SWEETWATER SPRINGS WATER DISTRICT

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

FROM: Steve Mack, General Manager

Meeting Date : February 3, 2011

SUBJECT: Ordinance 46, Expanding the District's Remedies to either (1) Terminate an Account; or (2) Deny Re-Opening or Transferring an Account

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RECOMMENDED ACTION: Introduce by reading of title Ordinance 44, Expanding the District's Remedies to either (1) Terminate an Account; or (2) Deny Re-Opening or Transferring an Account

FISCAL IMPACT: Minimal, but the proposed ordinance may help reduce the number of accounts referred to our collections agency by creating incentives for foreclosing banks to pay or take responsibility for the unpaid water bills on the properties they are foreclosing.

DISCUSSION:

In May, Ordinance 43 was approved, adding among other sections policy 3080.25. This section provided a solution to the problem of collecting from of an owner whose property was foreclosed and whose water account was subsequently was terminated for non-payment. The solution was to require the bank to pay the water bill of the prior owner before we open an account for the bank (or bank's realtor).

Staff now knows Policy 3080.25 did not go far enough to address payment of water bills on foreclosed properties. Frequently, the foreclosing bank/realtor call to transfer the water account into their name *before* the account of the prior owner has been terminated for non-payment. Or the bank/realtor calls to open an account that has been closed recently – too recently to be sent to Collections -- but has not yet paid. A third scenario that staff is seeing with some regularity is a tenant-customer who continues to live at a property and pay the bill after it is foreclosed with or without the permission of the foreclosing bank, then abandons the property and their water bill. All of these foreclosure situations leave the District vulnerable to an unpaid account.

Ordinance 46 would close these loopholes and revise District policies to create incentives for foreclosing Banks (or their realtors) to take responsibility for unpaid water bills on their District foreclosures by:

1. Allowing the District to close out an account that we believe has been foreclosed and/or vacated by the District's customer;

2. Allowing the District to deny a foreclosing bank's (or their realtor's) request to open or transfer an account unless they either paid any unpaid water bill from the prior account holder or agreed to have the unpaid balance of the prior account holder transferred to their own account.

ORDINANCE NO. 46

AN ORDINANCE OF SWEETWATER SPRINGS WATER DISTRICT EXPANDING THE DISTRICT'S REMEDIES TO EITHER (1) TERMINATE AN ACCOUNT; OR (2) DENY RE-OPENING OR TRANSFERRING AN ACCOUNT. POLICIES AMENDED: 3020.10 (APPLICATION FOR SERVICE FROM AN EXISTING CONNECTION) 3080.20 (GROUNDS FOR TERMINATION); 3080.25 (TERMINATION FOR NON-PAYMENT MAY BE GROUNDS FOR NOT REOPENING AN ACCOUNT UNTIL PAST CHARGES HAVE BEEN PAID); AND 3080.30 (NOTICE PROCEDURES FOR TERMINATION)

WHEREAS, rising foreclosures within the District has resulted in abandoned and/or unpaid water accounts;

WHEREAS, the District has established policies to provide to address tenants who do not pay their bill, but said policies are ineffective as to Owners who are foreclosing Banks; and

WHEREAS, the District has established policies for owners who do not pay their bill and whose account is subsequently terminated, but said policies do not address scenarios where the bank forecloses *before* the account is terminated by the District; and

WHEREAS, current District policies require the District to leave accounts active even when there is reasonable evidence to indicate it will eventually be terminated for non-payment; and

WHEREAS, the policies and procedure changes below expand the District's defensive remedies to either close an account or deny transferring or reopening an account that appears to have been foreclosed and/or abandoned; and

WHEREAS, the policies and procedures changes below will create incentives for foreclosing banks to pay or take responsibility for the unpaid water bills on District foreclosure properties.

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

Policies 3020.10, 3080.20, 3080.25, and 3080.30 are hereby amended as follows:

> **3020.10 Application for service from an existing connection:** Before water from an existing service connection is turned on or transferred to another consumer, the party desiring service shall make application for such service and furnish to the District information about the specific use for which application is made, the post office address to which water bills shall be mailed, the location of the

property, employment information, social security number, ~~driver's license number~~, ~~and~~ status as owner, tenant or property manager, and proof of tenancy. An application for service will be completed by all new customers. Such application information may be taken over the phone

3080.20 Grounds for Termination: The following shall be grounds for termination of a consumer's water service: . . .

. . . e. The District has reason to believe the property has been physically abandoned by the Customer or is in foreclosure.

3080.25 ~~Termination or Imminent Termination for Non-Payment May be Grounds for Not Reopening an Account until Past Charges have been Paid.~~ Grounds to Deny Transferring or Re-Opening an Account. An account that is inactive ~~whose last customer was the Owner of the property that is terminated for non-payment under 3080.20(a)~~ or is likely to be terminated under 3080.20(e) above shall remain inactive (Closed) and not have water service restored until all past charges have been paid unless the new Customer agrees to have the unpaid balance transferred to their own water account. This section shall only be applicable to properties that have transferred ownership to a Bank (i.e., foreclosure properties).~~ unless the property has changed Owners and the new Owner is not a bank.~~

3080.30 Notice Procedures for Termination: The District must provide Notice prior to terminating a customer's water service. Notice may not be sent until twenty-five (25) days after the date the District's billing was mailed, except for termination pursuant to 3080.20(e) above. After such date . . . .

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 February 3, 2011, 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