills, but said policies do not directly address property owners' nonpayment of water bills; and

WHEREAS, the tampering with meters is frequently connected to nonpayment of water bills, in that nonpaying occupants of a property may tamper with its existing meter; and

WHEREAS, the policies and procedure changes stated below address these issues in a fair way.

NOW THEREFORE BE IT ORDAINED by the Board of Directors of the Sweetwater Springs Water District, County of Sonoma, as follows:

Section 1. Policy Number 3020.121, Reinstatement Fee is hereby added as follows:

3020.121 Reinstatement Fee. A reinstatement fee will be charged to any Owner, as defined in Section 3070.70(A), who wishes to reopen an account that has been referred to a Collections Agency due to non-payment by that Owner. The reinstatement fee shall be equal to the amount paid by the District to the Collections Agency to collect past due charges on the account. The reinstatement fee shall be in addition to the account set-up fee and a Collections deposit, as defined in Section 3020.160.

Section 2. Policy Number 3080.25 is hereby added as follows:

3080.25 Termination for Non-Payment May be Grounds for Not Re-Opening an Account until Past Charges have been Paid. An account whose last customer was the Owner of the property that is terminated for non-payment under 3080.20(a) above shall remain inactive (Closed) and not have water service restored until all past charges have been paid unless the property has changed Owners and the new Owner is not a bank.

Section 3. Policy Number 3090.20 (e) is hereby added as follows:

3090.20 Damage to District's Meter: It is unlawful for any person to remove, replace, alter or damage any water meter or components thereof, including, but not limited to, the meter face, its dials or other water-usage indicators, and any flow restricting device installed pursuant to this Code. Tampering is defined to include the unauthorized operation of District valves, meter stop or other property as well as the installation of "jumpers" or connection to a service connection for the purpose of unauthorized acquisition of water. If a consumer removes, replaces, alters, damages or tampers with a meter, service pipe or other property of the District, the customer shall pay the following charges:

a. A $150.00 tampering fee;

b. Material cost plus fifteen percent handling charge for replacement parts;

c. Labor costs plus applicable overheads.

d. This section also applies to internal meter damage caused by flows in excess of meter operation limits. In such event District may install a flow restrictor to reduce the flow rate to maintain safe meter operation limits. A fifty dollar ($50.00) fee will be charged for the installation, or removal, of a flow restrictor.

e. If tampering occurs on a Closed or an Inactive account, a tampering fee and/or time and materials costs may be assessed to either the last customer or the property owner if, in the discretion of the General Manager, such fees and/or costs are appropriate based on all the facts and circumstances.

Section 4. If any section, subsection, sentence, clause of phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The Board hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 5. Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Board of Directors.

This Ordinance was introduced on April 1, 2010, and adopted this 6th day of May 2010, on roll call by the following vote:

Jim Quigley _____
Gaylord Schaap: _____
Victoria Wikle: _____
Wanda Smith: _____

Sukey Robb-Wilder: _____

_____
Jim Quigley
President of the Board

ATTEST:

_____
Julie A. Kenny
Clerk of the Board