# SWEETWATER SPRINGS WATER DISTRICT

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

**FROM:** Steve Mack, General Manager

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**Meeting Date: March 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:** Adopt by reading of title Ordinance 46, 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 (or other financial institutions) to pay or take responsibility for the unpaid water bills on the properties they are foreclosing.

**DISCUSSION:**

As discussed at the last meeting, Ordinance 46 revises District policies to create incentives for foreclosing banks/financial institutions (or their agents) to take responsibility for unpaid water bills on their District property 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/financial institution's (or their agents) request to open or transfer an account unless they either pay 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.

It should be noted that currently District staff have been making a "Demand for Payment" to banks and/or financial institutions for past due amounts of the prior water customer. This method has been successful more than half the time – after all, often the bank/financial institution has been the owner for some time and never notified us. Also, we understand they can offset the cost of past utility bills against the "cash for keys" amount offered to tenants who continue to occupy a property. But the Demand for Payment process has in some cases proven very time consuming for our staff because our contact person – often the realtors -- are not always helpful in identifying who and where the Demand for Payment should be presented to. Staff believes Ordinance 46 would speed up

the Demand for Payment process and gives clear direction that this approach is appropriate in these situations.

# 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 or similar financial lending institution (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. Except for termination pursuant to 3080.20(e) above, notice may not be sent until twenty-five (25) days after the date the District's billing was mailed. 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 adopted on March 3, 2011, on roll call by the following vote:

Jim Quigley _____
Gaylord Schaap: _____
Victoria Wikle: _____
Wanda Smith: _____
Sukey Robb-Wilder: _____

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Jim Quigley
President of the Board

ATTEST:

_____
Julie A. Kenny
Clerk of the Board