SWEETWATER SPRINGS WATER DISTRICT

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

FROM: Steve Mack, General Manager

Meeting Date : April 1, 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: Introduce by reading of title Ordinance 44, Making Changes to Policy Numbers 3020, 3080, and 3090 of the District's Policy an 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:

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

Scenario 1. 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 reinstatement fee 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.

Scenario 2. 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.

<u>Scenario 3</u>. 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.

<u>Scenario 4</u>. 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 this 1st day of April, 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

Exhibit A. Ordinance 44 Policies and Procedures Changes in Context

3020.120 Payment of Prior Charges or Liabilities: The district reserves the right to lien properties on the tax rolls for unpaid water charges in a manner adopted by resolution of the board which will be periodically reviewed.

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.

3020.130 Charge for Turnons: Ten dollars ($20.00) will be charged as an account set-up fee to each applicant requesting service. Such fee shall be required each time service is initiated in a customer's name and shall be paid within twenty-five (25) days of the initiation of service.

A charge of fifty dollars ($50.00) will be made for the restoration of service where such service has been interrupted due to non payment of charges due the district or at the request of a customer that the service be turned off, or by District personnel due to a leak. In addition, a fifty dollar ($50.00) charge will be assessed when a customer requests service personnel to their premises and it is determined that the problem was not a result of the operation of District facilities. The fifty dollar ($50.00) charge shall be waived in the event the water is turned off by District personnel in order to allow the customer to repair a leak where a gate valve on the customer's side near the meter is or will be installed as part of the repair. Such waiver shall only be allowed one time in any twenty-four (24) month period. District personnel may turn on a service after regular business hours provided the customer agrees to pay a fee of seventy ($70.00) dollars, plus the cost of time and materials after one (1) hour.

Under no circumstances will field operations crew be allowed to collect amounts due directly from customers, except when directed by the General Manager to do so. Fees under this section may only be waived by the General Manager in cases where an error was made by the District in handling the account.

3020.140 Charges for Installation of New Service Connections: Upon approval of an application for a new service connection and payment by the applicant of the service installation charge and connection fees set forth herein, the district will make all necessary installations. All deposits made for such charges and fees shall be credited to the parcel of land to be served, and shall run with said parcel of land.

* * *

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

a. Nonpayment of any delinquent water bill, or other sum due the district from the consumer with respect to any service to the property served by the service proposed to be terminated.

b. Failure of the consumer or applicant to provide information for aid in the development of, or execute the necessary documents for water service.

c. Failure of the consumer to comply with any district Ordinance, rule, regulation, order or decision with respect to the service proposed to be terminated.

d. Failure of the consumer to comply with any watershed protection agreement or other contract entered into as a condition of the granting of the service proposed to be terminated.

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.

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 billing was mailed. After such date, said Notice must be made at least 10 calendar days before water service is terminated, plus an additional five (5) calendar days if said Notice is mailed. Mailed Notice shall be sent by first class mail to the customer, at the post office address furnished to the District by the customer. Said Notice shall set forth the following:

a. The consumer's name; address; account number, and address of property being served,

b. The location of the water service to be terminated,

c. The reasons for termination, including the amount of any delinquency;

d. The date on or after which water service will be terminated, or the date on or after which water service will be terminated if a specified payment, arrangement for payment, or specific corrective action is not made or compliance instituted with a specified district rule or regulation.

e. A statement, in case of termination for nonpayment of a residential water bill, that the customer may initiate a written protest or request an investigation concerning service or charges, or may request amortization or payment arrangements of any unpaid charges if a written request for such action is delivered to the district within fifteen (15) days of receiving the disputed bill or within ten (10) days of the mailing of the notice described herein.

f. A statement in case of termination for nonpayment of a water bill, stating the telephone number of a district representative who can provide additional information or institute arrangements for payment or the availability of financial assistance, if applicable;

g. The telephone number of a representative of the district who will provide additional information or institute arrangements for payment.

In the case of termination of service to a multi-unit residential structure, mobile home park or labor camp, where the owner, manager or employer is listed by the district as the consumer of record, or where the district furnishes service through a master meter, the district shall comply with the provisions of Government Code Section 60371 regarding the actual user of service.

* * * * *

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.