Council Meeting: July 26, 2011

SUBJECT: Public Hearing to Cause Charges for Non-Payment of Administrative Citations to be Placed on the FY 2011/2012 County of Santa Clara Property Tax Roll

REPORT IN BRIEF
There are currently two property owners that have failed to pay for their outstanding administrative citations. This report is to seek Council’s approval to place the delinquent balances on the County of Santa Clara Property Tax Roll.

BACKGROUND
The City of Sunnyvale Municipal Code Chapter 1.05 allows enforcement of code violations through the issuance of an administrative citation. These citations are an important tool to facilitate cooperation from property owners regarding a code violation. Citations are only issued after repeated attempts at voluntary compliance have failed. Most violations are corrected after the first warning. However, some property owners fail to correct the violation and are consequently issued several administrative citations. The collection rate on administrative citations has been low because many property owners dispute the collection agency notices, which limits the action the collection agency can take.

At the July 20, 2010 Council meeting, Council adopted an ordinance to authorize the placement of unpaid administrative citations on the County of Santa Clara Property Tax Roll (RTC #10-190). This ordinance went into effect on August 26, 2010; unpaid administrative citations issued prior to this date are ineligible. This is the first submission of delinquent administrative citations to be placed on the County Property Tax Roll.

EXISTING POLICY
The City of Sunnyvale Municipal Code Section 1.05.110 allows the City to cause delinquent charges for administrative citations to be collected on the Property Tax Roll together with general taxes.

DISCUSSION
Each administrative citation issued results in the Department of Finance issuing three written notices to the property owner if unpaid: a bill, an interest invoice and statement, and a final demand letter notifying the recipient that failure to pay may result in legal action. Prior to the adoption of Ordinance No. 2923-10 on July 20, 2010, the only recourse the City had for customers who failed to pay their citations after receiving a final demand letter was to refer the account to a
collection agency. Ordinance No. 2923-10 provides the additional option of placing these delinquent accounts on the County Property Tax Roll.

The properties listed on Attachment B are a minimum of 90 days delinquent in paying the administrative citation fines received after August 26, 2010, the effective date of the ordinance. Repeated attempts to collect the delinquent funds through the billing and notification process have been unsuccessful. Additionally, further notification was delivered to these customers notifying them of the public hearing.

The City is likely to experience a high collection rate by placing delinquent accounts on the County Property Tax Roll. It provides the added security that, should a property owner not pay the balance on their property tax bill, a tax lien will be placed on the property. Therefore, staff recommends that Council place an assessment on the County Property Tax Roll for the delinquent charges as identified in Attachment B.

Notice of tonight’s public meeting has been sent to all affected property owners. Council should expect that some people may make an attempt to have their cases heard at the public hearing in an effort to get Council to rescind the citations before they are place on the County Property Tax Roll. It is important to note that the appeal period for rescinding any of these administrative citations has already passed. Therefore, Council approval can go forward to place these debts on the County Property Tax Roll since the appeal period has long since expired.

Any property owners wishing to pay at tonight’s Council meeting may pay the amount due under the first account balance column tonight on Attachment B. If the amount due is not paid tonight, the amount in the second account balance column will be placed on the County Property Tax Roll, if approved by Council. The second account balance column amount includes the original citation amount, penalties through November 1, 2011 (the due date of the first installment of property taxes), and the County’s administrative fee of 1%.

**FISCAL IMPACT**
If approved, staff will forward the assessment including the late payment penalty and administrative charge of 1% to the County of Santa Clara for collection on the FY 2011/2012 Property Tax Roll. The total assessments with administrative charges equal $4,703.52.

**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. Notification of the hearing was also sent directly to the owner of each of the affected properties.
**ALTERNATIVES**

1. Adopt the attached resolution causing charges for non-payment of administrative citations to be placed on the FY 2011/2012 County Property Tax Roll.
2. Do not adopt the resolution. Attempt to collect the delinquent funds through other means.

**RECOMMENDATION**

Staff recommends Alternative 1, to adopt the attached resolution causing charges for non-payment of administrative citations to be placed on the FY 2011/2012 County Property Tax Roll.

Reviewed by:

Grace Leung, Director of Finance
Prepared by: Therese Balbo, Finance Manager

Approved by:

Gary M. Luebbers
City Manager

**Attachments**

A. Proposed Resolution
B. Delinquent Administrative Citation Accounts to be placed on County Property Tax Roll
RESOLUTION NO. _______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE FOR UNPAID ADMINISTRATIVE FINES TO BE PLACED ON THE FY 2011/2012 TAX ROLL

WHEREAS, Government Code Section 53069.4 provides that local public agencies may make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty, and the agency may set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties; and

WHEREAS, pursuant to Sunnyvale Municipal Code Chapter 1.05, the City of Sunnyvale issues administrative citations and imposes fines for violations of the Municipal Code related to the use and maintenance of real property in the City;

WHEREAS, certain property owners are consistently delinquent and attempts to collect administrative fines through the billing and notification process have been unsuccessful; and

WHEREAS, Section 1.05.110(d) of the Sunnyvale Municipal Code allows the Director of Finance to cause administrative fines and associated costs not collected within 90 to be made a special assessment against the subject real property and collected on the tax roll together with its general taxes; and

WHEREAS, pursuant to Section 1.05.110(d), the Director of Finance caused a written report to be filed with the City Clerk describing each parcel of real property as to which such delinquency exits and the amount due, as set forth in Exhibit A; and

WHEREAS, pursuant to Section 1.05.110(d), the City Council, following a noticed public hearing, shall adopt a resolution confirming, discharging or modifying the amount of the special assessment; and

WHEREAS, on July 26, 2011, 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 special assessment to be placed on the tax roll 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 26, 2011, 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 impose the special assessments in the amount set forth in the report attached as Exhibit A.
Adopted by the City Council at a regular meeting held on _______, 2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:              APPROVED:

________________________________________  ____________________________
City Clerk                Mayor
(SEAL)

APPROVED AS TO FORM AND LEGALITY:

______________________________________
David E. Kahn, City Attorney
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<th>Invoice Date</th>
<th>Citation Number</th>
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<th>Owner Name</th>
<th>Owner Address</th>
<th>Property Address</th>
<th>APN</th>
<th>Legal Description</th>
<th>Amount due if paid 7/26/11</th>
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