

**Council Meeting: July 28, 2009****SUBJECT: Public Hearing to Cause Charges for Non-Payment of Utility Services to be Placed on the FY 2009/2010 Tax Roll****REPORT IN BRIEF**

The City of Sunnyvale provides utility services to all properties within City limits. Charges for utility services are billed to customers by the Department of Finance. Some of the properties receiving these services have been consistently delinquent. Attempts to collect these delinquent debts through the City's standard collection process have failed.

Staff is recommending that Property Tax Roll assessments totaling \$1,299.13, including administrative charges, be filed against these properties in accordance with Sunnyvale Municipal Code Sections 12.50.110 for utility services.

**BACKGROUND**

The City of Sunnyvale Municipal Code requires that all properties receiving water service, from any vendor, also receive and be subject to charges for sewer and solid waste services with the exception of those properties utilizing a septic tank system which are exempt from the requirement for sewer service. The collection of sewer and solid waste from all occupied properties is essential to maintaining the health and safety of the community at large. For this reason, sewer and solid waste charges are considered a civil debt.

The City of Sunnyvale Municipal Code Sections 12.50.110 provides the City the opportunity to collect delinquent funds through the Property Tax Roll procedure. Each year, the City holds a public hearing to provide the public an opportunity to comment regarding the proposed assessments.

**EXISTING POLICY**

The City of Sunnyvale Municipal Code Section 12.50.110 allows the City to cause delinquent charges for water, sewer or solid waste services to be collected on the Property Tax Roll together with general taxes.

## **DISCUSSION**

Each utility customer receives a regular bill for service. Utility customers with active accounts receive a reminder notice, then a second notification of delinquency, and a final demand letter notifying the customer that failure to pay will result in legal action. Utility customers with closed accounts receive a final bill and a final demand letter notifying the customer that failure to pay will result in legal action.

The properties listed on Attachment C have at least three outstanding bills and are a minimum of 60 days delinquent in paying for sewer and solid waste services provided by the City of Sunnyvale. Repeated attempts to collect the delinquent funds through the billing and notification process have been unsuccessful. Additionally, further notification was delivered to these customers regarding the public hearing.

The City of Sunnyvale cannot encourage these customers to pay their delinquent bill through discontinuance of service either because of the city's obligation to maintain public health or because the accounts are closed. Therefore, the only options available are to collect the debt through an assessment on the property or to refer them to a collection agency. For users of the services that both own their property and directly take services from the City, the municipal code allows an assessment to be placed and funds collected through the County Property Tax Roll. This process is the most cost effective way for staff to collect the delinquent funds. Therefore, staff recommends that Council place an assessment on the Property Tax Roll for the delinquent charges as identified in Attachment B.

## **FISCAL IMPACT**

The assessments total \$1,286.14 in previously uncollected revenue. If approved, staff will forward the assessment information with an additional administrative charge of approximately 1% to the County of Santa Clara for collection on the FY 2009/2010 Property Tax Roll. The total assessments with administrative charges equal \$1,299.13. If the total assessments with administrative charges are collected, the revenue will be credited to the Utility Enterprise Funds.

## **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

**ALTERNATIVES**

1. Adopt the attached resolution causing charges for non-payment of utility services to be placed on the FY 2009/2010 Property Tax Roll
2. Do not adopt the resolution and collect the delinquent funds through other means.

**RECOMMENDATION**

Staff recommends Alternative 1 to adopt the attached resolution causing charges for non-payment of utility services to be placed on the FY 2009/2010 Property Tax Roll.

Reviewed by:

Mary J. Bradley, Director of Finance  
Prepared by: Timothy J. Kirby, Revenue Systems Supervisor

Approved by:

Gary M. Luebbers  
City Manager

**Attachments**

- A. Proposed Resolution
- B. Delinquent Utility Accounts to be Placed on County Tax Roll

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE CONFIRMING LIENS ON REAL PROPERTIES FOR NONPAYMENT OF UTILITY CHARGES TO BE PLACED ON THE FY 2009/2010 TAX ROLL**

WHEREAS, the City of Sunnyvale provides water, refuse and/or sewer service to real properties located within city limits

WHEREAS, certain accounts are consistently delinquent and attempts to collect funds through the billing and notification process have been unsuccessful; and

WHEREAS, Section 12.50.110 of the Sunnyvale Municipal Code allows the Director of Finance to cause charges not collected within 60 days for water, sewer or refuse services to be collected on the tax roll together with its general taxes;

WHEREAS, pursuant to Section 12.50.110, the Director of Finance cause a written report to be filed with the City Clerk describing each parcel of real property as to which such delinquency exists and the amount of the charge due as set forth in Exhibit A; and

WHEREAS, pursuant to Section 12.50.110, the City Council, following a noticed public hearing shall adopt a resolution confirming, discharging or modifying the amount of the liens; and

WHEREAS, on July 28, 2009, the City Council conducted a duly noticed public hearing;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. The City Council confirms the amount of the lien to be recorded against each parcel of real property set forth in the report attached as Exhibit A.
2. The City Council directs the City Clerk to file with the Director of Finance on or after July 28, 2009, a copy of the report attached as Exhibit A, indicating that the report has been finally adopted by the City Council.
3. The Director of Finance, after receipt of the report from the City Clerk, is authorized and directed to take all appropriate and necessary steps to record a lien against each property in the amount set forth in the report attached as Exhibit A.

Adopted by the City Council at a regular meeting held on July 28, 2009, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David E. Kahn, City Attorney

**Delinquent Utility Accounts to be Liened on County Tax Roll  
Fiscal Year 2009-2010**

APN Number	Property Address	Name	Delinquent Balance	Administration Charge	Total Due
104-21-017	1592 WRIGHT AVE	LUAN, TOM	\$100.54	\$1.02	\$101.56
202-06-021	696 W EL CAMINO REAL B	ASKARINAM, BEHZAD & LOUISE S	\$243.40	\$2.46	\$245.86
204-03-039	696 W EL CAMINO REAL	ASKARINAM, BEHZAD & LOUISE S	\$193.76	\$1.96	\$195.72
205-09-015	319 ROOSEVELT AVE	GAXIOLA, MAX A	\$415.68	\$4.20	\$419.88
313-14-035	1416 NAVARRO	FRUMVELLER, HARRY & CAROLYN	\$332.76	\$3.36	\$336.12
<b>Total</b>			<b>\$1,286.14</b>	<b>\$12.99</b>	<b>\$1,299.13</b>