



January 26, 2010

TO: LOCSO Board of Directors
FROM: Ann Kudart, Administrative Secretary
SUBJECT: Agenda Item 6D – 02/04/2010 Board Meeting
Conduct Hearing to Consider All Objections or Protests to Recording Liens and Levying Assessments on Past Due Mission Country Disposal Accounts As Listed in District Secretary Report of Delinquent Solid Waste Charges and to Adopt Resolution Confirming Report, Levying Assessments, and Authorizing Liens

President
Marshall E. Ochylski

Vice President
Steve Senet

Directors
Chuck Cesena
Maria Kelly
Joe Sparks

General Manager
Dan Gilmore

District Accountant
Amparo Haber

Administrative Supervisor
Sandi Woods

Utilities Supervisor
Margaret Falkner

Fire Chief
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SUMMARY

The Franchise Agreement between the Los Osos Community Services District (District) and Mission Country Disposal (MCD) designates the District as the party responsible for recording liens against private property owners who fail to pay past due MCD bills. Additionally, the District has the authority to submit the past due account balances to San Luis Obispo County for collection on the next tax roll should the property owner fail to pay. These provisions were included in the Franchise Agreement as measures to reduce the cost of solid waste disposal to those customers who have paid their bills.

On December 23, 2009, notice of this hearing was posted along with a written report from the District Secretary ("Report") containing a description of each parcel of real property for which solid waste charges were delinquent as of that date. As required by law, notice of this hearing was also mailed to each delinquent property owner specifying the amount of delinquency. Finally, notice of this hearing was published twice in the newspaper as required by law. Since December 23, 2009, three (3) of these accounts have been repaid, resulting in an additional collection of \$550.07. Attached is the listing of the thirteen (13) customers who are still past due as of the date of this staff report. Also attached is a resolution that would authorize the recordation of a lien for each listed property for the delinquent amount shown on the listing.

A few of the charges on the listing were originated by tenants, but it is the responsibility of the property owner to pay these charges. Additionally, it should be noted that these delinquent amounts represent accounts that are at least six months in arrears, and for which MCD has issued several collection notices. Some property owners dispute the right of MCD to levy the charge, but solid waste collection is a mandatory service within San Luis Obispo County unless the District grants an individual exemption.

RECOMMENDATION

The Board should receive testimony of objections or protests to the recording of liens and levying of assessments on properties as listed in the Report. Following closure of public comment, the Board may direct staff to amend the list and to investigate any account. Once the listing is finalized, staff recommends that the Board adopt attached LOCSO Resolution 2010-01.

Attachments

Date: February 4, 2010
Agenda Item: 6D
 Approved
 Denied
 Continued to

RESOLUTION NO. 2010-01

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT
CONFIRMING REPORT OF DISTRICT SECRETARY FOR
UNPAID SOLID WASTE COLLECTION CHARGES
AND LEVYING ASSESSMENTS AND AUTHORIZING LIENS**

WHEREAS, the Los Osos Community Services District ("District") Board of Directors makes the following findings of fact:

- A. The District is duly authorized to provide its residents with solid waste collection services ("Solid Waste Collection Services").
- B. With respect to providing Solid Waste Collection Services, on January 3, 2002, the District duly adopted Ordinance No. 2002-01 that incorporates the procedures of Section 1.02.05(F) of the District Code for the collection of delinquent solid waste charges. Section 1.02.05(F) provides:

"Collection of Fees and Charges With Taxes": The Board of Directors hereby adopts the procedures for the collection of delinquent rates, charges, and fees established in Government Code Section 61621.2, 61621.3 and 61621.4 or any successor statutes. The General Manager or his/her designee is authorized to record a certificate specifying the amount of such charges and fees and the name and address of the persons liable therefore, sixty days after the payment becomes delinquent, pursuant to Government Code Section 6162.1."
- C. The above-referenced code section were recodified in 2005 as Government Code sections 61115.
- D. Whereas, pursuant to District Ordinances, the Franchisee who provides Solid Waste Collection Services, has provided notice to delinquent service accounts pursuant to District Code Section 3.12.440.
- E. The District Secretary has prepared and filed a report ("Report") listing the Assessor's Parcel Numbers for the respective delinquent service account holders and the amount of the delinquency as of December 23, 2009.
- F. The District Secretary, pursuant to Section 6066 of the Government Code has published notice of the filing of the Report and has caused a notice in writing to be mailed to each person to whom any parcel or parcels of real property described in the Report is assessed in the last equalized Assessment Roll available on the date the Report was prepared, at the address shown on the Assessment Roll or as known to the Secretary.
- G. On February 4, 2010, a public hearing was held before the District Board at which time all interested persons were given the opportunity to present oral or written statements for or against said report or any portions thereof; and

WHEREAS, The District Board of Directors having heard and considered all objections and/or protests, if any, to the Report:

1. Adopted revisions, changes and reductions to certain charges; and/or
2. Overruled any or all objections.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED BY THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT AS FOLLOWS:

1. Each of the above recitals are true and correct and incorporated herein by this reference.
2. That the written Report, as submitted and revised by the Board of Directors (Exhibit A to this Resolution), is hereby confirmed and adopted.
3. That said charges as described in said Report, as revised, shall constitute a lien on the parcel for which said charges are unpaid.
4. The General Manager is authorized to modify the Report to reflect any payments received after the date of the public hearing and prior to the recordation of any lien.
5. Pursuant to Government Code section 61115(c), the General Manager, or his/her designee, is authorized to record, at the San Luis Obispo County Clerk/Recorder's office, a certificate specifying the amount of any charge and fees and the name and address of the person liable therefore, as designated in the Report.
6. Pursuant to Government Code 61115(b), if said delinquent charges are not paid on or before the first day of August, 2010, then the General Manager is authorized to file with the San Luis Obispo County Auditor a copy of the Report showing the unpaid charges.
7. The San Luis Obispo County Auditor shall enter the amount of the charges against each of the affected parcels of real property as they appear on the current assessment roll. The county tax collector shall include the amount of the charges on the tax bills for each affected parcel of real property and collect the charges in the same manner as property taxes pursuant to Government Code section 61115(b).

On the motion of Director _____, seconded by Director _____, and on the following roll call vote, to wit:

Ayes: _____
 Noes: _____
 Absent: _____
 Conflicts: _____

The foregoing resolution is hereby passed, approved, and adopted by the Board of Directors of the Los Osos Community Services District this 4th day of February 2010.

 Marshall E. Ochylski
 President, Board of Directors
 Los Osos Community Services District

ATTEST:

 W. Dan Gilmore, General Manager and
 Secretary to the Board

EXHIBIT A
MISSION COUNTRY DISPOSAL
LOS OSOS DELINQUENT ACCOUNTS
12/23/2009

OWNER	APN#	AMOUNT OWED
DU'VERNET, DEAN H.	038-271-009	\$177.77
FRANKS, STEPHEN	038-592-028	\$316.32
FRONTERA, TOM & TIARE	038-632-011	\$90.12
HERSHBERGER, JOHN	038-281-028	\$108.82
MINNIS, JAMES R.	038-141-030	\$407.03
NEUMAN, ARTHUR	074-184-009	\$270.03
POPOCA, JOB	038-322-009	\$230.84
RAINE, KEVIN & BONNIE	038-551-019	\$227.80
ROBERTS, KATHERINE	074-186-035	\$248.28
SHUPP, CAROL A.	074-381-005	\$248.28
SMITH, RON & MICHELLE	074-025-005	\$188.12
STILTS, KENNETH & LORI	038-162-016	\$140.65
STROM, JANICE	038-263-018	\$300.80
GRAND TOTAL:		\$2,954.86



**NOTICE OF HEARING ON REPORT OF
LOS OSOS COMMUNITY SERVICES DISTRICT SECRETARY
RELATIVE TO DELINQUENT SOLID WASTE CHARGES**

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NOTICE IS HEREBY GIVEN that on December 23, 2009, the Secretary of the Board of Directors of the Los Osos Community Services District ("District") caused to be filed a written report ("Report") containing a description of each parcel of real property for which solid waste charges are delinquent as of December 23, 2009 for the purpose of collecting the same on the tax rolls and/or as a lien on real property.

NOTICE IS FURTHER GIVEN that on February 4, 2010, at the hour of 7:00 p.m. at the South Bay Community Center, 2180 Palisades Avenue, Los Osos, California, a public hearing will be held before the District Board of Directors, at which time the Board shall hear and consider all objections or protests, if any, to said Report referred to.

Copies of said Report are on file with the Secretary of the Board of Directors of the Los Osos Community Services District, whose office is located at 2122 9th Street, Los Osos, California.

Date: December 23, 2009

W. Dan Gilmore, General Manager
And Secretary of the Board

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