



# City of Chula Vista

## Staff Report

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**File#: 16-0087, Item#: 9.**

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### CONSIDERATION OF THE PROPOSED ASSESSMENT OF CERTAIN DELINQUENT SOLID WASTE SERVICE CHARGES AS RECORDED LIENS

RESOLUTION NO. 2016-143 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ASSESSING CERTAIN DELINQUENT SOLID WASTE SERVICE CHARGES AS RECORDED LIENS UPON THE RESPECTIVE PARCELS OF LAND AND APPROVING THE PLACEMENT OF DELINQUENT CHARGES ON THE NEXT REGULAR TAX BILL FOR COLLECTION

### RECOMMENDED ACTION

Council conduct the public hearing and adopt the resolution.

### SUMMARY

In order to adequately protect the City's interest in delinquent solid waste service charges and ensure that collection efforts are directed toward the responsible property owner in the event of a change of ownership, staff is recommending approval of liens against affected properties as a preliminary action to placing the delinquencies on the property tax rolls if they remain unpaid. Adoption of this resolution will enhance the collection process for delinquent solid waste service charges by reducing the amount of uncollectible losses and ensure that payment will be received on a timely basis. This is the identical process approved by the City Council on a regular basis since mid-2001.

### ENVIRONMENTAL REVIEW

#### Environmental Notice

The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

#### Environmental Determination

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

### BOARD/COMMISSION RECOMMENDATION

Not applicable

### DISCUSSION

In November 1998, the City Council amended Municipal Code Section 8.24 to eliminate suspension of solid waste service for nonpayment. To ensure that all residents pay their fair share of the costs of

this program, the ordinance allows delinquent solid waste service charges to be assessed as recorded liens upon the affected properties and ultimately placed on the property tax bills for collection. The ordinance states that upon notification of the property owners, a public hearing is set for solid waste service accounts that are over 90 days delinquent. At the hearing, the City Council considers the delinquent accounts together with any objections or protests by interested parties. At the conclusion of the hearing, the City Council may either approve the delinquency and amount owed on the accounts as submitted or as modified or corrected by the City Council. Lastly, the City Council adopts a resolution assessing such amounts as recorded liens upon the respective parcels of land, and the amounts are charged to the property owners on the next regular property tax bill. As these amounts are collected, the monies are remitted to Republic Services (formerly Allied Waste), less the City's Franchise Fees, AB939 fees and late charges.

Because charges can only be submitted for placement on the property tax bills once each year in August, staff is recommending assessing liens on the affected properties midyear to better ensure the City's chances for collection. If the City were to address these delinquent charges only once each year in August, the effectiveness of using the property tax bill as a means of collection would be reduced as the owners of record in August would not necessarily be the people responsible for the delinquent charges. In cases where the properties are sold or transferred, assessing liens midyear holds the correct parties responsible for the delinquent charges. In cases where the property owners choose to refinance their mortgages, the midyear liens ensure the City's receipt of payment in a timely manner, as the delinquent charges are paid through escrow during the refinancing process.

In July 2015, the City Council approved 2,366 delinquent accounts valued at \$544,670 to be placed on property tax bills for collection. Of these 2,366 total delinquent accounts approved by the City Council for collection via property tax billing, 755 were resolved and 1,611 were submitted to the County of San Diego in August 2015 for placement on the property tax bill.

Since the July 2015 Council action, Republic Services has identified and submitted 6,407 delinquent accounts valued at \$739,887 to the City for collection. Through the City's collection efforts, 1,949 accounts have been resolved, and the remaining 4,458 accounts valued at \$318,631 are now being submitted (listing available at the Finance Department). The account status and property ownership on these accounts have been verified by both Republic Services and City staff.

#### Collection Process

These property owners have been notified of their delinquencies through a series of past due notices sent by Republic Services, until they were ultimately submitted to the City for collection. City staff sent out past due letters within the last 60 days, and two weeks ago, these property owners were notified of the public hearing and were asked to pay their delinquent solid waste service charges prior to transmittal of the delinquent account list to the County to avoid a lien being placed on their property. City staff has been working with Republic Services to resolve any customer disputes as they arise and payment arrangements have been set up as needed. Staff will continue to update this list as payments are received and accounts are cleared. A final list will be submitted to the City Council for consideration on the day of the public hearing in order to reflect the most current payment postings.

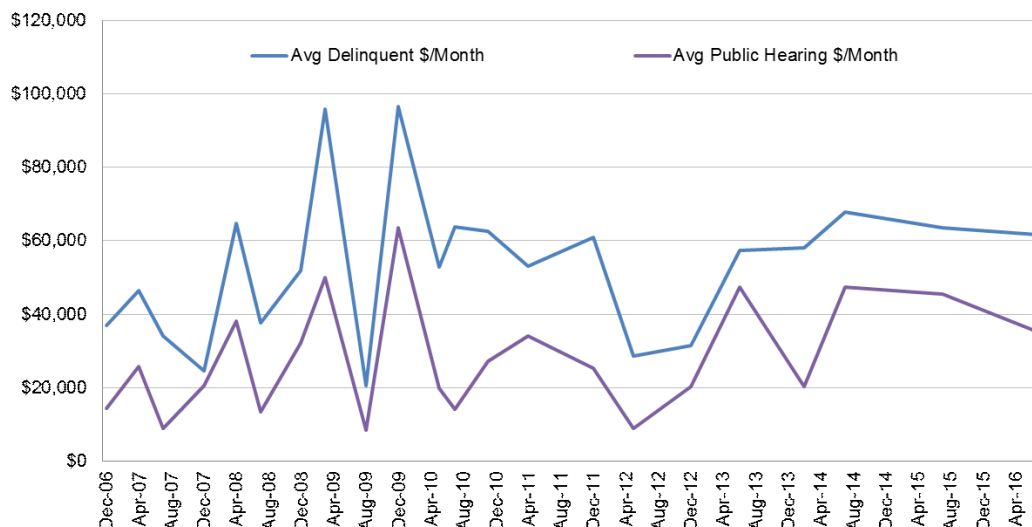
Staff is recommending that the City Council approve the final list of delinquent solid waste service

accounts as submitted, and that these charges be forwarded to the County and assessed as recorded liens on the respective parcels of land and ultimately placed on the next regular tax bill for collection.

### Delinquency Trends

Rates of delinquent solid waste accounts turned over to the City for collection appear to be stabilizing slightly above pre-recession levels. The chart below illustrates the average dollar value of delinquent accounts (blue line) turned over to the City for collections, on a monthly basis since December 2006. Also shown is the average dollar value of the accounts included in the public hearing process (purple line), on a monthly basis for the same period. The gap between the original delinquent accounts and the public hearing accounts reflects the efforts of Finance Department staff to resolve delinquencies prior to the public hearing process.

Chart 1 - Delinquent Solid Waste Account Trends



### **DECISION-MAKER CONFLICT**

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Staff has reviewed this matter and has determined that Councilmember Miesen may have a prohibited financial interest related to his financial interest in Republic Waste (as a business entity interest) because Republic Waste, in part, is a named subject of this matter within the meaning of FPPC regulations 18701(a), 18706(a), and 18705.1, and, as such, should recuse himself. Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

#### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. This action supports the Operational Excellence goal by protecting revenues. Implementing policies to protect/generate revenues is an objective of City Initiative 1.1.1. - "Implement Fiscal Recovery and Progress Plan."

#### **CURRENT YEAR FISCAL IMPACT**

Approval of the resolution supports collection of delinquent solid waste charges totaling \$318,631. Of this amount, the City is projected to realize Franchise Fee, AB939 and late charge revenues totaling approximately \$76,686, with the balance of \$241,945 being forwarded to Republic Services. The \$76,686 to be realized by the City is already reflected in the adopted fiscal year 2016-17 budget.

#### **ONGOING FISCAL IMPACT**

There is no ongoing fiscal impact. The delinquent solid waste charges will ultimately be recovered via tax bill or property lien release payments.

#### **ATTACHMENTS**

None

*Staff Contact: Angelica Aguilar, Finance Department*