



City of Woodland

REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: July 21, 2009

SUBJECT: Waste Management Liens

Report in Brief

This annual Public Hearing is held to allow for those property owners with delinquent Waste Management accounts for services received, including garbage, recycling and yard refuse pick-up and disposal, and for sweeping of the street, to address the Council prior to the attachment of a lien against their property. The Hearing is required prior to adoption of the Resolution to request the lien attachment. The list is attached to Council packets only for review and will not be placed on the Website for general public review. This year, the preliminary list contains 396 names subject to lien, compared to past years of 501 in 2006-07 and 409 in 2007-08 and 837 in 2008-09.

Staff recommends that the City Council conduct the Public Hearing to receive input from property owners and adopt Resolution No. _____, "A Resolution Requesting Collection of Charges on Tax Roll".

Background

In 1989 the City negotiated a new Franchise Agreement for garbage/yard refuse service with Waste Management of Woodland. One of the changes from the prior Agreement was that Waste Management would assume the billing responsibilities for refuse services to Woodland customers. At that time, Waste Management requested and permission was granted to request the City Council file property liens to recover delinquent accounts. The Agreement was amended to add collection of recyclable materials which are a part of the billing and delinquencies. Before filing a lien with the County, a Public Hearing needs to be held to allow protests of the proposed liens.

The current City Municipal Code Section 23C-4 provides the parameters for garbage and yard refuse disposal and services, while Section 23C-12 discusses the recycling portion of the service as provided by the Waste Management Franchise Agreement.

In 2007 the Waste Management Franchise Agreement was re-negotiated and amended; however, it is substantially in the same format. Council approved that new Agreement with the amendments as presented.

This current request is in keeping with the annual process that has been developed in conjunction with Waste Management to assure adequate notification of the property owners to provide an opportunity for them to bring their accounts current and avoid a lien attachment.

Staff has worked with Waste Management to determine the accuracy of the proposed lien list. Those inaccuracies will be corrected and/or removed from the list prior to attachment of the liens. The City should not be actively involved in discussions regarding the billing itself and refers those questions to the Waste Management staff for resolution. While it is not City responsibility to become involved in the dispute of the billing, staff does attempt to mediate by providing contact information at Waste Management for resolution attempts. The primary roll of the City staff is to obtain approval to attach the lien and to release the lien once verification of payment has been received.

Discussion

The utilization of Waste Management for the issuance of service bills has saved the City a tremendous amount of time and funds to issue and collect such bills.

As this method of collecting past due accounts has saved the City time and money, it would be suggested that the process continue as in the past. Should Council determine another course of action, the cost factor would need to be considered. It is anticipated that another full time staff member would be required to adequately handle the billing and collection of delinquent accounts. As well, the collection would be subject to the Small Claims Court process which would have further costs associated with that process.

Fiscal Impact

There is little to no fiscal impact to the City to maintain the current process, other than time constraints for processing and releasing the liens. The fees for the recordings are attached to the total amount of the lien and the property owner assumes that cost.

Public Contact

Waste Management provides reminder bills for overdue accounts. As the billing cycle is every two months, if not paid by the end of the cycle, the property owner is two months in arrears. As well, Waste Management sends a letter to the property owners indicating to them their property will have a lien placed if the service fee is not paid by a designated date. The Public Hearing notice is also published in the newspaper in a timely manner, and the Agenda is posted well beyond the legal requirements.

Recommendation for Action

Staff recommends that the City Council conduct the Public Hearing to receive input from property owners and adopt Resolution No. _____, “A Resolution Requesting Collection of Charges on Tax Roll”.

Prepared by: Sue Vannucci, Director of
Administrative Services

Mark G. Deven
City Manager

Attachment: Lien List (Council only)

Recording requested by

City of Woodland

and when recorded Courier to:

#43CC City Clerk
City of Woodland
300 First Street
Woodland, CA 95695

Resolution No. _____

A Resolution Requesting Collection of Charges on Tax Roll

Whereas, the City of Woodland (hereinafter City), requests the County of Yolo collect on the County tax rolls certain charges which have been imposed pursuant to an Agreement with Waste Management; and

Whereas, the County has required as a condition of the collection of said charges that the City warrant the legality of said charges and defend and indemnify the County from any challenge to the legality thereof;

Now, therefore be it hereby resolved by the City Council of the City of Woodland that:

1. The Auditor-Controller of Yolo County is requested to attach for collection on the County tax rolls those taxes, assessments, fees and/or charges, attached hereto.
2. The City of Woodland warrants and represents that the taxes, assessments, fees and/or charges imposed by the City of Woodland and being requested to be collected by Yolo County comply with all requirements of State law, including but not limited to Articles XIII C and XIII D of the California Constitution (Proposition 218).
3. The City of Woodland releases and discharges the County, and its officers, agents and employees from any and all claims, demands, liabilities, costs and expenses, damages, causes of action, and judgments, in any manner arising out of the collection by the County of any taxes, assessments, fees and/or charges on behalf of the City.
4. The City agrees to and shall defend, indemnify and hold harmless the County, its officers, agents and employees (the "Indemnified Parties") from any and all claims, demands, liabilities, costs and expenses, damages, causes of action, and judgments, in any manner arising out of the collection by County of any of the City's said taxes, assessments, fees, and/or charges requested to be collected by the County for the City, or in any manner arising out of the City's establishment and imposition of said taxes, assessments, fees and/or charges. City agrees

that, in the event a judgment is entered in a court of law against any of the Indemnified Parties as a result of the collection of one of the City's taxes, assessments, fees and/or charges, the County may offset the amount of the judgment from any monies collected by County on behalf of the City, including property taxes.

5. The City agrees that it's officers, agents and employees will cooperate with the County in answering questions referred to City by the County from any person concerning the City's taxes, assessments, fees and/or charges and that the City will not refer such persons to County officers and employees for response.
6. The City agrees to pay such reasonable and ordinary charges as the County may prescribe to recoup it's costs in placing on the tax rolls and collecting taxes, assessments, fees and/or charges, as provided by Government Code Sections 29304 and 51800.

Passed and adopted this 21st day of July, 2009 by the City Council of the City of Woodland by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Marlin H. Davies, Mayor

ATTEST:

APPROVED AS TO FORM:

Susan L. Vannucci, Director of
Administrative Services

Andrew J. Morris, City Attorney