SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. V-C**

FROM: Ed Fortner, General Manager

Meeting Date: June 6, 2019

Subject: CARLOS ABELA 14631 Old Cazadero Rd Wall

RECOMMENDED ACTION:

Receive report from the General Manager. Discussion and possible action.

FISCAL IMPACT:

None

DISCUSSION:

SSWD Staff and GM have been communicating with Mr. Abela since late March 2019 about the violation of SSWD policy 3090.30 allowing access to District infrastructure, specifically our water meter serving the residence in question. Mr. Abela attended the May 2, 2019, District Board meeting presenting his perspective of the situation caused by his construction of a concrete block wall over our service line directly abutting the water meter. After multiple warnings and declined offers of compromise, Mr. Abela completed construction of his wall. The District now needs to decide whether to relocate the water meter outside the wall and bill the customer for the time and materials, terminate service, or find another alternative. The GM did communicate several more times with Mr. Abela after the May 2019 Board meeting, which resulted in no change in the customer's perspective. A more detailed memo is attached. Staff and GM recommend we follow our policy consistent with previous similar situations or terminate service.

Ed Fortner, General Manager

Memo: Mr. Carlos Abela 14631 Old Cazadero Road Right of Access to Meters Policy

To: Sweetwater Springs Water District Board, June 6, 2019

CC:

Dear Board Members,

Mr. Carlos Abela of 14631 Old Cazadero Road appeared at the May 2, 2019, SSWD Board meeting to complain about the District's guidance related to Mr. Abela's construction of a concrete block wall over the service line and directly abutting the District's water meter serving his residence. Mr. Abela initially called the District without giving his name and asked a generic question about constructing a "fence" that would not be blocking access to the water meter. Our Account Clerk informed Mr. Abela that his "fence" would be fine as long as it does not block our access. We discovered the construction when our meter reader discovered the ditch for the footer of the wall. Our meter reader informed the person working on the footer that the footer and wall would violate our policy, gave the person our phone number, and asked him to tell the owner to call our office and speak to our Field Manager. The next morning, our meter reader returned to the site and discovered that the concrete footer had been poured despite our warning. After learning of the construction, our field staff followed up. Staff has met Mr. Abela on site and given him the direction to either remove the portion of the wall in conflict or we will have to move the meter outside his wall and charge him for the time and materials involved in the move. Staff and the GM have had numerous phone and email communications with Mr. Abela, consistently giving him the same answers to his concerns. Staff and the GM have given Mr. Abela our policy related to obstruction of access to District infrastructure. After informing Mr. Abela of our policy and sending him a letter with the policy attached, Mr. Abela insisted on a voicemail that he be given the "legal underpinnings" of our policy. The GM attained a legal opinion (below) based on our policy as approved by resolution and ordinance, which are based in California State Law (Water Code). Mr. Abela continues to debate and disagree with the District's policy. The District has enforced this policy numerous times. The legal opinion referenced earlier is stated below.

The statutory basis of Sweetwater Springs Water District's authority to levy the meter relocation charge as requested by Mr. Abela, customer:

P.O. Box 48, 17081 Hwy. 116, Suite B, Guerneville, CA 95446 • 707-869-4000 • FAX 707-869-4005
Email: sws@monitor.net • web site: www.sweetwatersprings.com

Sweetwater Springs Water District was formed as a County Water District pursuant to the provisions of Water Code Section 30000 et seq. Section 31010, which provides that Sweetwater Springs Water District has the authority to perform any act necessary to furnish sufficient water for all present and anticipated future uses. Ensuring the accurate measurement and billing of use of water by means of water meters is included within this authority. These laws establish the purpose of our existing District policies. Section 31007 provides that the District may collect rates and charges sufficient to pay (1) the operating expenses of the district, including the costs of relocating a water meter, together with many other charges; (2) to pay for repairs and depreciation of works owned by the District; (3) and to pay principal and interest on bonded and other debt.

These sections together provide your elected Board the discretionary power to levy whatever rates and charges are required to pay such expenses. The authority to raise rates is subject to property owner majority protest procedures pursuant to Proposition 218, but there is no similar limitation on the power of the Board under these statutes to levy "fees and charges" for services rendered, so long as the amount of the fee or charge does not exceed your cost of providing the service for which the fee or charge is levied. This is the legal standard that applies to our levy of a meter re-location charge, as well as any other District charges, fees, or charges other than water usage rates.

Sincerely,

Ed Fortner
General Manager
Sweetwater Springs Water District
efortner@sweetwatersprings.com
707-869-4000